

Testimony on HB No. 1454 – Death with Dignity – 5 Feb 2005

From Leonard Howard, MD

Chair Arakaki, Vice-Chair Green, members of the House Health Committee:

Thank you for allowing me to testify on this highly controversial bill. The title of the bill is Death with Dignity. This is somewhat misleading as the subject of the bill is Physician Assisted Suicide/Physician Assisted Death. The furor over this topic has been going on ever since a pathologist named Dr. Jack Kevorkian assisted 54 y/o Janet Adkins of Portland, OR, commit suicide in Michigan. She was suffering from early Alzheimer's disease. Oregon passed the nation's first Physician Assisted Suicide Law in 1994, and in a referendum on the law in Nov, 1997, 60% of voters voted not to repeal the law.

The teapot started boiling in Hawaii when the Governor's Blue Ribbon Committee voted 11 to 7 to support PAS in 1998. In the same report they voted unanimously on six key points: **Spiritual counseling** should be available; **Public and Professional Education** should be designed and carried out; **Advance Directives** should be more specific and their use more widespread; **Hospice care** should be made more available and offered more expediently to the dying; **Pain management programs** should be required in all health care institutions; Involuntary euthanasia should continue to be a crime. These six points have all been accomplished. Let us then talk about the contested point, PAS.

The primary reason given by the majority for their approval was to prevent individuals with terminal disease from dying in agonizing pain. Prior to this committee's consideration in 1998, this occasionally happened. My wife told me of the agony of a friend of hers in Michigan in 1973 that had severe pain during her death from metastatic breast cancer. She sat with her friend many hours through those long, pain-filled days. In those days it was a serious problem in medical care. Dr. Kevorkian's treatment seemed to be the only alternative to an agonizing death. This sort of personal experience certainly influenced the decision of the Blue Ribbon Panel as it would influence the decision of any compassionate individual. That was 1998.

This is 2005. Things have changed tremendously in the past 6 years. HB 1454 does not recognize the changes.

There is no reason in modern day medicine for anyone to die the agonizing death that seems to be the main reason for the proposed PAS legislation. The treatment of pain today is better than it has ever been before. The world has changed since the Governor's Blue Ribbon Commission released their report in 1998. Consider the following information.

In 2001 the Joint Commission on Accreditation of Hospitals added a requirement that accredited hospitals have a Pain Management Service, headed by a physician who specializes in the various modern methods of controlling pain and staffed by physicians whose only task is relieving pain. We do not need HB1454 to control pain.

Palliative Care (Comfort Care) has become a certified medical specialty in the last two years. At the present time we have 16 Board Certified Palliative Care Specialists in Hawaii, with more in the pipeline. Classes on Palliative Care are being taught in the Medical School. I have completed a course for certification in Palliative Care, but being retired am not planning to sit for the Board exam. We do not need HB 1454 to provide Palliative Care.

The Hospice concept is now found in all states and offers specialized care to the dying in home, hospital or hospice setting by medical care providers who specialize in the care and comfort of people in the dying process. We do not need HB 1454 to provide Hospice Care.

The Hawaii Medical Association continues to strongly oppose Physician Assisted Suicide and to support the American Medical Association policy opposing both PAS and PAD. We strongly support the various efforts to improve pain management, palliative care and end-of-life care that will eliminate the horror stories of terminal suffering that we have all heard, that usually happened 5 or 10 years ago to a family member. HB 1454 offers only one idea, death.

The American Medical Association said it very well: *“Although for some patients it might appear compassionate to intentionally cause death, institutionalizing physician-assisted suicide as a medical treatment would put many more patients at serious risk for unwanted and unnecessary death. Rather than recognize any right to physician-assisted suicide, our society instead should recognize the urgent necessity of extending to all patients the palliative care they need and to redouble our efforts to provide such care to all.”* We do not need the many problems that would be caused by passage of HB 1454.

The power to assist in intentionally taking the life of a patient is counter to and fundamentally incompatible with the physician's role as healer. It would be difficult or impossible to control, and would pose serious societal risks. It is a power that most health-care professionals do not want. A brief filed by the AMA holds that *“The right to control one's medical treatment is among the most important rights that the law affords each person. This includes the right to have unwanted life-prolonging treatment withheld or withdrawn and to have all medication necessary to alleviate physical pain, **even** where such medication would hasten death. Through these means, patients can avoid entrapment in a prolonged, painful, or overly medicalized dying process.”* Hawaii currently has the best Uniform Medical Decision-maker Law in the country. What we should

be doing is educating our people about this law and how they can control what happens in the dying process. Patient Autonomy is here now, today, in Hawaii, already codified. HB 1454 will add nothing positive that is not already possible under the Uniform Decision Maker Law.

Instead of participating in assisted suicide, physicians must aggressively respond to the needs of patients at the end of life. Patients cannot not be abandoned once it is determined that cure is impossible. Multidisciplinary interventions should be sought including specialty consultation, hospice care, pastoral support, family counseling and other modalities. Patients near the end of life must continue to receive emotional support, comfort care, adequate pain control, respect for patient autonomy, and good communication. Both inpatient and outpatient medical care must be aware of the psychological, social, and spiritual concerns of the patient as well as the physical problems. HB 1454 ignores the psychological, social and spiritual problems that would be caused by passage.

As with so many other problems in our society, education is the answer. Both education of our physicians and nurses that deal with dying patients, and education of our patients so that all present legal avenues are utilized to control their own dying process as much as is possible without crossing ethical and moral boundaries. This public and professional education was unanimously voted by the commission. I encourage all physicians to become more competent in end-of-life care so you will be comfortable when your favorite patient enters the dying process. After all is said, just remember that we are going to die under the same circumstances that we create for our patients today. To be able to deal with our patient's mortality, we, the ir physicians, must have come to grips with our own mortality. That time will come for each of us. HB 1454 has no mention of education of medical staff or patients as to the many avenues of care possible in Hawaii today. We do not need HB 1454 to provide Death with Dignity. It is already possible today, in Hawaii, for all of us.

Thank you for your kind attention.

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HMA/AMA