

House File 2302 - Introduced

HOUSE FILE 2302

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A BILL FOR

1 An Act creating the our care, our options Act, and providing
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 142E.1 Findings.

2 1. The state of Iowa has long recognized that mentally
3 capable adults have a fundamental right to determine their own
4 medical treatment options in accordance with their own values,
5 beliefs, and personal preferences.

6 2. The state of Iowa wants to uphold both the highest
7 standard of medical care and the full range of options for each
8 individual, particularly at the end of life.

9 3. Terminally ill individuals may undergo unremitting
10 pain, agonizing discomfort, and a sudden, continuing, and
11 irreversible reduction in their quality of life at the end of
12 life.

13 4. The availability of medical aid in dying provides
14 an additional palliative care option for terminally ill
15 individuals who seek to retain their autonomy and some level of
16 control over the progression of the illness as they near the
17 end of life or to ease unnecessary pain and suffering.

18 5. Integration of medical aid in dying into standard
19 end-of-life care has demonstrably improved the quality of
20 services delivered to terminally ill individuals by enhancing
21 palliative care training of providers, prompting development
22 and enhancement of palliative care service delivery systems,
23 and promoting more in-depth conversations between providers
24 and terminally ill individuals about the full range of care
25 options leading to more appropriate end-of-life care planning,
26 including increased hospice use.

27 6. The state of Iowa affirms that an attending provider
28 who respects and honors a terminally ill patient's values
29 and priorities for that terminally ill patient's last days
30 of life and prescribes or dispenses medication for any such
31 qualified patient pursuant to this chapter is practicing lawful
32 patient-directed care.

33 Sec. 2. NEW SECTION. 142E.2 Short title.

34 This chapter shall be known and may be cited as the "*Iowa Our*
35 *Care, Our Options Act*".

1 Sec. 3. NEW SECTION. **142E.3 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Adult*" means an individual eighteen years of age or
5 older.

6 2. "*Attending provider*" means a health care provider
7 who a patient determines has primary responsibility for the
8 patient's health care and treatment of the patient's terminal
9 illness, and who provides medical care to a patient with a
10 terminal illness in the normal course of the provider's medical
11 practice.

12 3. "*Coercion or undue influence*" means the willful attempt,
13 whether by deception, intimidation, or any other means, to
14 cause a terminally ill patient to request, or a qualified
15 patient to obtain or self-administer, medication pursuant
16 to this chapter with the intent to cause the death of the
17 terminally ill patient or qualified patient, or to prevent a
18 terminally ill patient from requesting, or a qualified patient
19 from obtaining or self-administering, medication pursuant to
20 this chapter against the wishes of the terminally ill patient
21 or qualified patient.

22 4. "*Consulting provider*" means a health care provider who
23 is qualified by specialty or experience to make a professional
24 diagnosis and prognosis regarding a patient's terminal illness.

25 5. "*Department*" means the department of public health.

26 6. "*Health care facility*" means a hospital licensed pursuant
27 to chapter 135B, a nursing facility licensed pursuant to
28 chapter 135C, an inpatient hospice program as defined in
29 section 135J.1, an elder group home as defined in section
30 231B.1, or an assisted living program as defined in section
31 231C.2, but does not include the location of an individual
32 health care provider.

33 7. "*Health care provider*" means a person who is licensed,
34 certified, or otherwise authorized or permitted by the laws
35 of this state to administer health care, diagnose and treat

1 medical conditions, and prescribe and dispense medications,
2 including controlled substances. "Health care provider" does
3 not include a health care facility.

4 8. "Informed decision" means a voluntary, affirmative
5 decision by a terminally ill patient to request and obtain a
6 prescription for medication pursuant to this chapter that the
7 terminally ill patient may self-administer to bring about a
8 peaceful death, after being fully informed by the attending
9 provider of all of the following:

10 a. The patient's medical diagnosis.

11 b. The patient's prognosis.

12 c. The feasible end-of-life care and treatment options for
13 the patient's terminal illness, including but not limited to
14 comfort care, palliative care, hospice care, and pain control,
15 and the risks and benefits of each option.

16 d. The patient's right to withdraw consent at any time,
17 and that the patient is not under any obligation to continue a
18 previously chosen end-of-life care option or treatment.

19 9. "Licensed mental health provider" means a psychiatrist
20 licensed pursuant to chapter 148, a psychologist licensed
21 pursuant to chapter 154B, or a licensed independent social
22 worker licensed pursuant to chapter 154C.

23 10. "Medical aid in dying" means the medical practice
24 authorized under this chapter and established standards
25 of medical care to determine a terminally ill patient's
26 qualifications, evaluate a terminally ill patient's request
27 for medication, and provide a terminally ill patient with
28 a prescription for medication or dispense the prescribed
29 medication to bring about the terminally ill patient's peaceful
30 death.

31 11. "Medical confirmation" means the medical opinion of the
32 attending provider has been confirmed by a consulting provider
33 who has examined the patient and the patient's relevant medical
34 records.

35 12. "Mentally capable" means that in the opinion of the

1 attending provider, a consulting provider, and a licensed
2 mental health care provider, as applicable, the patient
3 requesting medical aid in dying has the ability to make and
4 communicate an informed decision.

5 13. "*Patient*" means an adult who is under the care of a
6 health care provider.

7 14. "*Patient-directed care*" means patient-centered care that
8 is not only respectful of and responsive to individual patient
9 preferences, needs, and values, but also ensures that patient
10 values guide all clinical decisions and that patients are fully
11 informed of and able to access all legal end-of-life options.

12 15. "*Prognosis of six months or less*" with reference to
13 a terminal illness means the terminal illness will, within
14 reasonable medical judgment, result in a patient's death within
15 six months.

16 16. "*Qualified patient*" means a mentally capable, terminally
17 ill patient, who is a resident of Iowa and has satisfied
18 the requirements of this chapter in order to obtain and
19 self-administer a prescription for medication to bring about
20 the terminally ill patient's peaceful death.

21 17. "*Self-administer*" or "*self-administration*" means a
22 qualified patient's affirmative, conscious, voluntary act to
23 ingest medication prescribed pursuant to this chapter to bring
24 about the patient's own peaceful death. "*Self-administration*"
25 does not include administration of medication via injection or
26 intravenous infusion.

27 18. "*Terminal illness*" or "*terminally ill*" means an
28 incurable illness with a prognosis of six months or less.

29 19. "*Terminally ill patient*" means a patient who has been
30 certified by a health care provider to be terminally ill.

31 **Sec. 4. NEW SECTION. 142E.4 Process for requesting**
32 **medication for medical aid in dying.**

33 1. A patient who is mentally capable, is a resident of this
34 state, and has been certified by a health care provider to be
35 terminally ill, may request medication that the patient may

1 self-administer to end the patient's life as follows:

2 *a.* By making two oral requests to the terminally
3 ill patient's attending provider separated by a
4 fifteen-calendar-day waiting period, beginning from the
5 day the first request is made.

6 *b.* By providing one written request to the terminally ill
7 patient's attending provider.

8 2. A written request made under this section shall be in
9 substantially the form described in section 142E.5, shall be
10 signed and dated, or attested to, by the terminally ill patient
11 requesting medical aid in dying, and shall be signed and dated,
12 or attested to, by one witness.

13 3. Oral and written requests made under this section must be
14 made by the terminally ill patient and shall not be made by any
15 other individual including the terminally ill patient's agent
16 under a power of attorney executed pursuant to chapter 633B, an
17 attorney in fact under a durable power of attorney for health
18 care pursuant to chapter 144B, or via a health care declaration
19 relating to use of life-sustaining procedures pursuant to
20 chapter 144A.

21 4. A patient shall not qualify to make a request under this
22 section solely based on age or disability.

23 5. Notwithstanding subsection 1, if a terminally ill
24 patient's attending provider attests that the terminally ill
25 patient will, within reasonable medical judgment, die within
26 fifteen days after the terminally ill patient's initial oral
27 request is made under this section, the terminally ill patient
28 may reiterate the oral request to the attending provider at any
29 time after making the initial oral request and the fifteen-day
30 waiting period shall be waived.

31 Sec. 5. NEW SECTION. 142E.5 Form of written request —
32 requirements.

33 1. A written request for medication that a terminally ill
34 patient may self-administer to end the terminally ill patient's
35 life as authorized by this chapter shall be in substantially

1 the following form:

2 Request for Medication
3 to End My Life in
4 a Peaceful Manner

5 I, _____ am an adult of sound
6 mind. I have been diagnosed with
7 _____, and given a
8 prognosis of six months or less to live.

9 I have been fully informed of the feasible alternatives,
10 and the concurrent or additional treatment opportunities for
11 my terminal illness, including but not limited to comfort
12 care, palliative care, hospice care, and pain control, and the
13 potential risks and benefits of each. I have been offered or
14 received resources or referrals to pursue these alternative
15 and concurrent or additional treatment opportunities for my
16 terminal illness.

17 I have been fully informed of the nature of the medication to
18 be prescribed, the risks and benefits, and the probable result
19 of self-administering the medication, should I decide to do
20 so. I understand that I can rescind this request at any time,
21 and that I am under no obligation to fill the prescription once
22 provided nor to self-administer the medication if I obtain the
23 medication.

24 I request that my attending provider furnish a prescription
25 for medication that will end my life in a peaceful manner if
26 I choose to self-administer it, and I authorize my attending
27 provider to contact a pharmacist to dispense the prescription
28 at a time of my choosing.

29 I make this request voluntarily, free from coercion and
30 undue influence, and I accept full responsibility for my
31 actions.

32 _____
33 Requestor Signature Date

34 _____
35 Witness Signature Date

1 2. A witness shall not be any of the following:

2 a. A relative of the terminally ill patient by blood,
3 marriage, or adoption.

4 b. A person who at the time the request is signed would
5 be entitled to any portion of the estate of the terminally
6 ill patient upon death under any will, trust, or other legal
7 instrument, or by operation of law.

8 Sec. 6. NEW SECTION. 142E.6 **Attending provider duties.**

9 1. An attending provider shall do all of the following:

10 a. Provide care that conforms to accepted medical standards.

11 b. After confirming that a patient is terminally ill,
12 determine whether the patient requesting medical aid in dying
13 meets all of the following criteria:

14 (1) Is mentally capable.

15 (2) Has made the request for medication voluntarily and free
16 from coercion or undue influence.

17 (3) Is a resident of the state.

18 c. In confirming that the terminally ill patient's request
19 does not arise from coercion or undue influence by another
20 person, discuss with the terminally ill patient, outside the
21 presence of other persons with the exception of an interpreter
22 if necessary, whether the terminally ill patient feels coerced
23 or unduly influenced by another person.

24 d. Thoroughly educate the terminally ill patient about all
25 of the following:

26 (1) The feasible alternatives and concurrent or additional
27 treatment opportunities for the patient's terminal illness,
28 including but not limited to comfort care, palliative care,
29 hospice care, or pain control, and the potential risks and
30 benefits of each.

31 (2) The potential risks, benefits, and probable result of
32 self-administering the medication to be prescribed to bring
33 about a peaceful death.

34 (3) The choices available to the terminally ill patient
35 that reflect the terminally ill patient's self-determination,

1 including that the terminally ill patient is under no
2 obligation to fill the prescription once provided nor to
3 self-administer the medication if the medication is obtained.

4 (4) The terminally ill patient's right to rescind the
5 request for medication pursuant to this chapter at any time and
6 in any manner.

7 (5) The benefits of notifying family of the terminally
8 ill patient's decision to request medication pursuant to this
9 chapter as an end-of-life care option.

10 (6) With regard to a terminally ill patient's
11 self-administration of the medication:

12 (a) The recommended methods for self-administering the
13 medication to be prescribed.

14 (b) The safekeeping and proper disposal of any unused
15 medication in accordance with federal and state law.

16 (c) The importance of having another individual present
17 when the terminally ill patient self-administers the medication
18 to be prescribed.

19 (d) The importance of not taking the medication in a public
20 place.

21 e. Provide the terminally ill patient with a referral for
22 comfort care, palliative care, hospice care, pain control, or
23 other end-of-life treatment opportunities as requested or as
24 clinically indicated.

25 f. (1) Refer the terminally ill patient to a consulting
26 provider for medical confirmation that the patient requesting
27 medication pursuant to this chapter is eligible.

28 (2) The attending provider shall add the medical
29 confirmation provided under subparagraph (1) to the terminally
30 ill patient's medical record.

31 g. Refer the terminally ill patient to a licensed mental
32 health provider for evaluation in accordance with section
33 142E.8 if the attending provider observes signs that the
34 terminally ill patient may not be mentally capable of making
35 an informed decision, and add the licensed mental health

1 provider's written determination to the terminally ill
2 patient's medical record.

3 *h.* Ensure that all appropriate steps are carried out in
4 accordance with this chapter before providing a prescription
5 for medication pursuant to this chapter to a terminally ill
6 patient.

7 *i.* Once the terminally ill patient is determined to be a
8 qualified patient, do either of the following:

9 (1) Deliver the prescription for the requested medication
10 personally, by mail, or through an authorized electronic
11 transmission to a licensed pharmacist who will dispense
12 the medication, including ancillary medications intended
13 to minimize the qualified patient's discomfort, to the
14 attending provider, to the qualified patient, or to a person
15 expressly designated by the qualified patient, in person or
16 with a signature required on delivery, by mail service, or by
17 messenger service.

18 (2) Dispense the prescribed requested medication, including
19 ancillary medications intended to minimize the qualified
20 patient's discomfort, to the qualified patient or to a person
21 expressly designated by the qualified patient in person,
22 if the attending provider has a current drug enforcement
23 administration number if required under chapter 124.

24 *j.* Document in the qualified patient's medical record the
25 qualified patient's diagnosis and prognosis, determination of
26 mental capability, the dates of the qualified patient's oral
27 requests, a copy of the written request, and a notation that
28 all the requirements under this chapter have been completed
29 including a description of the medication and ancillary
30 medications prescribed to the qualified patient pursuant to
31 this chapter.

32 **Sec. 7. NEW SECTION. 142E.7 Consulting provider duties.**

33 1. A terminally ill patient requesting medical aid in dying
34 under this chapter shall receive medical confirmation from a
35 consulting provider prior to being deemed a qualified patient.

1 2. A consulting provider shall do all of the following:

2 a. Evaluate the terminally ill patient and the terminally
3 ill patient's relevant medical records.

4 b. Confirm, in writing, all of the following to the
5 attending provider:

6 (1) That the patient has a terminal illness.

7 (2) That the terminally ill patient has made the request
8 for medical aid in dying voluntarily and free from coercion or
9 undue influence.

10 (3) That the terminally ill patient is mentally capable, or
11 provide documentation that the consulting provider has referred
12 the terminally ill patient to a licensed mental health provider
13 for further evaluation in accordance with section 142E.8.

14 **Sec. 8. NEW SECTION. 142E.8 Confirmation — determination**
15 **of mental capability — referral to licensed mental health**
16 **provider.**

17 1. If either the attending provider or the consulting
18 provider is unable to confirm that the terminally ill patient
19 requesting medication for medical aid in dying under this
20 chapter is mentally capable, the attending provider or
21 consulting provider shall refer the terminally ill patient to a
22 licensed mental health provider for a determination of mental
23 capability.

24 2. A licensed mental health provider who evaluates a
25 terminally ill patient under this section shall communicate in
26 writing to the attending provider or consulting provider who
27 requested the evaluation the licensed mental health provider's
28 conclusions about whether the terminally ill patient is
29 mentally capable.

30 3. If the licensed mental health provider determines
31 that the terminally ill patient is not currently mentally
32 capable, the licensed mental health provider shall not deem the
33 terminally ill patient to be mentally capable and the attending
34 provider shall not determine the terminally ill patient to be a
35 qualified patient and prescribe medication to the terminally

1 ill patient under this chapter.

2 Sec. 9. NEW SECTION. 142E.9 Reporting requirements.

3 1. The department shall create and make available to all
4 attending providers a prescribing provider checklist form
5 and prescribing provider follow-up form for the purposes of
6 reporting the information as specified under this section to
7 the department.

8 2. Within thirty calendar days of providing a prescription
9 to a qualified patient for medication pursuant to this chapter,
10 the attending provider shall submit to the department a
11 completed prescribing provider checklist form with all of the
12 following information regarding a qualified patient:

- 13 a. The qualified patient's name and date of birth.
- 14 b. The qualified patient's terminal diagnosis and prognosis.
- 15 c. A notation that all the requirements under this chapter
16 have been completed.
- 17 d. A notation that medication has been prescribed pursuant
18 to this chapter.

19 3. Within sixty calendar days of notification of a qualified
20 patient's death from self-administration of medication
21 prescribed pursuant to this chapter, the attending provider
22 shall submit to the department a completed prescribing provider
23 follow-up form with all of the following information:

- 24 a. The qualified patient's name, date of birth, age at
25 death, education level, race, sex, type of insurance, if any,
26 and underlying illness.
- 27 b. The date of the qualified patient's death.
- 28 c. A notation of whether or not the qualified patient was
29 enrolled in and receiving hospice services at the time of the
30 qualified patient's death.

31 4. The department shall annually review a sample of records
32 maintained pursuant to this section to ensure compliance
33 and shall generate and make available to the public a
34 statistical report of nonidentifying information collected.
35 The statistical report shall be limited to the following

1 information:

2 *a.* The number of prescriptions for medication written
3 pursuant to this chapter.

4 *b.* The number of attending providers who wrote prescriptions
5 for medication pursuant to this chapter.

6 *c.* The number of qualified patients who died following
7 self-administration of medication prescribed and dispensed
8 pursuant to this chapter.

9 5. Except as otherwise required by law, the information
10 collected by the department shall not be a public record and
11 shall not be made available for public inspection.

12 Sec. 10. NEW SECTION. 142E.10 **Safe disposal of unused**
13 **medications.**

14 A person who has custody or control of medication prescribed
15 and dispensed pursuant to this chapter that remains unused
16 after a qualified patient's death shall dispose of the
17 medication by lawful means in accordance with state and federal
18 guidelines.

19 Sec. 11. NEW SECTION. 142E.11 **Use of interpreters.**

20 1. An interpreter whose services are provided to a patient
21 requesting information or services under this chapter shall
22 meet the standards promulgated by the Iowa interpreters and
23 translators association or the national board of certification
24 for medical interpreters, or other standard deemed acceptable
25 by the department.

26 2. An interpreter providing services pursuant to this
27 chapter shall not be related to a qualified patient by blood,
28 marriage, or adoption, or be entitled to a portion of the
29 qualified patient's estate by will, trust, or other legal
30 instrument, or by operation of law upon the qualified patient's
31 death.

32 Sec. 12. NEW SECTION. 142E.12 **Effect on construction of**
33 **wills, contracts, and statutes.**

34 1. A provision in a contract, will, or other agreement,
35 whether written or oral, to the extent the provision would

1 affect whether a patient may make or rescind a request for
2 medication pursuant to this chapter, shall not be valid.

3 2. An obligation owing under any currently existing
4 contract shall not be conditioned or affected by the making or
5 rescinding of a request by a patient for medication pursuant to
6 this chapter.

7 Sec. 13. NEW SECTION. 142E.13 Insurance or annuity
8 policies.

9 1. The sale, procurement, or issuance of a life, health,
10 or accident insurance or annuity policy, or the rate charged
11 for any such policy shall not be conditioned upon or affected
12 by the making or rescinding of a request by a patient for
13 medication pursuant to this chapter.

14 2. A qualified patient's act of self-administering
15 medication pursuant to this chapter shall not have an effect on
16 or invalidate any part of a life, health, or accident insurance
17 or annuity policy.

18 3. A terminally ill patient who is a covered beneficiary
19 of a health insurance policy shall not be subject to denial
20 or alteration of such benefits based on the availability of
21 medical aid in dying or the patient's request or absence of a
22 request for medication pursuant to this chapter.

23 4. A terminally ill patient who is a recipient of Medicaid
24 coverage shall not be subject to denial or alteration of such
25 benefits based on the availability of medical aid in dying or
26 the patient's request or absence of request for medication
27 pursuant to this chapter.

28 Sec. 14. NEW SECTION. 142E.14 Death certificate.

29 1. Unless otherwise prohibited by law, the attending
30 provider or the hospice medical director shall sign the
31 death certificate of a qualified patient who obtained and
32 self-administered a prescription for medication pursuant to
33 this chapter.

34 2. When a death has occurred in accordance with this
35 chapter:

1 *a.* The manner of death of the qualified patient on a death
2 certificate shall not be listed as suicide or homicide.

3 *b.* The cause of death of a qualified patient on a death
4 certificate shall be listed as the qualified patient's
5 underlying terminal illness.

6 *c.* The qualified patient's act of self-administering
7 medication prescribed pursuant to this chapter shall not be
8 indicated on the death certificate.

9 3. A death that occurs in accordance with this chapter does
10 not alone constitute a person's death that affects the public
11 interest as described pursuant to section 331.802.

12 *a.* If a death that occurs in accordance with this chapter
13 is referred to the state medical examiner or a county medical
14 examiner, a preliminary investigation may be conducted to
15 determine whether the person received a prescription for
16 medication under this chapter.

17 *b.* Any inquiry or investigation conducted by the state
18 medical examiner or a county medical examiner relating to
19 deaths that occur pursuant to this chapter shall not require
20 the state medical examiner or a county medical examiner to
21 sign the death certificate if the state medical examiner or a
22 county medical examiner identifies the attending provider that
23 prescribed the qualified patient medication pursuant to this
24 chapter.

25 Sec. 15. NEW SECTION. 142E.15 **Construction of chapter.**

26 1. Nothing in this chapter shall be interpreted to lessen
27 the applicable standard of care, including the standard of care
28 for the treatment of terminally ill patients and medical aid in
29 dying, for an attending provider, consulting provider, licensed
30 mental health provider, or any other health care provider
31 acting under this chapter.

32 2. Nothing in this chapter shall be construed to limit the
33 information or counseling a health care provider must provide
34 to a patient in order to comply with informed consent laws and
35 requirements to meet a medical standard of care.

1 3. Nothing in this chapter shall be construed to authorize a
2 health care provider or any other person to end an individual's
3 life by infusion, intravenous injection, mercy killing, or
4 euthanasia. Actions taken in accordance and compliance with
5 this chapter shall not, for any purposes, constitute suicide,
6 assisted suicide, euthanasia, mercy killing, homicide, or elder
7 abuse under the law.

8 4. A request by a patient for and the provision of
9 medication pursuant to this chapter do not solely constitute
10 neglect or elder abuse for any purpose of law, or provide the
11 sole basis for the appointment of a guardian or conservator.

12 **Sec. 16. NEW SECTION. 142E.16 No duty to provide medical**
13 **aid in dying.**

14 1. A health care provider shall provide sufficient
15 information to a terminally ill patient regarding available
16 options, alternatives, and the foreseeable risks and benefits
17 of each option or alternative, so that the patient is able
18 to make a fully informed, voluntary, affirmative decision
19 regarding the patient's end-of-life health care.

20 2. A health care provider may choose whether or not to
21 practice medical aid in dying pursuant to this chapter and
22 shall not be under any duty, whether by contract, statute, or
23 any other legal requirement, to participate in the practice of
24 medical aid in dying or to provide a qualified patient with
25 medication pursuant to this chapter.

26 3. If an attending provider is unable or unwilling to
27 determine a terminally ill patient's qualification for medical
28 aid in dying, evaluate a terminally ill patient's request for
29 medication, or provide a qualified patient with a prescription
30 for medication or dispense prescribed medication to a qualified
31 patient pursuant to this chapter, the attending provider shall
32 do all of the following:

33 a. Accurately document the terminally ill patient's request
34 in the terminally ill patient's medical record.

35 b. Make reasonable efforts to accommodate the terminally

1 ill patient's request including by transferring the care and
2 medical records of the terminally ill patient to another
3 attending provider upon the terminally ill patient's request
4 so that the terminally ill patient is able to make a voluntary
5 affirmative decision regarding the terminally ill patient's
6 end-of-life health care.

7 4. Failure to inform a terminally ill patient who requests
8 information about available end-of-life options including
9 medical aid in dying, or failure to refer the terminally ill
10 patient to another attending provider who can provide the
11 information, is considered a failure to obtain informed consent
12 for subsequent medical treatments.

13 5. An attending provider shall not engage in false,
14 misleading, or deceptive practices relating to the attending
15 provider's willingness to determine the qualification of a
16 terminally ill patient for medical aid in dying, to evaluate
17 a terminally ill patient's request for medication, or to
18 provide a prescription for medication to a qualified patient
19 or dispense a prescribed medication to a qualified patient
20 pursuant to this chapter.

21 Sec. 17. NEW SECTION. 142E.17 **Health care facility —**
22 **permissible prohibitions and duties.**

23 1. A health care facility that has adopted a policy
24 prohibiting health care providers in the course of performing
25 duties for the health care facility from determining the
26 qualification of a terminally ill patient for medical aid
27 in dying, evaluating a terminally ill patient's request
28 for medication, or providing a qualified patient with a
29 prescription for medication or dispensing prescribed medication
30 to a qualified patient, shall provide advance notice in
31 writing to the health care facility's patients and health care
32 providers that the health care facility is a nonparticipating
33 health care facility under this chapter.

34 2. A nonparticipating health care facility that fails to
35 provide explicit, advance notice in writing to the health care

1 facility's patients and health care providers shall not enforce
2 such a policy.

3 3. If a terminally ill patient wishes to transfer the
4 patient's care from a nonparticipating health care facility to
5 another health care facility, the nonparticipating health care
6 facility shall coordinate a timely transfer, including transfer
7 of the terminally ill patient's medical records that include
8 notation of the date the terminally ill patient first requested
9 medical aid in dying.

10 4. A nonparticipating health care facility shall not
11 prohibit a health care provider from providing services
12 consistent with the applicable standard of medical care
13 including all of the following:

14 a. Providing information to a patient about the availability
15 of medical aid in dying pursuant to this chapter.

16 b. Prescribing medication pursuant to this chapter for
17 a qualified patient outside the scope of the health care
18 provider's employment or contract with the nonparticipating
19 health care facility and off the premises of the
20 nonparticipating health care facility.

21 c. Being present at the time a qualified patient
22 self-administers medication prescribed pursuant to this chapter
23 or at the time of the patient's death, if requested by the
24 qualified patient or the qualified patient's representative
25 outside the scope of the health care provider's employment or
26 contractual duties.

27 5. A health care facility shall not engage in false,
28 misleading, or deceptive practices relating to the health
29 care facility's policy regarding end-of-life care services,
30 including whether the health care facility has a policy which
31 prohibits affiliated health care providers from determining
32 a terminally ill patient's qualification for medical aid in
33 dying, evaluating a terminally ill patient's request for
34 medication, or providing a prescription for or dispensing
35 medication to a qualified patient pursuant to this chapter;

1 or intentionally denying a terminally ill patient access to
2 medication pursuant to this chapter by failing to transfer a
3 terminally ill patient and the terminally ill patient's medical
4 records to another health care facility in a timely manner.

5 Sec. 18. NEW SECTION. 142E.18 Immunities for actions in
6 good faith — prohibition against reprisals.

7 1. A health care provider or health care facility shall
8 not be subject to civil or criminal liability, professional
9 disciplinary action, or any other penalty for engaging in
10 the practice of medical aid in dying in accordance with
11 the standard of care and in good faith compliance with this
12 chapter.

13 2. A health care provider, health care facility, or
14 professional organization or association shall not subject
15 a health care provider or health care facility to censure,
16 discipline, the denial, suspension, or revocation of licensure,
17 loss of privileges, loss of membership, or any other penalty
18 for providing medical aid in dying in accordance with the
19 standard of care and in good faith compliance with this
20 chapter or for providing scientific and accurate information
21 about medical aid in dying to a terminally ill patient when
22 discussing end-of-life care options.

23 3. A health care provider shall not be subject to civil
24 or criminal liability or professional discipline if, with the
25 consent of the qualified patient or the qualified patient's
26 representative, the health care provider is present outside the
27 scope of the health care provider's professional duties when
28 the qualified patient self-administers medication prescribed
29 pursuant to this chapter or at the time of the qualified
30 patient's death.

31 4. This section shall not be interpreted to limit civil or
32 criminal liability of a health care provider who intentionally
33 or knowingly fails or refuses to timely submit records required
34 pursuant to section 142E.9.

35 5. This section shall not be interpreted to limit civil or

1 criminal liability for intentional violations of this chapter.

2 Sec. 19. NEW SECTION. 142E.19 Liabilities and penalties.

3 1. A person who without authorization of a patient
4 intentionally or knowingly alters or forges a request for
5 medication pursuant to this chapter with the intent or effect
6 of causing the patient's death, or conceals or destroys a
7 patient's rescission of a request for medication pursuant to
8 this chapter, is guilty of a class "A" felony.

9 2. A person who coerces or exerts undue influence over
10 a patient to request or utilize medication pursuant to this
11 chapter, with the intent or effect of causing the patient's
12 death, is guilty of a class "A" felony.

13 3. A person who intentionally or knowingly coerces or
14 exerts undue influence over a terminally ill patient to forgo a
15 request for or to obtain medication pursuant to this chapter,
16 or who intentionally or knowingly denies a qualified patient
17 access to medication under this chapter as an end-of-life care
18 option is guilty of a serious misdemeanor.

19 4. Nothing in this section shall be interpreted to limit
20 liability for civil damages resulting from negligent conduct or
21 intentional misconduct applicable under other law for conduct
22 which is inconsistent with the provisions of this chapter.

23 5. The penalties specified in this chapter shall not
24 preclude application of criminal penalties applicable under
25 other law for conduct which is inconsistent with this chapter.

26 Sec. 20. NEW SECTION. 142E.20 Claims by governmental entity
27 for costs incurred.

28 A governmental entity that incurs costs resulting from a
29 qualified patient self-administering medication prescribed
30 pursuant to this chapter in a public place shall have a claim
31 against the estate of the qualified patient to recover such
32 costs and reasonable attorney fees related to enforcing the
33 claim.

34

EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill creates the our care, our options Act. The bill
3 includes findings relating to end-of-life options and provides
4 definitions of terms used in the bill.

5 The bill provides a process for an adult patient who is
6 mentally capable, is a resident of the state, and has been
7 determined by the patient's attending provider and consulting
8 provider to be terminally ill, to request medication that the
9 patient may self-administer to end the patient's life. Such
10 patient must make two oral requests to the patient's attending
11 provider, followed by one written request to the patient's
12 attending provider to request the medication.

13 The bill provides the form in which the written request
14 must be substantially made, and requires that oral and written
15 requests must be made by the terminally ill patient. Under
16 the bill, a patient shall not qualify to make a request solely
17 based on age or disability. The bill also provides that
18 notwithstanding other provisions of the bill, if a terminally
19 ill patient's attending provider attests that the terminally
20 ill patient will, within reasonable medical judgment, die
21 within 15 days after making the initial oral request, the
22 terminally ill patient may reiterate the oral request to the
23 attending provider at any time after making the initial oral
24 request and the 15-day waiting period shall be waived.

25 The bill specifies the duties of the attending provider and
26 the consulting provider, and provides for the referral of a
27 terminally ill patient by either an attending provider or a
28 consulting provider to a licensed mental health provider to
29 confirm that the terminally ill patient requesting medication
30 for medical aid in dying is mentally capable.

31 The bill requires the department of public health (DPH)
32 to create and make available to all attending providers a
33 prescribing provider checklist form and prescribing provider
34 follow-up form for the purposes of reporting the information
35 specified under the bill to DPH. DPH is required to annually

1 review a sample of records to ensure compliance and shall
2 generate and make available to the public a statistical report
3 of nonidentifying information collected.

4 The bill provides for the safe disposal of unused
5 medications and the use of interpreters by patients.

6 The bill provides for the effect of a request for medication
7 to end a patient's life on the construction of wills,
8 contracts, and statutes, as well as on insurance and annuity
9 policies.

10 The bill provides that unless otherwise prohibited by
11 law, the attending provider or the hospice medical director
12 shall sign the death certificate of a qualified patient who
13 obtained and self-administered a prescription for medication;
14 and provides specific requirements relative to a qualified
15 patient's death certificate and the role of medical examiner
16 investigations and actions.

17 The bill specifies how the bill is to be interpreted
18 relative to applicable standards of care and informed consent
19 requirements; and provides that the bill is not to be construed
20 to authorize a health care provider or any other person to
21 end an individual's life by infusion, intravenous injection,
22 mercy killing, or euthanasia, and that actions taken in
23 accordance and compliance with the bill shall not, for any
24 purposes, constitute suicide, assisted suicide, euthanasia,
25 mercy killing, homicide, or elder abuse under the law. The
26 bill provides that a request by a patient for and the provision
27 of medication pursuant to the bill does not solely constitute
28 neglect or elder abuse for any purpose of law, or provide the
29 sole basis for the appointment of a guardian or conservator.

30 The bill provides that a health care provider shall provide
31 sufficient information to a terminally ill patient regarding
32 available options, the alternatives, and the foreseeable
33 risks and benefits of each option or alternative, so that
34 the terminally ill patient is able to make a fully informed,
35 voluntary, affirmative decision regarding the patient's

1 end-of-life health care; provides that a health care provider
2 may choose whether or not to practice medical aid in dying and
3 shall not be under any duty, whether by contract, statute, or
4 any other legal requirement, to participate in the practice
5 of medical aid in dying or to provide a qualified patient
6 with medication pursuant to the bill. The bill requires an
7 attending provider who is unable or unwilling to determine a
8 terminally ill patient's qualification for medical aid in dying
9 to evaluate a terminally ill patient's request for medication,
10 or to prescribe or dispense medication to a qualified patient
11 under the bill to otherwise accommodate the terminally ill or
12 qualified patient.

13 Failure to inform a terminally ill patient who requests
14 information about available end-of-life treatments including
15 medical aid in dying, or failure to refer a terminally ill
16 patient to another attending provider who can provide the
17 information, is considered a failure to obtain informed consent
18 for subsequent medical treatments. The bill prohibits an
19 attending provider from engaging in false, misleading, or
20 deceptive practices relating to the health care provider's
21 willingness to determine the qualification of a terminally ill
22 patient for medical aid in dying, to evaluate a terminally ill
23 patient's request for medication, or to provide a prescription
24 for or dispense medication to a qualified patient under the
25 bill.

26 The bill specifies permissible prohibitions and duties of
27 a health care facility that has adopted a policy prohibiting
28 health care providers from determining the qualification of a
29 patient for medical aid in dying, evaluating a terminally ill
30 patient's request for medication, or prescribing or dispensing
31 prescribed medication pursuant to the bill in the course of
32 the health care provider performing duties for the health care
33 facility.

34 The bill provides immunities for actions taken in good
35 faith by a health care provider or health care facility;

1 prohibits a health care provider, health care facility, or
2 professional organization or association from subjecting a
3 health care provider or health care facility to censure,
4 discipline, denial, suspension or revocation of licensure, loss
5 of privileges, loss of membership, or any other penalty for
6 providing medical aid in dying in accordance with the standard
7 of care and in good faith compliance with the bill, or for
8 providing scientific and accurate information about medical
9 aid in dying to a terminally ill patient when discussing
10 end-of-life care options; and prohibits a health care
11 provider from being subject to civil or criminal liability or
12 professional discipline if, with the consent of the qualified
13 patient or the qualified patient's agent, the health care
14 provider is present outside the scope of their professional
15 duties when the qualified patient self-administers medication
16 prescribed pursuant to the bill or at the time of the qualified
17 patient's death. Civil and criminal liability is not limited
18 for a health care provider who intentionally or knowingly fails
19 or refuses to timely submit records required to be submitted to
20 DPH or for intentional violations of the bill.

21 The bill provides for liability and criminal penalties
22 imposed on persons who violate the bill. A person who without
23 authorization of a patient intentionally or knowingly alters
24 or forges a request for medication with the intent or effect
25 of causing the patient's death, or conceals or destroys a
26 patient's rescission of a request for medication is guilty
27 of a class "A" felony. A person who coerces or exerts undue
28 influence over a patient to request or utilize medication under
29 the bill, with the intent or effect of causing the patient's
30 death, is guilty of a class "A" felony. A class "A" felony
31 is punishable by confinement for life without possibility of
32 parole.

33 A person who intentionally or knowingly coerces or exerts
34 undue influence over a terminally ill patient to forgo a
35 request for or to obtain medication pursuant to the bill, or

1 intentionally or knowingly denies a qualified patient access
2 to medication under the bill as an end-of-life care option,
3 is guilty of a serious misdemeanor. A serious misdemeanor is
4 punishable by confinement for no more than one year and a fine
5 of at least \$315 but not more than \$1,875.

6 The liability and penalty provisions under the bill are
7 not to be interpreted to limit liability for civil damages
8 resulting from negligent conduct or intentional misconduct
9 applicable under other law for conduct which is inconsistent
10 with the provisions of this chapter, and penalties specified in
11 the bill shall not preclude application of criminal penalties
12 applicable under other law for conduct which is inconsistent
13 with the bill.

14 The bill also provides that a governmental entity
15 that incurs costs resulting from a qualified patient
16 self-administering medication prescribed under the bill in
17 a public place shall have a claim against the estate of the
18 patient to recover such costs and reasonable attorney fees
19 related to the enforcement of the claim.