

Senate File 175 - Introduced

SENATE FILE 175

BY BOLKCOM, R. TAYLOR, CELSI,
and DOTZLER

A BILL FOR

1 An Act creating the Iowa end-of-life 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 Short title.

2 This chapter shall be known and may be cited as the "Iowa
3 *End-of-Life Options Act*".

4 Sec. 2. NEW SECTION. 142E.2 Definitions.

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "Adult" means an individual who is eighteen years of age
8 or older.

9 2. "Attending physician" means the physician who has primary
10 responsibility for the care of the patient and treatment of the
11 patient's terminal disease.

12 3. "Competent" means that in the opinion of a court or in
13 the opinion of the patient's attending physician or consulting
14 physician, psychiatrist, or psychologist, a patient has the
15 ability to make and communicate health care decisions to
16 health care providers, including communication through persons
17 familiar with the patient's manner of communicating if those
18 persons are available.

19 4. "Consulting physician" means a physician who is qualified
20 by specialty or experience to make a professional diagnosis and
21 prognosis regarding the patient's disease.

22 5. "Counseling" means one or more consultations as necessary
23 between a licensed psychiatrist or psychologist and a patient
24 for the purpose of determining that the patient is competent
25 and not suffering from a psychiatric or psychological disorder
26 or depression causing impaired judgment.

27 6. "Department" means the department of public health.

28 7. "Health care facility" means a health care facility as
29 defined in section 135C.1.

30 8. "Health care provider" means a person licensed,
31 certified, or otherwise authorized or permitted by the law of
32 this state to administer health care or dispense medication in
33 the ordinary course of business or practice of a profession,
34 and includes a health care facility.

35 9. "Informed decision" means a decision by a qualified

1 patient to request and obtain a prescription to end the
2 patient's life that is based on an appreciation of the relevant
3 facts and after being fully informed by the attending physician
4 of all of the following:

5 a. The patient's medical diagnosis.

6 b. The patient's prognosis.

7 c. The potential risks associated with taking the medication
8 to be prescribed.

9 d. The probable result of taking the medication to be
10 prescribed.

11 e. The feasible alternatives, including but not limited to
12 comfort care, hospice care, and pain control.

13 10. "*Long-term care facility*" means a long-term care unit
14 of a hospital, a health care facility, an elder group home as
15 defined in section 231B.1, or an assisted living program as
16 defined in section 231C.2.

17 11. "*Medically confirmed*" means the medical opinion of
18 the attending physician has been confirmed by a consulting
19 physician who has examined the patient and the patient's
20 relevant medical records.

21 12. "*Patient*" means a person who is under the care of a
22 physician.

23 13. "*Physician*" means a person licensed to practice medicine
24 and surgery or osteopathic medicine and surgery under chapter
25 148.

26 14. "*Qualified patient*" means a competent adult who is a
27 resident of Iowa and has satisfied the requirements of this
28 chapter to obtain a prescription for medication to end the
29 individual's life.

30 15. "*Self-administer*" means a qualified patient's act of
31 ingesting medication to end the patient's life.

32 16. "*Terminal disease*" means an incurable and irreversible
33 disease that has been medically confirmed and that will, within
34 reasonable medical judgment, produce death within six months.

35 Sec. 3. NEW SECTION. 142E.3 Request for medication.

1 1. An adult patient who is competent, is a resident of
2 this state, has been determined by the patient's attending
3 physician and consulting physician to be suffering from a
4 terminal disease, and has voluntarily expressed a wish to die,
5 may make a written request for medication that the patient may
6 self-administer to end the patient's life in accordance with
7 this chapter.

8 2. A person shall not qualify to make a written request
9 under this section solely because of age or disability.

10 Sec. 4. NEW SECTION. 142E.4 Oral and written requests —
11 right to rescind.

12 1. To receive a prescription for medication that a qualified
13 patient may self-administer to end the qualified patient's life
14 pursuant to this chapter, the qualified patient shall make an
15 initial oral request, followed by a subsequent oral request
16 at least fifteen days after the initial oral request, and a
17 written request to the qualified patient's attending physician.

18 2. At least fifteen days shall elapse between a qualified
19 patient's initial oral request and the writing of a
20 prescription under this chapter.

21 3. At least forty-eight hours shall elapse between the
22 submission of a qualified patient's written request and the
23 writing of a prescription under this chapter.

24 4. a. At the time the qualified patient makes the second
25 oral request, the attending physician shall offer the qualified
26 patient an opportunity to rescind the request.

27 b. A patient may rescind a request for a prescription for
28 medication under this chapter at any time and in any manner
29 without regard to the patient's mental state. A prescription
30 for medication under this chapter shall not be written prior
31 to the attending physician offering the qualified patient an
32 opportunity to rescind the request.

33 Sec. 5. NEW SECTION. 142E.5 Procedure for request —
34 witnesses.

35 1. A qualified patient who is unable to orally communicate

1 may make a valid oral request under this chapter by reducing
2 the oral request to writing for submission to the qualified
3 patient's attending physician. Such writing is not subject
4 to the requirements otherwise applicable to a written request
5 under this chapter.

6 2. *a.* A valid written request for medication under this
7 chapter shall be in substantially the form described in section
8 142E.17, shall be signed and dated by the patient, and shall
9 be witnessed by at least two individuals who, in the presence
10 of the patient, attest that to the best of their knowledge and
11 belief the patient is competent, acting voluntarily, and is not
12 being coerced to sign the request.

13 *b.* One of the witnesses shall be a person who is not any of
14 the following:

15 (1) A relative of the patient by blood, marriage, or
16 adoption.

17 (2) A person who at the time the request is signed would be
18 entitled to any portion of the estate of the patient upon death
19 under any will or by operation of law.

20 (3) An owner, operator, or employee of a long-term care
21 facility where the patient is receiving medical treatment or
22 is a resident.

23 *c.* The patient's attending physician at the time the request
24 is signed shall not be a witness.

25 *d.* If the patient is a patient in a long-term care facility
26 at the time the written request is made, one of the witnesses
27 shall be an individual designated by the facility and having
28 the qualifications specified by the department by rule.

29 **Sec. 6. NEW SECTION. 142E.6 Attending physician**
30 **responsibilities.**

31 1. The attending physician shall do all of the following:

32 *a.* Make the initial determination of whether a patient has
33 a terminal disease, is competent, and has made the request for
34 medication under this chapter voluntarily.

35 *b.* Request that the patient demonstrate residency in the

1 state. Factors demonstrating residency in this state include
2 but are not limited to:

3 (1) Possession of an Iowa driver's license or a
4 nonoperator's identification card.

5 (2) Registration to vote in Iowa.

6 (3) Evidence that the person owns or leases property in
7 Iowa.

8 (4) Filing of an Iowa tax return for the most recent tax
9 year.

10 *c.* Verify immediately prior to writing the prescription for
11 medication, that the patient is making an informed decision.

12 *d.* Refer the patient to a consulting physician for medical
13 confirmation of the diagnosis, and for a determination that the
14 patient is competent and acting voluntarily.

15 *e.* Refer the patient for counseling if appropriate under
16 section 142E.8.

17 *f.* Recommend that the patient notify next of kin. However,
18 a qualified patient's request for medication shall not
19 be denied based on the qualified patient's declination or
20 inability to notify next of kin.

21 *g.* Counsel the patient about the importance of having
22 another person present when the patient takes the medication
23 prescribed and of not taking the medication in a public place.

24 *h.* Inform the patient that the patient has an opportunity
25 to rescind the request at any time and in any manner, and offer
26 the patient an opportunity to rescind the request at the end of
27 the fifteen-day waiting period under section 142E.4.

28 *i.* Fulfill the medical record documentation requirements
29 under section 142E.9.

30 *j.* Ensure that all appropriate steps are carried out in
31 accordance with this chapter prior to writing a prescription
32 for medication to enable a qualified patient to end the
33 patient's life.

34 *k.* Do either of the following:

35 (1) Dispense medications directly, including ancillary

1 medications intended to facilitate the desired effect to
2 minimize the patient's discomfort, if the attending physician
3 is authorized under law and rule to dispense such medication
4 and has a current valid drug enforcement administration number,
5 if required under chapter 124.

6 (2) With the patient's written consent:

7 (a) Contact a pharmacist and inform the pharmacist of the
8 prescription.

9 (b) Deliver the written prescription personally, by
10 mail, or by facsimile to the pharmacist who will dispense the
11 medications to either the patient, the attending physician, or
12 an expressly identified agent of the patient.

13 2. Notwithstanding any other provision of law to the
14 contrary, the attending physician may sign the patient's death
15 certificate.

16 Sec. 7. NEW SECTION. 142E.7 Consulting physician
17 confirmation.

18 A consulting physician shall do all of the following in
19 confirming that a patient is a qualified patient under this
20 chapter:

21 1. Examine the patient and the patient's relevant medical
22 records and confirm, in writing, the attending physician's
23 diagnosis that the patient is suffering from a terminal
24 disease.

25 2. Verify that the patient is competent, acting
26 voluntarily, and has made an informed decision.

27 Sec. 8. NEW SECTION. 142E.8 Counseling referral.

28 1. If, in the opinion of the attending physician or the
29 consulting physician, a patient may be suffering from a
30 psychiatric or psychological disorder or depression causing
31 impaired judgment, either physician shall refer the patient for
32 counseling.

33 2. An attending physician shall not prescribe medication to
34 end a patient's life pursuant to this chapter until the person
35 performing the counseling determines and verifies that the

1 patient is not suffering from a psychiatric or psychological
2 disorder or depression causing impaired judgment.

3 Sec. 9. NEW SECTION. **142E.9 Medical record documentation**
4 **requirements.**

5 All of the following shall be documented or filed in a
6 patient's medical record in regard to a request for medication
7 under this chapter:

8 1. All oral requests by a patient for medication to end the
9 patient's life pursuant to this chapter.

10 2. All written requests by a patient for medication to end
11 the patient's life pursuant to this chapter.

12 3. The attending physician's diagnosis and prognosis
13 and determinations that the patient is competent, is acting
14 voluntarily, and has made an informed decision.

15 4. The consulting physician's diagnosis and prognosis
16 and verification that the patient is competent, is acting
17 voluntarily, and has made an informed decision.

18 5. A report of the outcome and determinations made during
19 counseling, if performed.

20 6. The attending physician's offer to the patient to rescind
21 the patient's request at the time of the patient's second oral
22 request pursuant to section 142E.4.

23 7. A note by the attending physician indicating that all
24 requirements under this chapter have been met and indicating
25 the steps taken to carry out the request, including a notation
26 of the medication prescribed.

27 Sec. 10. NEW SECTION. **142E.10 Reporting requirements.**

28 1. *a.* The department shall require any health care
29 provider, upon dispensing medication pursuant to this chapter,
30 to file a copy of the dispensing record with the department.

31 *b.* The department shall annually review a sample of records
32 maintained under this chapter.

33 2. The department shall adopt rules to facilitate the
34 collection of information regarding compliance with this
35 chapter. Except as otherwise required by law, the information

1 collected shall not be a public record and shall not be made
2 available for inspection by the public.

3 3. The department shall generate and make available to the
4 public an annual statistical report of information collected
5 under subsection 2.

6 Sec. 11. NEW SECTION. 142E.11 **Effect on construction of**
7 **wills, contracts, and other agreements.**

8 1. A provision in a contract, will, or other agreement,
9 whether written or oral, to the extent the provision would
10 affect whether a person may make or rescind a request for
11 medication to end the person's life pursuant to this chapter,
12 shall not be valid.

13 2. An obligation owing under any contract shall not be
14 conditioned or affected by the making or rescinding of a
15 request by a person for medication to end the person's life
16 pursuant to this chapter.

17 Sec. 12. NEW SECTION. 142E.12 **Insurance or annuity**
18 **policies.**

19 The sale, procurement, or issuance of any life, health,
20 or accident insurance or annuity policy or the rate charged
21 for any such policy shall not be conditioned upon or affected
22 by the making or rescinding of a request by a person for
23 medication that may be self-administered to end the person's
24 life pursuant to this chapter. A qualified patient's act of
25 self-administering medication to end the qualified patient's
26 life pursuant to this chapter shall not have an effect upon a
27 life, health, or accident insurance or annuity policy.

28 Sec. 13. NEW SECTION. 142E.13 **Construction of chapter.**

29 1. Nothing in this chapter shall be construed to authorize
30 a physician or any other person to end a patient's life by
31 lethal injection, mercy killing, or active euthanasia. An
32 action taken in accordance with this chapter shall not, for any
33 purpose, constitute suicide, assisted suicide, mercy killing,
34 or homicide under the law.

35 2. Nothing in this chapter shall be interpreted to lessen

1 the applicable standard of care for an attending physician,
2 consulting physician, psychiatrist, psychologist, or other
3 health care provider acting under this chapter.

4 Sec. 14. NEW SECTION. 142E.14 Immunities — basis
5 for prohibiting health care provider from participation —
6 notification — permissible sanctions.

7 Except as otherwise provided in this chapter:

8 1. A person shall not be subject to civil or criminal
9 liability or professional disciplinary action for acting
10 in good-faith compliance with this chapter, including
11 being present when a qualified patient self-administers the
12 prescribed medication to end the qualified patient's life
13 pursuant to this chapter.

14 2. A professional organization or association, or
15 health care provider, shall not subject a person to censure,
16 discipline, suspension, loss of license, loss of privileges,
17 loss of membership, or other penalty for acting or refusing to
18 act in good-faith compliance with this chapter.

19 3. A request by a patient for or provision by an attending
20 physician of medication in good-faith compliance with this
21 chapter shall not constitute neglect under the law or provide
22 the sole basis for the appointment of a guardian or conservator
23 for the patient.

24 4. A health care provider shall not be under any duty,
25 whether by contract, statute, or any other legal requirement,
26 to participate in the provision to a qualified patient of
27 medication to end the patient's life pursuant to this chapter.
28 If a health care provider is unable or unwilling to carry out a
29 patient's request under this chapter and the patient transfers
30 the patient's care to a new health care provider, the prior
31 health care provider shall transfer, upon request, a copy of
32 the patient's relevant medical records to the new health care
33 provider.

34 5. a. Notwithstanding any other provision of law to the
35 contrary, a health care provider may prohibit another health

1 care provider from acting under this chapter on the premises
2 of the prohibiting provider if the prohibiting provider has
3 notified the health care provider of the prohibiting provider's
4 policy regarding actions under this chapter. Nothing in this
5 paragraph shall prevent a health care provider from providing
6 health care services to a patient that do not constitute action
7 under this chapter.

8 *b.* Notwithstanding the provisions of this section to the
9 contrary, a health care provider may subject another health
10 care provider to the following sanctions if the sanctioning
11 health care provider has notified the sanctioned provider prior
12 to action under this chapter that the health care provider
13 prohibits actions under this chapter:

14 (1) Loss of privileges, loss of membership, or other
15 sanction provided pursuant to the medical staff bylaws,
16 policies, or procedures of the sanctioning health care provider
17 if the sanctioned provider is a member of the sanctioning
18 provider's medical staff and acts under this chapter while on
19 the health care facility premises of the sanctioning health
20 care provider, but not including the private medical office of
21 a physician or other provider.

22 (2) Termination of a lease or other property contract or
23 other nonmonetary remedies provided by a lease or contract,
24 not including loss or restriction of medical staff privileges
25 or exclusion from a provider panel, if the sanctioned
26 provider acts under this chapter while on the premises of the
27 sanctioning health care provider or on property that is owned
28 by or under the direct control of the sanctioning health care
29 provider.

30 (3) Termination of a contract or other nonmonetary remedies
31 provided by a contract if the sanctioned provider acts under
32 this chapter while acting in the course and scope of the
33 sanctioned provider's capacity as an employee or independent
34 contractor of the sanctioning health care provider. Nothing
35 in this subparagraph shall be construed to prevent any of the

1 following:

2 (a) A health care provider from acting under this chapter
3 while acting outside the course and scope of the provider's
4 capacity as an employee or independent contractor.

5 (b) A patient from contracting with the patient's attending
6 physician and consulting physician to act outside the course
7 and scope of the provider's capacity as an employee or
8 independent contractor of the sanctioning health care provider.

9 c. A health care provider that imposes sanctions pursuant to
10 paragraph "b" shall follow all due process and other procedures
11 the sanctioning health care provider uses for the imposition of
12 sanctions on other health care providers under the authority of
13 the sanctioning health care provider.

14 d. For the purposes of this subsection:

15 (1) "*Action under this chapter*" means to perform the
16 duties of an attending physician, the consulting physician
17 function, or the counseling function as specified under this
18 chapter. "*Action under this chapter*" does not include any of
19 the following:

20 (a) Making an initial determination that a patient has
21 a terminal disease and informing the patient of the medical
22 prognosis.

23 (b) Providing information about this chapter to a patient
24 upon the request of the patient.

25 (c) Providing a patient, upon the request of the patient,
26 with a referral to another physician.

27 (d) A patient contracting with the patient's attending
28 physician and consulting physician to act outside of the
29 course and scope of the provider's capacity as an employee or
30 independent contractor of the sanctioning health care provider.

31 (2) "*Notify*" means a separate statement in writing to the
32 health care provider specifically informing the health care
33 provider prior to the provider's action under this chapter of
34 the sanctioning health care provider's policy about actions
35 under this chapter.

1 Sec. 15. NEW SECTION. 142E.15 **Liabilities — penalties.**

2 1. A person who without authorization of the patient
3 willfully alters or forges a request for medication under this
4 chapter or conceals or destroys a rescission of a request for
5 medication under this chapter with the intent or effect of
6 causing the patient's death is guilty of a class "A" felony.

7 2. A person who coerces or exerts undue influence on a
8 patient to request medication for the purpose of ending the
9 patient's life pursuant to this chapter, or to destroy a
10 rescission of such a request, is guilty of a class "A" felony.

11 3. Nothing in this chapter shall be construed to limit
12 a person's liability for civil damages resulting from the
13 person's negligent conduct or intentional misconduct applicable
14 under other law for conduct which is inconsistent with the
15 provisions of this chapter.

16 4. The penalties specified in this section shall not
17 preclude criminal penalties applicable under other law for
18 conduct which is inconsistent with the provisions of this
19 chapter.

20 Sec. 16. NEW SECTION. 142E.16 **Claims by governmental entity**
21 **for costs incurred.**

22 A governmental entity that incurs costs resulting from a
23 person terminating the person's life pursuant to this chapter
24 in a public place shall have a claim against the estate of
25 the person to recover such costs and reasonable attorney fees
26 related to enforcing the claim.

27 Sec. 17. NEW SECTION. 142E.17 **Form of written request.**

28 A written request for medication as authorized by this
29 chapter shall be in substantially the following form:

30 REQUEST FOR MEDICATION

31 TO END MY LIFE IN A HUMANE

32 AND DIGNIFIED MANNER

33 I, _____, am an adult of sound mind.

34 I am suffering from _____, which my attending physician has
35 determined is a terminal disease and which has been medically

1 confirmed by a consulting physician.

2 I have been fully informed of my diagnosis, prognosis, the
3 nature of medication to be prescribed and potential associated
4 risks, the expected result, and the feasible alternatives,
5 including comfort care, hospice care, and pain control.

6 I request that my attending physician prescribe medication that
7 will end my life in a humane and dignified manner.

8 INITIAL ONE OF THE FOLLOWING:

9 _____ I have informed my family of my decision and taken their
10 opinions into consideration.

11 _____ I have decided not to inform my family of my decision.

12 _____ I have no family to inform of my decision.

13 I understand that I have the right to rescind this request at
14 any time.

15 I understand the full import of this request and I expect to
16 die when I take the medication to be prescribed. I further
17 understand that although most deaths occur within three hours,
18 my death may take longer and my physician has counseled me
19 about this possibility.

20 I make this request voluntarily and without reservation, and I
21 accept full moral responsibility for my actions.

22 Signed: _____

23 Dated: _____

24 DECLARATION OF WITNESSES

25 By initialing and signing below on or after the date the person
26 named above signs, we declare that the person making and
27 signing the above request:

28 (a) Is personally known to us or has provided proof of
29 identity.

30 (b) Signed this request in our presence on the date of the
31 person's signature.

32 (c) Appears to be of sound mind and not under duress, fraud, or
33 undue influence.

34 (d) Is not a patient for whom either of us is the attending
35 physician.

1 Printed name of Witness 1 _____

2 Signed name of Witness 1/Date _____

3 Printed name of Witness 2 _____

4 Signed name of Witness 2/Date _____

5 NOTE: One witness shall not be a relative by blood, marriage,
6 or adoption of the person signing this request, shall not be
7 entitled to any portion of the person's estate upon death,
8 and shall not own, operate, or be employed at a health care
9 facility where the person is a patient or resident. If the
10 patient is an inpatient at a health care facility, one of the
11 witnesses shall be an individual designated by the facility.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill creates the "Iowa End-of-Life Options Act". The
16 bill provides for a competent adult patient, who is a resident
17 of the state of Iowa, who is terminally ill with less than six
18 months to live as verified by two physicians, to voluntarily
19 request medication that will end the person's life. The
20 bill provides that the patient must make an oral request, a
21 subsequent oral request no less than 15 days after the initial
22 request, and a written request for the medication. There is
23 also a 48-hour waiting period between the submission of the
24 written request and the writing of the prescription. The bill
25 specifies the responsibilities of the attending physician and
26 the consulting physician. The bill includes a provision for
27 counseling if the attending physician deems it appropriate, the
28 notification of next of kin, the right to rescind a request at
29 any time, and documentation requirements. The bill provides
30 for the effect of a request for medication to end the person's
31 life on the construction of wills, contracts, and statutes as
32 well as on insurance and annuity policies.

33 The bill provides that the provisions of the bill are not
34 to be construed to authorize a physician or any other person
35 to end a patient's life by lethal injection, mercy killing,

1 or active euthanasia, and that actions taken in accordance
2 with the bill shall not, for any purpose, constitute suicide,
3 assisted suicide, mercy killing, or homicide under the
4 law. Additionally, the provisions of the bill are not to be
5 interpreted to lessen the applicable standard of care for the
6 attending physician, consulting physician, psychiatrist, or
7 psychologist, or other health care provider acting under the
8 bill.

9 The bill provides immunities for a person who acts in
10 good-faith compliance with the bill, including being present
11 when a patient takes the prescribed medication to end the
12 patient's life.

13 The bill provides that a professional organization or
14 association, or health care provider, shall not subject a
15 person to censure, discipline, suspension, loss of license,
16 loss of privileges, loss of membership, or other penalty for
17 acting or refusing to act in good-faith compliance with the
18 bill, but does provide for prohibitions by a health care
19 provider on the premises of the health care provider relative
20 to the bill. The bill provides that a request by a patient
21 for or provision by an attending physician of medication in
22 good-faith compliance with the bill does not constitute neglect
23 under the law or provide the sole basis for the appointment
24 of a guardian or conservator for the patient. Under the
25 bill, a health care provider is not under any duty, whether
26 by contract, statute, or any other legal requirement, to
27 participate in the provision to a patient of medication to
28 end the patient's life. If a health care provider is unable
29 or unwilling to carry out a patient's request under the bill,
30 however, and the patient transfers the patient's care to a
31 new health care provider, the prior health care provider is
32 required to transfer, upon request, a copy of the patient's
33 relevant medical records to the new health care provider.

34 The bill provides that a person who, without authorization
35 of the patient, willfully alters or forges a request for

1 medication under the bill or conceals or destroys a rescission
2 of such a request with the intent or effect of causing the
3 patient's death is guilty of a class "A" felony. Additionally,
4 a person who coerces or exerts undue influence on a patient
5 to request medication for the purpose of ending the patient's
6 life under the bill, or to destroy a rescission of such a
7 request, is guilty of a class "A" felony. A class "A" felony
8 is punishable by confinement for life without possibility of
9 parole.

10 The bill provides that the provisions of the bill are
11 not to be construed to limit a person's liability for civil
12 damages resulting from other negligent conduct or intentional
13 misconduct by the person and that the penalties specified in
14 the bill shall not preclude criminal penalties applicable under
15 other law for conduct which is inconsistent with the provisions
16 of the bill.

17 The bill provides that if a governmental entity incurs costs
18 resulting from a person terminating the person's life under the
19 bill in a public place, the governmental entity has a claim
20 against the estate of the person to recover such costs and
21 reasonable attorney fees related to enforcing the claim.

22 The bill also provides the form for the request for
23 medication to end a person's life.