## House File 2288 - Introduced

HOUSE FILE 2288

BY CROKEN, ABDUL-SAMAD,

STECKMAN, and OLSON

### A BILL FOR

- 1 An Act creating the Iowa our care, our options Act, and
- 2 providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 1 Section 1. NEW SECTION. 142E.1 Findings.
- 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
- ll 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 l. "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 ll practice.
- 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 health and human
- 26 services.
- 27 6. "Health care facility" means a hospital licensed pursuant
- 28 to chapter 135B, a nursing facility licensed pursuant to
- 29 chapter 135C, an inpatient hospice program as defined in
- 30 section 135J.1, an elder group home as defined in section
- 31 231B.1, or an assisted living program as defined in section
- 32 231C.2. "Health care facility" does not include the location of
- 33 an individual health care provider.
- 34 7. "Health care provider" means a person who is licensed,
- 35 certified, or otherwise authorized or permitted by the laws

- 1 of this state to administer health care, diagnose and treat
- 2 medical conditions, and prescribe and dispense medications,
- 3 including controlled substances. "Health care provider" does
- 4 not include a health care facility.
- 5 8. "Informed decision" means a voluntary, affirmative
- 6 decision by a terminally ill patient to request and obtain a
- 7 prescription for medication pursuant to this chapter that the
- 8 terminally ill patient may self-administer to bring about a
- 9 peaceful death, after being fully informed by the attending
- 10 provider of all of the following:
- 11 a. The patient's medical diagnosis.
- 12 b. The patient's prognosis.
- 13 c. The feasible end-of-life care and treatment options for
- 14 the patient's terminal illness, including but not limited to
- 15 comfort care, palliative care, hospice care, and pain control,
- 16 and the risks and benefits of each option.
- 17 d. The patient's right to withdraw consent at any time,
- 18 and that the patient is not under any obligation to continue a
- 19 previously chosen option for end-of-life care or treatment.
- 9. "Licensed mental health provider" means a psychiatrist
- 21 licensed pursuant to chapter 148, a psychologist licensed
- 22 pursuant to chapter 154B, or an independent social worker
- 23 licensed pursuant to chapter 154C.
- 24 10. "Medical aid in dying" means the medical practice
- 25 authorized under this chapter and established standards
- 26 of medical care to determine a terminally ill patient's
- 27 qualifications, evaluate a terminally ill patient's request
- 28 for medication, and provide a terminally ill patient with
- 29 a prescription for medication or dispense the prescribed
- 30 medication to bring about the terminally ill patient's peaceful
- 31 death.
- 32 11. "Medical confirmation" means the medical opinion of the
- 33 attending provider has been confirmed by a consulting provider
- 34 who has examined the patient and the patient's relevant medical
- 35 records.

- 1 12. "Mentally capable" means that in the opinion of the
- 2 attending provider, a consulting provider, and a licensed
- 3 mental health care provider, as applicable, the patient
- 4 requesting medical aid in dying has the ability to make and
- 5 communicate an informed decision.
- 6 13. "Patient" means an adult who is under the care of a
- 7 health care provider.
- 8 14. "Patient-directed care" means patient-centered care that
- 9 is not only respectful of and responsive to individual patient
- 10 preferences, needs, and values, but also ensures that patient
- 11 values guide all clinical decisions and that patients are fully
- 12 informed of and able to access all legal end-of-life care and
- 13 treatment options.
- 14 15. "Prognosis of six months or less" with reference to
- 15 a terminal illness means the terminal illness will, within
- 16 reasonable medical judgment, result in a patient's death within
- 17 six months.
- 18 16. "Qualified patient" means a mentally capable, terminally
- 19 ill patient, who is a resident of Iowa and has satisfied
- 20 the requirements of this chapter in order to obtain and
- 21 self-administer a prescription for medication to bring about
- 22 the terminally ill patient's peaceful death.
- 23 17. "Self-administer" or "self-administration" means a
- 24 qualified patient's affirmative, conscious, voluntary act to
- 25 ingest medication prescribed pursuant to this chapter to bring
- 26 about the patient's own peaceful death. "Self-administer"
- 27 or "self-administration" does not include administration of
- 28 medication via injection or intravenous infusion.
- 29 18. "Terminal illness" or "terminally ill" means an
- 30 incurable illness with a prognosis of six months or less.
- 31 19. "Terminally ill patient" means a patient who has been
- 32 certified by a health care provider to be terminally ill.
- 33 Sec. 4. NEW SECTION. 142E.4 Process for requesting
- 34 medication for medical aid in dying.
- 35 l. A patient who is mentally capable, is a resident of this

- 1 state, and has been certified by a health care provider to be
- 2 terminally ill, may request medication that the patient may
- 3 self-administer to end the patient's life as follows:
- 4 a. By making two oral requests to the terminally
- 5 ill patient's attending provider separated by a
- 6 fifteen-calendar-day waiting period, beginning from the
- 7 day the first request is made.
- 8 b. By providing one written request to the terminally ill
- 9 patient's attending provider.
- 10 2. A written request made under this section shall be in
- 11 substantially the form described in section 142E.5, shall be
- 12 signed and dated, or attested to, by the terminally ill patient
- 13 requesting medical aid in dying, and shall be signed and dated,
- 14 or attested to, by one witness.
- 3. Oral and written requests made under this section must be
- 16 made by the terminally ill patient and shall not be made by any
- 17 other individual including the terminally ill patient's agent
- 18 under a power of attorney executed pursuant to chapter 633B, an
- 19 attorney in fact under a durable power of attorney for health
- 20 care pursuant to chapter 144B, or via a declaration relating to
- 21 use of life-sustaining procedures pursuant to chapter 144A.
- 22 4. A patient shall not qualify to make a request under this
- 23 section solely based on age or disability.
- 24 5. Notwithstanding subsection 1, if a terminally ill
- 25 patient's attending provider attests that the terminally ill
- 26 patient will, within reasonable medical judgment, die within
- 27 fifteen days after the terminally ill patient's initial oral
- 28 request is made under this section, the terminally ill patient
- 29 may reiterate the oral request to the attending provider at any
- 30 time after making the initial oral request and the fifteen-day
- 31 waiting period shall be waived.
- 32 Sec. 5. NEW SECTION. 142E.5 Form of written request —
- 33 requirements.
- 1. A written request for medication that a terminally ill
- 35 patient may self-administer to end the terminally ill patient's

1	life as authorized by this chapter shall be in substantially
2	the following form:
3	Request for Medication
4	to End My Life in
5	a Peaceful Manner
6	I, am an adult of sound
7	mind. I have been diagnosed with
8	, and given a
9	prognosis of six months or less to live.
10	I have been fully informed of the feasible alternatives,
11	and the concurrent or additional care and treatment options
12	for my terminal illness, including but not limited to comfort
13	care, palliative care, hospice care, and pain control, and the
14	potential risks and benefits of each. I have been offered or
15	received resources or referrals to pursue these alternative
16	and concurrent or additional care and treatment options for my
17	terminal illness.
18	I have been fully informed of the nature of the medication to
19	be prescribed, the risks and benefits, and the probable result
20	of self-administering the medication, should I decide to do
21	so. I understand that I can rescind this request at any time,
22	and that I am under no obligation to fill the prescription once
23	provided nor to self-administer the medication if I obtain the
24	medication.
25	I request that my attending provider furnish a prescription
26	for medication that will end my life in a peaceful manner if
27	I choose to self-administer it, and I authorize my attending
28	provider to contact a pharmacist to dispense the prescription
29	at a time of my choosing.
30	I make this request voluntarily, free from coercion and
31	undue influence, and I accept full responsibility for my
3 <b>2</b>	actions.
33	
34	Requestor Signature Date
35	

1 Witness Signature

- Date
- 2. A witness shall not be any of the following:
- 3 a. A relative of the terminally ill patient by blood,
- 4 marriage, or adoption.
- 5 b. A person who at the time the request is signed would
- 6 be entitled to any portion of the estate of the terminally
- 7 ill patient upon death under any will, trust, or other legal
- 8 instrument, or by operation of law.
- 9 Sec. 6. NEW SECTION. 142E.6 Attending provider duties.
- 10 An attending provider shall do all of the following:
- 11 1. Provide care that conforms to accepted medical
- 12 standards.
- 2. After confirming that a patient is terminally ill,
- 14 determine whether the patient requesting medical aid in dying
- 15 meets all of the following criteria:
- 16 a. Is mentally capable.
- 17 b. Has made the request for medication voluntarily and free
- 18 from coercion or undue influence.
- 19 c. Is a resident of the state.
- 20 3. In confirming that the terminally ill patient's request
- 21 does not arise from coercion or undue influence by another
- 22 person, discuss with the terminally ill patient, outside the
- 23 presence of other persons with the exception of an interpreter
- 24 if necessary, whether the terminally ill patient feels coerced
- 25 or unduly influenced by another person.
- 26 4. Thoroughly educate the terminally ill patient about all
- 27 of the following:
- 28 a. The feasible alternatives and concurrent or additional
- 29 care and treatment options for the patient's terminal illness,
- 30 including but not limited to comfort care, palliative care,
- 31 hospice care, or pain control, and the potential risks and
- 32 benefits of each.
- 33 b. The potential risks, benefits, and probable result of
- 34 self-administering the medication to be prescribed to bring
- 35 about a peaceful death.

- 1 c. The choices available to the terminally ill patient
- 2 that reflect the terminally ill patient's self-determination,
- 3 including that the terminally ill patient is under no
- 4 obligation to fill the prescription once provided nor to
- 5 self-administer the medication if the medication is obtained.
- 6 d. The terminally ill patient's right to rescind the request
- 7 for medication pursuant to this chapter at any time and in any
- 8 manner.
- 9 e. The benefits of notifying family of the terminally ill
- 10 patient's decision to request medication pursuant to this
- 11 chapter as an end-of-life care option.
- 12 f. With regard to a terminally ill patient's
- 13 self-administration of the medication:
- 14 (1) The recommended methods for self-administering the
- 15 medication to be prescribed.
- 16 (2) The safekeeping and proper disposal of any unused
- 17 medication in accordance with federal and state law.
- 18 (3) The importance of having another individual present
- 19 when the terminally ill patient self-administers the medication
- 20 to be prescribed.
- 21 (4) The importance of not taking the medication in a public
- 22 place.
- 23 5. Provide the terminally ill patient with a referral for
- 24 comfort care, palliative care, hospice care, pain control, or
- 25 other end-of-life care and treatment options as requested or
- 26 as clinically indicated.
- 27 6. a. Refer the terminally ill patient to a consulting
- 28 provider for medical confirmation that the patient requesting
- 29 medication pursuant to this chapter is eligible.
- 30 b. The attending provider shall add the medical confirmation
- 31 provided under paragraph "a" to the terminally ill patient's
- 32 medical record.
- 7. Refer the terminally ill patient to a licensed mental
- 34 health provider for evaluation in accordance with section
- 35 142E.8 if the attending provider observes signs that the

- 1 terminally ill patient may not be mentally capable of making
- 2 an informed decision, and add the licensed mental health
- 3 provider's written determination to the terminally ill
- 4 patient's medical record.
- 5 8. Ensure that all appropriate steps are carried out in
- 6 accordance with this chapter before providing a prescription
- 7 for medication pursuant to this chapter to a terminally ill
- 8 patient.
- 9 9. Once the terminally ill patient is determined to be a
- 10 qualified patient, do either of the following:
- ll a. Deliver the prescription for the requested medication
- 12 personally, by mail, or through an authorized electronic
- 13 transmission to a licensed pharmacist who will dispense
- 14 the medication, including ancillary medications intended
- 15 to minimize the qualified patient's discomfort, to the
- 16 attending provider, to the qualified patient, or to a person
- 17 expressly designated by the qualified patient, in person or
- 18 with a signature required on delivery, by mail service, or by
- 19 messenger service.
- 20 b. Dispense the prescribed requested medication, including
- 21 ancillary medications intended to minimize the qualified
- 22 patient's discomfort, to the qualified patient or to a person
- 23 expressly designated by the qualified patient in person,
- 24 if the attending provider has a current drug enforcement
- 25 administration number if required under chapter 124.
- 26 10. Document in the qualified patient's medical record the
- 27 qualified patient's diagnosis and prognosis, determination of
- 28 mental capability, the dates of the qualified patient's oral
- 29 requests, a copy of the written request, and a notation that
- 30 all the requirements under this chapter have been completed
- 31 including a description of the medication and ancillary
- 32 medications prescribed to the qualified patient pursuant to
- 33 this chapter.
- 34 Sec. 7. NEW SECTION. 142E.7 Consulting provider duties.
- 35 l. A terminally ill patient requesting medical aid in dying

- 1 under this chapter shall receive medical confirmation from a
- 2 consulting provider prior to being deemed a qualified patient.
- 3 2. A consulting provider shall do all of the following:
- 4 a. Evaluate the terminally ill patient and the terminally
- 5 ill patient's relevant medical records.
- 6 b. Confirm, in writing, all of the following to the
- 7 attending provider:
- 8 (1) That the patient has a terminal illness.
- 9 (2) That the terminally ill patient has made the request
- 10 for medical aid in dying voluntarily and free from coercion or 11 undue influence.
- 12 (3) That the terminally ill patient is mentally capable, or
- 13 provide documentation that the consulting provider has referred
- 14 the terminally ill patient to a licensed mental health provider
- 15 for further evaluation in accordance with section 142E.8.
- 16 Sec. 8. NEW SECTION. 142E.8 Confirmation determination
- 17 of mental capability referral to licensed mental health
- 18 provider.
- 19 1. If either the attending provider or the consulting
- 20 provider is unable to confirm that the terminally ill patient
- 21 requesting medication for medical aid in dying under this
- 22 chapter is mentally capable, the attending provider or
- 23 consulting provider shall refer the terminally ill patient to a
- 24 licensed mental health provider for a determination of mental
- 25 capability.
- 26 2. A licensed mental health provider who evaluates a
- 27 terminally ill patient under this section shall communicate in
- 28 writing to the attending provider or consulting provider who
- 29 requested the evaluation the licensed mental health provider's
- 30 conclusions about whether the terminally ill patient is
- 31 mentally capable.
- 32 3. If the licensed mental health provider determines
- 33 that the terminally ill patient is not currently mentally
- 34 capable, the licensed mental health provider shall not deem the
- 35 terminally ill patient to be mentally capable and the attending

- 1 provider shall not determine the terminally ill patient to be a
- 2 qualified patient and prescribe medication to the terminally
- 3 ill patient under this chapter.
- 4 Sec. 9. NEW SECTION. 142E.9 Reporting requirements.
- 5 l. The department shall create and make available to all
- 6 attending providers a prescribing provider checklist form
- 7 and prescribing provider follow-up form for the purposes of
- 8 reporting the information as specified under this section to
- 9 the department.
- 10 2. Within thirty calendar days of providing a prescription
- 11 to a qualified patient for medication pursuant to this chapter,
- 12 the attending provider shall submit to the department a
- 13 completed prescribing provider checklist form with all of the
- 14 following information regarding a qualified patient:
- 15 a. The qualified patient's name and date of birth.
- 16 b. The qualified patient's terminal diagnosis and prognosis.
- 17 c. A notation that all the requirements under this chapter
- 18 have been completed.
- d. A notation that medication has been prescribed pursuant
- 20 to this chapter.
- 21 3. Within sixty calendar days of notification of a qualified
- 22 patient's death from self-administration of medication
- 23 prescribed pursuant to this chapter, the attending provider
- 24 shall submit to the department a completed prescribing provider
- 25 follow-up form with all of the following information:
- 26 a. The qualified patient's name, date of birth, age at
- 27 death, education level, race, sex, type of insurance, if any,
- 28 and underlying illness.
- 29 b. The date of the qualified patient's death.
- 30 c. A notation of whether or not the qualified patient was
- 31 enrolled in and receiving hospice services at the time of the
- 32 qualified patient's death.
- 33 4. The department shall annually review a sample of records
- 34 maintained pursuant to this section to ensure compliance
- 35 and shall generate and make available to the public a

- 1 statistical report of nonidentifying information collected.
- 2 The statistical report shall be limited to the following
- 3 information:
- 4 a. The number of prescriptions for medication written
- 5 pursuant to this chapter.
- 6 b. The number of attending providers who wrote prescriptions
- 7 for medication pursuant to this chapter.
- 8 c. The number of qualified patients who died following
- 9 self-administration of medication prescribed and dispensed
- 10 pursuant to this chapter.
- 11 5. Except as otherwise required by law, the information
- 12 collected by the department shall not be a public record and
- 13 shall not be made available for public inspection.
- 14 Sec. 10. NEW SECTION. 142E.10 Safe disposal of unused
- 15 medications.
- 16 A person who has custody or control of medication prescribed
- 17 and dispensed pursuant to this chapter that remains unused
- 18 after a qualified patient's death shall dispose of the
- 19 medication by lawful means in accordance with state and federal
- 20 quidelines.
- 21 Sec. 11. NEW SECTION. 142E.11 Use of interpreters.
- 22 l. An interpreter whose services are provided to a patient
- 23 requesting information or services under this chapter shall
- 24 meet the standards promulgated by the Iowa interpreters and
- 25 translators association or the national board of certification
- 26 for medical interpreters, or other standard deemed acceptable
- 27 by the department.
- 28 2. An interpreter providing services pursuant to this
- 29 chapter shall not be related to a qualified patient by blood,
- 30 marriage, or adoption, or be entitled to a portion of the
- 31 qualified patient's estate by will, trust, or other legal
- 32 instrument, or by operation of law upon the qualified patient's
- 33 death.
- 34 Sec. 12. NEW SECTION. 142E.12 Effect on construction of
- 35 wills, contracts, and statutes.

- 1 l. A provision in a contract, will, or other agreement,
- 2 whether written or oral, to the extent the provision would
- 3 affect whether a patient may make or rescind a request for
- 4 medication pursuant to this chapter, shall not be valid.
- 5 2. An obligation owing under any currently existing
- 6 contract shall not be conditioned or affected by the making or
- 7 rescinding of a request by a patient for medication pursuant to
- 8 this chapter.
- 9 Sec. 13. NEW SECTION. 142E.13 Insurance or annuity
- 10 policies.
- 11 1. The sale, procurement, or issuance of a life, health,
- 12 or accident insurance or annuity policy, or the rate charged
- 13 for any such policy shall not be conditioned upon or affected
- 14 by the making or rescinding of a request by a patient for
- 15 medication pursuant to this chapter.
- 16 2. A qualified patient's act of self-administering
- 17 medication pursuant to this chapter shall not have an effect on
- 18 or invalidate any part of a life, health, or accident insurance
- 19 or annuity policy.
- 20 3. A terminally ill patient who is a covered beneficiary
- 21 of a health insurance policy shall not be subject to denial
- 22 or alteration of such benefits based on the availability of
- 23 medical aid in dying or the patient's request or absence of a
- 24 request for medication pursuant to this chapter.
- 25 4. A terminally ill patient who is a recipient of Medicaid
- 26 coverage shall not be subject to denial or alteration of such
- 27 benefits based on the availability of medical aid in dying or
- 28 the patient's request or absence of request for medication
- 29 pursuant to this chapter.
- 30 Sec. 14. NEW SECTION. 142E.14 Death certificate.
- 31 1. Unless otherwise prohibited by law, the attending
- 32 provider or the hospice medical director shall sign the
- 33 death certificate of a qualified patient who obtained and
- 34 self-administered a prescription for medication pursuant to
- 35 this chapter.

- When a death has occurred in accordance with this
   chapter:
- 3 a. The manner of death of the qualified patient on a death 4 certificate shall not be listed as suicide or homicide.
- 5 b. The cause of death of a qualified patient on a death6 certificate shall be listed as the qualified patient's
- 7 underlying terminal illness.
- 8 c. The qualified patient's act of self-administering 9 medication prescribed pursuant to this chapter shall not be
- 10 indicated on the death certificate.
- 11 3. A death that occurs in accordance with this chapter does
- 12 not alone constitute a person's death that affects the public
- 13 interest as described pursuant to section 331.802.
- 14 a. If a death that occurs in accordance with this chapter
- 15 is referred to the state medical examiner or a county medical
- 16 examiner, a preliminary investigation may be conducted to
- 17 determine whether the person received a prescription for
- 18 medication under this chapter.
- 19 b. Any inquiry or investigation conducted by the state
- 20 medical examiner or a county medical examiner relating to
- 21 deaths that occur pursuant to this chapter shall not require
- 22 the state medical examiner or a county medical examiner to
- 23 sign the death certificate if the state medical examiner or a
- 24 county medical examiner identifies the attending provider that
- 25 prescribed the qualified patient medication pursuant to this
- 26 chapter.
- 27 Sec. 15. NEW SECTION. 142E.15 Construction of chapter.
- 1. Nothing in this chapter shall be interpreted to lessen
- 29 the applicable standard of care, including the standard of care
- 30 for the treatment of terminally ill patients and medical aid in
- 31 dying, for an attending provider, consulting provider, licensed
- 32 mental health provider, or any other health care provider
- 33 acting under this chapter.
- 34 2. Nothing in this chapter shall be construed to limit the
- 35 information or counseling a health care provider must provide

- 1 to a patient in order to comply with informed consent laws and 2 requirements to meet a medical standard of care.
- 3 Nothing in this chapter shall be construed to authorize a
- 4 health care provider or any other person to end an individual's
- 5 life by infusion, intravenous injection, mercy killing, or
- 6 euthanasia. Actions taken in accordance and compliance with
- 7 this chapter shall not, for any purposes, constitute suicide,
- 8 assisted suicide, euthanasia, mercy killing, homicide, or elder
- 9 abuse under the law.
- 10 4. A request by a patient for and the provision of
- 11 medication pursuant to this chapter do not solely constitute
- 12 neglect or elder abuse for any purpose of law, or provide the
- 13 sole basis for the appointment of a guardian or conservator.
- 14 Sec. 16. NEW SECTION. 142E.16 No duty to provide medical
- 15 aid in dying.
- 16 l. A health care provider shall provide sufficient
- 17 information to a terminally ill patient regarding available
- 18 options, alternatives, and the foreseeable risks and benefits
- 19 of each option or alternative, so that the patient is able
- 20 to make a fully informed, voluntary, affirmative decision
- 21 regarding the patient's end-of-life care and treatment.
- 22 2. A health care provider may choose whether or not to
- 23 practice medical aid in dying pursuant to this chapter and
- 24 shall not be under any duty, whether by contract, statute, or
- 25 any other legal requirement, to participate in the practice of
- 26 medical aid in dying or to provide a qualified patient with
- 27 medication pursuant to this chapter.
- 28 3. If an attending provider is unable or unwilling to
- 29 determine a terminally ill patient's qualification for medical
- 30 aid in dying, evaluate a terminally ill patient's request for
- 31 medication, or provide a qualified patient with a prescription
- 32 for medication or dispense prescribed medication to a qualified
- 33 patient pursuant to this chapter, the attending provider shall
- 34 do all of the following:
- 35 a. Accurately document the terminally ill patient's request

- 1 in the terminally ill patient's medical record.
- 2 b. Make reasonable efforts to accommodate the terminally
- 3 ill patient's request including by transferring the care and
- 4 medical records of the terminally ill patient to another
- 5 attending provider upon the terminally ill patient's request
- 6 so that the terminally ill patient is able to make a voluntary
- 7 affirmative decision regarding the terminally ill patient's
- 8 end-of-life care and treatment.
- 9 4. Failure to inform a terminally ill patient who requests
- 10 information about available end-of-life options including
- 11 medical aid in dying, or failure to refer the terminally ill
- 12 patient to another attending provider who can provide the
- 13 information, is considered a failure to obtain informed consent
- 14 for subsequent medical treatments.
- 15 5. An attending provider shall not engage in false,
- 16 misleading, or deceptive practices relating to the attending
- 17 provider's willingness to determine the qualification of a
- 18 terminally ill patient for medical aid in dying, to evaluate
- 19 a terminally ill patient's request for medication, or to
- 20 provide a prescription for medication to a qualified patient
- 21 or dispense a prescribed medication to a qualified patient
- 22 pursuant to this chapter.
- 23 Sec. 17. NEW SECTION. 142E.17 Health care facility —
- 24 permissible prohibitions and duties.
- 25 1. A health care facility that has adopted a policy
- 26 prohibiting health care providers in the course of performing
- 27 duties for the health care facility from determining the
- 28 qualification of a terminally ill patient for medical aid
- 29 in dying, evaluating a terminally ill patient's request
- 30 for medication, or providing a qualified patient with a
- 31 prescription for medication or dispensing prescribed medication
- 32 to a qualified patient, shall provide advance notice in
- 33 writing to the health care facility's patients and health care
- 34 providers that the health care facility is a nonparticipating
- 35 health care facility under this chapter.

- 2. A nonparticipating health care facility that fails to
   2 provide explicit, advance notice in writing to the health care
   3 facility's patients and health care providers shall not enforce
   4 such a policy.
- 5 3. If a terminally ill patient wishes to transfer the 6 patient's care from a nonparticipating health care facility to 7 another health care facility, the nonparticipating health care 8 facility shall coordinate a timely transfer, including transfer 9 of the terminally ill patient's medical records that include 10 notation of the date the terminally ill patient first requested 11 medical aid in dying.
- 12 4. A nonparticipating health care facility shall not 13 prohibit a health care provider from providing services 14 consistent with the applicable standard of medical care 15 including all of the following:
- 16 a. Providing information to a patient about the availability 17 of medical aid in dying pursuant to this chapter.
- 18 b. Prescribing medication pursuant to this chapter for
  19 a qualified patient outside the scope of the health care
  20 provider's employment or contract with the nonparticipating
  21 health care facility and off the premises of the

22 nonparticipating health care facility.

- 23 c. Being present at the time a qualified patient
  24 self-administers medication prescribed pursuant to this chapter
  25 or at the time of the patient's death, if requested by the
  26 qualified patient or the qualified patient's representative
  27 outside the scope of the health care provider's employment or
  28 contractual duties.
- 5. A health care facility shall not engage in false,
  misleading, or deceptive practices relating to the health care
  facility's policy regarding end-of-life care and treatment
  services, including whether the health care facility has a
  policy which prohibits affiliated health care providers from
  determining a terminally ill patient's qualification for
  medical aid in dying, evaluating a terminally ill patient's

- 1 request for medication, or providing a prescription for or
- 2 dispensing medication to a qualified patient pursuant to this
- 3 chapter; or intentionally denying a terminally ill patient
- 4 access to medication pursuant to this chapter by failing to
- 5 transfer a terminally ill patient and the terminally ill
- 6 patient's medical records to another health care facility in a
- 7 timely manner.
- 8 Sec. 18. NEW SECTION. 142E.18 Immunities for actions in
- 9 good faith prohibition against reprisals.
- 10 1. A health care provider or health care facility shall
- ll not be subject to civil or criminal liability, professional
- 12 disciplinary action, or any other penalty for engaging in
- 13 the practice of medical aid in dying in accordance with
- 14 the standard of care and in good faith compliance with this
- 15 chapter.
- 16 2. A health care provider, health care facility, or
- 17 professional organization or association shall not subject
- 18 a health care provider or health care facility to censure,
- 19 discipline, the denial, suspension, or revocation of licensure,
- 20 loss of privileges, loss of membership, or any other penalty
- 21 for providing medical aid in dying in accordance with the
- 22 standard of care and in good faith compliance with this
- 23 chapter or for providing scientific and accurate information
- 24 about medical aid in dying to a terminally ill patient when
- 25 discussing end-of-life care and treatment options.
- 26 3. A health care provider shall not be subject to civil
- 27 or criminal liability or professional discipline if, with the
- 28 consent of the qualified patient or the qualified patient's
- 29 representative, the health care provider is present outside the
- 30 scope of the health care provider's professional duties when
- 31 the qualified patient self-administers medication prescribed
- 32 pursuant to this chapter or at the time of the qualified
- 33 patient's death.
- 34 4. This section shall not be interpreted to limit civil or
- 35 criminal liability of a health care provider who intentionally

- 1 or knowingly fails or refuses to timely submit records required 2 pursuant to section 142E.9.
- 3 5. This section shall not be interpreted to limit civil or 4 criminal liability for intentional violations of this chapter.
- 5 Sec. 19. NEW SECTION. 142E.19 Liabilities and penalties.
- 6 l. A person who without authorization of a patient
- 7 intentionally or knowingly alters or forges a request for
- 8 medication pursuant to this chapter with the intent or effect
- 9 of causing the patient's death, or conceals or destroys a
- 10 patient's rescission of a request for medication pursuant to
- 11 this chapter, is quilty of a class "A" felony.
- 12 2. A person who coerces or exerts undue influence over
- 13 a patient to request or utilize medication pursuant to this
- 14 chapter, with the intent or effect of causing the patient's
- 15 death, is guilty of a class "A" felony.
- 16 3. A person who intentionally or knowingly coerces or
- 17 exerts undue influence over a terminally ill patient to forgo a
- 18 request for or to obtain medication pursuant to this chapter,
- 19 or who intentionally or knowingly denies a qualified patient
- 20 access to medication under this chapter as an end-of-life care
- 21 and treatment option is quilty of a serious misdemeanor.
- 22 4. Nothing in this section shall be interpreted to limit
- 23 liability for civil damages resulting from negligent conduct or
- 24 intentional misconduct applicable under other law for conduct
- 25 which is inconsistent with the provisions of this chapter.
- 26 5. The penalties specified in this chapter shall not
- 27 preclude application of criminal penalties applicable under
- 28 other law for conduct which is inconsistent with this chapter.
- 29 Sec. 20. NEW SECTION. 142E.20 Claims by governmental entity
- 30 for costs incurred.
- 31 A governmental entity that incurs costs resulting from a
- 32 qualified patient self-administering medication prescribed
- 33 pursuant to this chapter in a public place shall have a claim
- 34 against the estate of the qualified patient to recover such
- 35 costs and reasonable attorney fees related to enforcing the

1 claim. 2 EXPLANATION The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly. 5 This bill creates the Iowa our care, our options Act. 6 The bill includes findings relating to end-of-life care and 7 treatment options and provides definitions of terms used in the 8 bill. The bill provides a process for an adult patient who is 10 mentally capable, is a resident of the state, and has been 11 determined by the patient's attending provider and consulting 12 provider to be terminally ill, to request medication that the 13 patient may self-administer to end the patient's life. 14 patient must make two oral requests to the patient's attending 15 provider, followed by one written request to the patient's 16 attending provider to request the medication. 17 The bill provides the form in which the written request 18 must be substantially made, and requires that oral and written 19 requests must be made by the terminally ill patient. Under 20 the bill, a patient shall not qualify to make a request solely 21 based on age or disability. The bill also provides that 22 notwithstanding other provisions of the bill, if a terminally 23 ill patient's attending provider attests that the terminally 24 ill patient will, within reasonable medical judgment, die 25 within 15 days after making the initial oral request, the 26 terminally ill patient may reiterate the oral request to the 27 attending provider at any time after making the initial oral 28 request and the 15-day waiting period shall be waived. 29 The bill specifies the duties of the attending provider and 30 the consulting provider, and provides for the referral of a 31 terminally ill patient by either an attending provider or a 32 consulting provider to a licensed mental health provider to 33 confirm that the terminally ill patient requesting medication 34 for medical aid in dying is mentally capable.

The bill requires the department of health and human

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- 1 services (HHS) to create and make available to all attending
- 2 providers a prescribing provider checklist form and prescribing
- 3 provider follow-up form for the purposes of reporting the
- 4 information specified under the bill to HHS. The department
- 5 of health and human services is required to annually review
- 6 a sample of records to ensure compliance and shall generate
- 7 and make available to the public a statistical report of
- 8 nonidentifying information collected.
- 9 The bill provides for the safe disposal of unused
- 10 medications and the use of interpreters by patients.
- 11 The bill provides for the effect of a request for medication
- 12 to end a patient's life on the construction of wills,
- 13 contracts, and statutes, as well as on insurance and annuity
- 14 policies.
- 15 The bill provides that unless otherwise prohibited by
- 16 law, the attending provider or the hospice medical director
- 17 shall sign the death certificate of a qualified patient who
- 18 obtained and self-administered a prescription for medication;
- 19 and provides specific requirements relative to a qualified
- 20 patient's death certificate and the role of medical examiner
- 21 investigations and actions.
- The bill specifies how the bill is to be interpreted
- 23 relative to applicable standards of care and informed consent
- 24 requirements; and provides that the bill is not to be construed
- 25 to authorize a health care provider or any other person to
- 26 end an individual's life by infusion, intravenous injection,
- 27 mercy killing, or euthanasia, and that actions taken in
- 28 accordance and compliance with the bill shall not, for any
- 29 purposes, constitute suicide, assisted suicide, euthanasia,
- 30 mercy killing, homicide, or elder abuse under the law. The
- 31 bill provides that a request by a patient for and the provision
- 32 of medication pursuant to the bill does not solely constitute
- 33 neglect or elder abuse for any purpose of law, or provide the
- 34 sole basis for the appointment of a guardian or conservator.
- 35 The bill provides that a health care provider shall provide

1 sufficient information to a terminally ill patient regarding 2 available options, the alternatives, and the foreseeable 3 risks and benefits of each option or alternative, so that 4 the terminally ill patient is able to make a fully informed, 5 voluntary, affirmative decision regarding the patient's 6 end-of-life care and treatment; provides that a health care 7 provider may choose whether or not to practice medical aid in 8 dying and shall not be under any duty, whether by contract, 9 statute, or any other legal requirement, to participate in the 10 practice of medical aid in dying or to provide a qualified 11 patient with medication pursuant to the bill. 12 requires an attending provider who is unable or unwilling to 13 determine a terminally ill patient's qualification for medical 14 aid in dying to evaluate a terminally ill patient's request 15 for medication, or to prescribe or dispense medication to a 16 qualified patient under the bill to otherwise accommodate the 17 terminally ill or qualified patient. 18 Failure to inform a terminally ill patient who requests 19 information about available end-of-life treatments including 20 medical aid in dying, or failure to refer a terminally ill 21 patient to another attending provider who can provide the 22 information, is considered a failure to obtain informed consent 23 for subsequent medical treatments. The bill prohibits an 24 attending provider from engaging in false, misleading, or 25 deceptive practices relating to the health care provider's 26 willingness to determine the qualification of a terminally ill 27 patient for medical aid in dying, to evaluate a terminally ill 28 patient's request for medication, or to provide a prescription 29 for or dispense medication to a qualified patient under the 30 bill. The bill specifies permissible prohibitions and duties of 31 32 a health care facility that has adopted a policy prohibiting 33 health care providers from determining the qualification of a 34 patient for medical aid in dying, evaluating a terminally ill

35 patient's request for medication, or prescribing or dispensing

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1 prescribed medication pursuant to the bill in the course of
 2 the health care provider performing duties for the health care
 3 facility.
      The bill provides immunities for actions taken in good
 5 faith by a health care provider or health care facility;
 6 prohibits a health care provider, health care facility, or
 7 professional organization or association from subjecting a
 8 health care provider or health care facility to censure,
 9 discipline, denial, suspension or revocation of licensure, loss
10 of privileges, loss of membership, or any other penalty for
11 providing medical aid in dying in accordance with the standard
12 of care and in good faith compliance with the bill, or for
13 providing scientific and accurate information about medical
14 aid in dying to a terminally ill patient when discussing
15 end-of-life care and treatment options; and prohibits a
16 health care provider from being subject to civil or criminal
17 liability or professional discipline if, with the consent of
18 the qualified patient or the qualified patient's agent, the
19 health care provider is present outside the scope of their
20 professional duties when the qualified patient self-administers
21 medication prescribed pursuant to the bill or at the time of
22 the qualified patient's death. Civil and criminal liability
23 is not limited for a health care provider who intentionally or
24 knowingly fails or refuses to timely submit records required to
25 be submitted to HHS or for intentional violations of the bill.
26
      The bill provides for liability and criminal penalties
27 imposed on persons who violate the bill. A person who without
28 authorization of a patient intentionally or knowingly alters
29 or forges a request for medication with the intent or effect
30 of causing the patient's death, or conceals or destroys a
31 patient's rescission of a request for medication is guilty
32 of a class "A" felony. A person who coerces or exerts undue
33 influence over a patient to request or utilize medication under
34 the bill, with the intent or effect of causing the patient's
35 death, is guilty of a class "A" felony. A class "A" felony
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- 1 is punishable by confinement for life without possibility of
  2 parole.
- 3 A person who intentionally or knowingly coerces or exerts
- 4 undue influence over a terminally ill patient to forgo a
- 5 request for or to obtain medication pursuant to the bill, or
- 6 intentionally or knowingly denies a qualified patient access
- 7 to medication under the bill as an end-of-life care option,
- 8 is guilty of a serious misdemeanor. A serious misdemeanor is
- 9 punishable by confinement for no more than one year and a fine
- 10 of at least \$430 but not more than \$2,560.
- 11 The liability and penalty provisions under the bill are
- 12 not to be interpreted to limit liability for civil damages
- 13 resulting from negligent conduct or intentional misconduct
- 14 applicable under other law for conduct which is inconsistent
- 15 with the provisions of this chapter, and penalties specified in
- 16 the bill shall not preclude application of criminal penalties
- 17 applicable under other law for conduct which is inconsistent
- 18 with the bill.
- 19 The bill also provides that a governmental entity
- 20 that incurs costs resulting from a qualified patient
- 21 self-administering medication prescribed under the bill in
- 22 a public place shall have a claim against the estate of the
- 23 patient to recover such costs and reasonable attorney fees
- 24 related to the enforcement of the claim.