

Senate File 2101 - Introduced

SENATE FILE 2101

BY BOULTON

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.

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 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.

20 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 a
15 terminal illness means the terminal illness will, within a
16 reasonable degree of medical certainty, result in a patient's
17 death within 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 1. 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.

15 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 a reasonable degree of medical certainty,
27 die within fifteen days after the terminally ill patient's
28 initial oral request is made under this section, the terminally
29 ill patient may reiterate the oral request to the attending
30 provider at any time after making the initial oral request and
31 the fifteen-day waiting period shall be waived.

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

34 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
32 actions.

33 _____
34 Requestor Signature Date
35 _____

1 Witness Signature Date

2 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.

13 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.

33 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:

11 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 1. 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 1. 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.
- 19 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 guidelines.

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

22 1. 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 1. 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.

1 2. When a death has occurred in accordance with this
2 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 death
6 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.

28 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 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 1. 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.

1 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.

29 5. A health care facility shall not engage in false,
30 misleading, or deceptive practices relating to the health care
31 facility's policy regarding end-of-life care and treatment
32 services, including whether the health care facility has a
33 policy which prohibits affiliated health care providers from
34 determining a terminally ill patient's qualification for
35 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
11 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 1. 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 guilty 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 guilty 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

3

The inclusion of this explanation does not constitute agreement with
4 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.

9

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. Such

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 a reasonable degree of medical

25

certainty, die within 15 days after making the initial oral

26

request, the terminally ill patient may reiterate the oral

27

request to the attending provider at any time after making the

28

initial oral request and the 15-day waiting period shall be

29

waived.

30

The bill specifies the duties of the attending provider and

31

the consulting provider, and provides for the referral of a

32

terminally ill patient by either an attending provider or a

33

consulting provider to a licensed mental health provider to

34

confirm that the terminally ill patient requesting medication

35

for medical aid in dying is mentally capable.

1 The bill requires the department of health and human
2 services (HHS) to create and make available to all attending
3 providers a prescribing provider checklist form and prescribing
4 provider follow-up form for the purposes of reporting the
5 information specified under the bill to HHS. The department
6 of health and human services is required to annually review
7 a sample of records to ensure compliance and shall generate
8 and make available to the public a statistical report of
9 nonidentifying information collected.

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

12 The bill provides for the effect of a request for medication
13 to end a patient's life on the construction of wills,
14 contracts, and statutes, as well as on insurance and annuity
15 policies.

16 The bill provides that unless otherwise prohibited by
17 law, the attending provider or the hospice medical director
18 shall sign the death certificate of a qualified patient who
19 obtained and self-administered a prescription for medication;
20 and provides specific requirements relative to a qualified
21 patient's death certificate and the role of medical examiner
22 investigations and actions.

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

1 The bill provides that a health care provider shall provide
2 sufficient information to a terminally ill patient regarding
3 available options, the alternatives, and the foreseeable
4 risks and benefits of each option or alternative, so that
5 the terminally ill patient is able to make a fully informed,
6 voluntary, affirmative decision regarding the patient's
7 end-of-life care and treatment; provides that a health care
8 provider may choose whether or not to practice medical aid in
9 dying and shall not be under any duty, whether by contract,
10 statute, or any other legal requirement, to participate in the
11 practice of medical aid in dying or to provide a qualified
12 patient with medication pursuant to the bill. The bill
13 requires an attending provider who is unable or unwilling to
14 determine a terminally ill patient's qualification for medical
15 aid in dying to evaluate a terminally ill patient's request
16 for medication, or to prescribe or dispense medication to a
17 qualified patient under the bill to otherwise accommodate the
18 terminally ill or qualified patient.

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

32 The bill specifies permissible prohibitions and duties of
33 a health care facility that has adopted a policy prohibiting
34 health care providers from determining the qualification of a
35 patient for medical aid in dying, evaluating a terminally ill

1 patient's request for medication, or prescribing or dispensing
2 prescribed medication pursuant to the bill in the course of
3 the health care provider performing duties for the health care
4 facility.

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

27 The bill provides for liability and criminal penalties
28 imposed on persons who violate the bill. A person who without
29 authorization of a patient intentionally or knowingly alters
30 or forges a request for medication with the intent or effect
31 of causing the patient's death, or conceals or destroys a
32 patient's rescission of a request for medication is guilty
33 of a class "A" felony. A person who coerces or exerts undue
34 influence over a patient to request or utilize medication under
35 the bill, with the intent or effect of causing the patient's

1 death, is guilty of a class "A" felony. A class "A" felony
2 is punishable by confinement for life without possibility of
3 parole.

4 A person who intentionally or knowingly coerces or exerts
5 undue influence over a terminally ill patient to forgo a
6 request for or to obtain medication pursuant to the bill, or
7 intentionally or knowingly denies a qualified patient access
8 to medication under the bill as an end-of-life care option,
9 is guilty of a serious misdemeanor. A serious misdemeanor is
10 punishable by confinement for no more than one year and a fine
11 of at least \$430 but not more than \$2,560.

12 The liability and penalty provisions under the bill are
13 not to be interpreted to limit liability for civil damages
14 resulting from negligent conduct or intentional misconduct
15 applicable under other law for conduct which is inconsistent
16 with the provisions of this chapter, and penalties specified in
17 the bill shall not preclude application of criminal penalties
18 applicable under other law for conduct which is inconsistent
19 with the bill.

20 The bill also provides that a governmental entity
21 that incurs costs resulting from a qualified patient
22 self-administering medication prescribed under the bill in
23 a public place shall have a claim against the estate of the
24 patient to recover such costs and reasonable attorney fees
25 related to the enforcement of the claim.