House File 2262 - Introduced

HOUSE FILE 2262
BY CROKEN and LEVIN

A BILL FOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. *"Department"* means the department of health and human services.

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

7. *"Health care provider"* means a person who is licensed, certified, or otherwise authorized or permitted by the laws of this state to administer health care, diagnose and treat medical conditions, and prescribe and dispense medications, including controlled substances. *"Health care provider"* does not include

a health care facility.

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

a. The patient's medical diagnosis.

b. The patient's prognosis.

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

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

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

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

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

12. "*Mentally capable*" means that in the opinion of the attending provider, a consulting provider, and a licensed mental health care provider, as applicable, the patient requesting medical aid in dying has the ability to make and communicate an

informed decision.

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

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

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

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

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

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

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

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

1. A patient who is mentally capable, is a resident of this state, and has been certified by a health care provider to be terminally ill, may request medication that the patient may self-administer to end the patient's life as follows:

a. By making two oral requests to the terminally ill

patient's attending provider separated by a fifteen-calendar-day waiting period, beginning from the day the first request is made.

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

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

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

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

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

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

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

Request for Medication
to End My Life in
a Peaceful Manner

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

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

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

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

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

_____ _____
Requestor Signature Date

_____ _____
Witness Signature Date

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

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

b. A person who at the time the request is signed would be entitled to any portion of the estate of the terminally ill patient upon death under any will, trust, or other legal

instrument, or by operation of law.

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

An attending provider shall do all of the following:

1. Provide care that conforms to accepted medical standards.

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

a. Is mentally capable.

b. Has made the request for medication voluntarily and free from coercion or undue influence.

c. Is a resident of the state.

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

4. Thoroughly educate the terminally ill patient about all of the following:

a. The feasible alternatives and concurrent or additional care and treatment options for the patient's terminal illness, including but not limited to comfort care, palliative care, hospice care, or pain control, and the potential risks and benefits of each.

b. The potential risks, benefits, and probable result of self-administering the medication to be prescribed to bring about a peaceful death.

c. The choices available to the terminally ill patient that reflect the terminally ill patient's self-determination, including that the terminally ill patient is under no obligation to fill the prescription once provided nor to self-administer the medication if the medication is obtained.

d. The terminally ill patient's right to rescind the request for medication pursuant to this chapter at any time and in any manner.

e. The benefits of notifying family of the terminally ill patient's decision to request medication pursuant to this chapter as an end-of-life care option.

f. The recommended methods for self-administering the medication to be prescribed.

g. The safekeeping and proper disposal of any unused medication in accordance with federal and state law.

h. The importance of having another individual present when the terminally ill patient self-administers the medication to be prescribed.

i. The importance of not taking the medication in a public place.

5. Provide the terminally ill patient with a referral for comfort care, palliative care, hospice care, pain control, or other end-of-life care and treatment options as requested or as clinically indicated.

6. *a.* Refer the terminally ill patient to a consulting provider for medical confirmation that the patient requesting medication pursuant to this chapter is eligible.

b. The attending provider shall add the medical confirmation provided under paragraph "*a*" to the terminally ill patient's medical record.

7. Refer the terminally ill patient to a licensed mental health provider for evaluation in accordance with section 142E.8 if the attending provider observes signs that the terminally ill patient may not be mentally capable of making an informed decision, and add the licensed mental health provider's written determination to the terminally ill patient's medical record.

8. Ensure that all appropriate steps are carried out in accordance with this chapter before providing a prescription for medication pursuant to this chapter to a terminally ill patient.

9. Once the terminally ill patient is determined to be a qualified patient, do either of the following:

a. Deliver the prescription for the requested medication personally, by mail, or through an authorized electronic

transmission to a licensed pharmacist who will dispense the medication, including ancillary medications intended to minimize the qualified patient's discomfort, to the attending provider, to the qualified patient, or to a person expressly designated by the qualified patient, in person or with a signature required on delivery, by mail service, or by messenger service.

b. Dispense the prescribed requested medication, including ancillary medications intended to minimize the qualified patient's discomfort, to the qualified patient or to a person expressly designated by the qualified patient in person, if the attending provider has a current drug enforcement administration number if required under chapter 124.

10. Document in the qualified patient's medical record the qualified patient's diagnosis and prognosis, determination of mental capability, the dates of the qualified patient's oral requests, a copy of the written request, and a notation that all the requirements under this chapter have been completed including a description of the medication and ancillary medications prescribed to the qualified patient pursuant to this chapter.

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

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

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

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

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

(1) That the patient has a terminal illness.

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

(3) That the terminally ill patient is mentally capable, or provide documentation that the consulting provider has referred the terminally ill patient to a licensed mental health provider

for further evaluation in accordance with section 142E.8.

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

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

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

3. If the licensed mental health provider determines that the terminally ill patient is not currently mentally capable, the licensed mental health provider shall not deem the terminally ill patient to be mentally capable and the attending provider shall not determine the terminally ill patient to be a qualified patient and prescribe medication to the terminally ill patient under this chapter.

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

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

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

a. The qualified patient's name and date of birth.

b. The qualified patient's terminal diagnosis and prognosis.

c. A notation that all the requirements under this chapter have been completed.

d. A notation that medication has been prescribed pursuant to this chapter.

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

a. The qualified patient's name, date of birth, age at death, education level, race, sex, type of insurance, if any, and underlying illness.

b. The date of the qualified patient's death.

c. A notation of whether or not the qualified patient was enrolled in and receiving hospice services at the time of the qualified patient's death.

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

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

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

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

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

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

A person who has custody or control of medication prescribed

and dispensed pursuant to this chapter that remains unused after a qualified patient's death shall dispose of the medication by lawful means in accordance with state and federal guidelines.

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

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

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

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

1. A provision in a contract, will, or other agreement, whether written or oral, to the extent the provision would affect whether a patient may make or rescind a request for medication pursuant to this chapter, shall not be valid.

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

Sec. 13. NEW SECTION. **142E.13 Insurance or annuity policies.**

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

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

annuity policy.

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

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

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

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

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

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

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

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

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

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

b. Any inquiry or investigation conducted by the state medical examiner or a county medical examiner relating to deaths

that occur pursuant to this chapter shall not require the state medical examiner or a county medical examiner to sign the death certificate if the state medical examiner or a county medical examiner identifies the attending provider that prescribed the qualified patient medication pursuant to this chapter.

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

1. This chapter shall not be interpreted to lessen the applicable standard of care, including the standard of care for the treatment of terminally ill patients and medical aid in dying, for an attending provider, consulting provider, licensed mental health provider, or any other health care provider acting under this chapter.

2. This chapter shall not be construed to do any of the following:

a. Limit the information or counseling a health care provider must provide to a patient in order to comply with informed consent laws and requirements to meet a medical standard of care.

b. Authorize a health care provider or any other person to end an individual's life by infusion, intravenous injection, mercy killing, or euthanasia. Actions taken in accordance and compliance with this chapter shall not, for any purposes, constitute suicide, assisted suicide, euthanasia, mercy killing, homicide, or elder abuse under the law.

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

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

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

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

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

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

b. Make reasonable efforts to accommodate the terminally ill patient's request including by transferring the care and medical records of the terminally ill patient to another attending provider upon the terminally ill patient's request so that the terminally ill patient is able to make a voluntary affirmative decision regarding the terminally ill patient's end-of-life care and treatment.

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

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

chapter.

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

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

2. A nonparticipating health care facility that fails to provide explicit, advance notice in writing to the health care facility's patients and health care providers shall not enforce such a policy.

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

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

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

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

facility.

c. Being present at the time a qualified patient self-administers medication prescribed pursuant to this chapter or at the time of the patient's death, if requested by the qualified patient or the qualified patient's representative outside the scope of the health care provider's employment or 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 request for medication, or providing a prescription for or dispensing medication to a qualified patient pursuant to this chapter; or intentionally denying a terminally ill patient access to medication pursuant to this chapter by failing to transfer a terminally ill patient and the terminally ill patient's medical records to another health care facility in a timely manner.

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

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

2. A health care provider, health care facility, or professional organization or association shall not subject a health care provider or health care facility to censure, discipline, the denial, suspension, or revocation of licensure, loss of privileges, loss of membership, or any other penalty for providing medical aid in dying in accordance with the standard of care and in good faith compliance with this chapter or for providing scientific and accurate information about medical aid

in dying to a terminally ill patient when discussing end-of-life care and treatment options.

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

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

5. This section shall not be interpreted to limit civil or criminal liability for intentional violations of this chapter.

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

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

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

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

4. Nothing in this section shall be interpreted to limit liability for civil damages resulting from negligent conduct or intentional misconduct applicable under other law for conduct

which is inconsistent with the provisions of this chapter.

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

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

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

EXPLANATION

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

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

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

The bill provides the form in which the written request must be substantially made, and requires that oral and written requests must be made by the terminally ill patient. Under the bill, a patient shall not qualify to make a request solely based on age or disability. The bill also provides that notwithstanding other provisions of the bill, if a terminally ill patient's attending provider attests that the terminally ill patient will, within reasonable medical judgment, die within 15 days after making the initial oral request, the terminally ill patient may reiterate the oral request to the attending provider

at any time after making the initial oral request and the 15-day waiting period shall be waived.

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

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

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

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

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

The bill specifies how the bill is to be interpreted relative to applicable standards of care. The bill provides that it is not to be construed to waive informed consent requirements nor provide authorization to a health care provider or any other person to end an individual's life by infusion, intravenous injection, mercy killing, or euthanasia. The bill provides

actions taken in accordance and compliance with the bill shall not, for any purposes, constitute suicide, assisted suicide, euthanasia, mercy killing, homicide, or elder abuse under the law. The bill provides that a request by a patient for and the provision of medication pursuant to the bill does not solely constitute neglect or elder abuse for any purpose of law, or provide the sole basis for the appointment of a guardian or conservator.

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

Failure to inform a terminally ill patient who requests information about available end-of-life treatments including medical aid in dying, or failure to refer a terminally ill patient to another attending provider who can provide the information, is considered a failure to obtain informed consent for subsequent medical treatments. The bill prohibits an attending provider from engaging in false, misleading, or deceptive practices relating to the health care provider's willingness to determine the qualification of a terminally ill

patient for medical aid in dying, to evaluate a terminally ill patient's request for medication, or to provide a prescription for or dispense medication to a qualified patient under the bill.

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

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

The bill provides for liability and criminal penalties to be imposed on persons who violate the bill. A person who without authorization of a patient intentionally or knowingly alters or

forges a request for medication with the intent or effect of causing the patient's death, or conceals or destroys a patient's rescission of a request for medication is guilty of a class "A" felony. A person who coerces or exerts undue influence over a patient to request or utilize medication under the bill, with the intent or effect of causing the patient's death, is guilty of a class "A" felony. A class "A" felony is punishable by confinement for life without possibility of parole.

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

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

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