

**House File 2302 - Introduced**

HOUSE FILE 2302

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**A BILL FOR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 a. The patient's medical diagnosis.

11 b. The patient's prognosis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the following form:

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

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

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

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

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

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

32 \_\_\_\_\_  
33 Requestor Signature Date

34 \_\_\_\_\_  
35 Witness Signature Date

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

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

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

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

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

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

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

14 (1) Is mentally capable.

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

17 (3) Is a resident of the state.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ill patient under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

1 information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 b. Make reasonable efforts to accommodate the terminally



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 criminal liability for intentional violations of this chapter.

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

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

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

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

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

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

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

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

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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