

**SENATE
STATE OF MINNESOTA
NINETIETH SESSION**

S.F. No. 1572

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OFFICIAL STATUS
Introduction and first reading
Referred to Health and Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to health; adopting compassionate care for terminally ill patients; proposing
1.3 coding for new law in Minnesota Statutes, chapter 145.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. [145.871] END-OF-LIFE OPTION.

1.6 Subdivision 1. Citation. This section may be cited as the "End-of-Life Option Act of
1.7 2017."

1.8 Subd. 2. Definitions. (a) For purposes of this section, the following terms have the
1.9 meanings given.

1.10 (b) "Adult" means a person who is 18 years of age or older.

1.11 (c) "Attending physician" means a person who is authorized to practice medicine or
1.12 osteopathic medicine, has primary responsibility for the patient's health care and treatment
1.13 of the patient's terminal illness, and who routinely provides medical care to patients with
1.14 advanced and terminal illnesses in the normal course of the attending physician's medical
1.15 practice. The attending physician's practice shall not be primarily or solely comprised of
1.16 persons requesting medical aid in dying.

1.17 (d) "Capable" or "capacity" means, in the opinion of the patient's attending physician,
1.18 consulting physician, or licensed medical professional, if an opinion is requested by the
1.19 attending or consulting physician, that the patient has the capacity to make and communicate
1.20 an informed medical decision to health care providers, including communicating through
1.21 a translator, interpreter, mechanical device, or a person familiar with the patient's manner
1.22 of communicating.

2.1 (e) "Consulting physician" means a physician who is qualified by specialty or experience
2.2 to make a professional diagnosis and prognosis regarding the patient's terminal illness and
2.3 decision-making capacity.

2.4 (f) "Counseling" means one or more consultations as necessary between a psychiatrist
2.5 or a psychologist and a patient for the purpose of determining that the patient is capable
2.6 and not suffering from depression or any other psychiatric or psychological disorder that
2.7 causes impaired judgment.

2.8 (g) "Health care provider" means a person licensed, certified, or otherwise authorized
2.9 or permitted by law to administer health care or dispense medication in the ordinary course
2.10 of business or practice of a profession, including but not limited to a physician, psychiatrist,
2.11 psychologist, nurse, or pharmacist.

2.12 (h) "Health care facility" means a hospital, residential care home, nursing home, rest
2.13 home, or hospice.

2.14 (i) "Informed decision" means a decision by a qualified patient to request and obtain a
2.15 prescription for medication that the qualified patient may self-administer for a peaceful
2.16 death, that is based on an understanding and acknowledgment of the relevant facts and after
2.17 being fully informed by the attending physician of:

2.18 (1) the patient's medical diagnosis and prognosis;

2.19 (2) the potential risks associated with self-administering the medication to be prescribed;

2.20 (3) the probable result of taking the medication to be prescribed; and

2.21 (4) the feasible alternatives and health care treatment options, including but not limited
2.22 to hospice and palliative care.

2.23 (j) "Medical aid in dying" means the medical practice of a physician prescribing
2.24 medication to a mentally capable adult with a terminal illness so that the individual may
2.25 decide to self-administer the medication to bring about a peaceful death.

2.26 (k) "Medically confirmed" means the medical opinion of the attending physician has
2.27 been confirmed by a consulting physician who has examined the patient and the patient's
2.28 relevant medical records.

2.29 (l) "Nurse" means a person licensed as a registered nurse or advanced practice registered
2.30 nurse under sections 148.171 to 148.285.

2.31 (m) "Palliative care" means health care centered on a patient and the patient's family
2.32 that:

3.1 (1) optimizes the patient's quality of life by anticipating, preventing, and treating the
3.2 patient's suffering throughout the continuum of the patient's illness;

3.3 (2) addresses the physical, emotional, social, and spiritual needs of the patient;

3.4 (3) facilitates patient autonomy, the patient's access to information, and patient choice;
3.5 and

3.6 (4) includes but is not limited to discussions between the patient and a health care provider
3.7 concerning the patient's goals for treatment options available to the patient, including hospice
3.8 care and comprehensive pain and symptom management.

3.9 (n) "Patient" means a person who is under the care of a physician.

3.10 (o) "Pharmacist" means a person licensed under chapter 151.

3.11 (p) "Physician" means a person licensed to practice medicine and surgery under chapter
3.12 147.

3.13 (q) "Psychiatrist" means a psychiatrist licensed under chapter 147.

3.14 (r) "Psychologist" means a psychologist licensed under section 148.907.

3.15 (s) "Qualified patient" means an individual who has satisfied the requirements of this
3.16 section.

3.17 (t) "Self-administer" means any affirmative, voluntary, and final physical act by a
3.18 qualified individual to take a medication to bring about a peaceful death.

3.19 (u) "Terminal illness" means the final stage of an incurable and irreversible medical
3.20 condition that an attending physician anticipates, within reasonable medical judgment, will
3.21 produce a patient's death within six months.

3.22 **Subd. 3. Request for medical aid in dying.** (a) A request for medical aid in dying is
3.23 made when a person who:

3.24 (1) is an adult;

3.25 (2) is capable;

3.26 (3) has been determined by the person's attending physician to have a terminal illness;
3.27 and

3.28 (4) has voluntarily expressed a wish to receive medical aid in dying; and

3.29 has made two oral and one written request according to subdivisions 4 and 5.

4.1 (b) A person is not a qualified patient under this section based solely on age, disability,
 4.2 or any specific illness.

4.3 (c) No person, including but not limited to a proxy designated under a living will, an
 4.4 attorney-in-fact, or health care agent appointed under a durable power of attorney for health
 4.5 care or health care directive, a guardian, a conservator, or other person who would otherwise
 4.6 have authority to make health care decisions on behalf of a patient, may make a request or
 4.7 otherwise act on behalf of a patient for purposes of this section.

4.8 Subd. 4. **Signed, written requests required.** (a) A patient wishing to receive aid in
 4.9 dying shall submit one written request to the patient's attending physician in substantially
 4.10 the form in subdivision 5. A valid written request for medical aid in dying under this section
 4.11 shall be signed and dated by the patient. The request shall be witnessed by at least two
 4.12 persons who, in the presence of the patient, attest that to the best of their knowledge and
 4.13 belief the patient is: (1) of sound mind; and (2) acting voluntarily and not being coerced to
 4.14 sign the request.

4.15 (b) At least one of the witnesses described in paragraph (a) shall be a person who is not:
 4.16 (1) a relative of the patient by blood, marriage, or adoption; (2) at the time the request is
 4.17 signed, entitled to any portion of the estate of the patient upon the patient's death, under any
 4.18 will or by operation of law; or (3) an owner, operator, or employee of a health care facility
 4.19 where the patient is receiving medical treatment or is a resident.

4.20 (c) The patient's attending physician at the time the request is signed shall not be a
 4.21 witness.

4.22 Subd. 5. **Request form.** A request for medical aid in dying as authorized by this section
 4.23 shall be in substantially the following form:

4.24 REQUEST FOR MEDICATION TO END MY LIFE IN A PEACEFUL MANNER

4.25 I,, am an adult of sound mind.

4.26 I am suffering from, which my attending physician has determined is an incurable
 4.27 and irreversible medical condition that will, within reasonable medical judgment, result in
 4.28 death within six months. This diagnosis of a terminal illness has been confirmed by another
 4.29 physician.

4.30 I have been fully informed of my diagnosis, prognosis, the nature of medication to be
 4.31 prescribed to aid me in dying peacefully, the potential associated risks, the expected result,
 4.32 feasible alternatives, and additional health care treatment options, including hospice and
 4.33 palliative care.

5.1 I request that my attending physician prescribe medical aid in dying medication that will
 5.2 end my life in a peaceful manner if I choose to take it. I authorize my attending physician
 5.3 to contact a pharmacist to fill the prescription for the medication, upon my request.

5.4 INITIAL ONE:

5.5 I have informed my family of my decision and taken their opinions into
 5.6 consideration.

5.7 I have decided not to inform my family of my decision.

5.8 I have no family to inform of my decision.

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

5.10 I understand the full import of this request and I expect to die if and when I take the
 5.11 medication to be prescribed. I further understand that although most deaths occur within
 5.12 three hours, my death may take longer and my attending physician has counseled me about
 5.13 this possibility.

5.14 I make this request voluntarily and without reservation, and I accept full responsibility
 5.15 for my decision to request aid in dying.

5.16 Signed:

5.17 Dated:

5.18 DECLARATION OF WITNESSES

5.19 By initialing and signing below on the date the person named above signs, I declare that
 5.20 the person making and signing the above request:

5.21 Witness 1 Witness 2

5.22 Initials Initials

5.23 1. Is personally known to me or has provided proof of identity;

5.24 2. Signed this request in my presence on the date of the person's signature;

5.25 3. Appears to be of sound mind and not under duress, fraud, or undue influence;

5.26 and

5.27 4. Is not a patient for whom I am the attending physician.

5.28 Printed Name of Witness 1

5.29 Signature of Witness 1 Date

6.1 Printed Name of Witness 2

6.2 Signature of Witness 2 Date

6.3 Subd. 6. **Opportunity to rescind request.** (a) A qualified patient may rescind the patient's
6.4 request for medical aid in dying at any time and in any manner without regard to the patient's
6.5 mental state.

6.6 (b) An attending physician shall offer a qualified patient an opportunity to rescind the
6.7 patient's request for medical aid in dying at any time.

6.8 Subd. 7. **Physician responsibilities.** When an attending physician is presented with a
6.9 patient's first written request for medical aid in dying under this section, the attending
6.10 physician shall:

6.11 (1) make a determination that the patient:

6.12 (i) is an adult;

6.13 (ii) has a terminal illness;

6.14 (iii) is capable; and

6.15 (iv) has voluntarily requested medical aid in dying;

6.16 (2) ensure that the patient is making an informed decision by informing the patient of:

6.17 (i) the patient's medical diagnosis;

6.18 (ii) the patient's prognosis;

6.19 (iii) the potential risks associated with self-administering the medication to be prescribed
6.20 for medical aid in dying;

6.21 (iv) the probable result of self-administering the medication to be prescribed for medical
6.22 aid in dying;

6.23 (v) the feasible alternatives and health care treatment options including, but not limited
6.24 to hospice or palliative care under section 144A.75, subdivision 12; and

6.25 (vi) refer to a hospice provider as defined in section 144A.75, subdivision 5, for
6.26 evaluation; and

6.27 (3) refer the patient to a consulting physician for medical confirmation of the attending
6.28 physician's diagnosis of the patient's terminal illness, the patient's prognosis, and for a
6.29 determination that the patient is capable and acting voluntarily in requesting medical aid in
6.30 dying.

7.1 Subd. 8. **Qualified patient.** In order for a patient to be found to be a qualified patient
7.2 for the purposes of this section, a consulting physician shall:

7.3 (1) examine the patient and the patient's relevant medical records;

7.4 (2) confirm, in writing, the attending physician's diagnosis that the patient has a terminal
7.5 illness;

7.6 (3) verify that the patient is capable, is acting voluntarily, and has made an informed
7.7 decision to request medical aid in dying; and

7.8 (4) refer the patient for counseling, if required according to subdivision 9.

7.9 Subd. 9. **Medical determination on competency.** (a) If, in the medical opinion of the
7.10 attending physician or the consulting physician, a patient may be suffering from a psychiatric
7.11 or psychological condition that is causing impaired judgment, either the attending or
7.12 consulting physician shall refer the patient for counseling to determine whether the patient
7.13 is capable of making and communicating an informed medical decision.

7.14 (b) An attending physician shall not provide the patient medical aid in dying until the
7.15 person providing the counseling determines that the patient is not suffering a psychiatric or
7.16 psychological condition that is causing impaired judgment.

7.17 Subd. 10. **Process.** (a) After an attending physician and a consulting physician determine
7.18 that a patient is a qualified patient, and after the qualified patient submits a second request
7.19 for medical aid in dying according to subdivision 4, the attending physician shall:

7.20 (1) recommend to the qualified patient that the patient notify the patient's next of kin of
7.21 the patient's request for medical aid in dying and inform the qualified patient that failure to
7.22 do so shall not be a basis for the denial of the request;

7.23 (2) counsel the qualified patient concerning the importance of:

7.24 (i) having another person present when the qualified patient self-administers the
7.25 medication prescribed for medical aid in dying; and

7.26 (ii) not taking the medication in a public place;

7.27 (3) inform the qualified patient that the patient may rescind the patient's request for
7.28 medical aid in dying at any time and in any manner;

7.29 (4) verify, immediately before writing the prescription for medication for medical aid
7.30 in dying, that the qualified patient is making an informed decision; and

7.31 (5) fulfill the medical record documentation requirements in subdivision 11.

8.1 Subd. 11. **Medical record.** With respect to a request by a qualified patient for medical
8.2 aid in dying, the attending physician shall ensure that the following items are documented
8.3 or filed in the qualified patient's medical record:

8.4 (1) all oral requests by a qualified patient for medication for medical aid in dying;

8.5 (2) all written requests by a qualified patient for medication for medical aid in dying;

8.6 (3) the attending physician's diagnosis of the qualified patient's terminal illness and
8.7 prognosis, and a determination that the qualified patient is capable, is acting voluntarily,
8.8 and has made an informed decision to request medical aid in dying;

8.9 (4) the consulting physician's confirmation of the qualified patient's diagnosis and
8.10 prognosis, and confirmation that the qualified patient is capable, is acting voluntarily, and
8.11 has made an informed decision to request medical aid in dying;

8.12 (5) a report of the outcome and determinations made during counseling, if counseling
8.13 was recommended and provided as required by subdivision 9;

8.14 (6) documentation of the attending physician's offer to the qualified patient to rescind
8.15 the patient's request for medical aid in dying at the time the attending physician writes the
8.16 qualified patient a prescription for medication for medical aid in dying; and

8.17 (7) a statement by the attending physician indicating that all requirements under this
8.18 section have been met and indicating the steps taken to carry out the qualified patient's
8.19 request for medical aid in dying, including the medication prescribed.

8.20 Subd. 12. **Use of records.** Records or information collected or maintained under this
8.21 section shall not be subject to subpoena or discovery or introduced into evidence in any
8.22 judicial or administrative proceeding except to resolve matters concerning compliance with
8.23 this section, or as otherwise specifically provided by law.

8.24 Subd. 13. **General provisions.** A qualified patient's act of requesting medical aid in
8.25 dying or self-administering medication prescribed for medical aid in dying shall not:

8.26 (1) affect a life, health, or accident insurance or annuity policy, or benefits payable under
8.27 the policy;

8.28 (2) be grounds for eviction from a person's place of residence or a basis for discrimination
8.29 in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of
8.30 services or facilities because of the patient's request for medical aid in dying;

8.31 (3) provide the sole basis for the appointment of a conservator or guardian; or

8.32 (4) constitute suicide for any purpose.

9.1 Subd. 14. Participate in provision of medication. (a) As used in this section, "participate
9.2 in the provision of medication" means to perform the duties of an attending physician or
9.3 consulting physician, a psychiatrist, a psychologist, a nurse, or a pharmacist according to
9.4 subdivisions 2 to 10, and does not include:

9.5 (1) making an initial diagnosis of a patient's terminal illness;

9.6 (2) informing a patient of the patient's medical diagnosis or prognosis;

9.7 (3) informing a patient concerning the provisions of this section, upon the patient's
9.8 request; or

9.9 (4) referring a patient to another health care provider for medical aid in dying.

9.10 (b) Participation in any act described in this section by a patient, health care provider,
9.11 or any other person shall be voluntary. Each health care provider shall individually and
9.12 affirmatively determine whether to participate in the provision of medication to a qualified
9.13 patient for medical aid in dying. A health care facility shall not require a health care provider
9.14 to participate in the provision of medication to a qualified patient for medical aid in dying,
9.15 but may prohibit such participation according to paragraph (d).

9.16 (c) If a health care provider is unwilling to participate in the provision of medication to
9.17 a qualified patient for medical aid in dying, the health care provider shall transfer all relevant
9.18 medical records to a health care provider as requested by a qualified patient.

9.19 (d) A health care facility may adopt written policies prohibiting a health care provider
9.20 associated with the health care facility from participating in the provision of medication to
9.21 a patient for medical aid in dying, provided the facility provides written notice of the policy
9.22 and any sanctions for violation of the policy to the health care provider. Notwithstanding
9.23 the provisions of this paragraph or any policies adopted according to this paragraph, a
9.24 qualified health care provider may:

9.25 (1) diagnose a patient with a terminal illness;

9.26 (2) inform a patient of the patient's medical prognosis;

9.27 (3) provide a patient with information concerning the provisions of this section, upon a
9.28 patient's request;

9.29 (4) refer a patient to another health care facility or health care provider; or

9.30 (5) transfer a patient's medical records to a health care provider or health care facility
9.31 as requested by a patient.

10.1 Subd. 15. **Criminal act.** (a) Any person who without authorization of a patient willfully
10.2 alters or forges a request for medical aid in dying, as described in subdivisions 4 and 5, or
10.3 conceals or destroys a rescission of a request for medical aid in dying with the intent or
10.4 effect of causing the patient's death, is guilty of attempted murder or murder.

10.5 (b) Any person who coerces or exerts undue influence on a patient to complete a request
10.6 for medical aid in dying, as described in subdivisions 4 and 5, or coerces or exerts undue
10.7 influence on a patient to destroy a rescission of the request with the intent or effect of causing
10.8 the patient's death, is guilty of attempted murder or murder.

10.9 Subd. 16. **Medical aid in dying.** (a) Nothing in this section authorizes a physician or
10.10 any other person to end a patient's life by lethal injection, mercy killing, assisting a suicide,
10.11 or any other active euthanasia.

10.12 (b) Any action taken according to this section does not constitute causing or assisting
10.13 another person to commit suicide.

10.14 (c) No report of a public agency may refer to the practice of obtaining and
10.15 self-administering life-ending medication to end a qualified patient's life as suicide or assisted
10.16 suicide, and shall refer to the practice as medical aid in dying.

10.17 Subd. 17. **Death certificate.** Unless otherwise prohibited by law, the attending physician
10.18 may sign the qualified patient's death certificate. The qualified patient's underlying terminal
10.19 illness shall be listed as the cause of death.

10.20 Subd. 18. **Civil damages.** This section does not limit liability for civil damages resulting
10.21 from negligent conduct or intentional misconduct by any person.

10.22 Subd. 19. **Criminal prosecution.** Nothing in this section precludes criminal prosecution
10.23 under any provision of law for conduct that is inconsistent with this section.

10.24 Subd. 20. **Reporting requirements.** (a) Within ten calendar days of prescribing
10.25 medication to a qualified patient to self-administer in accordance with this section, the
10.26 attending physician must submit to the commissioner of health the documentation required
10.27 under subdivision 11, on a form developed by the commissioner.

10.28 (b) Within ten calendar days of dispensing medication to a qualified patient, the qualified
10.29 patient's attending physician, or an identified agent of the qualified patient in accordance
10.30 with this section, the pharmacist must submit to the commissioner of health a dispensing
10.31 form developed by the commissioner of health.

11.1 (c) Within ten calendar days of the qualified patient's death, or ingestion of the medication
11.2 for medical aid in dying, the qualified patient's attending physician must submit to the
11.3 commissioner of health a follow-up form as developed by the commissioner.

11.4 (d) The commissioner of health shall develop the forms and procedures necessary to
11.5 facilitate the collection of the information required under this subdivision. The commissioner
11.6 shall annually review a sample of the records that are required to be maintained under this
11.7 section.

11.8 (e) Except as otherwise required by law, the information and data collected under this
11.9 subdivision shall be classified as nonpublic data and shall not be made available to the
11.10 public. The commissioner shall generate an annual statistical report of information collected
11.11 under this subdivision. The report shall consist of summary data as defined under section
11.12 13.02 and shall be made available to the public.