

Subject End-of-life option; medical aid-in-dying medication

Authors Freiberg and others

Analyst Elisabeth Klarqvist

Date September 6, 2019

Overview

This bill allows a qualified individual to request and obtain medical aid-in-dying medication, to be self-administered by the qualified individual, and specifies requirements, procedures, protections, and penalties related to obtaining the medication.

Summary

Section	Description
1	<p>End-of-life option.</p> <p>Adds § 145.871. Allows a qualified individual who is terminally ill and expected to live for six months or less and who makes an informed decision, to request medical aid-in-dying medication. Specifies the process for requesting medical aid-in-dying medication. Requires verification that the individual is making an informed decision. Establishes duties for attending health care providers and consulting health care providers. Prohibits a terminally ill adult from obtaining medical aid-in-dying medication if the adult is not capable of making an informed decision. Establishes penalties for violations of this section.</p> <p>Subd. 1. Citation. Cites this section as the End-of-Life Options Act.</p> <p>Subd. 2. Definitions. Defines terms for this section: adult, attending health care provider, consulting health care provider, health care facility or facility, health care provider or provider, informed decision, licensed mental health care professional, medical aid-in-dying, medically confirmed, mental capacity or mentally capable, prognosis of six months or less, qualified individual, self-administer, and terminal illness.</p> <p>Subd. 3. Information to patients. Provides that this section does not lessen the requirements of the health care bill of rights. Requires a provider to give terminally ill adults enough information regarding available treatment options and alternatives and the foreseeable risks and benefits of each to allow the adult to make an independent, informed, voluntary decision regarding end-of-life care. States that a failure to provide this information or failure to refer the adult to</p>

Section	Description
	<p>another provider who can provide this information, shall be considered failure to obtain informed consent for subsequent medical treatment.</p> <p>Subd. 4. Standard of care. Requires a health care provider who provides end-of-life services under this section to meet or exceed the standard of care of the provider's scope of practice. States that if a provider is unable or unwilling to provide medical aid-in-dying care, the provider is not exempt from accurately responding to questions, obtaining informed consent, and transferring care to a new provider if necessary.</p> <p>Subd. 5. Right to request medical aid-in-dying medication by qualified individuals. Allows a qualified individual to request a prescription for medical aid-in-dying medication if the qualified individual's attending health care provider determines the individual has a prognosis of six months or less and can make an informed decision, and if the individual voluntarily expresses a wish to receive a prescription for medical aid-in-dying medication. Requires the request to be made by the terminally ill adult and not by any other individual or by advanced health care directive.</p> <p>Subd. 6. Request process. Requires a terminally ill adult who wants a prescription for medical aid-in-dying medication to make one oral request and one written request to the attending health care provider. Requires the written request to be substantially in the format specified in paragraph (c).</p> <p>Subd. 7. Informed decision required. Specifies that an individual with a terminal illness cannot obtain a prescription for medical aid-in-dying medication unless the individual has made an informed decision as verified by the attending health care provider.</p> <p>Subd. 8. Right to rescind request; opportunity to rescind. Allows a terminally ill adult to rescind a request for medical aid-in-dying medication at any time, and prohibits a provider from prescribing medical aid-in-dying medication until after the provider offers the adult a chance to rescind the request.</p> <p>Subd. 9. Attending health care provider responsibilities. Lists duties of a terminally ill adult's attending health care provider related to dispensing or prescribing medical aid-in-dying medication, including generally caring for the adult, determining whether the adult is a qualified individual, providing disclosures, providing other treatment and counseling, confirming the adult is not being coerced or unduly influenced to request medical aid-in-dying medication, referring the adult to a consulting health care provider to confirm certain information and to a mental health professional if needed, dispensing or prescribing medical aid-in-dying medication, and documenting certain information.</p>

Section	Description
	<p>Subd. 10. Consulting health care provider responsibilities. Lists duties of a consulting health care provider to whom a terminally ill adult is referred, before the adult may obtain medical aid-in-dying medication.</p>
	<p>Subd. 11. Terminally ill adult mentally capable; referral to mental health professional. If the attending health care provider or consulting health care provider believes the terminally ill adult is not capable of making an informed decision, requires a terminally ill adult requesting medical aid-in-dying medication to be referred to a mental health professional to determine if the terminally ill adult is capable of making an informed decision. If the mental health professional determines the terminally ill adult is not capable of making an informed decision, prohibits an attending provider from prescribing medical aid-in-dying medication to the adult.</p>
	<p>Subd. 12. Use of interpreters. Requires an interpreter working with a terminally ill adult under this section to meet specified standards, and prohibits the interpreter from being related to the terminally ill adult or entitled to a part of the adult's estate.</p>
	<p>Subd. 13. Death certificate. Requires an attending health care provider or hospice medical director to sign the death certificate of a terminally ill adult who used medical aid-in-dying medication. Requires the manner of death to be listed as the underlying terminal illness, and provides that the use of medical aid-in-dying medication does not constitute grounds for a post-mortem.</p>
	<p>Subd. 14. Safe disposal of unused medical aid-in-dying medications. Specifies how unused medical aid-in-dying medication must be disposed of after the death of a terminally ill adult.</p>
	<p>Subd. 15. Reporting requirements; rulemaking. Requires the commissioner of health to adopt rules to collect information on compliance with this section, review a sample of records kept under this section, and publish a statistical report of information collected. Provides that information collected under this section is not public data, except as otherwise required by law.</p>
	<p>Subd. 16. Effect on construction of wills, contracts, and statutes. Provides that any provision in a contract, will, or agreement that would affect whether a terminally ill adult may make or rescind a request for medical aid-in-dying medication, is not valid. Prohibits an obligation owing under a current contract from being conditioned on or affected by a terminally ill adult's making or rescinding a request for medical aid-in-dying medication.</p>
	<p>Subd. 17. Insurance or annuity policies. Prohibits the sale of an insurance or annuity policy from being conditioned or affected by a terminally ill adult making or rescinding a request for medical aid-in-dying medication. Prohibits the use of medical aid-in-dying medication from invalidating an insurance or annuity policy,</p>

Section	Description
---------	-------------

and prohibits an insurer from denying or altering health care benefits to a terminally ill adult based on the availability of medical aid-in-dying medication.

Subd. 18. Immunities for actions in good faith; prohibition against reprisals.

Provides that health care providers are not subject to civil or criminal liability or disciplinary action for good faith compliance with this section, prescribing or refusing to prescribe medical aid-in-dying medication, or providing accurate information about medical aid-in-dying. Also provides that health care providers are not subject to civil or criminal liability for prescribing or dispensing medical aid-in-dying medication or being present when an adult self-administers medical aid-in-dying medication. States that requesting or providing medical aid-in-dying medication does not constitute neglect or elder abuse or constitute a basis for appointing a guardian or conservator. Provides that this section does not limit civil or criminal liability for negligence, recklessness, or intentional misconduct.

Subd. 19. No duty to provide medical aid-in-dying. Provides that a health care provider may choose whether to provide medical aid-in-dying medication to a terminally ill adult. If a health care provider is unable or unwilling to provide it, requires the provider to make reasonable efforts to accommodate the terminally ill adult's request.

Subd. 20. Health care facility permissible prohibitions. Provides that a health care facility cannot prohibit a health care provider from providing medical aid-in-dying for a qualified individual unless the qualified individual intends to self-administer the medication on the facility's premises. Establishes health care facility notification requirements and requires facilities to transfer the health records of qualified individuals who transfer to other facilities. Also provides a facility cannot prohibit a health care provider from providing services consistent with the applicable standard of medical care and with the provider's scope of practice.

Subd. 21. Liabilities and penalties. Provides that the following acts are felonies:

- purposely or knowingly altering or forging a request for medical aid-in-dying medication for an individual without the individual's authorization;
- concealing or destroying a rescission of a qualified individual's request for medical aid-in-dying medication; or
- purposely or knowingly coercing or exerting undue influence on a terminally ill adult to (1) request medical aid-in-dying medication to end the terminally ill adult's life or (2) destroy a rescission of a request for medical aid-in-dying medication.

Also provides that these penalties do not preclude application of criminal penalties under other law.

Section	Description
	<p>Subd. 22. Construction. States that this section does not authorize a provider or any other person to end an individual's life by lethal injection, mercy killing, or euthanasia. Also states that actions taken under this section do not constitute suicide, assisted suicide, euthanasia, mercy killing, homicide, or elder abuse.</p>
	<p>Subd. 23. Severability. Provides if one part of this section is found invalid, all valid parts that are severable remain in effect.</p>
	<p>Effective date. Makes this section effective the day following final enactment.</p>



Minnesota House Research Department provides nonpartisan legislative, legal, and information services to the Minnesota House of Representatives. This document can be made available in alternative formats.

www.house.mn/hrd | 651-296-6753 | 600 State Office Building | St. Paul, MN 55155