

HB 1283-FN - AS AMENDED BY THE HOUSE

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2024 SESSION

24-2049

05/10

HOUSE BILL

***1283-FN***

AN ACT                    relative to end of life options.

SPONSORS:            Rep. M. Smith, Straf. 10; Rep. Dutzy, Hills. 6; Rep. D. Paige, Carr. 1; Rep. Haskins, Rock. 11; Rep. Woodcock, Carr. 1; Rep. Phillips, Rock. 7; Rep. Lynn, Rock. 17; Rep. Wolf, Merr. 7; Rep. Bolton, Graf. 8; Sen. Altschiller, Dist 24

COMMITTEE:        Judiciary

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ANALYSIS

This bill establishes a procedure for an individual with terminal illness to receive medical assistance in dying through the self administration of medication. The bill establishes criteria for the prescription of such medication and establishes reporting requirements and penalties for misuse or noncompliance.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struckthrough]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

## STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Four*

AN ACT relative to end of life options.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1       1 New Chapter; End of Life Options. Amend RSA by inserting after chapter 137-L the following  
2 new chapter:

## CHAPTER 137-M

## END OF LIFE OPTIONS

5       137-M:1 Definitions. In this chapter, unless the context otherwise requires, the following  
6 definitions shall apply:

7           I. "Adult" means an individual 18 years of age or older.

8           II. "Consulting health care provider" means a health care provider who is qualified by  
9 specialty or experience to make a professional diagnosis and prognosis regarding the individual's  
10 disease.

11          III. "Dispensing health care provider" means a health care provider who is authorized to  
12 dispense prescription medications.

13          IV. "Health care entity" means an entity or institution, other than an individual, that is  
14 licensed to provide any form of health care in the state, including a hospital, clinic, hospice agency,  
15 home health agency, long-term care facility, pharmacy, group medical practice, or any similar entity.

16          V. "Health care provider" means any of the following individuals authorized by law to  
17 prescribe or dispense medications to be used in medical assistance in dying:

18           (a) A physician licensed pursuant to RSA 329;

19           (b) An osteopathic physician licensed pursuant to RSA 329;

20           (c) An advanced practice registered nurse licensed pursuant to RSA 326-B; or

21           (d) A pharmacist licensed pursuant to RSA 318; provided, however, that a pharmacist  
22 shall not qualify as a prescribing health care provider under RSA 137-M:1, X or as a consulting  
23 health care provider under RSA 137-M:1, II.

24          VI. "Informed decision" means a decision by a mentally competent individual to request and  
25 obtain a prescription for medications pursuant to this chapter, and that the qualified individual may  
26 elect to self-administer the medications to bring about the individual's peaceful death. The informed  
27 decision shall be based on the individual's appreciation of the relevant facts, after being fully  
28 informed by the prescribing provider and consulting provider of:

29           (a) The individual's diagnosis and prognosis;

30           (b) The potential risk associated with taking the medications to be prescribed;

31           (c) The probable result of taking the medications to be prescribed;

(d) The feasible end-of-life care and treatment options for the individual's terminal condition, including, but not limited to comfort care, palliative care, hospice care, and pain control, and the risks and benefits of each; and

(e) The individual's right to withdraw a request pursuant this chapter, or consent for any other treatment, at any time.

VII. "Medical assistance in dying" means the practice wherein a health care provider evaluates a request, determines qualification, performs the duties described in RSA 137-M:6 and 137-M:7 and prescribes medications to a qualified individual who may self-administer the medications to bring about a peaceful death.

VIII. "Mental capacity" means an individual's ability to understand and appreciate health care options available to that individual, including significant benefits and risks, and to make and communicate an informed health care decision. A determination of capacity shall be made only according to professional standards of care and the provisions of RSA 137-J.

IX. "Mental health professional" means a state-licensed psychiatrist, psychologist, master social worker, psychiatric nurse practitioner or professional clinical mental health counselor.

X. "Prescribing health care provider" means a health care provider who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the individual's disease, and prescribes medical assistance-in-dying medication.

XI. "Prognosis of 6 months or less" means the terminal condition will, within reasonable medical judgment, result in death within 6 months.

XII. "Qualified individual" means an individual who has met the requirements to receive medical assistance in dying pursuant to the provisions of this chapter.

XIII. "Self-administer" means taking an affirmative, conscious, voluntary action to take the prescribed medications.

XIV. "Terminal" means a condition that is incurable and irreversible and will result in death.

137-M:2 Prescribing Health Care Provider Determination; Patient Form. A prescribing health care provider may provide a prescription for medical-assistance-in-dying medications to an individual only after the prescribing health care provider has:

I. Determined that the individual has:

- (a) Mental capacity;
- (b) A terminal condition;
- (c) Prognosis of 6 months or less, or is enrolled in Medicare-certified hospice;
- (d) Voluntarily made the request for medical assistance in dying; and
- (e) The ability to self-administer the medical assistance in dying medications.

II. Determined that the individual is making an informed decision after discussing with the individual:

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- 1 (a) The individual's medical diagnosis and prognosis;
- 2 (b) The potential risks associated with self-administering the medical assistance in
- 3 dying medications that the individual has requested the health care provider to prescribe;
- 4 (c) The probable result of self-administering the medical assistance in dying medications
- 5 to be prescribed;
- 6 (d) The individual's option of choosing to obtain the medical-assistance-in-dying
- 7 medications and then deciding not to use them; and
- 8 (e) The feasible alternatives, including condition-directed treatment options, as well as
- 9 hospice care and palliative care focused on relieving symptoms and reducing suffering.

10 III. Determined in good faith that the individual's request does not arise from coercion or

11 undue influence by another person, institution, or other party.

12 IV. Noted in the individual's health record the prescribing health care provider's

13 determination that the individual qualifies to receive medical assistance in dying.

14 V.(a) Confirmed that the individual is either:

- 15 (1) Enrolled in a Medicare-certified hospice program; or
- 16 (2) Eligible to receive medical assistance in dying after the prescribing health care
- 17 provider has referred the individual to a consulting health care provider; and

18 (b) That the consulting health care provider has:

- 19 (1) Examined the individual;
- 20 (2) Reviewed the individual's relevant medical records; and
- 21 (3) Confirmed that the consulting health care provider has independently
- 22 determined and documented that the individual meets all of the requirements of RSA 137-M:2, I, II,
- 23 and III.

24 VI. Provided substantially the following form to the individual and enters the form into the

25 individual's health record after the form has been completed with all of the required signatures and

26 initials:

27 **REQUEST FOR MEDICATIONS TO END MY LIFE IN A PEACEFUL MANNER**

28 I, (patient name), am an adult of sound mind. I am suffering from a terminal condition that is

29 incurable and irreversible and that, according to reasonable medical judgment, will result in my

30 death within 6 months. My health care provider has determined that the condition is in its terminal

31 phase. (Patient Initials)

32 I have been fully informed of my diagnosis and prognosis, the nature of the medical-assistance-in-

33 dying medications to be prescribed and the potential associated risks, the expected result, as well as

34 feasible alternative, concurrent, or additional treatment opportunities, including hospice care and

35 palliative care focused on relieving symptoms and reducing suffering. (Patient Initials)

36 I request that my health care provider prescribe medications and that a pharmacist dispense those

37 medications that will end my life in a peaceful manner if I choose to self-administer the medications,

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1 and I authorize my health care provider to contact a willing pharmacist to fulfill this request.  
2 (Patient Initials)

3 I further understand that although most deaths occur within 3 hours, my death may take longer.  
4 My health care provider has counseled me about this possibility.

5 I understand that I have the right to rescind this request at any time. (Patient Initials)

6 I understand the full import of this request, and I expect to die if I self-administer the medical  
7 assistance in dying medications prescribed. (Patient Initials)

8 I make this request voluntarily, on my own without coercion or undue influence from other  
9 individuals, institutions, or other parties and without reservation.

10 Signed:

11 Date: Time:

12 **DECLARATION OF WITNESSES:**

13 We declare that the person signing this request:

- 14 1. is personally known to us or has provided proof of identity;  
15 2. signed this request in our presence;  
16 3. appears to be of sound mind and not under duress, fraud, or undue influence; and  
17 4. is not a patient for whom either of us is a health care provider.

18 Witness 1: Witness 2:

19 Signature:

20 Printed Name:

21 Relationship to Patient:

22 Date: .

23 NOTE: No more than one witness shall be a relative by blood, marriage or adoption of the person  
24 signing this request. No more than one witness shall own, operate, or be employed at a health care  
25 facility where the person signing this request is a patient or resident.

26 **137-M:3 Standard of Care.**

27 I. Care that complies with this chapter meets the medical standard of care.

28 II. Nothing in this chapter exempts a health care provider or other medical personnel from  
29 meeting medical standards of care for an individual's treatment that the individual is willing to  
30 accept.

31 **137-M:4 Determining Mental Capacity.** If either the prescribing health care provider or the  
32 consulting health care provider has doubts as to whether the individual is mentally competent and is  
33 unable to confirm that the individual is competent of making an informed decision, the prescribing  
34 health care provider or consulting health care provider shall refer the individual to a mental health  
35 professional for a determination regarding mental capacity.

1 I. The mental health professional who evaluates the individual under this section shall  
2 submit to the requesting prescribing or consulting health care provider a written determination of  
3 whether the individual has the mental capacity to make informed health care decisions.

4 II. If the mental health professional determines that the individual does not have the  
5 mental capacity to make informed health care decisions, the individual shall not be deemed a  
6 qualified individual and the prescribing health care provider shall not prescribe medication to the  
7 individual under this chapter.

8 137-M:5 Waiting Period. A prescription for medical-assistance-in-dying medications shall:

9 I. Not be filled until 48 hours after the prescription for medical assistance in dying  
10 medications has been written, unless the qualified individual's prescribing health care provider has  
11 medically confirmed that the qualified individual may, within reasonable medical judgment, die  
12 before the expiration of the 48-hour waiting period identified herein, in which case, the prescription  
13 may be filled once the prescribing health care provider affirms that all requirements have been  
14 fulfilled pursuant to RSA 137-M:2; and

15 II. Indicate the date and time that the prescription for medical assistance in dying  
16 medications was written and indicate the first allowable date and time when it may be filled.

17 137-M:6 Eligibility and Due Diligence.

18 I. A mentally competent individual that meets the criteria in RSA 137-M:2 is eligible to  
19 request a prescription for medications under this chapter. The individual may make the requests in  
20 person or via telehealth pursuant to RSA 167:4-d.

21 II. The prescribing and consulting providers of an eligible individual shall have met all the  
22 requirements of RSA 137-M:2 and RSA 137-M:6.

23 III. At the time of the second consultation, the consulting health care provider shall offer the  
24 individual an opportunity to rescind the request.

25 IV. Requests for medical assistance in dying may be made only by the eligible individual and  
26 shall not be made by the individual's surrogate decision-maker, guardian, health care proxy,  
27 attorney-in-fact for health care, nor via advance health care directive.

28 V. If a requesting individual decides to transfer care to an alternative provider, the records  
29 custodian of the transferor provider shall transfer to the transferee provider all relevant medical  
30 records within 2 business days, including written documentation of the dates of the individual's  
31 request concerning medical assistance in dying.

32 137-M:7 Right to Know. A health care provider shall inform a terminally ill patient of all  
33 reasonable options related to the patient's care that are legally available to terminally ill patients  
34 that meet the medical standards of care for end-of-life care.

35 137-M:8 Immunities and Conscience-based Decisions.

1 I. An individual, a health care provider, health care entity, or professional organization or  
2 association shall not be subject to criminal liability, civil liability, licensing sanctions, or other  
3 professional disciplinary action for:

4 (a) Participating in medical assistance in dying in good faith compliance with this  
5 chapter.

6 (b) Being present when a qualified patient self-administers the prescribed medical  
7 assistance in dying medications to end the qualified individual's life in accordance with the  
8 provisions of this chapter.

9 (c) Refusing, for reasons of conscience, to provide information on medical assistance in  
10 dying to a patient and refusing to refer a patient to any entity or individual who is able and willing  
11 to assist the patient in obtaining medical assistance in dying. A party who for reasons of conscience  
12 expects to refuse to participate in any part of the chapter shall so inform the qualified individual at  
13 or before the time of their request.

14 II. A health care entity, health insurer, managed care organization or health care provider  
15 shall not subject a person to censure, discipline, suspension, loss or denial of license, credential,  
16 privileges or membership or other penalty for participating, or refusing to participate, in the  
17 provision of medical assistance in dying in good faith compliance with the provisions of this chapter.

18 III. No health care provider who objects for reasons of conscience to participating in the  
19 provision of medical assistance in dying shall be required to participate in the provision of assistance  
20 in dying under any circumstance. If a health care provider is unable or unwilling to carry out an  
21 individual's request pursuant to the chapter, that health care provider shall so inform the individual  
22 at the time of the request and may refer the individual to a health care provider who is able and  
23 willing to carry out the individual's request or to another individual or entity to assist the requesting  
24 individual in seeking medical assistance in dying. The prior health care provider shall transfer,  
25 upon request, a copy of the individual's relevant medical records to the new health care provider.

26 IV. A health care entity that chooses not to participate in providing medical assistance in  
27 dying shall not forbid nor otherwise sanction a health care provider in its employ from providing  
28 medical assistance in dying in accordance with the this chapter unless the health care entity has  
29 given written notice to the health care provider of the prohibiting entity's written policy forbidding  
30 participation in medical assistance in dying and the health care provider participates in medical  
31 assistance in dying in violation of the policy after receiving such notice. If the health care entity's  
32 policy prohibits its health care provider employees from providing medical assistance in dying both  
33 on and off the premises of the health care entity, and whether or not the health care provider  
34 employee is acting within the course and scope of employment, the policy shall explicitly so state.

35 V. Nothing in this section shall be construed to prevent an individual who seeks medical  
36 assistance in dying from contracting with the individual's prescribing health care provider or

1 consulting health care provider to act outside the course and scope of the provider's affiliation with a  
2 health care entity.

3 VI. Participating, or not participating, in medical assistance in dying shall not be the basis  
4 for a report of unprofessional conduct.

5 VII. A health care entity that prohibits medical assistance in dying shall accurately and  
6 clearly articulate this in a readily accessible location on any website maintained by the entity and  
7 notify patients in writing of its policy with regard to medical assistance in dying.

8 137-M:9 Prohibited Acts.

9 I. Nothing in the chapter shall be construed to authorize a physician or any other person to  
10 end an individual's life by lethal injection, mercy killing, or euthanasia. Actions taken in accordance  
11 with this chapter shall not be construed, for any purpose, to constitute suicide, assisted suicide,  
12 euthanasia, mercy killing, homicide, or adult abuse under the law.

13 II. Notwithstanding any other law, a person shall not be subject to civil or criminal liability  
14 solely because the person was present when the qualified individual self-administers the prescribed  
15 assistance-in-dying medications. A person who is present may, without civil or criminal liability, or  
16 any discipline for professional licensees, assist the qualified individual by preparing the assistance-  
17 in-dying medications.

18 III. Any person who knowingly does any of the following with the intent to cause, interfere  
19 with, or prevent a qualified individual's death against the qualified individual's wishes shall be  
20 guilty of a class B felony:

21 (a) Altering, forging, concealing, or destroying a request for a terminal prescription  
22 without the qualified individual's authorization.

23 (b) Concealing or destroying a withdrawal or rescission of a request for a terminal  
24 prescription without the qualified individual's authorization.

25 (c) Concealing or destroying a qualified individual's terminal prescription without the  
26 qualified individual's authorization, or preventing a qualified individual from self-administering the  
27 terminal prescription.

28 (d) Coercing or exerting undue influence on a qualified individual to request or to self-  
29 administer a terminal prescription for the purpose of ending the qualified individual's life.

30 (e) Coercing or exerting undue influence on a qualified individual to prevent the  
31 qualified individual from requesting or self-administering a terminal prescription.

32 IV. Nothing in this section limits civil liability or damages arising from negligent conduct or  
33 intentional misconduct by a health care provider or health care entity.

34 V. The penalties specified in this chapter do not preclude criminal penalties applicable  
35 under other laws for conduct inconsistent with this chapter.

36 137-M:10 Reporting.

I. A health care provider who prescribes medical assistance in dying to a qualified individual in accordance with the provisions of this chapter shall provide a report of that provider's participation. The department of health and human services shall adopt rules pursuant to RSA 541-A that establish the time frames and forms for reporting pursuant to this section and shall limit the reporting of data relating to qualified individuals who received prescriptions for medical assistance in dying medications to the following:

- (a) The qualified individual's age at death;
- (b) The qualified individual's race and ethnicity;
- (c) The qualified individual's gender;
- (d) Whether the qualified individual was enrolled in hospice prior to or at the time of death;
- (e) The qualified individual's underlying medical condition; and
- (f) Whether the qualified individual self-administered the medical assistance in dying medications and, if so, the date that this occurred.

II. The department of health and human services shall promulgate an annual statistical report, containing aggregated data, on the information collected pursuant to paragraph I on the total number of medical assistance in dying medications prescriptions written statewide and on the number of health care providers who have issued prescriptions for medical assistance in dying medications during that year. Data reported pursuant to this section shall not contain individually identifiable health information and are exempt from disclosure pursuant to the right-to-know law, RSA 91-A.

137-M:11 Effect on Construction of Wills, Contracts, and Statutes.

I. No provision in a contract, will, or other agreement, whether written or oral, that would determine whether an individual may make or rescind a request pursuant to this chapter is valid.

II. No obligation owing under any currently existing contract shall be conditioned or affected by an individual's act of making or rescinding a request pursuant to this chapter.

III. It is unlawful for an insurer to deny or alter health care benefits otherwise available to an individual with a terminal disease based on the availability of medical assistance in dying or otherwise attempt to coerce an individual with a terminal disease to make a request for medical assistance-in-dying medications.

137-M:12 Insurance and Annuity Policies.

I. The sale, procurement, or issuance of a life, health, or accident insurance or annuity policy, or the rate charged for such policy shall not be conditioned upon or affected by an individual's act of making or rescinding a request for medications pursuant to this chapter.

II. A qualified individual's act of self-administering medications pursuant to this chapter does not invalidate any part of a life, health, or accident insurance, or annuity policy.

1           III. No insurer shall deny or alter benefits to an individual with a terminal disease, who is a  
2 covered beneficiary of a health insurance plan, based on the availability of medical assistance in  
3 dying, his or her request for medications pursuant to this chapter, or the absence of a request for  
4 medications pursuant to this chapter.

5           IV. Any insurer in violation of this section shall be subject to the penalties set forth in RSA  
6 400-A:15, or such other section of Title XXXVII as may be applicable, including, but not limited to  
7 RSA 420-J and RSA 417.

8           137-M:13 Death Certificate.

9           I. Unless otherwise prohibited by law, the prescribing provider may sign the death  
10 certificate of a qualified individual who obtained and self-administered a prescription for  
11 medications pursuant to this chapter.

12           II. When a death has occurred in accordance with this chapter, the death shall be attributed  
13 to the underlying terminal disease.

14           III. Death following self-administering medications under that chapter alone does not  
15 constitute grounds for post-mortem inquiry.

16           IV. Death in accordance with this chapter shall not be designated suicide or homicide.

17           V. A qualified individual's act of self-administering medications prescribed pursuant to this  
18 chapter shall not be indicated on the death certificate.

19           VI. A coroner may conduct a preliminary investigation to determine whether an individual  
20 received a prescription for medications under this chapter.

21           2 Severability. If a part of this act is invalid, all valid parts that are severable from the invalid  
22 part remain in effect. If a part of this act is invalid in one or more of its applications, the part  
23 remains in effect in all valid applications that are severable from the invalid applications.

24           3 Effective Date. This act shall take effect January 1, 2025.

**HB 1283-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to end of life options.

**FISCAL IMPACT:**    ☒ State                    ☐ County                    ☐ Local                    ☐ None

| Estimated State Impact - Increase / (Decrease) |                               |                |                |                |
|--|-------------------------------|----------------|----------------|----------------|
|  | FY 2024                       | FY 2025        | FY 2026        | FY 2027        |
| <b>Revenue</b>                                 | \$0                           | Indeterminable | Indeterminable | Indeterminable |
| <i>Revenue Fund(s)</i>                         | Insurance premium tax revenue |                |                |                |
| <b>Expenditures</b>                            | \$0                           | Under \$3,000  | Under \$3,000  | Under \$3,000  |
| <i>Funding Source(s)</i>                       | None                          |                |                |                |
| <b>Appropriations</b>                          | \$0                           | \$0            | \$0            | \$0            |
| <i>Funding Source(s)</i>                       | None                          |                |                |                |

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ N/A
- Does this bill authorize new positions to implement this bill? ☒ No

**METHODOLOGY:**

This bill establishes a procedure for individuals with terminal illnesses to receive medical assistance in dying through the self-administration of medicine. The Department of Insurance states that certain factors, such as the demand for medical assistance in dying and the availability and cost of medications, may impact premium rates charged by insurers. Any such change would have an indeterminable impact on insurance premium tax revenue received by the state.

The Department of Health and Human Services states that the cost of its responsibilities under the bill (compiling information on medical assistance in dying and issuing an annual statistical report), will have a fiscal impact of under \$3,000 per year.

In addition, the bill modifies criminal penalties, and/or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: [https://gencourt.state.nh.us/lba/Budget/Fiscal\\_Notes/JudicialCorrectionalCosts.pdf](https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf)

**AGENCIES CONTACTED:**

Department of Insurance, Department of Health & Human Services, Judicial Branch, Department of Corrections, Department of Justice, Judicial Council, New Hampshire Municipal Association, and New Hampshire Association of Counties