HB 254-FN - AS INTRODUCED

2025 SESSION

25-0316
05/09

HOUSE BILL ***254-FN***

AN ACT relative to options for end of life care.

SPONSORS: Rep. Lynn, Rock. 17; Rep. M. Smith, Straf. 10; Rep. Bolton, Graf. 8; Rep. D. Paige, Carr. 1; Rep. Turer, Rock. 6; Rep. Woodcock, Carr. 1; Rep. Bordes, Belk. 5; Rep. Milz, Rock. 13

COMMITTEE: Judiciary

ANALYSIS

This bill establishes a procedure for an individual with terminal illness to receive medical aid-in-dying 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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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to options for end of life care.

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

1 Short Title. This act shall be known as "The New Hampshire End of Life Freedom Act".

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

CHAPTER 137-M

END OF LIFE OPTIONS

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

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

II. "Attending 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 aid-in-dying medication.

III. "Consulting 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.

IV. "Dispensing health care provider" means a health care provider who is authorized to dispense prescription medications.

V. "Health care entity" means an entity or institution, other than an individual, that is licensed to provide any form of health care in the state, including a hospital, clinic, hospice agency, home health agency, long-term care facility, pharmacy, group medical practice, or any similar entity. A "health care entity" does not include a health care provider.

VI.(a) "Health care provider" means any of the following individuals authorized by law to prescribe or dispense medications to be used in medical aid in dying:

(1) A physician licensed pursuant to RSA 329;

(2) An osteopathic physician licensed pursuant to RSA 329;

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

(4) A pharmacist licensed pursuant to RSA 318; provided, however, that a pharmacist shall not qualify as an attending health care provider under RSA 137-M:1, II or as a consulting health care provider under RSA 137-M:1, III.

(b) A "health care provider" does not include a health care entity.

VII. "Informed decision" means a decision by a mentally capable individual to request and obtain a prescription for medications pursuant to this chapter, and that the qualified individual may

elect to self-administer the medications to bring about the individual's peaceful death. The informed decision shall be based on the individual's appreciation of the relevant facts, after being fully informed by the attending health care provider and consulting health care provider of:

(a) The individual's diagnosis and prognosis;

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

(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.

VIII. "Medical aid 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 prescribes medications to a qualified individual who may self-administer the medications to bring about a peaceful death.

IX. "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.

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

XI. "Public place" means any street, alley, park, public building, any place of business, or assembly open to or frequented by the public, and any other place that is open to the public view, or to which the public has access.

XII. "Qualified individual" means a capable adult who has satisfied the requirements of this chapter in order to obtain a prescription for medication to bring about a peaceful death. No person shall be considered a "qualified individual" under this chapter solely because of advanced age or disability.

XIII. "Self-administer" means a qualified individual performs taking an affirmative, conscious, voluntary action to ingest medication prescribed pursuant to this chapter to bring about the individual's peaceful death. Self-administration does not include administration by parenteral injection or infusion.

137-M:2 Attending and Consulting Health Care Provider Determination; Patient Form. An attending health care provider may provide a prescription for medical aid-in-dying medications to an individual only after the attending health care provider has:

I. Determined that the individual has:

(a) Mental capacity;

(b) A terminal condition;

(c) Prognosis of 6 months or less to live, or is enrolled in Medicare-certified hospice;

(d) Voluntarily made the request for medical aid in dying; and

(e) The ability to self-administer the medical aid-in-dying medications.

II. Determined that the individual is making an informed decision as defined in RSA 137-M:1, VII.

III. Determined in good faith that the individual's request does not arise from coercion or undue influence by another person, institution, or other party.

IV. Noted in the individual's health record the attending health care provider's determination that the individual qualifies to receive medical aid in dying.

V. Educated the qualified individual on:

(a) The recommended procedure for self-administering the medication;

(b) The safe-keeping and proper disposal of unused medication in accordance with state and federal law;

(c) The importance of having another person present when the individual self-administers the medication; and

(d) Not taking the medication in a public place.

VI.(a) Confirmed that the individual is either:

(1) Enrolled in a Medicare-certified hospice program; or

(2) Eligible to receive medical aid in dying after the attending health care provider has referred the individual to a consulting health care provider; and

(b) That the consulting health care provider has:

(1) Examined the individual;

(2) Reviewed the individual's relevant medical records; and

(3) Confirmed and has independently determined and documented that the individual meets all of the requirements of RSA 137-M:2, I, II, and III.

VII. Provided substantially the following form to the individual and entered the form into the individual's health record after the form has been completed with all of the required signatures and initials:

REQUEST FOR MEDICATIONS TO END MY LIFE IN A PEACEFUL MANNER

I, (patient name), am an adult of sound mind. I am suffering from a terminal condition that is incurable and irreversible and that, according to reasonable medical judgment, will result in my death within 6 months. My health care provider has determined that the condition is in its terminal phase. (Patient Initials)

I have been fully informed of my diagnosis and prognosis, the nature of the medical aid-in-dying medications to be prescribed and the potential associated risks, the expected result, as well as

feasible alternative, concurrent, or additional treatment opportunities, including hospice care and palliative care focused on relieving symptoms and reducing suffering. (Patient Initials)

I request that my health care provider prescribe medications and that a pharmacist dispense those medications that will end my life in a peaceful manner if I choose to self-administer the medications, and I authorize my health care provider to contact a willing pharmacist to fulfill this request. (Patient Initials)

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

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

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

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

Signed:

Date: Time:

DECLARATION OF WITNESSES:

We declare that the person signing this request:

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

Witness 1: Witness 2:

Signature:

Printed Name:

Relationship to Patient:

Date: .

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

137-M:3 Standard of Care.

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

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

137-M:4 Determining Mental Capacity. If either the attending health care provider or the consulting health care provider has doubts as to whether the individual has mental capacity and is unable to confirm that the individual is able to make an informed decision, the attending health care

provider or consulting health care provider shall refer the individual to a mental health professional for a determination regarding mental capacity.

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

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

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

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

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

137-M:6 Eligibility and Due Diligence.

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

II. The attending and consulting health care providers of an eligible individual shall have met all the requirements of RSA 137-M:2 through RSA 137-M:5.

III. At the time the qualified individual meets with the consulting health care provider, the consulting health care provider shall offer the individual an opportunity to rescind the request.

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

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

137-M:7 Safe Disposal of Medication. A person who has custody or control of medication prescribed pursuant to this chapter after the qualified individual's death shall dispose of the medication by lawful means in accordance with applicable state and federal guidelines.

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

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

(a) Participating in medical aid in dying in good faith compliance with this chapter.

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

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

II. Except as provided in paragraphs III and IV, a health care entity, health insurer, managed care organization, or health care provider shall not subject a person to censure, discipline, suspension, loss, or denial of license, credential, privileges, or membership or other penalty for participating, or refusing to participate, in the provision of medical aid in dying in good faith compliance with the provisions of this chapter.

III. No health care provider who objects for reasons of conscience to participating in the provision of medical aid in dying shall be required to participate in the provision of aid in dying under any circumstance. If a health care provider is unable or unwilling to carry out an individual's request pursuant to this chapter, that health care provider shall so inform the individual at the time of the request and may refer the individual to a health care provider who is able and willing to carry out the individual's request or to another individual or entity to assist the requesting individual in seeking medical aid in dying. The prior health care provider shall transfer, upon request, a copy of the individual's relevant medical records to the new health care provider within 2 business days.

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

V. Nothing in this section shall be construed to prevent an individual who seeks medical aid in dying from contracting with the individual's attending health care provider or consulting health

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

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

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

137-M:9 Prohibited Acts.

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

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

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

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

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

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

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

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

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

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

137-M:10 Reporting.

I. A health care provider who prescribes medical aid 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. The report shall include:

(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 aid-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 aid-in-dying medications prescriptions written statewide and on the number of health care providers who have issued prescriptions for aid-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 aid in dying or otherwise attempt to coerce an individual with a terminal disease to make a request for medical aid-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.

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

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

137-M:13 Death Certificate.

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

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

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

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

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

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

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

4 Effective Date. This act shall take effect January 1, 2026.

LBA
25-0316
12/27/24

HB 254-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to options for end of life care.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	Indeterminable	Indeterminable	Indeterminable
Revenue Fund(s)	Insurance Premium Tax			
Expenditures*	$0	Under $3,000	Under $3,000	Under $3,000
Funding Source(s)	General Fund			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

Estimated Political Subdivision Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
County Revenue	$0	$0	$0	$0
County Expenditures	$0	Indeterminable	Indeterminable	Indeterminable
Local Revenue	$0	$0	$0	$0
Local Expenditures	$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill establishes a procedure for individuals with terminal illnesses to receive medical assistance in dying through the self-administration of medicine. The Insurance Department 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

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

[**As this bill is very similar to HB 1283, 2024 Session, we used the same information the agencies provided at that time to prepare the above fiscal note.**]