AN ACT

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, providing for end of life options, for duties of attending physicians, for duties of consulting physicians and for insurance or annuity policies; imposing duties on the Department of Health; providing for immunities; and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 20 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 54B

END OF LIFE OPTIONS

Sec.

54B01. Short title of chapter.

54B02. Definitions.

54B03. Requests for medication.

54B04. Form of written request.

54B05. Attending physician responsibilities.

54B06. Pharmacist authorization.

54B07. Consulting physician confirmation.
§ 54B01.  Short title of chapter.

This chapter shall be known and may be cited as the End of Life Options Act.

§ 54B02.  Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adult."  An individual who is at least 18 years of age.

"Attending physician."  A physician:

(1)  Who has primary responsibility for the care of a patient and treatment of the patient's terminal illness.

(2)  Who provides medical care to patients with advanced and terminal illness in the normal course of the physician's
medical practice.

(3) Whose treatment is not limited to or primarily comprised of providing medical aid in dying.

"Capable." In the opinion of an attending physician, consulting physician, psychiatrist, psychologist or licensed clinical social worker regarding an individual, having the ability to make and communicate health care decisions to direct health care providers in the course of the individual's treatment.

"Coercion or undue influence." A willful attempt, whether by deception, intimidation or any other means:

(1) to cause an individual to request, obtain or self-administer medication under this chapter with the intent to cause bodily harm or death of the individual; or

(2) to prevent a terminally ill individual from requesting, obtaining or from self-administering medication under this chapter against the individual's wishes.

"Consulting physician." A physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient's terminal illness.

"Counseling." One or more consultations as necessary between a patient and licensed psychiatrist, psychologist or licensed clinical social worker for the purpose of determining that the patient is capable and not suffering from impaired judgment.

"Department." The Department of Health of the Commonwealth.

"Health care provider." A person licensed, certified or otherwise authorized or permitted by the laws of this Commonwealth to administer health care or dispense medication in the ordinary course of business or practice of a profession.

"Informed decision." A decision by a terminally ill
individual to obtain a prescription for medication under this chapter that the patient may self-administer to end the patient's life.

"Interpreter." A person who:

(1) For purposes of 42 Pa.C.S. Ch. 44 Subch. B (relating to court interpreters for persons with limited English proficiency):
   (i) is readily able to interpret; and
   (ii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons with limited English proficiency as established by the court administrator in accordance with 42 Pa.C.S. Ch. 44 Subch. B.

(2) For purposes of 42 Pa.C.S. Ch. 44 Subch. C (relating to court interpreters for persons who are deaf):
   (i) is readily able to interpret;
   (ii) is certified by the National Association of the Deaf, the Registry of Interpreters for the Deaf or similar registry; and
   (iii) has read, understands and agrees to abide by the code of professional conduct for court interpreters for persons who are deaf as established by the court administrator in accordance with 42 Pa.C.S. Ch. 44 Subch. C.

"Medication." Medication prescribed by an attending physician in compliance with this chapter to bring about a qualified patient's death.

"Patient." A person who is under the care of a physician.

"Pharmacist." An individual duly licensed by the State Board of Pharmacy to engage in the practice of pharmacy.
"Physician." A doctor of medicine or osteopathy licensed to practice by the State Board of Medicine or State Board of Osteopathy.

"Qualified patient." A capable adult who has satisfied the requirements of this chapter in order to obtain a prescription for medication that the qualified patient may self-administer to end the qualified patient's life. No person may be qualified as a "qualified patient" under this chapter solely because of advanced age or disability.

"Self-administer." An affirmative, conscious, voluntary act by an individual to ingest medication prescribed in compliance with this chapter to bring about an individual's death. The term does not include administration via injection or intravenous infusion.

"Terminal illness." An incurable and irreversible disease that has been medically confirmed and will within reasonable medical judgment produce death within six months or less.

"Terminally ill individual." An individual with a terminal illness.

§ 54B03. Requests for medication.
(a) General rule.--In order to receive medication, a qualified patient must, in the following order:

(1) make an oral request;
(2) make a written request; and
(3) reiterate the oral request.

(b) Time.--No fewer than seven days shall elapse between the qualified patient's initial oral request and the physician writing the prescription.

(c) Opportunity to rescind.--At the time the qualified patient reiterates the second oral request, the attending
physician shall offer the patient an opportunity to rescind the request.

(d) Requester.--Oral and written requests for medication under this chapter must be made by a terminally ill qualified patient and may not be made by any other individual, including a terminally ill individual's qualified power of attorney, attorney-in-fact for health care or via advance health care directive.

§ 54B04. Form of written request.

(a) Signature, date and attestation.--A valid written request for medication under this chapter must be in substantially the form described in section 54B21 (relating to instrument), signed and dated by the qualified patient and witnessed by at least two individuals who, in the presence of the qualified patient, attest that to the best of their knowledge and belief the qualified patient is capable, acting voluntarily and not being coerced to sign the request.

(b) Ineligible witnesses.--One of the witnesses must be a person who is not:

(1) a relative of the qualified patient by blood, marriage or adoption;

(2) at the time the request is signed, entitled to any portion of the estate of the patient upon death under a will or by operation of law; or

(3) an owner, operator or employee of a health care facility where the patient receives medical treatment or is a resident.

(c) Prohibition.--The qualified patient's attending physician at the time the request is signed may not be a witness.
§ 54B05. Attending physician responsibilities.

(a) General rule.--The attending physician shall:

(1) Make the initial determination of whether a patient has a terminal illness, is capable and has made the request voluntarily.

(2) Attempt to confirm that the patient's request does not arise from coercion or undue influence by another individual by discussing with the patient, outside the presence of other individuals, except for an interpreter as necessary, whether the patient feels coerced or unduly influenced by another individual.

(3) Ensure that the patient is making an informed decision by informing the patient of:

   (i) Feasible alternatives, concurrent or additional treatment opportunities for the patient's terminal illness, including comfort care, palliative care, hospice care or pain control and the potential risks and benefits of each.

   (ii) The potential risks, benefits and probable result of self-administering the medication prescribed to bring about a death.

   (iii) The choices available to the patient that reflect the patient's self-determination, including that the patient is under no obligation to fill the prescription once provided nor self-administer the medication if it is obtained.

   (iv) The right to rescind the request for medication under this chapter at any time and in any manner.

   (v) The benefits of notifying family of the patient's decision to request medication under this
chapter as an end of life care option.

(4) Provide the patient with a referral for comfort care, palliative care, hospice care, pain control or other end of life treatment opportunities as clinically indicated.

(5) Refer the patient to another consulting physician for medical confirmation of the diagnosis and for a determination that the patient is capable and acting voluntarily.

(6) Refer the patient for counseling if appropriate under section 54B08 (relating to counseling referral).

(7) Counsel the patient about:

(i) The recommended methods for self-administering the medication to be prescribed.

(ii) The safe-keeping and proper disposal of unused medication in accordance with Federal Drug Administration and department guidelines.

(iii) The importance of having another person present when the patient self-administers the medication prescribed under this chapter.

(8) Inform the patient that the patient has an opportunity to rescind a written or oral request for medication at any time and in any manner under section 54B09 (relating to right to rescind request) and offer the patient an opportunity to rescind a written or oral request for medication at the end of the seven-day waiting period under section 54B10 (relating to waiting periods).

(9) Fulfill the medical record documentation requirements of section 54B11 (relating to medical record documentation requirements).

(10) Either of the following:
(i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, provided the attending physician is:

(A) authorized to do so in this Commonwealth;
(B) has a current Drug Enforcement Administration certificate; and
(C) complies with any applicable administrative regulation.

(ii) With the patient's consent:

(A) contact a pharmacist and inform the pharmacist of the prescription; and
(B) deliver the written prescription personally, by mail or electronically to the pharmacist, who shall dispense the medication to either the qualified patient, the attending physician or an expressly identified agent of the patient.

(b) Death certificate.--

(1) Notwithstanding any other provision of law, the attending physician may sign the qualified patient's death certificate. When a death has occurred in accordance with this chapter, the attending physician shall record the cause of death as the underlying terminal illness.

(2) A qualified patient's act of self-administering medication prescribed under this chapter shall not be indicated on the death certificate.

§ 54B06. Pharmacist authorization.

A pharmacist may dispense the medication after receiving a written prescription from the attending physician for a qualified patient.
§ 54B07. Consulting physician confirmation.
   (a) General rule.--Before an patient becomes a qualified patient under this chapter, a consulting physician shall evaluate the patient and the patient's relevant medical records to confirm the attending physician's diagnosis that the patient has a terminal illness. The confirmation shall be in writing.
   (b) Requirements.--The consulting physician must also verify the patient:
       (1) is capable;
       (2) is acting voluntarily; and
       (3) has made an informed decision.

§ 54B08. Counseling referral.
If the opinion of the attending physician or the consulting physician is that the patient may be suffering from impaired judgment, either physician shall refer the patient for counseling. No medication to end a patient's life may be prescribed until the person performing the counseling determines that the patient is not suffering from impaired judgment.

§ 54B09. Right to rescind request.
A qualified patient may rescind a request for medication at any time and in any manner without regard to mental state. No prescription for medication under this chapter may be written before the attending physician has offered the qualified patient an opportunity to rescind the request for medication.

§ 54B10. Waiting periods.
   (a) General rule.--
       (1) No fewer than seven days shall elapse between the qualified patient's initial oral request and the writing of a prescription under this chapter.
       (2) No fewer than 48 hours shall elapse between the
patient's written request and the writing of a prescription under this chapter.

(b) Waiver of waiting period.--Notwithstanding subsection (a)(1), if the terminally ill patient's attending physician attests that the terminally ill patient will, within reasonable medical judgment, die within seven days after making the initial oral request under this section, the terminally ill patient may reiterate the oral request to the attending physician at any time after making the initial oral request in order to waive the seven day waiting period.

§ 54B11. Medical record documentation requirements.

The following shall be documented or filed in a patient's medical record:

(1) All oral requests by the patient for medication under this chapter.

(2) All written requests by the patient for medication under this chapter.

(3) The attending physician's diagnosis, prognosis and determination that the patient is capable, acting voluntarily and has made an informed decision.

(4) The consulting physician's diagnosis, prognosis and verification that the patient is capable, acting voluntarily and has made an informed decision.

(5) A report of the outcome and determinations made during counseling, if performed.

(6) The attending physician's offer to the patient to rescind the request at the time of the patient's second oral request.

(7) A note by the attending physician indicating the requirements under this chapter have been met and the steps...
taken to carry out the request, including a notation of the medication prescribed.

§ 54B12. Reporting requirements.
The department shall generate and make available to the public an annual statistical report of information collected under this chapter.

§ 54B13. Effect on construction of wills and contracts.
(a) Effect on existing agreements.—A provision in a contract, will or other agreement, whether written or oral, that affects whether a person may self-administer medication or make or rescind a request for medication under this chapter is invalid and unenforceable.
(b) Obligations under an existing contract.—No obligation under an existing contract may be conditioned or affected by a qualified patient's self-administering medication or making or rescinding of a request for medication to end the qualified patient's life under this chapter.

§ 54B14. Insurance or annuity policies.
(a) Restrictions.—
(1) The sale, procurement or issuance of life, health or accident insurance or an annuity policy or the rate charged for a policy shall not be conditioned upon or affected by the making or rescinding of a request by an individual for medication to end the individual's life.
(2) A qualified patient's act of ingesting medication to end the patient's life may not be a cause for the patient's life, health or accident insurance or annuity policy to deny benefits under the policy.
(b) Health insurance.—A patient with a terminal illness who is a covered beneficiary of a health insurance plan may not be
denied benefits or have the individual's benefits altered based
on access to end of life options, the availability of
medication, the individual's request for medication under this
chapter or absent a request for medication under this chapter.

(c) Medial assistance.--A terminally ill individual who is a
recipient of medical assistance under Subarticle (f) of Article
IV of the act of June 13, 1967 (P.L.31, No.21), known as the
Human Services Code, may not be denied benefits or have benefits
altered based on the individual's access to end of life options,
the availability of medication, the individual's request for
medication under this chapter or absent a request for medication
under this chapter.

§ 54B15. Disposal of unused medication.

An individual who has custody or control of medication
prescribed and dispensed under this chapter that remains unused
after the terminally ill individual's death shall dispose of the
medication by lawful means in accordance with Federal and State
guidelines.

§ 54B16. Use of interpreters.

A terminally ill individual who requests information or
services under this chapter may request an interpreter. An
interpreter used under this chapter may not be related to the
terminally ill individual by blood, marriage, registered
domestic partnership, or adoption or be entitled to a portion of
the terminally ill individual's estate upon death.

§ 54B17. Construction.

Nothing in this chapter shall be construed to authorize a
physician or other person to end a patient's life by any means
not authorized by this chapter. Conduct in accordance with this
chapter shall not constitute suicide, assisted suicide, mercy
§ 54B18. Immunities.

Except as provided in section 54B20 (relating to liabilities):

(1) No person may be subject to civil or criminal liability or professional disciplinary action for acting in accordance with this chapter, including being present when a qualified patient self-administers the prescribed medication to end the qualified patient's life.

(2) No professional organization or association or health care provider may subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership or other penalty for acting in accordance with this chapter.

(3) No request by a patient for medication in good faith compliance with this chapter may constitute negligence or provide the sole basis for the appointment of a guardian or conservator.

(4) No issuance by an attending physician of medication in good faith with this chapter may constitute negligence or provide the sole basis for the appointment of a guardian or conservator.

§ 54B19. Health care provider participation; notification; permissible sanctions.

(a) Participation not required.--

(1) No health care provider may be under a duty, whether by contract, by statute or by any other legal requirement, to participate in the issuance to a qualified patient of medication to end the patient's life under this chapter.

(2) If a health care provider is unable or unwilling to
carry out a patient's request under this chapter and, as a
result, the patient transfers care to a new health care
provider, the prior health care provider shall transfer, upon
request, a copy of the patient's relevant medical records to
the new health care provider.

(b) Unprofessional or dishonorable conduct reports.--Action
taken under section 54B04 (relating to form of written request),
54B05 (relating to attending physician responsibilities), 54B07
(relating to consulting physician confirmation) or 54B08
(relating to counseling referral) may not be the sole basis for
a report of unprofessional or dishonorable conduct to the State
Board of Medicine or the State Board of Osteopathic Medicine.

(c) Standard of care.--No provision of this chapter may be
construed to allow a lower standard of care for a patient in the
community where the patient is treated or a similar community.

§ 54B20. Liabilities.

(a) Mishandling instrument.--A person who, without
authorization from a patient, willfully alters or forges a
request for medication or conceals or destroys the rescission of
the request with the intent or effect of proximately causing the
patient's death shall not be immune from criminal liability
under section 54B18 (relating to immunities).

(b) Undue influence.--A person who for the purpose of ending
a patient's life coerces or exerts undue influence on the
patient to request medication or to destroy a rescission of the
request shall not be immune from criminal liability under
section 54B18.

(c) Civil damages.--Nothing under this chapter limits
liability for civil damages resulting from negligent or
intentional misconduct by any person.

A written request for a medication as authorized under this chapter shall be in substantially the following form:

**REQUEST FOR MEDICATION**

**TO PEACEFULLY END MY LIFE IN A HUMANE AND DIGNIFIED MANNER**

I, __________, am an adult of sound mind.

I am suffering from __________, which my attending physician has determined is a terminal illness.

I have been fully informed of my diagnosis and prognosis, the feasible alternatives, concurrent or additional treatment opportunities for my terminal illness, including comfort care, palliative care, hospice care or pain control and the potential risks and benefits of each. I have been offered resources or referrals to pursue these alternatives.

I request that my attending physician prescribe medication that I may self-administer to bring a peaceful end to my life in a humane and dignified manner.

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

I understand the full importance of this request and I expect to die when I take the medication to be prescribed.

I make this request voluntarily and without reservation.

Signed:

Date:

**DECLARATION OF WITNESS**

I declare that the person signing this request:

(1) Is personally known to me or has provided proof of identity.

(2) Signed this request in my presence.
(3) Appears to be of sound mind and not under duress, fraud or undue influence.

(4) Is not a patient for whom I am a physician.

Date:

Witness signature:

Number and Street:

City, State and Zip Code:

NOTE: One witness shall not be a relative by blood, marriage or adoption of the person signing this request, shall not be entitled to any portion of the person's estate upon death and shall not own, operate or be employed at a health care facility where the person is a patient or resident.

§ 54B22. Penalties for mishandling instrument.

(a) Intent to hasten death.—A person who without authorization of a qualified patient willfully alters, forges, conceals or destroys a written or oral request, the reinstatement or revocation of a written or oral request or any other evidence or document reflecting the qualified patient's desires and interests with the intent and effect of causing a withholding or withdrawal of life-sustaining procedures or of artificially administered nutrition and hydration which hastens the death of the qualified patient commits a felony of the first degree.

(b) Intent to affect health care decision.—Except as provided in subsection (a), a person who without authorization of a qualified patient willfully alters, forges, conceals or destroys a written or oral request, the reinstatement or revocation of a written or oral request or any other evidence or document reflecting the qualified patient's desires and interests with the intent or effect of affecting a health care
decision commits a misdemeanor of the first degree.

§ 54B23. Severability.

If a part of this chapter is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this chapter 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.

Section 2. This act shall take effect in 60 days.