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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 405 Session of  
2021

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INTRODUCED BY BOSCOLA, FONTANA, KEARNEY AND STREET,  
MARCH 11, 2021

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REFERRED TO JUDICIARY, MARCH 11, 2021

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AN ACT

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

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

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

11 CHAPTER 54B

12 END OF LIFE OPTIONS

13 Sec.

14 54B01. Short title of chapter.

15 54B02. Definitions.

16 54B03. Requests for medication.

17 54B04. Form of written request.

18 54B05. Attending physician responsibilities.

19 54B06. Pharmacist authorization.

20 54B07. Consulting physician confirmation.

1 54B08. Counseling referral.  
2 54B09. Right to rescind request.  
3 54B10. Waiting periods.  
4 54B11. Medical record documentation requirements.  
5 54B12. Reporting requirements.  
6 54B13. Effect on construction of wills and contracts.  
7 54B14. Insurance or annuity policies.  
8 54B15. Disposal of unused medication.  
9 54B16. Use of interpreters.  
10 54B17. Construction.  
11 54B18. Immunities.  
12 54B19. Health care provider participation; notification;  
13 permissible sanctions.  
14 54B20. Liabilities.  
15 54B21. Instrument.  
16 54B22. Penalties for mishandling instrument.  
17 54B23. Severability.  
18 § 54B01. Short title of chapter.

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

21 § 54B02. Definitions.

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

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

26 "Attending physician." A physician:

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

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

1 medical practice.

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

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

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

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

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

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

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

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

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

30 "Informed decision." A decision by a terminally ill

1 individual to obtain a prescription for medication under this  
2 chapter that the patient may self-administer to end the  
3 patient's life.

4 "Interpreter." A person who:

5 (1) For purposes of 42 Pa.C.S. Ch. 44 Subch. B (relating  
6 to court interpreters for persons with limited English  
7 proficiency):

8 (i) is readily able to interpret; and

9 (ii) has read, understands and agrees to abide by  
10 the code of professional conduct for court interpreters  
11 for persons with limited English proficiency as  
12 established by the court administrator in accordance with  
13 42 Pa.C.S. Ch. 44 Subch. B.

14 (2) For purposes of 42 Pa.C.S. Ch. 44 Subch. C (relating  
15 to court interpreters for persons who are deaf):

16 (i) is readily able to interpret;

17 (ii) is certified by the National Association of the  
18 Deaf, the Registry of Interpreters for the Deaf or  
19 similar registry; and

20 (iii) has read, understands and agrees to abide by  
21 the code of professional conduct for court interpreters  
22 for persons who are deaf as established by the court  
23 administrator in accordance with 42 Pa.C.S. Ch. 44 Subch.  
24 C.

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

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

29 "Pharmacist." An individual duly licensed by the State Board  
30 of Pharmacy to engage in the practice of pharmacy.

1 "Physician." A doctor of medicine or osteopathy licensed to  
2 practice by the State Board of Medicine or State Board of  
3 Osteopathy.

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

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

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

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

20 § 54B03. Requests for medication.

21 (a) General rule.--In order to receive medication, a  
22 qualified patient must, in the following order:

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

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

29 (c) Opportunity to rescind.--At the time the qualified  
30 patient reiterates the second oral request, the attending

1 physician shall offer the patient an opportunity to rescind the  
2 request.

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

9 § 54B04. Form of written request.

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

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

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

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

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

28 (c) Prohibition.--The qualified patient's attending  
29 physician at the time the request is signed may not be a  
30 witness.

1 § 54B05. Attending physician responsibilities.

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

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

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

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

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

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

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

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

29 (v) The benefits of notifying family of the  
30 patient's decision to request medication under this

1 chapter as an end of life care option.

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

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

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

11 (7) Counsel the patient about:

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

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

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

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

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

30 (10) Either of the following:



1           (i) Dispense medications directly, including  
2           ancillary medications intended to facilitate the desired  
3           effect to minimize the patient's discomfort, provided the  
4           attending physician is:

5                   (A) authorized to do so in this Commonwealth;

6                   (B) has a current Drug Enforcement  
7           Administration certificate; and

8                   (C) complies with any applicable administrative  
9           regulation.

10           (ii) With the patient's consent:

11                   (A) contact a pharmacist and inform the  
12           pharmacist of the prescription; and

13                   (B) deliver the written prescription personally,  
14           by mail or electronically to the pharmacist, who  
15           shall dispense the medication to either the qualified  
16           patient, the attending physician or an expressly  
17           identified agent of the patient.

18           (b) Death certificate.--

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

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

27           § 54B06. Pharmacist authorization.

28           A pharmacist may dispense the medication after receiving a  
29           written prescription from the attending physician for a  
30           qualified patient.

1 § 54B07. Consulting physician confirmation.

2 (a) General rule.--Before an patient becomes a qualified  
3 patient under this chapter, a consulting physician shall  
4 evaluate the patient and the patient's relevant medical records  
5 to confirm the attending physician's diagnosis that the patient  
6 has a terminal illness. The confirmation shall be in writing.

7 (b) Requirements.--The consulting physician must also verify  
8 the patient:

9 (1) is capable;

10 (2) is acting voluntarily; and

11 (3) has made an informed decision.

12 § 54B08. Counseling referral.

13 If the opinion of the attending physician or the consulting  
14 physician is that the patient may be suffering from impaired  
15 judgment, either physician shall refer the patient for  
16 counseling. No medication to end a patient's life may be  
17 prescribed until the person performing the counseling determines  
18 that the patient is not suffering from impaired judgment.

19 § 54B09. Right to rescind request.

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

25 § 54B10. Waiting periods.

26 (a) General rule.--

27 (1) No fewer than seven days shall elapse between the  
28 qualified patient's initial oral request and the writing of a  
29 prescription under this chapter.

30 (2) No fewer than 48 hours shall elapse between the

1 patient's written request and the writing of a prescription  
2 under this chapter.

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

11 § 54B11. Medical record documentation requirements.

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

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

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

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

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

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

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

29 (7) A note by the attending physician indicating the  
30 requirements under this chapter have been met and the steps

1 taken to carry out the request, including a notation of the  
2 medication prescribed.

3 § 54B12. Reporting requirements.

4 The department shall generate and make available to the  
5 public an annual statistical report of information collected  
6 under this chapter.

7 § 54B13. Effect on construction of wills and contracts.

8 (a) Effect on existing agreements.--A provision in a  
9 contract, will or other agreement, whether written or oral, that  
10 affects whether a person may self-administer medication or make  
11 or rescind a request for medication under this chapter is  
12 invalid and unenforceable.

13 (b) Obligations under an existing contract.--No obligation  
14 under an existing contract may be conditioned or affected by a  
15 qualified patient's self-administering medication or making or  
16 rescinding of a request for medication to end the qualified  
17 patient's life under this chapter.

18 § 54B14. Insurance or annuity policies.

19 (a) Restrictions.--

20 (1) The sale, procurement or issuance of life, health or  
21 accident insurance or an annuity policy or the rate charged  
22 for a policy shall not be conditioned upon or affected by the  
23 making or rescinding of a request by an individual for  
24 medication to end the individual's life.

25 (2) A qualified patient's act of ingesting medication to  
26 end the patient's life may not be a cause for the patient's  
27 life, health or accident insurance or annuity policy to deny  
28 benefits under the policy.

29 (b) Health insurance.--A patient with a terminal illness who  
30 is a covered beneficiary of a health insurance plan may not be

1 denied benefits or have the individual's benefits altered based  
2 on access to end of life options, the availability of  
3 medication, the individual's request for medication under this  
4 chapter or absent a request for medication under this chapter.

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

13 § 54B15. Disposal of unused medication.

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

19 § 54B16. Use of interpreters.

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

26 § 54B17. Construction.

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

1 killing or homicide under law.

2 § 54B18. Immunities.

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

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

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

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

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

23 § 54B19. Health care provider participation; notification;  
24 permissible sanctions.

25 (a) Participation not required.--

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

30 (2) If a health care provider is unable or unwilling to

1 carry out a patient's request under this chapter and, as a  
2 result, the patient transfers care to a new health care  
3 provider, the prior health care provider shall transfer, upon  
4 request, a copy of the patient's relevant medical records to  
5 the new health care provider.

6 (b) Unprofessional or dishonorable conduct reports.--Action  
7 taken under section 54B04 (relating to form of written request),  
8 54B05 (relating to attending physician responsibilities), 54B07  
9 (relating to consulting physician confirmation) or 54B08  
10 (relating to counseling referral) may not be the sole basis for  
11 a report of unprofessional or dishonorable conduct to the State  
12 Board of Medicine or the State Board of Osteopathic Medicine.

13 (c) Standard of care.--No provision of this chapter may be  
14 construed to allow a lower standard of care for a patient in the  
15 community where the patient is treated or a similar community.  
16 § 54B20. Liabilities.

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

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

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

1 § 54B21. Instrument.

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

4 REQUEST FOR MEDICATION

5 TO PEACEFULLY END MY LIFE IN A HUMANE

6 AND DIGNIFIED MANNER

7 I, \_\_\_\_\_, am an adult of sound mind.

8 I am suffering from \_\_\_\_\_, which my attending physician has  
9 determined is a terminal illness.

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

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

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

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

23 I make this request voluntarily and without reservation.

24 Signed:

25 Date:

26 DECLARATION OF WITNESS

27 I declare that the person signing this request:

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

30 (2) Signed this request in my presence.



1 (3) Appears to be of sound mind and not under duress, fraud  
2 or undue influence.

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

4 Date:

5 Witness signature:

6 Number and Street:

7 City, State and Zip Code:

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

13 § 54B22. Penalties for mishandling instrument.

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

24 (b) Intent to affect health care decision.--Except as  
25 provided in subsection (a), a person who without authorization  
26 of a qualified patient willfully alters, forges, conceals or  
27 destroys a written or oral request, the reinstatement or  
28 revocation of a written or oral request or any other evidence or  
29 document reflecting the qualified patient's desires and  
30 interests with the intent or effect of affecting a health care

1 decision commits a misdemeanor of the first degree.

2 § 54B23. Severability.

3 If a part of this chapter is invalid, all valid parts that  
4 are severable from the invalid part remain in effect. If a part  
5 of this chapter is invalid in one or more of its applications,  
6 the part remains in effect in all valid applications that are  
7 severable from the invalid applications.

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