

Senate Executive Committee

152nd General Assembly

Wednesday, June 12, 2024

Senate Chamber/Virtual Meeting

2:37 p.m. – 4:25 p.m.

Committee Members Present

Senator Elizabeth Lockman, Acting Chair	Elizabeth.Lockman@delaware.gov
Senator Bryan Townsend, Vice Chair	Bryan.Townsend@delaware.gov
Senator Sarah McBride	Sarah.McBride@delaware.gov
Senator Marie Pinkney	Marie.Pinkney@delaware.gov
Senator Gerald Hocker	Gerald.Hocker@delaware.gov
Senator Brian Pettyjohn	Brian.Pettyjohn@delaware.gov
Senator David Sokola, Chair (Virtual)	David.Sokola@delaware.gov

Staff Present

Valerie McCartan, Senate (Virtual)	Valerie.McCartan@delaware.gov
Charline Ganthier-Cine, Senate	Charline.Ganthier-Cine@delaware.gov
Carolyn Martin-Pettaway, Senate	Carolyn.Martin-Pettaway@delaware.gov
Kiki Evinger, Senate	Kathryn.Evinger@delaware.gov

Attendees

All public registrants, both in-person and virtual, are listed in Appendix A.

Written Testimony

All written testimony submitted to the committee is contained in Appendix B.

Agenda

I. HB 140 w/ HA 1

INTRODUCTION

Senator Lockman, serving as Acting Chair, brought the meeting to order at 2:37 p.m. and proceeded to conduct a roll call. Members present: Sens. Lockman, Pinkney, Pettyjohn, Sokola (virtual), and Hocker. Sen. Lockman confirmed a quorum was present. Sen. McBride was marked present at 2:43 p.m. and Sen. Townsend was marked present at 2:46 p.m.

I. HB 140 w/ HA 1(Baumbach) AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE \RELATING TO END OF LIFE OPTIONS.

Synopsis: This Act permits a terminally ill individual who is an adult resident of Delaware to request and self-administer medication to end the individual's life in a humane and dignified manner if both the individual's attending physician or attending advanced practice registered nurse (APRN) and a consulting physician or consulting APRN agree on the individual's diagnosis and prognosis and believe the individual has decision-making capacity, is making an informed decision, and is acting voluntarily. This Act uses terms and definitions that are consistent with other Delaware laws in Title 16, specifically Chapter 25 (regarding advance health-care directives) and Chapter 25A (regarding Delaware Medical Orders for Scope of Treatment). This Act provides the following procedural safeguards: 1. No one may request medication to end life on behalf of another individual. 2. An individual cannot qualify for medication to end life under this chapter solely because of the individual's age or disability. A mental illness or mental health condition is not a qualifying condition under this Act and a mental illness or mental health condition may be the reason that an individual does not have decision-making capacity and is thus, ineligible for medication to end their life in a humane and dignified manner. 3. Both the individual's attending physician or attending APRN and a consulting physician or consulting APRN must confirm that the individual has a terminal illness and a prognosis of 6 months or less to live, has decision-making capacity, is making an informed decision, and is acting voluntarily. 4. The individual's attending physician or attending APRN must also provide specific disclosures to the individual to ensure that the individual is making an informed decision, including the presentation of all end of life options which include comfort care, palliative care, hospice care, and pain control. 5. The individual must be evaluated by a psychiatrist or a psychologist if either the attending or consulting physicians or APRNs are concerned that the individual lacks decision-making capacity. 6. The individual must complete a witnessed form requesting medication to end life and there are limitations on who can witness the signing of the form. 7. The attending physician or attending APRN must offer the individual the opportunity to rescind the request for medication to end life before writing a prescription for the medication. 8. Two waiting periods must pass before the attending physician or attending APRN may prescribe the medication to end life. 9. The attending physician or attending APRN must provide the qualified patient with instructions about the proper safe-keeping and disposal of unused medication to end life in a humane and dignified manner under applicable state or federal guidelines. The United States Food and Drug Administration guidelines include using a medication collection site or a medication disposal pouch, that deactivates and renders drugs ineffective. 10. An insurer or health-care provider may not deny or alter health-care benefits otherwise available to an individual based upon the availability of medication to end life or otherwise coerce or require a request for medication to end life as a condition of receiving care. 11. A health-care institution may prohibit a physician or APRN from prescribing medication under this Act on the health-care institution's premises and a physician or APRN may refuse to prescribe medication under this Act. 12. A request or prescription for or the dispensing of medication under this Act does not constitute elder abuse, suicide, assisted-suicide, homicide, or euthanasia. 13. People acting in good faith and in accordance with generally

accepted health-care standards under this Act have immunity, but those acting with negligence, recklessness, or intentional misconduct do not have criminal or civil immunity. 14. The Department of Health and Social Services (DHSS) must develop rules and regulations to collect information regarding compliance with this Act and require health-care providers to file a report when medication to end life in a humane and dignified manner is prescribed or dispensed. DHSS may review samples of records maintained under this Act. The information DHSS collects must include the information necessary to assess a physician's or APRN's compliance with their responsibilities under this Act and DHSS has explicit authority to share information with the Division of Professional Regulation if DHSS suspects that a health-care provider failed to comply with the requirements under this Act. 15. DHSS must complete an annual statistical report of information collected under this Act, similar to public reports available in other states such as New Jersey where this end of life option is available. This report has the following purposes: • To assist the DHSS in its oversight responsibilities for this Act. • To assist the public in learning how well this new law is operating. 16. The Department of State may also promulgate regulations or develop forms and protocols necessary under this Act. 17. Allows the Office of Controlled Substances to provide reports of data in the prescription monitoring program to DHSS to assess compliance with this Act. This Act takes effect when final regulations required under this Act have been promulgated or July 1, 2024, whichever occurs earlier. This Act is known as "The Ron Silverio/Heather Block End of Life Options Law" in memory of Ron Silverio and Heather Block, who were passionate advocates that passed away without this option becoming available to them.

HA 1 extends the implementation deadline for this Act from July 1, 2024, to July 1, 2025.

Rep. Baumbach said this is a bill for those who are dying and those who have died, like Ron Silverio and Heather Block. He has worked on this bill for close to a decade to allow this decision to be one between a dying individual and their health professional. Most of the bill language represents safeguards that have been tested when Oregon first passed the first medical aid in dying bill. Medical aid in dying gives terminally ill, mentally competent adults who have six months or fewer to live the option to request a prescription for medication that they can decide to take, or not, in their final days or weeks to end unbearable pain or suffering and die peacefully in their sleep. He reviewed the safeguards that are in place to make sure this is an extremely narrow funnel of individuals who would qualify for medical aid in dying. These safeguards are listed in detail in the bill synopsis.

Rep. Baumbach emphasized that the provisions of the legislation do not constitute suicide, assisted suicide or euthanasia. Medical aid in dying is used by 10 states and the District of Columbia. There are safeguards that have been in effect for years. There are no cases of abuse or violations. The laws in the USA do not permit many things that you may hear some opponents say, which are based on other countries' laws. There are individuals in faith-based, specifically the Catholic faith, Delaware's medical community, as well as individuals in the disabilities community who both support and oppose medical aid in dying. The Medical Society of Delaware has adopted a position of engaged neutrality. This mirrors the American Medical Association, which has issued opinions on this subject. More than 3 out of 4 physicians in a

survey support medical aid in dying legislation. There are those who would never consider using this end of life options for themselves and those who would. He emphasized that this is why this provision is an option. The bill ensures that both groups of people can have what they want for themselves when they are dying.

Sen. Pinkney said the bill was expertly crafted and the language in the legislation explicitly answers many of the questions people may have. What is the cost of the medication?

Rep. Baumbach said the medication cost is up to the policy that the insured person holds. There is no requirement that the prescription would be covered by any insurance. That is a hurdle that families will have to cover. The cost is approximately \$1,500 currently.

Sen. Pinkney said Line 321 says that providers do have the option to not participate in this if it is against their belief system, correct? She also appreciates that the bill covers the life insurance aspect. What about payout of policies?

Rep. Baumbach said that is correct. The dying person has the option as does the attending physician or Advanced Practice Registered Nurse (APRN). Regarding life insurance, it makes no difference on the life insurance policy including the payout. The terminal illness will be listed on the death certificate. This is important so that data on deaths is based on the disease or illness with which the person was diagnosed.

Sen. Pettyjohn asked if there is carve out or exemptions for incarcerated people in the prescribing of these medications?

Rep. Baumbach said there is not a carve out. He doesn't believe any other states have such a carve out. He asked if Debbie Gottschalk as the drafting attorney can assist with that question.

Debbie Gottschalk, Legislative Attorney, said the Dept. of Correction (DOC) would fall under the ability of any institution providing healthcare which could decide to opt out. Several years ago, in conversations with DOC, they said would definitely opt out because of all the extra issues involved with it.

Sen. Pettyjohn asked Dr. Neil Kaye to offer expert testimony in response to HB 140. (2:55:15 p.m. on the General Assembly website recording)

Dr. Neil Kaye, a physician and past president of the Psychiatric Society of Delaware (PSD), said the majority of DE doctors are against this and refuse to participate. The American Medical Association (AMA) and the American Psychiatric Association (APA) are all against physician assisted suicide. 100% of Delaware psychiatrists are against this. This bill is a slippery slope. In every place where these laws have been challenged, the courts have ruled that voluntary euthanasia must also be allowed. Prohibitions or safeguards that discriminate against classes of people based on age, class or disability will be overturned. In New Mexico, APRNs and Physician Assistants (PAs) are now allowed to prescribe these drugs, and the waiting period was reduced from 15 days to 48 hours. State residency restrictions have been overturned. One doctor prescribed these drugs 76 times this past year. Not enough individuals are referred for

psychological evaluation. There is no scientific research as to what is effective, fast, or well tolerated in terms of the medication. Lethal human experimentation can be allowed with no oversight. Vermont removed the final 48 hour waiting period. Colorado allows telemedicine of death pill packs across state lines. In Washington State, PAs and APRNs are now allowed to prescribe these pills. California eliminated the residency requirement and replaced terminal disease with any previous medical condition and omitted any requirement for evaluation by a psychiatrist or psychologist. All of these examples show the slippery slope being very real in the United States and around the world. Other states have strengthened laws against physician assisted suicide. Utah classifies it as manslaughter. Death is a life event. Helping someone to kill themselves should never be part of a treatment plan. Doctors should not play God. *(Dr. Kaye submitted written comment and documentation, which is included in Appendix B.)*

Sen. Pettyjohn asked where physicians stand in terms of predicting the time an individual has left to live. How good are they at predicting death?

Dr. Kaye said fewer than 1/3 of projections of life expectancy are correct. How can we be asked to help a patient to pursue this route rather than further care or palliative care? This is a time for physicians to be humble.

Sen. Pettyjohn asked what is the combination of pills used and in what amount of time? Do we know how to effectively carry this out?

Dr. Kaye said we do not know and can't guarantee a "good death". The average time is 2-3 hours, but it has been as long as 10 days. 10% of people reject the drugs through by vomiting the drugs, some took more than 30 hours to die. The combination of pills used has changed because there is no scientific research to guide doctors. The most popular combination is 30-50 pills of Diazepam (Valium), phenobarbital, morphine, and other drugs. It changes every year and there is no requirement about what drugs to use because there is no science.

Sen. Pettyjohn mentioned a rash of student suicides at a school downstate. He has seen studies that there could be this effect with this issue as well.

Dr. Kaye said it is called the contagion effect. Normalizing suicide is not a message to send to teenagers in this state. 38,000 Delawareans considered suicide last year. We should not corrupt the medical profession by encouraging doctors to do this or send a message to teenagers in this state that suicide is acceptable or condoned.

Sen. Pettyjohn asked about trauma that physicians and their families might be subject to with this procedure.

Dr. Kaye said it is called vicarious trauma and a form of post-traumatic stress disorder (PTSD). It is well studied and seen in high rates in law enforcement, physicians, and first responders. He said doctors who do this often don't do it again because of the trauma it causes. If family members didn't know of the plan, the doctors can experience anger from them, which is another source of trauma.

Sen. Townsend said while he disagrees with his position, he appreciates Dr. Kaye's advocacy and passion for this issue.

Sen. Hocker said he knows of people who have committed suicide. Shouldn't this be applied to them and not just those who are terminally ill?

Dr. Kaye said that is what has been adjudicated in the courts – that this method of dying should not be denied to anyone no matter their class, health, disability - whether mental or physical, one's age, etc. This bill will be challenged. The federal courts have already ruled it unconstitutional. The Legislature should be aware of that.

Sen. Hocker asked about patients who go to multiple doctors seeking a certain health determination.

Dr. Kaye said people do go doctor shopping to find someone who will, and that relationship is by its nature short, and the doctor therefore doesn't know the patient or the family very well.

Sen. Hocker asked if doctors are supposed to do all they can to prevent a patient from suicide? Could the passage of this bill be very detrimental to doctors in this state.

Dr. Kaye said yes, doctors have to act and voluntarily or involuntarily commit a patient they believe may commit suicide. He said HB 140 runs counter to that. He said they tried to work with Rep. Baumbach, but they were not given a seat at the table. Doctors went into medicine to save, heal, help, and care. When that is flipped on its head to affect their death, that is unethical, and he thinks it is criminal. He thinks many doctors will not participate, but there may be one or two willing to do it, which does not make the end result better.

Sen. Pettyjohn asked if a psychiatrist or psychologist can assess the competency for physician assisted suicide.

Dr. Kaye said competency is a legal term not a medical one. It has to be determined by a judge. Neither the law nor the medical field has assessed any standards for determining if someone is competent to kill themselves.

Rep. Baumbach said Dr. Kaye's comments about Canada's and Europe's practices are immaterial to the legislation and expressed concern that the doctor opined on legal matters which are not within his professional expertise. He said all committee members have a letter from the President of the Delaware Medical Society expressing his strong, personal, support for this legislation. Regarding the arguments about discrimination, the law discriminates about a lot of things – not allowing children under a certain age to drive a car, for example. That legal analysis and the legal cases cited by Dr. Kaye were from outside the country, and the arguments made were quite flawed.

Sen. Sokola said he appreciates Rep. Baumbach's work on this issue over the last decade and has known him to be patient and open to any feedback offered to him. He did a search of Oregon and California, which have much lower suicide rates than Utah, and there is no correlation between

suicide rates and medical aid in dying. He thinks some statements were made that were not accurate when it comes to an actual search for facts using a source such as the Centers for Disease Control & Prevention (CDC) for health data such as this.

Rep. Baumbach asked if Dr Diana Barnard could be called as a witness (at 3:18:25 p.m. on the General Assembly website recording)

Dr. Diana Barnard, physician in Vermont, where medical aid in dying has been legal since 2013. She regularly prescribes under that law and educates and mentors other physicians who do this work. She reminds the committee that the focus should be on patients who want to be independent and make decisions for themselves in the final weeks of their life. Almost all patients at this point in their lives want a little bit of control over their dying experience. Her job as a physician is to heal, to help, and to care for people when they are dying. This is a complex process and a uniquely personal event for the patient. It is okay that this might never be an option for some patients. She stated that use of the word suicide is very inappropriate in this context. Suicide is the intentional taking of a life that is yet to live. It's often violent and done in isolation, and there is often a potentially treatable condition underlying it. People diagnosed with an illness, even one that is terminal, do not rush out to utilize medical aid in dying. They want to live and pursue medical interventions. What this legislation addresses are people with a terminal illness and the final phase of that illness when they are going to die. They seek this based on their own experience and individual choice. She said that because it is so personal, it is not contagious as was stated in previous testimony. Additionally, it is deeply traumatic to the individual and their family members to witness a loved one dying with suffering that has become unmanageable. This is about people learning their options and making a deeply personal choice, and some have shared with her that when they have been a part of a medical aid in dying event, they are affected by its peacefulness. Everyone is unique and wants what they feel is important to them as their life is coming to an end. *(Dr. Barnard submitted written comment, which is included in Appendix B.)*

Sen. Lockman asked for public comment on HB 140 w/ HA 1. (Public comment began at 3:26 p.m. on the on the General Assembly website recording.)

Nandi Randolph with the Delaware Family Policy Council said the organization is in strong opposition to the culture of death that HB 140 promotes. The alleged safeguards fail to include a required psychological evaluation and determination of decision-making capacity at the time of ingestion or mechanisms for detecting negligent or malicious prescriptions. Medical care is intended to save lives, yet HB 140 asks providers to go against all of their training to experiment with a dangerous cocktail of drugs to take a life rather than care for it. This legislation will directly impact the indigent, disabled, and mentally ill.

Kristin Harvey, Executive Director of the Delaware Developmental Disabilities Council (DDC) said the majority of their members are individuals with developmental disabilities and their families. The Council strongly opposes HB 140. Let's focus on aid in living and not aid in dying. *(The DDC submitted written comment, which is included in Appendix B.)*

Rachel Engle, DDC Policy and Law Committee, said physician assisted suicide legislation endangers people with disabilities who may have conditions that some consider life limiting. 90% of those who died from physician assisted suicide in 2019 cited decreasing ability to participate in activities or loss of autonomy. Less than 28% cited concerns for pain control, which is often used to justify this type of legislation. The current system of health services provides economic incentives for rationing healthcare and can lead to encouragement of physician assisted suicide. The DDC strongly opposes physician assisted suicide for people with disabilities.

Paul Johnston from Smyrna said he's a disabled veteran and has seen doctors not know how to diagnose or treat the illnesses that veterans suffer from following their military service. A system like the one created in HB 140 would endanger a lot of veterans who are misdiagnosed.

Dawn Lentz, Townsend, DE, mentioned friends Ron and Heather for whom this bill is named. There are people who would come to these types of meetings, but they are not here now. They have died. She and others speak for the voiceless. The focus in previous comments has been on the wrong thing. We're not debating whether it's ethical for a doctor to make this decision or voting on whether or not Delawareans can make their own decisions to see a doctor or not.

Vickie George spoke in support of HB 140. She is the cofounder of the Yes You Can program. She assists people with disabilities with exercise so that they may have a much more independent life. She has a disability. She is a quadriplegic, but her disease is not something that is terminal. She has MS. She speaks because this is what she believes in. While she works to give independence to the people she cares for, the people in her organization's program support HB 140, because they want to make their own decisions regarding their end of life and not give that up to someone else.

Linda Gould from Newark said she encourages those opposed to this to consider the peace and comfort that medical aid in dying can bring not only to the dying person but to the family as well. She suffered medical PTSD watching her father pass away in a painful way. He should have had the option to die a day or two earlier. When you experience this as a reality, it trumps whatever we might believe in opposition to medical aid in dying. We don't know what we would decide at the end of our lives until that time.

Moira Sheridan with Delaware Right to Life said this legislation will be devastating for Delaware citizens, allowing anyone to make life or death healthcare decisions for incapacitated patients. The bill makes people see themselves as burdens or financial liabilities and incentivizes healthcare providers to view them this way. It is unclear from the legislation what would constitute suffering or what is the exact medication that would be prescribed. There are also concerns for what happens if a person dies with no medical staff present and there are complications or the person was coerced to take the pills, or if the death was a painful one. It is not humane and is undignified.

Danielle Pimentel who serves as policy council for Americans United for Life urged opposition to HB 140. Assisted suicide is not healthcare, nor is it a compassionate response to a patient's pain and suffering. It promotes ableism and discrimination by legally judging a patient's quality

of life solely based on their disability or terminal illness. It also undercuts suicide prevention efforts. The bill also fails to protect vulnerable patients. Upwards of 50% of patients seeking assisted suicide show signs of depression which can impair decision making. Data shows these patients are rarely referred to mental health professionals to ensure their competency before taking these drugs. We should seek efforts to curb suicide and fund better palliative care for patients at the end of their life. *(Americans United for Life submitted written comment, which is included in Appendix B.)*

Donna Latteri, Magnolia read from a declaration written by Jeanette Hall, dated February 5, 2024. Jeanette lives in Oregon and was diagnosed with cancer and was told that she had 6 months to a year to live. She wanted to look into that state's assisted suicide provisions due to her diagnosis. Her doctor stalled in giving her answers and encouraged her not to give up. She fought cancer, and it is now over 23 years since her diagnosis. Assisted suicide should not be legal.

Michael Vest, a critical care physician at Christiana and Associate Professor of Medicine at Sidney Kimmel Medical College, said HB 140 will impact end of life care for all Delaware patients. The medical community may decide that counseling terminally ill patients on the option of suicide is standard of care. The bill is said to apply to patients with less than six months to live, but the bill also states that a request for lethal medication is valid for a full year. Healthcare facilities can supposedly opt out of the provisions of the bill, but what the law says on line 321 is that they have to tell all healthcare providers and the public that they want to do this. HB 140 does not contain requirements for psychiatric evaluation, there is no tracking or accountability for unused dispensed medications, and no mechanism for handling complaints from patients or their families. *(Dr. Vest submitted written comment, which is included in Appendix B.)*

Jessica Rodgers, Coalition Director for the Patients' Rights Action Fund said the slippery slope that has been mentioned with HB 140 is not hypothetical. Oregon is an example of that. The application of this policy subverts what lawmakers agree to. Oregon has dispensed life-ending medication for treatable conditions such as diabetes. Patients request assisted suicide not because of pain and suffering but because they fear being a burden to others. However, prescribing doctors refer less than 1% of patients for a mental health evaluation. Please vote no. *(The Patients' Rights Action Fund submitted written testimony, which is included in Appendix B.)*

Bess McAneny said that as a registered nurse she opposes HB 140. The bill is problematic because it doesn't require a neuropsychiatrist to evaluate a person asking for this medication. This is professionally irresponsible. As a nurse, she has often counseled families to secure this type of evaluation. Assisted suicide compounds the problem of a broken health system. HB 140 is particularly negligent in contrast to recent bills passed by the General Assembly to promote mental health wellness and treatment. *(Bess submitted written comment, which is included in Appendix B.)*

Robert Varipapa, a neurologist practicing in Dover and Milford for over 35 years spoke in support of HB 140. His wife died of ovarian cancer a number of years ago. She was unable to take oral substances. She was in palliative care which was ineffective because she couldn't take

medications. She did not die a good death. Almost all of his patients want autonomy and control over their passing. *(Dr. Varipapa submitted written comment, which is included in Appendix B.)*

Frank Burns, Newark, spoke in support of HB 140. His father had kidney cancer and was offered palliative care. He didn't want to stay in the hospital. He had a very prolonged death. Frank found out that he also had a carcinoma several years ago. He didn't want his son to go through what he had gone through with his own father. His son stored his pain medications away as a future option. That is what the wild west is with regard to this issue, not competent healthcare professionals prescribing medications.

Susan Conaty-Buck, representing the Delaware Coalition of Nurse Practitioners said she's been a family nurse practitioner for 21 years. The Coalition supports this legislation because they believe in the rights of their patients and families to make choices when they have terminal illnesses. They need options about how they would complete their final days. Many nurse practitioners believe we need to respect the rights of patients and allow them to discern their values and priorities as their death approaches. This bill provides care for patients and protects their autonomy. It demonstrates compassion. She urges the committee to support this bill.

Rev. Cynthia Robinson, Pastor at Newark United Church of Christ spoke in favor of HB 140. She spoke of Hal and Laurie Walker. Hall was 79 and had four types of cancer over 30 years of his life. Toward the end of life, those cancers overwhelmed his body, and he was certain his life would end in abject pain. There was nothing medically available to extend his life or improve his quality of life. He committed suicide to end his own suffering and not cause pain, but it had a profound impact on his family. HB 140 could have provided a means to avoid the real trauma that family experienced. *(Rev. Robinson submitted written comment, which is included in Appendix B.)*

Susan Lahaie said her family is proud to have her husband Ron Silverio's name on HB 140. He endured terminal cancer and worried about the terrible pain he suffered. Had this legislation been enacted when he was first diagnosed, he might have actually lived longer knowing this was an option in his final days. She asks the committee to help the people of Delaware have fewer moments of worry and more moments of joy by supporting this legislation. *(Susan submitted written comment, which is included in Appendix B.)*

Barbara Mancini said she supports HB 140. She wrote a book called Cruel Death, Heartless Aftermath about how she was arrested in Pennsylvania and charged with aiding an attempted suicide for her father who had legally been prescribed morphine. At his request, he took much more than the required and recommended dose. Her father was conscious and breathing, responding to questions, but police ordered him to the hospital where he received treatment in defiance of his written wishes. He suffered five days of unwanted medical treatment. She was prosecuted, but the court determined there was no merit to the charge and the charges were dismissed. No one should endure a nightmarish end of life. Competent adults deserve options and agency at the end of life, which HB 140 will provide. *(Barbara submitted written comment, which is included in Appendix B.)*

Tom Herlihy, a retired lawyer who practiced in Delaware for 59 years and in the last 25 years of his career gave emphasis to the field of elder law encountered the issues of terminal illness, and the dying process. He advocated in the past for legislation authorizing the making of a living will. Opponents of that made the same arguments heard to today against medical aid in dying – that there would be abuse of their disability and diminishment of the individual’s religious beliefs. As evidenced from those arguments against a living will, those arguments are unfounded. HB 140 has more safeguards than the living will law. He requests that HB 140 be released from committee.

Owen Johnson, Rehoboth Beach, urged support for HB 140. His wife died of endometrial cancer following a painful four-year struggle. Hospice supported morphine to control the pain, but it removed her from the present. She mostly rejected it but then endured extreme pain. This shouldn’t have been necessary. She should have been able to die with dignity, assisted by a doctor with her family present. Let’s provide the option, which it’s possible she may not have accepted, but we are a civilized society, and should provide a more humane option.

Chris Haas, representing the Delaware Department of Insurance (DOI), said DOI supports the legislation which ensures residents do not have to forgo the insurance and annuity benefits they have paid into in order to exercise their end of life options. Without this legislation, a terminally ill person would have limited options to access their benefits, such as selling the policy via viatical settlement, obtaining only the cash value, activating an accelerated death benefit rider. In the case of persons who end their life absent this law, their beneficiaries may get nothing due to common policy clauses related to self-inflicted death. *(DOI submitted written comment, which is included in Appendix B.)*

Kathy Arnold, a registered nurse for 17 years who has cared for many patients through the dying process never had a patient tell her they wanted a pill to kill themselves. She gave them what they needed in terms of medication to calm and relieve pain or anxiety. If one has experienced uncontrolled suffering of a loved one at the end of life, that is a failure of the healthcare system. Suicide pills reinforce that the person is worthless and unwanted. As a healthcare professional, relief of suffering doesn’t include suicide.

Christopher Otto, registered nurse and Executive Director of the Delaware Nurses Association stated his organization’s support for HB 140. Their code of ethics as a profession states that it is their duty to provide patients with informed decision making of all their options without undue influence from the healthcare professional. While there is dissent and disagreement as heard today within the medical and nursing professions, they are sworn to that code of ethics that they put aside their personal preferences when informing patients of their decisions. They are to promote the patient’s ability to self-determine what is in their best interest. He asks that the committee support and release the bill.

Gail Skeen, Wilmington, served as a special investigator for the Department of Justice for nearly 30 years. She said a person’s legal right to die on their own terms is long overdue. Dying is an active and exclusively personal matter. Sometimes it follows a protracted time of pain and suffering. Prolonging of life can be a detriment to the individual’s comfort, dignity, or will. She witnessed her father die as a result of ALS.

Joe Fitzgerald, representing the Catholic Diocese of Wilmington said the Church is opposed to HB 140. He has submitted the Diocese's written testimony. An Oxford University study available on the Oregon General Assembly website noted that questions have arisen as to whether terminal illness, including diseases that would lead to patient death within six months if no medical treatment was given to slow down the course of the disease, - whether physician-assisted suicide is available in those instances when there is no foreseeable death within 6 months with proper medical treatment – apparently this is being prescribed there. The slippery slope of this policy exists in the United States. Colorado and Oregon are examples. The American Medical Association is not neutral with all respects to this, and that's why we may interpret their position differently. That second opinion has been explained by informed professionals that the AMA is opposed to a position of assisted suicide. *(Mr. Fitzgerald submitted written comment on behalf of the Catholic Diocese of Wilmington, which is included in Appendix B.)*

Mary Nairn, nurse practitioner for 27 years in the VA healthcare system, taking care of Delaware veterans. She and her VA colleagues have to complete annual suicide prevention training to help, advocate, and protect their clients because veterans suffer from depression, mental health illness, and feelings of being a burden to their family and friends. Veterans with terminal illness face these same challenges and in Oregon those who seek out assisted suicide cite being a burden as a reason to haste death. Palliative care and hospice are available in our state, and it's good care and helpful to veterans and all who are depressed and feel alone. Please do not pass HB 140. It will hurt the message of suicide prevention to our vulnerable veterans.

(Virtual public comment began at 4:04 p.m. on the General Assembly website recording.)

Megan Hayes spoke in opposition to HB 140. Megan said the sanctity of life is a foundational principle of our society and our legal system. Suicide is not the answer to having sufficient, robust, palliative care or support for people who are at the end of life and who are suffering. This is a slippery slope with potential to expand from just terminally ill patients to those who have treatable illnesses. *(Megan submitted written comment, which is included in Appendix B.)*

Ceil Tilney spoke in support of HB 140 on behalf of the League of Women Voters (LWV). She wants to emphasize that a vote in support of HB 140 does not mean you personally would choose this option. It means you believe a person who will undergo the process is the one whose preference should dominate the majority. A super majority of Delawareans support this bill because they support the right of the patient to be the one who makes the choice. *(The League of Women Voters submitted written comment, which is included in Appendix B.)*

Daniese McMullin-Powell with ADAPT Delaware said the Council for Persons with Disabilities, the Statewide Independent Living Council, both centers for independent living, the National Center Council for Independent Living, the ARC of the United States – all of these organizations have opposing statements to HB 140. Please stop scaring people toward death for fear of disability. Daniese said she doesn't need to die to obtain dignity. She has dignity in my life. Please vote no. *(Daniese submitted written comment, which is included in Appendix B.)*

John Silverio said Ron Silverio was his father. He is in favor of HB 140. His father did not fear dying. He feared dying in excruciating pain. If one is opposed to this bill or on the fence about it, he implores them to go to a hospice or an assisted living facility where there are terminally ill patients who are suffering. This is a personal property issue. It is your choice or not. Your choice is your family's choice.

Dr. Mary McCrossan said she is a family doctor in Wilmington and a member of the AMA. She is a voting member of the Council of the Medical Society of Delaware. Her father had lung disease which made him dependent on portable oxygen. He needed a wheelchair and a personal aide, but he was still himself, and he still had life to live. He was advised eventually that the aggressive care was no longer effective. If his doctor had been required to offer lethal drugs to end his life, he likely would have taken it. Instead, he came home and died naturally without pain and anger. She is grateful the law protected her dad and his doctor. She wants the same protection for all her patients. Please do not release HB 140

Dr. N. Joseph Schrandt, a retired neurologist from Wilmington, said he has cared for many patients with serious, often fatal illnesses. Not one ever asked him to end their lives. All his patients instinctively understood his job was to help and not to kill. HB 140 would have required him to tell everyone facing death that they are able to receive a prescription to end their lives. This would cast doubt over his true intentions – such as perhaps a favorable review or a bonus from an insurance company? The practice of medicine could never be the same. Vote no on HB 140.

Kathi Donegan said she has been a veteran bedside volunteer for Hospice organizations for the past 25 years. It's a privilege and an honor to help people in this way. It has afforded her a close look into lives at a critical time for the patient and their family. People want to feel in control and retain dignity as their body fails. They would like to avoid the worst of the pain and the loss of bodily control. Her mother asked her to find a pill that would help her pass on. Medical aid in dying would give that to people who choose to.

Marlene Walters, of Wilmington, opposes HB 140. She said this will eventually become an acceptable way of disposing of the outcast, the homeless, and the disabled. It will be more efficient to allow them to die than to care for them with tax dollars. Research will halt because we'd rather choose this route than enable research to unravel medical answers. We do not know when someone has six months or less to live.

Judith Govatos said she's given this testimony over the last six years. She has had cancer twice in the last 10 years. She is now 80 and without this bill she is facing a prolonged period of needless suffering when she dies. She has been treated with every painkiller there is, and none work for her. Her family and friends have been through it all with them and she doesn't want to go there again. Hospice doesn't work for her based on her experience. She wants to leave her family and friends with a legacy of a good death. She doesn't want them stuck with the trauma of a bad death.

Dan Diaz said he is Britany Maynard's husband. She died in November 2014 after they moved from California to Oregon at only 29 years old due to a brain tumor. She experienced a gentle

dying process through medical aid in dying, which Delaware is now considering. He supports HB 140. Delaware is running 27 years behind on this matter. A terminally ill person in Delaware has fewer rights and options than in other states.

Maria Haley said our country has a national suicide hotline that connects to someone who does everything possible to keep the caller from self-harm. Yet, when the terminally ill are at the most vulnerable time, we are going to assist them in ending their own lives. It is a horrific double standard. Instead of giving the patient deadly pills, we should support them physically, mentally, emotionally, and spiritually. Please vote no to HB 140.

Dr. Annette Hanson is a forensic psychiatrist from Maryland. She is opposed to HB 140. She also has 30 years' experience providing clinical care and court ordered evaluations in the state prison and state psychiatric hospital system. Passing this bill will put state doctors in an unresolvable conflict with Federal Law. The US Supreme Court case *Estelle V. Gamble* mandates that medical care must be given to people. It cannot be denied just because they are institutionalized. The Federal Civil Rights Institutionalized Persons Act also creates an affirmative duty for people in state institutions to prevent suicide. Doctors will be placed in a situation that requires their hospitals to opt in, even on the inpatient unit, or in a psychiatric facility. *(Dr. Hanson submitted written comment, which is included in Appendix B.)*

Christopher Riddle, professor at Utica University. He is a healthcare ethicist and a disability rights scholar. His work focuses on the harm or potential for harm that can befall people with disabilities through public policies such as this. He supports HB 140 with no reservations, however, because the harm and indignities that are being presented in opposition are *potential* harms that have not come to bear based on evidence. However, there is harm that if we ignore the majority voice of Delawareans and people with disabilities and deny them access to the care they are asking for, we are saying damaging things about people with disabilities. They are capable of accessing risk and making choices pertaining to their own care. Would we suggest that they must be protected from themselves?

Kim Callinan, CEO of Compassion and Choices, travels the country lobbying to pass these bills on behalf of dying people and then stays in states to make sure the laws are implemented as intended. There has been absolutely no slippery slope in the United States. Every single medical aid in dying law that has been implemented across the 10 states and Washington DC have the exact same eligibility criteria since Oregon first passed its legislation. Eventually diseases like diabetes can progress to the point where they are terminal, with a six-month prognosis and that this what is being cited on reports as a slippery slope. There has not been a single case of misuse or abuse of these laws.

Sen. Lockman circulated HB 140 w/ HA 1 among committee members for signature.

HB 140 w/ HA 1 was reported out of Committee (1 Favorable - Townsend; 4 On Its Merits - Lockman, Pinkney, McBride, Sokola; 0 Unfavorable).

Sen. Lockman asked for a motion to approve the minutes of the May 7, 2024, May 8, 2024, May 14, 2024, and May 15, 2024 meeting minutes.

Sen. Pettyjohn made a motion to approve the minutes. Sen. Sokola seconded the motion.

Sen. Lockman asked for a motion to adjourn the meeting.

Senator Pettyjohn motioned to adjourn. Senator Pinkney seconded the motion.

The meeting was adjourned at 4:25 p.m.

Meeting Minute Preparation

Valerie McCartan, 6/17/2024

Approval of Meeting Minutes

Motion made by Sen. Pettyjohn; Second by Sen. Hocker, Senate Executive Committee meeting,
7/17/2024

Appendix A: Attendees

In Person Attendees:

1. Neil Kaye, MD, Psychiatric Society of Delaware
2. Nandi Randolph, Delaware Family Policy Council (DFPC)
3. Kristin Harvey, Delaware Developmental Disabilities Council (DDC)
4. Rachel Engle, DDC
5. Paul Johnson, DDC
6. Dawn Lentz
7. Vickie George
8. Linda Gould
9. Moira Sheridan, Delaware Right to Life (DRTL)
10. Danielle Pimentel, Americans United for Life
11. Donna Latteri
12. Michael Vest
13. Jessica Rodgers, Patients' Rights Action Fund
14. Mary Nairn, nurse practitioner- Veterans
15. Bess McAneny, RN, Delaware Nurses for Life
16. Robert Varipapa
17. Frank Burns
18. Susan Conaty-Buck, Delaware Coalition of Nurse Practitioners
19. Rev. Cynthia Robinson
20. Susan Lahaie
21. Barbara Mancini
22. Tom Herlihy
23. Owen Johnson
24. Chris Haas, Delaware Dept of Insurance (DOI)
25. Kathy Arnold, DRTL
26. Christopher Otto, Delaware Nurses Association
27. Gail Skeen
28. Joe Fitzgerald, Catholic Diocese of Wilmington (CDOW)

Virtual Attendees:

1. Dr. Diana Barnard, Compassion & Choices
2. Ceil Tilney, League of Women Voters (LWV)
3. Kim Callinan, Compassion & Choices Action Network
4. Daniese McMullin-Powell, American Disabled for Attendant Programs Today (ADAPT) Delaware
5. Leigh Weldin, Delaware Department of Education (DOE)
6. Mary McCrossan
7. N. Joseph Schrandt
8. Dave Mills
9. Marlene Walters
10. Maria Haley, Delaware Right to Life
11. Sherry Long, Restore Delaware
12. John Silverio, CCHS
13. Annette Hanson
14. Kathi Donegan, Compassion and Choices
15. Judith Govatos, Compassion and Choices
16. Dan Diaz, TheBrittanyFund.org
17. Megan Hayes
18. Colleen Barry, Euthanasia Prevention Coalition – USA
19. Carole Burdge
20. Daniel Sulmasy, Georgetown University’s Kennedy Institute of Ethics, medical ethicist
21. Christopher Riddle, Utica University
22. Olivia Fritz
23. Alex Shadenberg, Euthanasia Prevention Coalition
24. Diane Kraus, Compassion & Choices
25. Joan Wheeler
26. Zachary Howell, Thomas Jefferson University
27. Gloria Huber, Respect Life Committee – St. Ann Bethany Beach
28. Jacqueline Jankowski-Ford
29. Dr. James Kelly, The Association of American Physicians and Surgeons
30. Ian McIntosh, Patients’ Rights Action Fund (PRAF)
31. Tracie Johnston

Appendix B: Written Testimony

Written testimony on HB 140 w/ HA 1, contained in Appendix B Part 1, was received from:

1. Dr. Neil S Kaye, MD, DLFAPA
2. Dr. Diana Barnard, Associate Professor of Family Medicine, University of Vermont
Heath Network Porter Medical Center
3. Kristin Harvey, Executive Director, Delaware Developmental Disabilities Council
(DDC)
4. Danielle Pimentel, Policy Counsel, Americans United for Life
5. Dr. Mike Vest, Christiana Hospital, Associate Professor of Medicine, Sidney Kimmel
Medical College
6. Jessica Rodgers, Patients' Rights Action Fund
7. Bess McAneny RN, MS Gerontology Nursing, UD Ret. Adult Day Care
8. Dr. Robert Varipapa, MD, Camden-Wyoming, DE
9. Rev. Cynthia E. Robinson, New Ark United Church of Christ
10. Susan Lahaie, Dover, DE
11. Barbara Mancini
12. Chris Haas, Senior Policy Advisor, Delaware Department of Insurance
13. Joseph Fitzgerald, Catholic Diocese of Wilmington (CDOW)
14. Megan Hayes
15. League of Women Voters' of Delaware
16. Daniese McMullin-Powell, ADAPT Delaware
17. Dr. Annette Hanson, MD, State of Maryland
18. Nicole Hayes, Executive Vice President, American Academy of Medical Ethics
19. Dr. James Kelly, Association of American Physicians and Surgeons
20. Carole S. Burdge, Wilmington, DE
21. Lester & Jane Buxton, Wilmington, DE
22. Janet Derby, Newark, DE
23. Suzie Dickson, Conservative Caucus of Delaware
24. Diane Coleman, President/CEO, Not Dead Yet
25. Jim Donahue, Hockessin, DE

26. Euthanasia Prevention Coalition USA (multiple submissions)
27. Olivia Fritz
28. Suzanne Gallo
29. Roberta Gerard
30. Dr. James M. Gill, MD, President, Family Medicine at Greenhill
31. Barbara Heagy
32. Gloria Huber, Millville, DE
33. Diane L. Kraus, Millsboro, DE
34. Ellen Leigh
35. Sherry Long
36. Charmaine Manansala, Compassion & Choices, Chief Advocacy Officer
37. Maria McCutcheon, Wilmington, DE
38. Ian McIntosh
39. Monahan
40. Dr. Thomas A. Neef, Wilmington, DE
41. Dr. Gale H. Rutan, MD, MPH, FACP, Wilmington, DE
42. Eileen Smith
43. Sue St. Laurent, Wilmington, DE
44. Dr. Daniel P. Sulmasy, MD, PhD, The Kennedy Institute of Ethics, Georgetown University, Washington, DC
45. Melinda Walkowiak, RN MSN

**In addition, numerous emails from individuals were received addressed to the Members of the Senate Executive Committee via info@delawarefamilies.org of the Delaware Family Policy Council. These emails are included in Appendix B Part 2.