**Senate Executive Committee**

153rd General Assembly

Wednesday, April 9, 2025

Senate Chamber/Virtual Meeting

2:24 - 4:17 p.m.

*Senate Executive Committee Meeting Recording 04092025*

**Committee Members Present:**

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| Senator David P. Sokola, Chair | David.Sokola@delaware.gov |
| Senator Bryan Townsend, Vice-Chair | Bryan.Townsend@delaware.gov |
| Senator S. Elizabeth Lockman | Elizabeth.Lockman@delaware.gov |
| Senator Russell Huxtable | Russell.Huxtable@delaware.gov |
| Senator Marie Pinkney | Marie.Pinkney@delaware.gov |
| Senator Gerald W. Hocker | Gerald.Hocker@delaware.gov |
| Senator Brian Pettyjohn | Brian.Pettyjohn@delaware.gov |

**Agenda**

I. **Approval of minutes – March 26, 2025 committee meeting.**

II. **HB 140 (Morrison): AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO END OF LIFE OPTIONS.**

**Introduction**

Senator Sokola commenced the meeting at 2:24 p.m. and reviewed the hybrid meeting protocol. He conducted the roll call, noting that all committee members were present. After declaring a quorum, Senator Sokola moved to the first item on the agenda.

I. **Approval of minutes — March 26, 2025, committee meeting. [2:25:15 PM]**

Senator Townsend moved to approve the March 26, 2025, meeting minutes, seconded by Senator Pettyjohn. The minutes were approved without objection.

Senator Sokola noted that a judicial renomination was being circulated to the committee members for their consideration. The renomination would reappoint Paul Wallace as Judge of the Superior Court for New Castle County. He then moved to the second agenda item: HB 140.

**II. HB 140 (Morrison): AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO END OF LIFE OPTIONS. [2:25:43 PM]**

*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 is the same as House Bill No. 140 (152nd) with 1 technical revision to include a definition of "physician" for consistency and to clarify that a physician must be licensed in Delaware. 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 to 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 January 1, 2026, 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.*

Senator Sokola briefly spoke on HB 140, stating that the bill would permit a terminally ill adult patient to request and self-administer life-ending medication. He invited Senator Townsend to introduce the legislation.

Senator Townsend apologized for the delay of the meeting and said the committee would proceed as quickly as possible in order to make time for all public comment. He noted that Judge Paul Wallace was present in the Senate Chamber and available for questions from committee members.

Senator Townsend introduced HB 140, noting that the bill was previously voted on during the 152nd General Assembly. He explained that the legislation relates to medical aid-in-dying for terminal patients with a prognosis of 6 months or fewer to live. Sen. Townsend characterized the bill as “driven by empathy for the individual” and said it aims to maximize the autonomy of terminally ill patients during the final weeks of their lives. He described some of the guardrails included in HB 140, including multiple clinical diagnoses, pathways for psychiatric referrals, waiting periods, and multiple documented requests from the patient. Due to time constraints and the number of public attendees who hoped to comment on the bill, he refrained from questioning expert witnesses Dr. Diana Barnard and Christopher Otto, Director of the Delaware Nurses Association. Sen. Townsend assured the committee that the witnesses would be available for questions during HB 140’s consideration on the Senate floor.

Senator Townsend requested to yield his time to Senators Hocker and Pettyjohn with permission from the Chair.

Senator Sokola approved the request and invited Senator Hocker to present his expert witness.

Senator Hocker invited Dr. Kevin B. Garner to give virtual testimony.

Seeing that Dr. Garner was not present in the webinar, Senator Sokola then invited Senator Pettyjohn to present his expert witnesses.

Senator Pettyjohn welcomed Dr. Neil Kaye, former President of the Psychiatric Society of Delaware, and invited him to speak before the committee.

Dr. Neil Kaye, former President of the Psychiatric Society of Delaware, stated that a majority of doctors are opposed to HB 140. The American Medical Association (AMA), the American Psychiatric Association (APA), the Psychiatric Society, the American College of Physicians, National Hospice and Palliative Care, the American Academy of Family Physicians, and the American Academy of Hospice and Palliative Care and Medicine oppose doctor-assisted suicide legislation. Dr. Kaye said this opposition was shared by disability advocacy groups as well. He explained that there is not a clear understanding of how to carry out doctor-assisted suicide, and it goes against a physician's training to assist a patient in dying. He said that Oregon recently reported that in a 23-year period, 32 different combinations of medications were administered to patients pursuing doctor-assisted suicide due to a lack of standardization. While the average time of death after treatment is 2 to 3 hours, some patients have lived up to thirteen days after life-ending medication was administered. Dr. Kaye said that HB 140 would prompt medical staff to unethically experiment on terminally ill patients, as the legislation lacks stipulations of what treatments should be used. He emphasized that "physicians are terrible at predicting survival," as only 33% of 6-month predictions are correct. He also stated that the passage of doctor-assisted suicide legislation increases the frequency of suicide by an average of 20% in any given state. Suicide is the third leading cause of death in Delawarean children and teenagers. Dr. Kaye suggested that passing HB 140 may send a message that suicide is condoned by the State and

stands in contradiction to efforts to establish an Office of Suicide Prevention. He emphasized that doctor-assisted suicide should never be included in a medical treatment plan.

Senator Pettyjohn asked Dr. Kaye how reliably psychiatrists can determine if a terminally ill patient is free from clinical depression or impaired judgment.

Dr. Neil Kaye said there is no legal or medical standard for determining a patient's capacity to request doctor-assisted suicide. Unlike competency to stand trial or participate in contracts, there is no codified standard for determining competency for requesting life-ending treatment. He said such treatment goes against the ethical code of physicians.

Senator Pettyjohn asked how psychiatrists distinguish between a "rational end-of-life choice" and suicidal tendencies driven by psychological distress.

Dr. Neil Kaye said that psychiatrists frequently conduct suicide assessments, but HB 140 conflicts with Title 16, which instructs psychiatrists to provide life-saving care and potentially commit a suicidal patient to a treatment facility. He said distinguishing between this standard and the end-of-life standard set forth by HB 140 poses an impossible decision for medical staff.

Senator Pettyjohn asked if there is a risk for treatable mental health conditions to be misinterpreted as rational, end-of-life decisions under HB 140.

Dr. Neil Kaye said there is enormous potential for that misinterpretation. He shared that formerly suicidal patients who had seemingly "rational" justifications for wanting to end their lives have later thanked him for intervening and providing life-saving treatment.

Senator Huxtable asked Dr. Neil Kaye to describe palliative care.

Dr. Neil Kaye said he is not a palliative care physician but explained that palliative care aims to provide comfort and pain relief to patients. He emphasized that pain is not one of the top four

reasons patients request doctor-assisted suicide. He distinguished between intent to reduce pain and intent to end a patient's life.

Senator Pinkney asked Dr. Neil Kaye for his source on the previously mentioned statistic for time of death after life-ending treatment.

Dr. Neil Kaye said the previous time he testified on this bill, the longest recorded time of death for a patient was ten days after ingesting life-ending medication. He said a doctor who has assisted in 577 doctor-assisted suicide cases recently testified that a patient lived thirteen days after administration of life-ending medication. Dr. Kaye said he did not recall the doctor's name but could provide it after the committee adjourned.

Senator Pettyjohn excused Dr. Neil Kaye and requested that Ian McIntosh be elevated to speak before the committee.

Seeing that Ian McIntosh was having technical difficulties, Senator Pettyjohn yielded to Senator Hocker.

Senator Hocker invited Dr. Kevin B. Garner to testify before the committee on HB 140 and asked how the bill would affect the medical community if passed.

Dr. Kevin B. Garner is a medical doctor, a fellow of the American College of Physicians (ACP), and a member of the Illinois State Medical Society. He is board-certified in internal medicine, hospice and palliative care medicine, and addiction medicine. Dr. Garner currently serves as Medical Director at a federally qualified medical center in southwestern Illinois and serves as a part-time hospitalist. He noted that both the ACP and the Illinois State Medical Society oppose doctor-assisted suicide. He noted that many cite uncontrolled pain as a compelling reason for legislation permitting doctor-assisted suicide, but pain and fear of pain ranked fifth in reasons for life-ending treatment cases. The most frequent reasons given by patients were not being able to participate in life's activities, loss of dignity, loss of control of bodily functions, and becoming a burden to family and friends. Dr. Garner said these are not adequate reasons for ending

someone's life, and instead, require supportive care. He shared that none of his patients have ever requested that he hasten their death during hospice care, but family members of patients have. He cited concerns that HB 140 does not recognize that symptoms such as pain, shortness of breath, depression, and anxiety can be controlled with palliative treatment. Dr. Garner said that inability to control pain was rarely an issue during his 25 years of experience as a hospice doctor, except when a patient refused treatment such as intravenous medication or pain pumps. "Modern medicine offers solutions that can control pain of any sort," Garner explained. However, he also emphasized that hospice care provides more than pharmaceutical care and can address mental health issues and provide life-affirming activities. Home health aides, counselors, chaplains, and social workers associated with hospice care can provide a sense of fulfillment and closure for patients and their families.

Dr. Garner then suggested that doctor-assisted suicide legislation incorrectly assumes a quick and painless death for patients, while the dying process may take several hours of symptoms such as vomiting, hallucination, and seizures. He pointed to a 2023 case in Oregon where a terminally ill patient lived for 137 hours after ingesting life-ending medication. An Oregon report showed that 9 out of 121 patients experienced a serious complication during their life-ending treatment. Dr. Garner contrasted this treatment to hospice, which he said provides the greatest assurance of a peaceful death. He also expressed concern that doctor-assisted suicide legislation does not mandate mental health evaluations for individuals requesting life-ending care. He explained that research suggests the incidence of depression in terminally ill patients may range from 15-75%, and clinical depression is the primary motivating factor in suicides. Symptoms of depression are "commonly missed by busy doctors" and may play a role in doctor-assisted suicide cases. Dr. Garner said only 3 of 607 Oregon patients requesting doctor-assisted suicide in 2024 were referred to psychiatric evaluation. 6% of surveyed Oregon psychiatrists felt comfortable determining a patient's competency for requesting life-ending care in one visit. These challenges are amplified by the practice of telemedicine, Garner said. He explained that the greatest predictors for a request to hasten death in terminally ill patients are depression, hopelessness, and a low sense of spiritual well-being. Garner said the role of a doctor is to provide compassionate, competent care as long as a patient may live. He thanked the committee for their time.

Senator Hocker asked Dr. Garner to confirm if pain can be managed.

Dr. Kevin B. Garner confirmed that pain can be managed.

Senator Hocker asked if shortness of breath can be managed with medical intervention.

Dr. Kevin B. Garner said that shortness of breath is easier to manage than pain. He shared that 99% of patients in his hospital achieve "excellent comfort" within 24 hours of admittance.

Senator Hocker asked if drowsiness during hospice care is due to the drugs administered to patients.

Dr. Kevin B. Garner said that drowsiness is a symptom of the end of life. While pain medications and sedatives themselves can cause drowsiness, a decreased level of consciousness is also a part of end of life.

Senator Hocker asked if passage of HB 140 would harm the medical profession and force physicians to violate medical ethics.

Dr. Kevin B. Garner said HB 140 would change the culture of medicine and open the door to ethical violations.

Senator Hocker thanked Dr. Garner for his time.

Senator Townsend suggested that the committee move forward with public comment.

Senator Sokola agreed and invited public comment from attendees. **[2:51:08 PM]**

Members of the public who spoke in support of HB 140 included Judith Govatos, Susan Boyce, Keith Steck, Judith Butler (Compassion and Choices), Linda Gould, Dawn Lentz (Compassion

and Choices), John Stevenson, Susan Conaty (Delaware Coalition of Nurse Practitioners), Christopher Otto (Delaware Nurses Association), Reverend Cynthia Robinson (New Ark Ministry), Toby Johnson, Susan Lahaie, Heather Pope (Compassion and Choices), Robert Varipapa, Vickie George, Lynn Knothe, the Honorable former Rep. Paul Baumbach, John Silverio, and Ceil Tilney (League of Women Voters).

Members of the public who spoke in opposition to HB 140 included Jennie Houser, Bess McAneny (DE Nurses for Life), Donna Latteri, Moira Sheridan (DE Right to Life), Dr. Joseph Schrandt, MD, Catie Kelley (Americans United for Life), Laura Halley, John McNeal (Delaware Developmental Disabilities Council), Dr. James Ruether, MD (American College of Physicians Delaware), Jessica Rodgers (Patients' Rights Action Fund), Joe Fitzgerald (Catholic Diocese of Wilmington), Dr. Sharon Quick (Physicians for Compassionate Care), Dr. Annette Hanson, Nandi Randolph (Delaware Family Policy Council), Ian McIntosh (Not Dead Yet), Dr. James Kelly (Nationwide Association of American Physicians and Surgeons), Daniese McMullin-Powell, Kristin Harvey (Delaware Developmental Disabilities Council), Stephanie Aguayo Packer, Mary McCrossan, and Pamela Diksa.

Senator Hocker stated he could not support HB 140 due to its conflict with the Hippocratic oath, adding that the legislation will sow distrust between patients and doctors.

Senator Hocker moved to table HB 140, the motion was seconded by Senator Pettyjohn.

The motion to table failed. **[4:16:48 PM]**

Senator Sokola invited a motion to adjourn the meeting.

Senator Townsend moved to adjourn, seconded by Senator Pettyjohn.

Senator Sokola adjourned the meeting at 4:17 p.m.

**HB 140's votes are recorded as follows: 2 Favorable; 3 On Its Merits; 0 Unfavorable.**

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**Meeting Minutes** prepared by Libby Bowen, Legislative Fellow, 4/11/25.

**Approval of Meeting Minutes:** Motion made by Sen. Pinkney, seconded by Sen. Pettyjohn, Senate Executive Committee meeting, 4/16/25.

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**Staff:**

Valerie McCartan, Senate Majority Caucus

Carolyn Martin-Pettaway, Senate Majority Caucus

Ellen Cappard, Senate Majority Caucus

Libby Bowen, Legislative Fellow

**Appendix A:** *Members of the public pre-registered for webinar, and in-person (IP), and virtual (V) sign-in sheet attendees.*

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| Judith Govatos |
| Jennie Houser |
| Keith Steck |
| Judith Butler, Compassion and Choices |
| Linda Gould |
| Dawn Lentz, Compassion and Choices |
| John Stevenson |
| Susan Conaty, Delaware Coalition of Nurse Practitioners |
| Christopher Otto, Delaware Nurses Association |
| Bess McAneny, Delaware Nurses for Life |
| Donna Latteri |
| Susan Boyce |
| Moira Sheridan, Delaware Right to Life |

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| Dr. Joseph Schrandt, MD |
| Catie Kelley, Americans United for Life |
| Laura Halley |
| Reverend Cynthia Robinson, New Ark Ministry |
| Toby Johnson |
| Susan Lahaie |
| Roy Simonson |
| Heather Pope, Compassion and Choices |
| Dr. Bob Varipapa |
| Vickie George |
| John McNeal, Delaware Developmental Disabilities Council |
| Dr. Sharon Quick, MD, MA |
| Daniese McMullin-Powell, ADAPT Delaware |
| Ceil Tilney |
| Dr. Annette Hanson |
| Honorable (former) Rep. Paul Baumbach |
| Robert Varipapa |
| Mary McCrossan |
| Lynn Knothe |
| John Silverio |
| Pamela Diksa |
| Dr. James Ruether, MD, American College of Physicians Delaware |
| Jessica Rodgers (Patients' Rights Action Fund) |
| Joe Fitzgerald (Catholic Diocese of Wilmington) |
| Nandi Randolph (Delaware Family Policy Council) |
| Ian McIntosh (Not Dead Yet) |

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| Dr. James Kelly, Nationwide Association of American Physicians and Surgeons |
| Kristin Harvey (Delaware Developmental Disabilities Council) |
| Stephanie Aguayo Packer |