

**END OF LIFE OPTIONS ACT**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca Chavez-Houck**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Utah Uniform Probate Code to enact the End of Life Options Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes a procedure for an individual with a terminal disease to obtain a prescription to end the individual's life;
- ▶ designates when an individual may make a request for aid-in-dying medication;
- ▶ establishes attending physician responsibilities;
- ▶ requires a consulting physician confirmation;
- ▶ provides for a counseling referral when needed;
- ▶ requires an informed decision;
- ▶ encourages family notification;
- ▶ requires written and oral requests and the ability to rescind the request at any time;
- ▶ requires waiting periods;
- ▶ includes:
  - documentation and reporting requirements; and
  - a requirement that the patient be a resident of the state;
- ▶ establishes the effect of the decision to utilize medical aid-in-dying on an individual's wills, contracts, and insurance or annuity contracts;



- 28           ▶ provides limited immunities and procedures for permissible sanctions;
- 29           ▶ prohibits euthanasia or mercy killing;
- 30           ▶ establishes criminal penalties for certain actions; and
- 31           ▶ provides a uniform form for a patient's written request.

**32 Money Appropriated in this Bill:**

33           None

**34 Other Special Clauses:**

35           This bill provides a special effective date.

**36 Utah Code Sections Affected:**

37 ENACTS:

- 38           75-2c-101, Utah Code Annotated 1953
- 39           75-2c-102, Utah Code Annotated 1953
- 40           75-2c-103, Utah Code Annotated 1953
- 41           75-2c-104, Utah Code Annotated 1953
- 42           75-2c-105, Utah Code Annotated 1953
- 43           75-2c-106, Utah Code Annotated 1953
- 44           75-2c-107, Utah Code Annotated 1953
- 45           75-2c-108, Utah Code Annotated 1953
- 46           75-2c-109, Utah Code Annotated 1953
- 47           75-2c-110, Utah Code Annotated 1953
- 48           75-2c-111, Utah Code Annotated 1953
- 49           75-2c-112, Utah Code Annotated 1953
- 50           75-2c-113, Utah Code Annotated 1953
- 51           75-2c-114, Utah Code Annotated 1953
- 52           75-2c-115, Utah Code Annotated 1953
- 53           75-2c-116, Utah Code Annotated 1953
- 54           75-2c-117, Utah Code Annotated 1953
- 55           75-2c-118, Utah Code Annotated 1953
- 56           75-2c-119, Utah Code Annotated 1953
- 57           75-2c-120, Utah Code Annotated 1953
- 58           75-2c-121, Utah Code Annotated 1953

- 59 [75-2c-122](#), Utah Code Annotated 1953
- 60 [75-2c-123](#), Utah Code Annotated 1953
- 61 [75-2c-124](#), Utah Code Annotated 1953
- 62 [75-2c-125](#), Utah Code Annotated 1953

64 *Be it enacted by the Legislature of the state of Utah:*

65 Section 1. Section **75-2c-101** is enacted to read:

66 **CHAPTER 2c. END OF LIFE OPTIONS ACT**

67 **75-2c-101. Title.**

68 This chapter is known as the "End of Life Options Act."

69 Section 2. Section **75-2c-102** is enacted to read:

70 **75-2c-102. Definitions.**

71 As used in this chapter:

72 (1) "Adult" means an individual who is 18 years of age or older.

73 (2) "Attending physician" means the physician who has primary responsibility for the  
74 care of the patient and treatment of the patient's terminal disease.

75 (3) "Capable" means that in the opinion of the patient's attending physician, consulting  
76 physician, and licensed mental health professional, if any, the patient has the ability to make  
77 and communicate health care decisions to health care providers, including communication  
78 through individuals familiar with the patient's manner of communicating if those individuals  
79 are available.

80 (4) "Consulting physician" means a physician who is qualified by specialty or  
81 experience to make a professional diagnosis and prognosis regarding the patient's disease.

82 (5) "Counseling" means one or more consultations as necessary between a licensed  
83 mental health professional and a patient for the purpose of determining whether the patient is  
84 capable.

85 (6) "Health care provider" means a person licensed, certified, or otherwise authorized  
86 or permitted by the law of this state to administer health care or dispense medication in the  
87 ordinary course of business or practice of a profession.

88 (7) "Informed decision" means a decision that is made by a patient to request and  
89 obtain a medical aid-in-dying prescription to end the patient's life in a humane and dignified

90 manner and that is based on an appreciation of the relevant facts, after being fully informed by  
91 the attending physician of:

92 (a) the patient's medical diagnosis;

93 (b) the patient's prognosis;

94 (c) the potential risks associated with taking the medication to be prescribed;

95 (d) the probable result of taking the medication to be prescribed; and

96 (e) the feasible alternatives, including concurrent or additional treatment alternatives,  
97 palliative care, comfort care, hospice care, disability resources available in the community, and  
98 pain control.

99 (8) "Medically confirmed" means the medical opinion of the attending physician has  
100 been confirmed by a consulting physician who has examined the patient and the patient's  
101 relevant medical records.

102 (9) "Patient" means an individual who is under the care of a physician.

103 (10) "Physician" means a doctor of medicine or osteopathy licensed to practice  
104 medicine in the state.

105 (11) "Qualified patient" means a capable adult who has satisfied the requirements of  
106 this chapter to obtain a prescription for medication to end the patient's life in a humane and  
107 dignified manner.

108 (12) "Self-administer" means a qualified individual's affirmative, conscious act of  
109 using the medication to bring about the individual's own peaceful and humane death.

110 (13) "Terminal disease" means an incurable and irreversible disease that has been  
111 medically confirmed and will, within reasonable medical judgment, produce death within six  
112 months.

113 Section 3. Section **75-2c-103** is enacted to read:

114 **75-2c-103. Written and oral requests -- Opportunity to rescind.**

115 (1) In order to receive a prescription for medication to end a patient's life in a humane  
116 and dignified manner, a qualified patient shall:

117 (a) make an oral request for medication;

118 (b) make a written request for medication; and

119 (c) repeat the oral request to the patient's attending physician no less than 15 days after  
120 making the initial oral request.

121 (2) At the time the patient makes the second oral request, the attending physician shall  
122 offer the patient an opportunity to rescind the request.

123 (3) A patient may rescind the patient's request at any time and in any manner without  
124 regard to the patient's mental state. An individual may not write a prescription for medication  
125 under this chapter without the attending physician offering the patient an opportunity to rescind  
126 the request.

127 Section 4. Section **75-2c-104** is enacted to read:

128 **75-2c-104. Initiation of written request for medication.**

129 (1) An individual may make a written request for medication for the purpose of ending  
130 the individual's life in a humane and dignified manner in accordance with this chapter if the  
131 individual:

132 (a) is an adult;

133 (b) is capable;

134 (c) is a resident of Utah;

135 (d) is suffering from a terminal disease; and

136 (e) has voluntarily expressed a wish to receive aid-in-dying medication.

137 (2) An individual may not qualify under the provisions of Subsection (1) solely  
138 because of age or disability.

139 (3) A request for a medical aid-in-dying prescription shall be made by the terminally ill  
140 individual and may not be made by any other means, including the terminally ill individual's  
141 qualified power of attorney, durable medical power of attorney, or advanced health care  
142 directive.

143 Section 5. Section **75-2c-105** is enacted to read:

144 **75-2c-105. Form of the written request.**

145 (1) A valid request for medication under this chapter shall be in substantially the form  
146 described in Section [75-2c-122](#), signed and dated by the patient, and witnessed by at least two  
147 individuals who, in the presence of the patient, attest that to the best of their knowledge and  
148 belief the patient is capable, is acting voluntarily, and is not being coerced to sign the request.

149 (2) One of the witnesses shall be an individual who is not:

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

151 (b) an individual who at the time the request is signed would be entitled to any portion

152 of the estate of the qualified patient upon death under any will or by operation of law; or  
153 (c) an owner, operator, or employee of a health care facility where the qualified patient  
154 is receiving medical treatment or is a resident.

155 (3) The patient's attending physician at the time the request is signed may not be a  
156 witness.

157 Section 6. Section **75-2c-106** is enacted to read:

158 **75-2c-106. Attending physician responsibilities.**

159 (1) The attending physician shall:

160 (a) make the initial determination of whether a patient:

161 (i) has a terminal disease;

162 (ii) is capable; and

163 (iii) has made the request voluntarily;

164 (b) request that the patient attest to Utah residency pursuant to Section [75-2c-113](#);

165 (c) ensure that the patient is making an informed decision, by informing the patient of:

166 (i) the patient's medical diagnosis;

167 (ii) the patient's prognosis;

168 (iii) the potential risks associated with taking the medication to be prescribed;

169 (iv) the probable result of taking the medication to be prescribed; and

170 (v) the feasible alternatives, including concurrent or additional treatments, palliative

171 care, comfort care, hospice care, disability resources available in the community, and pain

172 control;

173 (d) refer the patient to a consulting physician for medical confirmation of the diagnosis

174 and for a determination that the patient is capable and making an informed, voluntary decision;

175 (e) refer the patient for counseling if appropriate pursuant to Section [75-2c-108](#);

176 (f) recommend that the patient notify next of kin;

177 (g) counsel the patient about the importance of having another individual present when

178 the patient takes the medication prescribed pursuant to this chapter and of not taking the

179 medication in a public place;

180 (h) inform the patient that the patient has an opportunity to rescind the request at any

181 time and in any manner, and offer the patient an opportunity to rescind at the end of the 15-day

182 waiting period required by Section [75-2c-111](#);

- 183           (i) verify, immediately before writing the prescription for medication under this  
184 chapter, that the patient is making an informed decision;
- 185           (j) fulfill the medical record documentation requirements of Section [75-2c-112](#);  
186           (k) ensure that all appropriate steps are carried out in accordance with this chapter  
187 before writing a prescription for medication to enable a qualified patient to end the patient's life  
188 in a humane and dignified manner;
- 189           (l) with the patient's consent:
- 190           (i) contact a pharmacist and inform the pharmacist of the prescription; and  
191           (ii) deliver the written prescription personally or electronically to the pharmacist, who  
192 will dispense the medication to either the patient, the attending physician, or an expressly  
193 identified agent of the patient; and
- 194           (m) inform the Department of Health of the prescription written for the patient,  
195 including the name of any drugs prescribed.
- 196           (2) Notwithstanding any other provision of law, the attending physician may sign the  
197 patient's death certificate.

198           Section 7. Section **75-2c-107** is enacted to read:

199           **75-2c-107. Consulting physician confirmation.**

200           Before a patient is qualified under this chapter, a consulting physician shall examine the  
201 patient and the patient's relevant medical records and confirm, in writing, the attending  
202 physician's diagnosis that the patient is suffering from a terminal disease and verify that the  
203 patient is capable, is acting voluntarily, and has made an informed decision.

204           Section 8. Section **75-2c-108** is enacted to read:

205           **75-2c-108. Counseling referral.**

206           If in the opinion of the attending physician or the consulting physician a patient may be  
207 suffering from impaired judgment, either physician shall refer the patient for counseling. No  
208 medication to end a patient's life in a humane and dignified manner shall be prescribed until the  
209 counselor determines that the patient is capable, is acting voluntarily, and has made an  
210 informed decision.

211           Section 9. Section **75-2c-109** is enacted to read:

212           **75-2c-109. Informed decision.**

213           A patient may not receive a prescription for medication to end the patient's life in a

214 humane and dignified manner unless the patient has made an informed decision as defined in  
215 Section 75-2c-102. Immediately before writing a prescription for medication under this  
216 chapter, the attending physician shall verify that the patient is making an informed decision.

217 Section 10. Section 75-2c-110 is enacted to read:

218 **75-2c-110. Family notification.**

219 The attending physician shall recommend that the patient notify the next of kin of the  
220 patient's request for medication under this chapter. The attending physician may not deny a  
221 patient's request on the basis of a patient declining or being unable to notify the patient's next  
222 of kin.

223 Section 11. Section 75-2c-111 is enacted to read:

224 **75-2c-111. Waiting periods.**

225 A physician may not write a prescription under this chapter until:

226 (1) no less than 15 days have elapsed between the patient's initial oral request and the  
227 writing of a prescription; and

228 (2) no less than 48 hours have elapsed between the patient's written request and the  
229 writing of a prescription.

230 Section 12. Section 75-2c-112 is enacted to read:

231 **75-2c-112. Medical record documentation requirements.**

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

233 (1) all oral requests by the patient for medication to end the patient's life in a humane  
234 and dignified manner;

235 (2) all written requests by the patient for medication to end the patient's life in a  
236 humane and dignified manner;

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

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

241 (5) a report of the outcome and determinations made during counseling, if performed;

242 (6) the attending physician's offer to the patient to rescind the patient's request at the  
243 time of the patient's second oral request; and

244 (7) a note by the attending physician indicating that all requirements under this chapter



245 have been met and indicating the steps taken to carry out the request, including a notation of  
246 the medication prescribed.

247 Section 13. Section **75-2c-113** is enacted to read:

248 **75-2c-113. Residency requirement.**

249 (1) An attending physician may rely on a patient's attestation of meeting the  
250 requirements for being a resident of Utah if the attestation complies with Subsections (2) and  
251 (3).

252 (2) A patient shall attest to the attending physician that the patient is a resident of the  
253 state, and that the patient:

254 (a) possesses a Utah driver license or Utah identification card;

255 (b) is registered to vote in Utah;

256 (c) owns or leases property in Utah;

257 (d) filed a Utah tax return for the most recent tax year, and did not file a Non and  
258 Part-year Resident Schedule; or

259 (e) has some other indication of residency that is recognized by state law.

260 (3) A patient who relies on Subsection (2)(e) to attest to residency in Utah shall  
261 specifically describe the factors that the patient is relying upon in the attestation to the  
262 attending physician.

263 Section 14. Section **75-2c-114** is enacted to read:

264 **75-2c-114. Reporting requirements.**

265 (1) A health care provider who dispenses a medication pursuant to this chapter shall  
266 file a copy of the dispensing record with the Department of Health in the manner required by  
267 the department.

268 (2) (a) The Department of Health may review a sample of the medical records of  
269 patients who receive medication under this chapter.

270 (b) Except as otherwise required by law, the information collected under Subsections  
271 (1) and (2)(a) are not public records and are not available for inspection by the public.

272 (3) The Department of Health shall:

273 (a) generate and make available to the public an annual statistical report of  
274 de-identified information collected under this section;

275 (b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to

276 facilitate the collection of information regarding compliance with this chapter; and

277 (c) provide an annual report to the Legislature's Health and Human Services Interim  
278 Committee regarding the statistical report in Subsection (3)(a).

279 Section 15. Section **75-2c-115** is enacted to read:

280 **75-2c-115. Effect on construction of wills, contracts, and statutes.**

281 (1) No provision in a contract, will, or other agreement, whether written or oral, to the  
282 extent the provision would affect whether an individual may make or rescind a request for  
283 aid-in-dying medication or self-administer aid-in-dying medication, is valid.

284 (2) No obligation owing under any currently existing contract shall be conditioned or  
285 affected by the making or rescinding of a request, by an individual, for medication to end the  
286 individual's life in a humane and dignified manner.

287 Section 16. Section **75-2c-116** is enacted to read:

288 **75-2c-116. Insurance or annuity policies.**

289 (1) A qualified patient's act of ingesting medication to end the patient's life in a humane  
290 and dignified manner, in accordance with the provisions of this chapter, does not affect a life,  
291 health, or accident insurance or annuity policy.

292 (2) An insurer may not deny or alter health care benefits otherwise available to an  
293 individual with a terminal illness based on the availability of aid-in-dying medication or  
294 otherwise attempt to coerce an individual to make a request for aid-in-dying medication.

295 Section 17. Section **75-2c-117** is enacted to read:

296 **75-2c-117. Construction of chapter.**

297 Nothing in this chapter shall be construed to authorize a physician or any other person  
298 to end a patient's life by lethal injection, mercy killing, or euthanasia. Actions taken in  
299 accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy  
300 killing, or homicide, under the law.

301 Section 18. Section **75-2c-118** is enacted to read:

302 **75-2c-118. Immunity for action in good faith -- Prohibition against reprisal --**  
303 **Acceptable prohibitions.**

304 (1) A person is not subject to civil or criminal liability or professional disciplinary  
305 action for actions resulting from good faith compliance with this chapter, including being  
306 present when a qualified patient takes the prescribed medication to end the qualified patient's

307 life in a humane and dignified manner.

308 (2) A professional organization or association, or health care provider, may not subject  
309 a person to censure, discipline, suspension, loss of license, loss of privileges, loss of  
310 membership, or other penalty for participating or refusing to participate in good faith  
311 compliance with this chapter.

312 (3) A request by a patient for, or provision by an attending physician of, medication in  
313 good faith compliance with the provisions of this chapter does not constitute neglect for any  
314 purpose of law or provide the sole basis for the appointment of a guardian or conservator.

315 (4) A health care facility may not prohibit a health care provider from providing  
316 medical aid-in-dying care, except that the health care facility may prohibit the patient from  
317 self-administration of the aid-in-dying medication on the premises of the facility.

318 (5) A health care facility may not prohibit the lawful self-administration of aid-in-dying  
319 medication on the premises of the facility unless the health care facility provides written  
320 notification of the prohibition to the attending physician and any qualified patient.

321 (6) If a health care facility prohibits the self-administration of aid-in-dying medication  
322 under Subsection (5), the facility shall refer a qualified patient to a health care facility that does  
323 not have a prohibition against the self-administration of aid-in-dying medication on the  
324 premises.

325 Section 19. Section **75-2c-119** is enacted to read:

326 **75-2c-119. Liabilities.**

327 (1) A person who, without authorization of the patient, willfully alters or forges a  
328 request for medication or conceals or destroys a rescission of that request with the intent or  
329 effect of causing the patient's death is guilty of a first degree felony.

330 (2) A person who coerces or exerts undue influence on a patient to request medication  
331 for the purpose of ending the patient's life, or to destroy a rescission of such a request, is guilty  
332 of a first degree felony.

333 (3) Nothing in this chapter limits further liability for civil damages resulting from other  
334 negligent conduct or intentional misconduct by any person.

335 (4) The penalties in this chapter do not preclude criminal penalties applicable under  
336 other law for conduct that is inconsistent with the provisions of this chapter.

337 Section 20. Section **75-2c-120** is enacted to read:

338 **75-2c-120. Claims by governmental entity for costs incurred.**

339 A governmental entity that incurs costs resulting from an individual terminating the  
340 individual's life pursuant to the provisions of this chapter in a public place shall have a claim  
341 against the estate of the individual to recover the costs and reasonable attorney fees related to  
342 enforcing the claim.

343 Section 21. Section **75-2c-121** is enacted to read:

344 **75-2c-121. No duty to provide medical aid-in-dying care.**

345 (1) A health care provider may choose whether to provide medical aid-in-dying care in  
346 accordance with this chapter.

347 (2) If a health care provider is unwilling to provide medical aid-in-dying care to a  
348 requesting, capable patient, the health care provider shall make reasonable efforts to transfer  
349 the care of the patient to a health care provider who willingly provides medical aid-in-dying  
350 care.

351 (3) When a health care provider transfers the care of a patient under Subsection (2), the  
352 health care provider shall coordinate the transfer of the patient's medical records to the new  
353 health care provider.

354 Section 22. Section **75-2c-122** is enacted to read:

355 **75-2c-122. Death certificate.**

356 (1) Unless otherwise prohibited, the attending physician or the hospice medical director  
357 shall sign the death certificate of a qualified individual who obtained and self-administered  
358 aid-in-dying medication.

359 (2) When a death has occurred in accordance with this chapter:

360 (a) the cause of death shall be listed on the death certificate as the underlying terminal  
361 illness for which the individual qualified to obtain the aid-in-dying medication; and

362 (b) the manner of death may not be listed as suicide or homicide.

363 (3) Notwithstanding Section [26-4-7](#), a death that results in accordance with this chapter  
364 may not form the sole basis for a postmortem investigation.

365 Section 23. Section **75-2c-123** is enacted to read:

366 **75-2c-123. Safe disposal of unused aid-in-dying medication.**

367 A person who has custody or control of aid-in-dying medication that is dispensed under  
368 this chapter and that is unused after the qualified patient who obtained the aid-in-dying

369 medication has died shall dispose of the aid-in-dying medication by any lawful means,  
370 including taking the unused aid-in-dying medication to:

371 (1) the attending physician who wrote the prescription for the aid-in-dying medication,  
372 who shall dispose of the medication by lawful means;

373 (2) a federally approved medication take-back program; or

374 (3) a local take-back program supported by a law enforcement agency, pharmacy, or  
375 health care provider.

376 Section 24. Section **75-2c-124** is enacted to read:

377 **75-2c-124. Severability.**

378 Any section of this chapter that is held invalid as to any person or circumstance does  
379 not affect the application of any other section of this chapter that can be given full effect  
380 without the invalid section or application.

381 Section 25. Section **75-2c-125** is enacted to read:

382 **75-2c-125. Form of the request.**

383 A request for a medication as authorized by this chapter shall be in substantially the  
384 following form:

385 REQUEST FOR MEDICATION  
386 TO END MY LIFE IN A HUMANE  
387 AND DIGNIFIED MANNER

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

389 I am suffering from \_\_\_\_\_, which my attending physician has determined is a  
390 terminal disease and which has been medically confirmed by a consulting physician.

391 I have been fully informed of my diagnosis, prognosis, the nature of medication to be  
392 prescribed, and potential associated risks, the expected result, and the feasible alternatives,  
393 including palliative care, comfort care, hospice care, disability resources available in the  
394 community, and pain control.

395 I request that my attending physician prescribe medication that will end my life in a  
396 humane and dignified manner.

397 INITIAL ONE:

398 \_\_\_\_\_ I have informed my family of my decision and taken their opinions into  
399 consideration.

400 I have decided not to inform my family of my decision.

401 I have no family to inform of my decision.

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

403 I understand the full import of this request and I expect to die when I take the  
404 medication to be prescribed. I further understand that although most deaths occur within three  
405 hours, my death may take longer and my physician has counseled me about this possibility.

406 I make this request voluntarily and without reservation, and I accept full moral  
407 responsibility for my actions.

408 Signed: \_\_\_\_\_

409 Dated: \_\_\_\_\_

410 DECLARATION OF WITNESSES

411 We declare that the individual signing this request:

412 (a) is personally known to us or has provided proof of identity;

413 (b) signed this request in our presence;

414 (c) appears to be of sound mind and not under duress, fraud, or undue influence; and

415 (d) is not a patient for whom either of us is the attending physician.

416 \_\_\_\_\_ Witness 1/Date

417 \_\_\_\_\_ Witness 2/Date

418 NOTE: One witness shall be an individual who is not a relative (by blood, marriage, or  
419 adoption) of the individual signing this request, is not entitled to any portion of the requestor's  
420 estate upon death, and does not own, operate, and is not employed at a health care facility  
421 where the requestor is a patient or resident.

422 **Section 26. Effective date.**

423 This bill takes effect on July 1, 2018.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**