

[Second Reprint]

ASSEMBLY, No. 1504

STATE OF NEW JERSEY
218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman TIM EUSTACE
District 38 (Bergen and Passaic)
Assemblyman JOE DANIELSEN
District 17 (Middlesex and Somerset)
Senator NICHOLAS P. SCUTARI
District 22 (Middlesex, Somerset and Union)
Senator RICHARD J. CODEY
District 27 (Essex and Morris)
Senator STEPHEN M. SWEENEY
District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

Assemblyman McKeon, Assemblywomen Mosquera, Jimenez, Chaparro,
Assemblyman Johnson, Assemblywoman Jasey, Assemblyman Holley,
Assemblywoman Murphy, Assemblymen Andrzejczak, Mukherji and
Mejia

SYNOPSIS

“Medical Aid in Dying for the Terminally Ill Act”; permits qualified terminally ill patient to self-administer medication to end life in humane and dignified manner.

CURRENT VERSION OF TEXT

As amended by the General Assembly on January 31, 2019.

(Sponsorship Updated As Of: 3/26/2019)

1 AN ACT concerning ²medical² aid in dying for the terminally ill,
2 supplementing Titles 45 and 26 of the Revised Statutes, and
3 amending P.L.1991, c.270 and N.J.S.2C:11-6.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) Sections 1 through 21 of P.L. , c. (C.)
9 (pending before the Legislature as this bill) shall be known and may
10 be cited as the “²Medical² Aid in Dying for the Terminally Ill Act.”
11

12 2. (New section) The Legislature finds and declares that:

13 a. Recognizing New Jersey’s long-standing commitment to
14 individual dignity, informed consent, and the fundamental right of
15 competent adults to make health care decisions about whether to
16 have life-prolonging medical or surgical means or procedures
17 provided, withheld, or withdrawn, this State affirms the right of a
18 qualified terminally ill patient, protected by appropriate safeguards,
19 to obtain medication that the patient may choose to self-administer
20 in order to bring about the patient’s humane and dignified death
21 **[;] .²**

22 b. Statistics from other states that have enacted laws to provide
23 compassionate ²medical² aid in dying for terminally ill patients
24 indicate that the great majority of patients who requested
25 medication under the laws of those states, including more than 90
26 **[%] percent²** of patients in Oregon since 1998 and between 72
27 **[%] percent²** and 86 **[%] percent²** of patients in Washington in
28 each year since 2009, were enrolled in hospice care at the time of
29 death, suggesting that those patients had availed themselves of
30 available treatment and comfort care options available to them at
31 the time they requested compassionate ²medical² aid in dying **[;]**
32 **.²**

33 c. The public welfare requires a defined and safeguarded
34 process in order to effectuate the purposes of this act, which will:

35 (1) guide health care providers and patient advocates who
36 provide support to dying patients;

37 (2) assist capable, terminally ill patients who request
38 compassionate ²medical² aid in dying;

39 (3) protect vulnerable adults from abuse; and

40 (4) ensure that the process is entirely voluntary on the part of all
41 participants, including patients and those health care providers that
42 are providing care to dying patients **[; and] .²**

43 d. This act is in the public interest and is necessary for the
44 welfare of the State and its residents.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AJU committee amendments adopted March 12, 2018.

²Assembly floor amendments adopted January 31, 2019.

1 3. (New section) As used in P.L. , c. (C.) (pending
2 before the Legislature as this bill):

3 “Adult” means an individual who is 18 years of age or older.

4 “Attending physician” means a physician licensed pursuant to
5 Title 45 of the Revised Statutes who has primary responsibility for
6 the treatment and care of a qualified terminally ill patient and
7 treatment of the patient's illness, disease, or condition.

8 “Capable” means having the capacity to make health care
9 decisions and to communicate them to a health care provider,
10 including communication through persons familiar with the
11 patient’s manner of communicating if those persons are available.

12 “Consulting physician” means a physician licensed pursuant to
13 Title 45 of the Revised Statutes who is qualified by specialty or
14 experience to make a professional diagnosis and prognosis
15 regarding a patient's illness, disease, or condition.

16 ¹“Counseling” means one or more consultations as necessary
17 between a psychiatrist or psychologist licensed pursuant to Title 45
18 of the Revised Statutes and a patient for the purpose of determining
19 that the patient is capable and not suffering from a psychiatric or
20 psychological disorder or depression causing impaired judgment. ¹

21 “Health care facility” means a health care facility licensed
22 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

23 “Health care professional” means a person licensed to practice a
24 health care profession pursuant to Title 45 of the Revised Statutes.

25 “Health care provider” means a health care professional or health
26 care facility.

27 “Informed decision” means a decision by a qualified terminally
28 ill patient to request and obtain a prescription for medication that
29 the patient may choose to self-administer to end the patient’s life in
30 a humane and dignified manner, which is based on an appreciation
31 of the relevant facts and after being fully informed by the attending
32 physician of:

33 (1) the patient’s medical diagnosis;

34 (2) the patient’s prognosis;

35 (3) the potential risks associated with taking the medication to
36 be prescribed;

37 (4) the probable result of taking the medication to be prescribed;
38 and

39 (5) the feasible alternatives to taking the medication, including,
40 but not limited to, ¹concurrent or¹ additional treatment
41 opportunities, palliative care, comfort care, hospice care, and pain
42 control.

43 ¹“Long-term care facility” means a nursing home, assisted living
44 residence, comprehensive personal care home, residential health
45 care facility, or dementia care home licensed pursuant to P.L.1971,
46 c.136 (C.26:2H-1 et seq.).¹

1 “Medically confirmed” means that the medical opinion of the
2 attending physician has been confirmed pursuant to section 7 of
3 P.L. , c. (C.) (pending before the Legislature as this bill)
4 by a consulting physician who has examined the patient and the
5 patient's relevant medical records.

6 ¹“Mental health care professional” means a psychiatrist,
7 psychologist, or clinical social worker licensed pursuant to Title 45
8 of the Revised Statutes.¹

9 “Participate in this act” means to perform the duties of a health
10 care provider in accordance with the provisions of P.L. ,
11 c. (C.) (pending before the Legislature as this bill), but does
12 not include: making an initial determination that a patient is
13 terminally ill and informing the patient of the medical prognosis;
14 providing information about the provisions of P.L. , c. (C.)
15 (pending before the Legislature as this bill) to a patient upon the
16 patient’s request; or providing a patient, upon the patient’s request,
17 with a referral to another health care provider.

18 “Patient” means a person who is under the care of a physician.

19 “Qualified terminally ill patient” means a capable adult who is a
20 resident of New Jersey and has satisfied the requirements to obtain
21 a prescription for medication pursuant to P.L. , c. (C.)
22 (pending before the Legislature as this bill). A person shall not be
23 considered to be a qualified terminally ill patient solely because of
24 the person’s age or disability or a diagnosis of any specific illness,
25 disease, or condition.

26 “Self-administer” means a qualified terminally ill patient's act of
27 ¹【ingesting】 physically administering, to the patient’s own self,¹
28 medication that has been prescribed pursuant to P.L. , c. (C.)
29 (pending before the Legislature as this bill).

30 “Terminally ill” means that the patient is in the terminal stage of
31 an irreversibly fatal illness, disease, or condition with a prognosis,
32 based upon reasonable medical certainty, of a life expectancy of six
33 months or less.

34
35 4. (New section) A terminally ill patient may make a written
36 request for medication that the patient may choose to self-
37 administer pursuant to P.L. , c. (C.) (pending before the
38 Legislature as this bill), if the patient:

39 a. is an adult resident of New Jersey as demonstrated pursuant
40 to section 11 of P.L. , c. (C.) (pending before the
41 Legislature as this bill);

42 b. is capable and has been determined by the patient’s
43 attending physician and a consulting physician to be terminally ill;
44 and

45 c. has voluntarily expressed a wish to receive a prescription for
46 medication pursuant to P.L. , c. (C.) (pending before the
47 Legislature as this bill).

1 5. (New section) a. A valid written request for medication
2 under P.L. , c. (C.) (pending before the Legislature as this
3 bill) shall be in substantially the form set forth in section 20 of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 signed and dated by the patient and witnessed by at least two
6 individuals who, in the patient's presence, attest that, to the best of
7 their knowledge and belief, the patient is capable and is acting
8 voluntarily to sign the request.

9 b. At least one of the witnesses shall be a person who is not:

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

11 (2) at the time the request is signed, entitled to any portion of
12 the patient's estate upon the patient's death under any will or by
13 operation of law; and

14 (3) an owner, operator, or employee of a health care facility ¹,
15 other than a long term care facility.¹ where the patient is receiving
16 medical treatment or is a resident.

17 c. The patient's attending physician at the time the request is
18 signed shall not serve as a witness.

19 ¹[d. If, at the time the written request is made, the patient is a
20 resident of a long-term care facility licensed pursuant to P.L.1971,
21 c.136 (C.26:2H-1 et seq.), one of the witnesses shall be an
22 individual designated by the facility.]¹

23
24 6. (New section) a. The attending physician shall ensure that
25 all appropriate steps are carried out in accordance with the
26 provisions of P.L. , c. (C.) (pending before the Legislature
27 as this bill) before writing a prescription for medication that a
28 qualified terminally ill patient may choose to self-administer
29 pursuant to P.L. , c. (C.) (pending before the Legislature as
30 this bill), including such actions as are necessary to:

31 (1) make the initial determination of whether a patient is
32 terminally ill, is capable, and has voluntarily made the request for
33 medication pursuant to P.L. , c. (C.) (pending before the
34 Legislature as this bill);

35 (2) require that the patient demonstrate New Jersey residency
36 pursuant to section 11 of P.L. , c. (C.) (pending before the
37 Legislature as this bill);

38 (3) inform the patient of: the patient's medical diagnosis and
39 prognosis; the potential risks associated with taking the medication
40 to be prescribed; the probable result of taking the medication to be
41 prescribed; and the feasible alternatives to taking the medication,
42 including, but not limited to, ¹concurrent or¹ additional treatment
43 opportunities, palliative care, comfort care, hospice care, and pain
44 control;

45 (4) refer the patient to a consulting physician for medical
46 confirmation of the diagnosis and prognosis, and for a
47 determination that the patient is capable and acting voluntarily;

- 1 (5) refer the patient ¹**【for counseling】** to a mental health care
 2 professional¹, if appropriate, pursuant to section 8 of
 3 P.L. , c. (C.) (pending before the Legislature as this bill);
- 4 (6) recommend that the patient participate in a consultation
 5 concerning ¹concurrent or¹ additional treatment opportunities,
 6 palliative care, comfort care, hospice care, and pain control options
 7 for the patient, and provide the patient with a referral to a health
 8 care professional qualified to discuss these options with the patient;
- 9 (7) ²**【recommend that the patient notify the patient’s next of kin**
 10 **of the patient’s decision to request the medication;**
- 11 (8)²**】**² advise the patient about the importance of having another
 12 person present if and when the patient chooses to self-administer
 13 medication prescribed under P.L. , c. (C.) (pending before
 14 the Legislature as this bill) and of not taking the medication in a
 15 public place;
- 16 ²**【(9)】** ²**(8)**² inform the patient of the patient’s opportunity to
 17 rescind the request at any time and in any manner, and offer the
 18 patient an opportunity to rescind the request at the time the patient
 19 makes a second oral request as provided in section 10 of
 20 P.L. , c. (C.) (pending before the Legislature as this bill);
- 21 ²**【(10) verify, immediately before writing the prescription for**
 22 **medication under P.L. , c. (C.) (pending before the**
 23 **Legislature as this bill), that the patient is making an informed**
 24 **decision to request the medication; and**
- 25 (11)¹**】** ; and
- 26 (9)² fulfill the medical record documentation requirements of
 27 P.L. , c. (C.) (pending before the Legislature as this bill).
- 28 b. The attending physician shall:
- 29 (1) dispense medication directly, including ancillary medication
 30 intended to facilitate the desired effect to minimize the patient's
 31 discomfort, if the attending physician is authorized under law to
 32 dispense and has a current federal Drug Enforcement
 33 Administration certificate of registration; or
- 34 (2) ¹**【with the patient's written consent:**
- 35 (a)¹**】**¹ contact a pharmacist to inform the latter of the prescription
 36 ¹**【;】**¹ and
- 37 ¹**【(b)】**¹ transmit the written prescription personally, by mail, or
 38 by permissible electronic communication to the pharmacist, who
 39 shall dispense the medication directly to either the patient, the
 40 attending physician, or an expressly identified agent of the patient.
- 41 Medication dispensed pursuant to this subsection shall not be
 42 dispensed to the patient by mail or other form of courier.
- 43
- 44 7. (New section) A patient shall not be considered a qualified
 45 terminally ill patient until a consulting physician has:
- 46 a. examined that patient and the patient’s relevant medical
 47 records;

- 1 b. confirmed, in writing, the attending physician's diagnosis
2 that the patient is terminally ill; and
- 3 c. verified that the patient is capable, is acting voluntarily, and
4 has made an informed decision to request medication that, if
5 prescribed, the patient may choose to self-administer pursuant to
6 P.L. , c. (C.) (pending before the Legislature as this bill).
7
- 8 8. (New section) a. If, in the medical opinion of the attending
9 physician or the consulting physician, a patient requesting
10 medication that the patient may choose to self-administer pursuant
11 to P.L. , c. (C.) (pending before the Legislature as this bill)
12 may not be capable ¹【because the patient may have a psychiatric or
13 psychological disorder or depression that causes impaired
14 judgment】¹, the physician shall refer the patient to a ¹【licensed
15 psychiatrist or psychologist for counseling】 mental health care
16 professional¹ to determine whether the patient is capable. A
17 consulting physician who refers a patient to a ¹【licensed
18 psychiatrist or psychologist for counseling】 mental health care
19 professional¹ pursuant to this subsection shall provide written
20 notice of the referral to the attending physician.
- 21 b. If a patient has been referred to a ¹【licensed psychiatrist or
22 psychologist for counseling】 mental health care professional¹
23 pursuant to subsection a. of this section, the attending physician
24 shall not write a prescription for medication that the patient may
25 choose to self-administer pursuant to P.L. , c. (C.)
26 (pending before the Legislature as this bill) unless the attending
27 physician has been notified in writing by the ¹【licensed psychiatrist
28 or psychologist】 mental health care professional¹ of that
29 individual's determination that the patient is capable.
30
- 31 9. (New section) A qualified terminally ill patient shall not
32 receive a prescription for medication that the patient may choose to
33 self-administer pursuant to P.L. , c. (C.) (pending before
34 the Legislature as this bill) unless the attending physician has
35 recommended that the patient notify the patient's next of kin of the
36 patient's request for medication, except that a patient who declines
37 or is unable to notify the patient's next of kin shall not have the
38 request for medication denied for that reason.
39
- 40 10. (New section) a. In order to receive a prescription for
41 medication that a qualified terminally ill patient may choose to self-
42 administer pursuant to P.L. , c. (C.) (pending before the
43 Legislature as this bill), the patient shall make two oral requests and
44 one written request for the medication to the patient's attending
45 physician, subject to the following requirements:
- 46 (1) at least 15 days shall elapse between the initial oral request
47 and the second oral request;

- 1 (2) at the time the patient makes a second oral request, the
2 attending physician shall offer the patient an opportunity to rescind
3 the request;
- 4 (3) the patient may submit the written request to the attending
5 physician when the patient makes the initial oral request or at any
6 time thereafter;
- 7 (4) the written request shall meet the requirements of section 5
8 of P.L. , c. (C.) (pending before the Legislature as this
9 bill);
- 10 (5) at least 15 days shall elapse between the patient's initial oral
11 request and the writing of a prescription pursuant to
12 P.L. , c. (C.) (pending before the Legislature
13 as this bill) ; and
- 14 (6) at least 48 hours shall elapse between the attending
15 physician's receipt of the patient's written request and the writing
16 of a prescription pursuant to P.L. , c. (C.) (pending
17 before the Legislature as this bill).
- 18 b. A qualified terminally ill patient may rescind the request at
19 any time and in any manner without regard to the patient's mental
20 state.
- 21 c. At the time the patient makes an initial oral request for
22 medication that the patient may choose to self-administer pursuant
23 to P.L. , c. (C.) (pending before the Legislature as this
24 bill), the patient's attending physician shall recommend to the
25 patient that the patient participate in a consultation concerning
26 concurrent or additional treatment opportunities, palliative care,
27 comfort care, hospice care, and pain control options, and provide
28 the patient with a referral to a health care professional qualified to
29 discuss these options with the patient. If the patient chooses to
30 participate in such consultation, the consultation shall include, to
31 the extent the patient consents to share such information,
32 consideration of: the patient's terminal illness; the patient's
33 prognosis; current and past courses of treatment prescribed for the
34 patient in connection with the patient's terminal illness, including
35 the results of any such treatment; and any palliative care, comfort
36 care, hospice care, and pain control treatment the patient is
37 currently receiving or has received in the past.
- 38 d. The attending physician shall ensure that the following items
39 are included in the patient's medical record:
- 40 (1) the determination that the patient is a qualified terminally ill
41 patient and the basis for that determination;
- 42 (2) all oral and written requests by the patient to the attending
43 physician for medication that the patient may choose to self-
44 administer pursuant to P.L. , c. (C.) (pending before the
45 Legislature as this bill);
- 46 (3) the attending physician's diagnosis and prognosis, and
47 determination that the patient is capable, is acting voluntarily, and
48 has made an informed decision;

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

4 (5) if applicable, a report of the determination made by a
5 ¹**[licensed psychiatrist or psychologist]** mental health care
6 professional¹ as to whether the patient is capable pursuant to section
7 8 of P.L. , c. (C.) (pending before the Legislature as this
8 bill);

9 (6) the attending physician's recommendation that the patient
10 participate in a consultation concerning ¹concurrent or¹ additional
11 treatment opportunities, palliative care, comfort care, hospice care,
12 and pain control options; the referral provided to the patient with a
13 referral to a health care professional qualified to discuss these
14 options with the patient; an indication as to whether the patient
15 participated in the consultation; and an indication as to whether the
16 patient is currently receiving palliative care, comfort care, hospice
17 care, or pain control treatments;

18 (7) the attending physician's offer to the patient to rescind the
19 patient's request at the time of the patient's second oral request; and

20 (8) a note by the attending physician indicating that all
21 requirements under P.L. , c. (C.) (pending before the
22 Legislature as this bill) have been met and indicating the steps taken
23 to carry out the patient's request for medication, including a
24 notation of the medication prescribed.

25

26 11. (New section) A request for medication pursuant to
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 shall not be granted unless the qualified terminally ill patient has
29 documented that individual's New Jersey residency by furnishing to
30 the attending physician a copy of one of the following:

31 a. a driver's license or non-driver identification card issued by
32 the New Jersey Motor Vehicle Commission;

33 b. proof that the person is registered to vote in New Jersey;

34 c. a New Jersey resident gross income tax return filed for the
35 most recent tax year; or

36 d. any other government record that the attending physician
37 reasonably believes to demonstrate the individual's current
38 residency in this State.

39

40 12. (New section) Any medication dispensed pursuant to
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 that a qualified terminally ill patient chooses not to self-administer
43 shall be disposed of by lawful means ¹, including, but not limited
44 to, disposing of the medication consistent with State and federal
45 guidelines concerning disposal of prescription medications, or
46 surrendering the medication to a prescription medication drop-off

1 receptacle¹. ²The patient shall designate a person who shall be
2 responsible for the lawful disposal of the medication.²

3
4 13. (New section) a. The ²**[Director of the Division of**
5 **Consumer Affairs in the Department of Law and Public Safety]**
6 Commissioner of Health² shall require that a health care
7 professional report the following information to the ²**[division]**
8 Department of Health² on a form and in a manner prescribed by
9 regulation of the ²**[director, in consultation with the Commissioner**
10 **of Health]** commissioner²:

11 (1) No later than 30 days after the dispensing of medication
12 pursuant to P.L. , c. (C.) (pending before the Legislature as
13 this bill), the ²**[health care professional]** physician or pharmacist²
14 who dispensed the medication shall file a copy of the dispensing
15 record with the ²**[division]** department², and shall otherwise
16 facilitate the collection of such information as the director may
17 require regarding compliance with P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 (2) No later than 30 days after the date of the qualified
20 terminally ill patient's death, the attending physician shall transmit
21 to the ²**[division]** department² such documentation of the patient's
22 death as the director shall require.

23 (3) In the event that anyone required to report information to the
24 ²**[division]** department² pursuant to P.L. , c. (C.) (pending
25 before the Legislature as this bill) provides an inadequate or
26 incomplete report, the ²**[division]** department² shall contact the
27 person to request a complete report.

28 (4) To the maximum extent practicable and consistent with the
29 purposes of this section, the ²**[division]** department² shall seek to
30 coordinate the process for reporting information pursuant to this
31 subsection with the process for reporting prescription monitoring
32 information by a pharmacy permit holder pursuant to sections 25
33 through 30 of P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

34 b. Any information collected pursuant to subsection a. of this
35 section that contains material or data that could be used to identify
36 an individual patient or health care professional shall not be
37 included under materials available to public inspection pursuant to
38 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5
39 et al.).

40 c. The ²**[division]** department² shall prepare and make
41 available to the public on its Internet website an annual statistical
42 report of information collected pursuant to subsection a. of this
43 section.

44
45 14. (New section) a. A provision in a contract, will, insurance
46 policy, annuity, or other agreement, whether written or oral, made

1 on or after the effective date of P.L. , c. (C.) (pending
2 before the Legislature as this bill), shall not be valid to the extent
3 that the provision would condition or restrict a person's decision to
4 make or rescind a request for medication pursuant to
5 P.L. , c. (C.) (pending before the Legislature as this bill).

6 b. An obligation owing under a contract, will, insurance policy,
7 annuity, or other agreement, made before the effective date of
8 P.L. , c. (C.) (pending before the Legislature as this bill),
9 shall not be affected by: the provisions of P.L. , c. (C.)
10 (pending before the Legislature as this bill); a person's making or
11 rescinding a request for medication pursuant to P.L. , c. (C.)
12 (pending before the Legislature as this bill); or any other action
13 taken pursuant to P.L. , c. (C.) (pending before the
14 Legislature as this bill).

15 c. On or after the effective date of P.L. , c. (C.)
16 (pending before the Legislature as this bill), procurement or
17 issuance of a life, health, or accident insurance policy or annuity, or
18 the premium or rate charged for the policy or annuity, shall not be
19 conditioned upon or otherwise take into account the making or
20 rescinding of a request for medication pursuant to
21 P.L. , c. (C.) (pending before the Legislature as this bill) by
22 any person.

23

24 15. (New section) Nothing in P.L. , c. (C.) (pending
25 before the Legislature as this bill) shall be construed to:

26 a. authorize a physician or any other person to end a patient's
27 life by lethal injection, active euthanasia, or mercy killing, or any
28 act that constitutes assisted suicide under any law of this State; or

29 b. lower the applicable standard of care to be provided by a
30 health care professional who participates in P.L. , c. (C.)
31 (pending before the Legislature as this bill).

32

33 16. (New section) A person shall not be authorized to take any
34 action on behalf of a patient for the purposes of P.L. , c. (C.)
35 (pending before the Legislature as this bill) by virtue of that
36 person's designation as a guardian pursuant to N.J.S.3B:12-1 et
37 seq., a conservator pursuant to N.J.S.3B:13A-1 et seq., a health care
38 representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), or
39 a patient's representative pursuant to P.L.2011, c.145 (C.26:2H-129
40 et al.), except for communicating the patient's health care decisions
41 to a health care provider if the patient so requests.

42

43 17. (New section) a. (1) Except as provided in sections 18 and
44 19 of P.L. , c. (C.) (pending before the Legislature as this
45 bill), a person shall not be subject to civil or criminal liability or
46 professional disciplinary action ¹, or subject to censure, discipline,
47 suspension, or loss of any licensure, certification, privileges, or
48 membership.¹ for any action taken in compliance with the

1 provisions of P.L. , c. (C.) (pending before the Legislature
 2 as this bill), including being present when a qualified terminally ill
 3 patient self-administers medication prescribed pursuant to
 4 P.L. , c. (C.) (pending before the Legislature as this bill)
 5 ¹, or for the refusal to take any action in furtherance of, or to
 6 otherwise participate in, a request for medication pursuant to the
 7 provisions of P.L. , c. (C.) (pending before the Legislature
 8 as this bill)¹. A person who substantially complies in good faith
 9 with the provisions of P.L. , c. (C.) (pending before the
 10 Legislature as this bill) shall be deemed to be in compliance with its
 11 provisions.

12 (2) Any action taken in accordance with the provisions of
 13 P.L. , c. (C.) (pending before the Legislature as this bill)
 14 shall not constitute patient abuse or neglect, suicide, assisted
 15 suicide, mercy killing, ¹euthanasia,¹ or homicide under any law of
 16 this State.

17 (3) A patient's request for, or the provision of, medication in
 18 compliance with the provisions of P.L. , c. (C.) (pending
 19 before the Legislature as this bill) shall not ¹constitute abuse or
 20 neglect of an elderly person or¹ provide the sole basis for the
 21 appointment of a guardian or conservator.

22 b. ¹The provisions of subsection a. of this section shall not
 23 apply to acts or omissions constituting gross negligence,
 24 recklessness, or willful misconduct.

25 c.¹ Any action taken by a health care professional to participate
 26 in P.L. , c. (C.) (pending before the Legislature as this bill)
 27 shall be voluntary on the part of that individual. If a health care
 28 professional is unable or unwilling to carry out a patient's request
 29 under P.L. , c. (C.) (pending before the Legislature as this
 30 bill), and the patient transfers the patient's care to a new health care
 31 professional or health care facility, the prior health care
 32 professional shall transfer, upon request, a copy of the patient's
 33 relevant records to the new health care professional or health care
 34 facility.

35
 36 18. (New section) a. A person who, without authorization of
 37 the patient, and with the intent or effect of causing the patient's
 38 death, willfully alters or forges a request for medication pursuant to
 39 P.L. , c. (C.) (pending before the Legislature as this bill) or
 40 conceals or destroys a rescission of that request, is guilty of a crime
 41 of the second degree.

42 b. A person who coerces or exerts undue influence on a patient
 43 to request medication pursuant to P.L. , c. (C.) (pending
 44 before the Legislature as this bill) or to destroy a rescission of a
 45 request is guilty of a crime of the third degree.

46 c. Theft of medication prescribed to a qualified terminally ill
 47 patient pursuant to P.L. , c. (C.) (pending before the

1 Legislature as this bill) shall constitute an offense involving theft of
2 a controlled dangerous substance as set forth in N.J.S.2C:20-2.

3 d. Nothing in P.L. , c. (C.) (pending before the
4 Legislature as this bill) shall limit liability for civil damages
5 resulting from the negligence or intentional misconduct of any
6 person.

7 e. The penalties set forth in this section shall not preclude the
8 imposition of any other criminal penalty applicable under law for
9 conduct that is inconsistent with the provisions of P.L. ,
10 c. (C.) (pending before the Legislature as this bill).

11
12 19. (New section) Any governmental entity that incurs costs
13 resulting from a qualified terminally ill patient choosing to self-
14 administer medication prescribed pursuant to P.L. , c. (C.)
15 (pending before the Legislature as this bill) in a public place has a
16 claim against the estate of the patient to recover those costs and
17 reasonable attorneys' fees related to enforcing the claim.

18
19 20. (New section) A written request for a medication as
20 authorized by P.L. , c. (C.) (pending before the Legislature
21 as this bill) shall be in substantially the following form:

22
23 REQUEST FOR MEDICATION TO END MY LIFE IN A
24 HUMANE AND DIGNIFIED MANNER
25

26 I, , am an adult of sound mind and a resident
27 of New Jersey.

28 I am suffering from , which my attending
29 physician has determined is a terminal illness, disease, or condition
30 and which has been medically confirmed by a consulting physician.

31 I have been fully informed of my diagnosis, prognosis, the nature
32 of medication to be prescribed and potential associated risks, the
33 expected result, and the feasible alternatives, including ¹concurrent
34 or additional treatment opportunities.¹ palliative care, comfort care,
35 hospice care, and pain control.

36 I request that my attending physician prescribe medication that I
37 may self-administer to end my life in a humane and dignified
38 manner and to contact any pharmacist as necessary to fill the
39 prescription.

40
41 INITIAL ONE:
42

43 I have informed my family of my decision and taken their
44 opinions into consideration.

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

46 I have no family to inform of my decision.

1 INITIAL ALL THAT APPLY:

2

3 My attending physician has recommended that I participate
4 in a consultation concerning 'concurrent or' additional treatment
5 opportunities, palliative care, comfort care, hospice care, and pain
6 control options, and provided me with a referral to a health care
7 professional qualified to discuss these options with me.

8 I have participated in a consultation concerning
9 'concurrent or' additional treatment opportunities, palliative care,
10 comfort care, hospice care, and pain control options.

11 . . . I am currently receiving palliative care, comfort care, or
12 hospice care.

13

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

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

21 I make this request voluntarily and without reservation, and I
22 accept full responsibility for my decision.

23

24 Signed:

25

26 Dated:

27

28 DECLARATION OF WITNESSES

29

30 By initialing and signing below on or after the date the person
31 named above signs, we declare that the person making and signing
32 the above request:

33

34 Witness 1 Witness 2

35 Initials Initials

36

37 1. Is personally known to us or has provided proof of identity.

38

39 2. Signed this request in our presence on the date of the person's
40 signature.

41

42 3. Appears to be of sound mind and not under duress, fraud, or
43 undue influence.

44

45 4. Is not a patient for whom either of us is the attending physician.

46

47 Printed Name of Witness 1:

48 Signature of Witness 1/Date:

1 Printed Name of Witness 2:

2 Signature of Witness 2/Date:

3

4 NOTE: At least one witness shall not be a relative by blood,
5 marriage, or adoption of the person signing this request, shall not be
6 entitled to any portion of the person's estate upon death, and shall
7 not own, operate, or be employed at a health care facility¹, other
8 than a long term care facility,¹ where the person is a patient or
9 resident. ¹**【If the patient is a resident of a long-term care facility,**
10 **one of the witnesses shall be an individual designated by the**
11 **facility.】¹**

12

13 21. (New section) The Director of the Division of Consumer
14 Affairs in the Department of Law and Public Safety, pursuant to the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.), shall adopt such rules and regulations as are necessary to
17 implement the provisions of sections 1 through 20 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill), including
19 the required reporting of information to the division by health care
20 professionals pursuant to section 13 of P.L. , c. (C.)
21 (pending before the Legislature as this bill).

22

23 22. (New section) The State Board of Medical Examiners,
24 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
25 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
26 necessary to implement the provisions of sections 1 through 20 of
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 concerning the duties of a licensed physician pursuant thereto.

29

30 23. (New section) The New Jersey State Board of Pharmacy,
31 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
33 necessary to implement the provisions of sections 1 through 20 of
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 concerning the duties of a licensed pharmacist pursuant thereto.

36

37 24. (New section) The State Board of Psychological Examiners,
38 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
39 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
40 necessary to implement the provisions of sections 1 through 20 of
41 P.L. , c. (C.) (pending before the Legislature as this bill)
42 concerning the duties of a licensed psychologist pursuant thereto.

43

44 ¹25. (New section) The State Board of Social Work Examiners,
45 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
46 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
47 necessary to implement the provisions of sections 1 through 20 of

1 P.L. , c. (C.) (pending before the Legislature as this bill)
2 concerning the duties of a licensed clinical social worker pursuant
3 thereto.¹

4
5 ¹[25.] 26.¹ (New section) a. As used in this section:

6 “Health care facility” or “facility” means a health care facility
7 licensed pursuant to P.L.1971, c.,136 (C.26:2H-1 et seq.).

8 “Health care professional” means a person licensed to practice a
9 health care profession pursuant to Title 45 of the Revised Statutes.

10 b. (1) The existing policies and procedures utilized by a
11 health care facility shall, to the maximum extent possible, govern
12 the taking of any action by a health care professional pursuant to
13 sections 1 through 20 of P.L. , c. (C.) (pending before the
14 Legislature as this bill) on the premises owned by, or under the
15 direct control of, the facility, except as otherwise prescribed by
16 regulation of the Commissioner of Health pursuant to paragraph (4)
17 of this subsection.

18 (2) Any action taken by a health care facility to participate in
19 P.L. , c. (C.) (pending before the Legislature as this bill)
20 shall be voluntary on the part of the facility.

21 (3) A health care facility shall not be subject to a licensure
22 enforcement action by the Department of Health for any action
23 taken in compliance with the provisions of P.L. , c. (C.)
24 (pending before the Legislature as this bill).

25 (4) The Commissioner of Health, pursuant to the
26 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
27 1 et seq.), shall adopt such rules and regulations as are necessary to
28 implement the provisions of sections 1 through 20 of
29 P.L. , c. (C.) (pending before the Legislature as this bill),
30 concerning their application to a health care facility and any action
31 taken by a health care professional on the premises owned by, or
32 under the direct control of, the facility.

33 (5) The provisions of this subsection shall not preclude a health
34 care facility or health care professional from providing to a patient
35 any health care services to which the provisions of sections 1
36 through 20 of P.L. , c. (C.) (pending before the Legislature
37 as this bill) do not apply.

38
39 ¹[26.] 27.¹ Section 1 of P.L.1991, c.270 (C.2A:62A-16) is
40 amended to read as follows:

41 1. a. Any person who is licensed in the State of New Jersey to
42 practice psychology, psychiatry, medicine, nursing, clinical social
43 work, or marriage counseling, whether or not compensation is
44 received or expected, is immune from any civil liability for a
45 patient's violent act against another person or against himself unless
46 the practitioner has incurred a duty to warn and protect the potential
47 victim as set forth in subsection b. of this section and fails to
48 discharge that duty as set forth in subsection c. of this section.

1 b. A duty to warn and protect is incurred when the following
2 conditions exist:

3 (1) The patient has communicated to that practitioner a threat of
4 imminent, serious physical violence against a readily identifiable
5 individual or against himself and the circumstances are such that a
6 reasonable professional in the practitioner's area of expertise would
7 believe the patient intended to carry out the threat; or

8 (2) The circumstances are such that a reasonable professional in
9 the practitioner's area of expertise would believe the patient
10 intended to carry out an act of imminent, serious physical violence
11 against a readily identifiable individual or against himself.

12 A duty to warn and protect shall not be incurred when a qualified
13 terminally ill patient requests medication that the patient may
14 choose to self-administer in accordance with the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill).

16 c. A licensed practitioner of psychology, psychiatry, medicine,
17 nursing, clinical social work, or marriage counseling shall discharge
18 the duty to warn and protect as set forth in subsection b. of this
19 section by doing **any** one or more of the following:

20 (1) Arranging for the patient to be admitted voluntarily to a
21 psychiatric unit of a general hospital, a short-term care facility, a
22 special psychiatric hospital, or a psychiatric facility, under the
23 provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

24 (2) Initiating procedures for involuntary commitment to
25 treatment of the patient to an outpatient treatment provider, a short-
26 term care facility, a special psychiatric hospital, or a psychiatric
27 facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et
28 seq.);

29 (3) Advising a local law enforcement authority of the patient's
30 threat and the identity of the intended victim;

31 (4) Warning the intended victim of the threat, or, in the case of
32 an intended victim who is under the age of 18, warning the parent
33 or guardian of the intended victim; or

34 (5) If the patient is under the age of 18 and threatens to commit
35 suicide or bodily injury upon himself, warning the parent or
36 guardian of the patient.

37 d. A practitioner who is licensed in the State of New Jersey to
38 practice psychology, psychiatry, medicine, nursing, clinical social
39 work, or marriage counseling who, in complying with subsection c.
40 of this section, discloses a privileged communication, is immune
41 from civil liability in regard to that disclosure.

42 (cf: P.L.2009, c.112, s.21)

43

44 ¹**[27.] 28.**¹ N.J.S.2C:11-6 is amended to read as follows:

45 2C:11-6. Aiding Suicide. A person who purposely aids another
46 to commit suicide is guilty of a crime of the second degree if his
47 conduct causes such suicide or an attempted suicide, and otherwise
48 of a crime of the fourth degree. Any action taken in accordance with

1 the provisions of P.L. _____, c. _____ (C. _____) (pending before the
2 Legislature as this bill) shall not constitute suicide or assisted
3 suicide.

4 (cf: P.L.1978, c.95, s.2C:11-6)

5
6 ¹~~28.~~ 29.¹ This act shall take effect on the first day of the
7 fourth month next following the date of enactment, but the Director
8 of the Division of Consumer Affairs in the Department of Law and
9 Public Safety, the Commissioner of Health, the State Board of
10 Medical Examiners, the New Jersey State Board of Pharmacy, ¹the
11 State Board of Social Work Examiners,¹ and the State Board of
12 Psychological Examiners may take such anticipatory administrative
13 action in advance thereof as shall be necessary for the
14 implementation of this act.