

[First Reprint]

**SENATE, No. 1072**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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INTRODUCED JANUARY 22, 2018

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator STEPHEN M. SWEENEY**

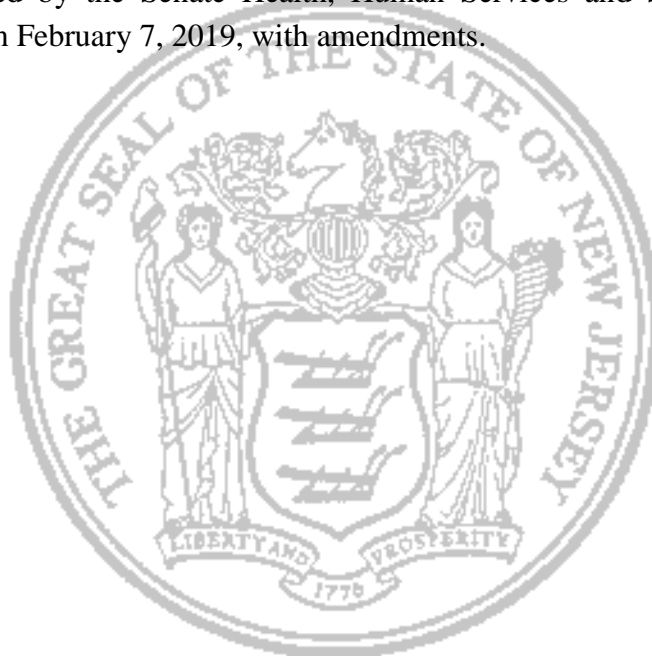
**District 3 (Cumberland, Gloucester and Salem)**

**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 reported by the Senate Health, Human Services and Senior Citizens Committee on February 7, 2019, with amendments.



**(Sponsorship Updated As Of: 2/8/2019)**

1 AN ACT concerning <sup>1</sup>medical<sup>1</sup> 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 “<sup>1</sup>Medical<sup>1</sup> 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17 provided, withheld, or withdrawn, this State affirms the right of a  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 <sup>1</sup>**[;]** <sup>1</sup>

22 b. Statistics from other states that have enacted laws to provide  
23 compassionate <sup>1</sup>medical<sup>1</sup> 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 <sup>1</sup>**[%]** percent<sup>1</sup> of patients in Oregon since 1998 and between 72  
27 <sup>1</sup>**[%]** percent<sup>1</sup> and 86 <sup>1</sup>**[%]** percent<sup>1</sup> 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 <sup>1</sup>medical<sup>1</sup> aid in  
32 dying <sup>1</sup>**[;]** <sup>1</sup>

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 <sup>1</sup>medical<sup>1</sup> 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 <sup>1</sup>**[; and]** <sup>1</sup>

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:**

<sup>1</sup>**Senate SHH committee amendments adopted February 7, 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 <sup>1</sup>“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. <sup>1</sup>

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, <sup>1</sup>concurrent or<sup>1</sup> additional treatment  
41 opportunities, palliative care, comfort care, hospice care, and pain  
42 control.

43 <sup>1</sup>“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.).<sup>1</sup>

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

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 ingesting physically administering, to the patient's own self,<sup>1</sup>  
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 <sup>1</sup>,  
15 other than a long term care facility,<sup>1</sup> 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       <sup>1</sup>**¶**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. **¶**<sup>1</sup>

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, <sup>1</sup>concurrent or<sup>1</sup> 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 <sup>1</sup>**【for counseling】** to a mental health care  
 2 professional<sup>1</sup>, 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 <sup>1</sup>concurrent or<sup>1</sup> 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) <sup>1</sup>**【recommend that the patient notify the patient’s next of kin**  
 10 **of the patient’s decision to request the medication;**
- 11 (8)<sup>1</sup> 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 <sup>1</sup>**【(9)】** (8)<sup>1</sup> 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 <sup>1</sup>**【(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)<sup>1</sup> **【and**
- 26 (9)<sup>1</sup> 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) <sup>1</sup>**【with the patient's written consent:**
- 35 (a)<sup>1</sup> contact a pharmacist to inform the latter of the prescription  
 36 <sup>1</sup>**【;】**<sup>1</sup> and
- 37 <sup>1</sup>**【(b)】**<sup>1</sup> 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 <sup>1</sup>【because the patient may have a psychiatric or  
13 psychological disorder or depression that causes impaired  
14 judgment】<sup>1</sup>, the physician shall refer the patient to a <sup>1</sup>【licensed  
15 psychiatrist or psychologist for counseling】 mental health care  
16 professional<sup>1</sup> to determine whether the patient is capable. A  
17 consulting physician who refers a patient to a <sup>1</sup>【licensed  
18 psychiatrist or psychologist for counseling】 mental health care  
19 professional<sup>1</sup> 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 <sup>1</sup>【licensed psychiatrist or  
22 psychologist for counseling】 mental health care professional<sup>1</sup>  
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 <sup>1</sup>【licensed psychiatrist  
28 or psychologist】 mental health care professional<sup>1</sup> 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 **licensed psychiatrist or psychologist** mental health care  
6 professional<sup>1</sup> 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 concurrent or<sup>1</sup> 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 <sup>1</sup>, 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 receptacle. The patient shall designate a person who shall be  
2 responsible for the lawful disposal of the medication<sup>1</sup>.

3  
4 13. (New section) a. The <sup>1</sup>【Director of the Division of  
5 Consumer Affairs in the Department of Law and Public Safety】  
6 Commissioner of Health<sup>1</sup> shall require that a health care  
7 professional report the following information to the <sup>1</sup>【division】  
8 Department of Health<sup>1</sup> on a form and in a manner prescribed by  
9 regulation of the <sup>1</sup>【director, in consultation with the Commissioner  
10 of Health】 commissioner<sup>1</sup>:

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 <sup>1</sup>【health care professional】 physician or pharmacist<sup>1</sup>  
14 who dispensed the medication shall file a copy of the dispensing  
15 record with the <sup>1</sup>【division】 department<sup>1</sup>, 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 <sup>1</sup>【division】 department<sup>1</sup> 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 <sup>1</sup>【division】 department<sup>1</sup> pursuant to P.L. , c. (C. ) (pending  
25 before the Legislature as this bill) provides an inadequate or  
26 incomplete report, the <sup>1</sup>【division】 department<sup>1</sup> 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 <sup>1</sup>【division】 department<sup>1</sup> 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 <sup>1</sup>【division】 department<sup>1</sup> 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 <sup>1</sup>, or subject to censure, discipline,  
47 suspension, or loss of any licensure, certification, privileges, or  
48 membership.<sup>1</sup> 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 <sup>1</sup>, 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)<sup>1</sup>. 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, <sup>1</sup>euthanasia,<sup>1</sup> 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 <sup>1</sup>constitute abuse or  
20 neglect of an elderly person or<sup>1</sup> provide the sole basis for the  
21 appointment of a guardian or conservator.

22 b. <sup>1</sup>The 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.<sup>1</sup> 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 <sup>1</sup>concurrent  
34 or additional treatment opportunities.<sup>1</sup> 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 1concurrent or<sup>1</sup> 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 1concurrent or<sup>1</sup> 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 facility<sup>1</sup>, other  
8 than a long term care facility,<sup>1</sup> where the person is a patient or  
9 resident. <sup>1</sup>**[**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.**]**<sup>1</sup>

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 <sup>1</sup>25. (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.<sup>1</sup>

4  
5 <sup>1</sup>**[25.] 26.**<sup>1</sup> (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 health  
11 care facility shall, to the maximum extent possible, govern the  
12 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-1 et  
27 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 <sup>1</sup>**[26.] 27.**<sup>1</sup> 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       <sup>1</sup>**[27.] 28.**<sup>1</sup> 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

1 with 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 <sup>1</sup>~~28.~~ 29.<sup>1</sup> 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, <sup>1</sup>~~the~~  
11 State Board of Social Work Examiners,<sup>1</sup> 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.