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22 years of medically assisted suicide: A brief history as NJ prepares for the new law
northjersey.com (Published as northjersey.com (NJ)) - April 11, 2019

22 years of medically assisted suicide: A brief history as NJ prepares for new law
northjersey.com (Published as northjersey.com (NJ)) - April 11, 2019

NJ latest state to allow doctor-assisted suicide
NJBIZ (New Brunswick, NJ) - April 12, 2019

New Jersey law allows terminally ill to get life-ending meds
Associated Press State Wire: New Jersey (NJ) - April 12, 2019

New Jersey enacts law on assisted suicide for terminally ill
Associated Press State Wire: New Jersey (NJ) - April 12, 2019

NJ legalizes assisted suicide as Gov. Phil Murphy signs contentious bill into law
northjersey.com (Published as northjersey.com (NJ)) - April 12, 2019

Murphy signs law allowing terminally ill to end their lives
Jersey Journal, The (Jersey City, NJ) - April 13, 2019

STATE LEGALIZES ASSISTED SUICIDE - MEDICAL COMMUNITY TO PREPARE NEW POLICY
Record, The (Hackensack, NJ) - April 13, 2019

Murphy signs Aid in Dying legislation Law allows terminally ill to medically end their lives
Star-Ledger, The (Newark, NJ) - April 13, 2019

Terminally ill New Jerseyans will soon be allowed to end their lives because of law,
Jersey Journal, The (Jersey City, NJ) - July 30, 2019

Medical Society president weighs in on NJ aid-in-dying bill, taking effect Aug. 1
NJBIZ (New Brunswick, NJ) - July 31, 2019

NJ doctors can help terminally ill patients die beginning today
northjersey.com (Published as northjersey.com (NJ)) - August 1, 2019

ASSISTED SUICIDE NOW LEGALLY AVAILABLE - AS NJ LAW TAKES EFFECT, DOCTORS SAY MORE
GUIDANCE IS REQUIRED
Record, The (Hackensack, NJ) - August 1, 2019

NJ law to let terminally ill get life-end meds takes effect
Associated Press State Wire: New Jersey (NJ) - August 1, 2019

New Jersey's medically assisted suicide law takes effect
Associated Press State Wire: New Jersey (NJ) - August 1, 2019

RWH

Title 26.
Chapter 16.(New)
Medical Aid in
Dying
§§1-20 -
C.26:16-1 to
26:16-20
§21 –
C.52:17B-139.13
§22 - C.45:9-5.3
§23 –
C.45:14-47.1
§24 –
C.45:14B-48
§25 –
C.45:15BB-11.2
§26 –
C.26:2H-5.33
§29 - Note

P.L. 2019, CHAPTER 59, *approved April 12, 2019*
Assembly, No. 1504 (*Second Reprint*)

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**[;]** ².

22 b. Statistics from other states that have enacted laws to provide
23 compassionate ²medical² aid in dying for terminally ill patients

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 indicate that the great majority of patients who requested
 2 medication under the laws of those states, including more than 90
 3 ²【%】 percent² of patients in Oregon since 1998 and between 72
 4 ²【%】 percent² and 86 ²【%】 percent² of patients in Washington in
 5 each year since 2009, were enrolled in hospice care at the time of
 6 death, suggesting that those patients had availed themselves of
 7 available treatment and comfort care options available to them at
 8 the time they requested compassionate ²medical² aid in dying ²【;】
 9 ².

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

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

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

16 (3) protect vulnerable adults from abuse; and

17 (4) ensure that the process is entirely voluntary on the part of all
 18 participants, including patients and those health care providers that
 19 are providing care to dying patients ²【; and】 ².

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

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

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

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

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

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

37 ¹【“Counseling” means one or more consultations as necessary
 38 between a psychiatrist or psychologist licensed pursuant to Title 45
 39 of the Revised Statutes and a patient for the purpose of determining
 40 that the patient is capable and not suffering from a psychiatric or
 41 psychological disorder or depression causing impaired judgment.】¹

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

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

46 “Health care provider” means a health care professional or health
 47 care facility.

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

7 (1) the patient’s medical diagnosis;

8 (2) the patient’s prognosis;

9 (3) the potential risks associated with taking the medication to
10 be prescribed;

11 (4) the probable result of taking the medication to be prescribed;
12 and

13 (5) the feasible alternatives to taking the medication, including,
14 but not limited to, ¹concurrent or¹ additional treatment
15 opportunities, palliative care, comfort care, hospice care, and pain
16 control.

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

21 “Medically confirmed” means that the medical opinion of the
22 attending physician has been confirmed pursuant to section 7 of
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 by a consulting physician who has examined the patient and the
25 patient’s relevant medical records.

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

29 “Participate in this act” means to perform the duties of a health
30 care provider in accordance with the provisions of P.L. ,
31 c. (C.) (pending before the Legislature as this bill), but does
32 not include: making an initial determination that a patient is
33 terminally ill and informing the patient of the medical prognosis;
34 providing information about the provisions of P.L. , c. (C.)
35 (pending before the Legislature as this bill) to a patient upon the
36 patient’s request; or providing a patient, upon the patient’s request,
37 with a referral to another health care provider.

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

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

46 “Self-administer” means a qualified terminally ill patient’s act of
47 ¹【ingesting】 physically administering, to the patient’s own self,¹

1 medication that has been prescribed pursuant to P.L. , c. (C.)
2 (pending before the Legislature as this bill).

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

7
8 4. (New section) A terminally ill patient may make a written
9 request for medication that the patient may choose to self-
10 administer pursuant to P.L. , c. (C.) (pending before the
11 Legislature as this bill), if the patient:

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

15 b. is capable and has been determined by the patient’s
16 attending physician and a consulting physician to be terminally ill;
17 and

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

21
22 5. (New section) a. A valid written request for medication
23 under P.L. , c. (C.) (pending before the Legislature as this
24 bill) shall be in substantially the form set forth in section 20 of
25 P.L. , c. (C.) (pending before the Legislature as this bill),
26 signed and dated by the patient and witnessed by at least two
27 individuals who, in the patient’s presence, attest that, to the best of
28 their knowledge and belief, the patient is capable and is acting
29 voluntarily to sign the request.

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

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

32 (2) at the time the request is signed, entitled to any portion of
33 the patient’s estate upon the patient’s death under any will or by
34 operation of law; and

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

38 c. The patient’s attending physician at the time the request is
39 signed shall not serve as a witness.

40 ¹**[d. If, at the time the written request is made, the patient is a**
41 **resident of a long-term care facility licensed pursuant to P.L.1971,**
42 **c.136 (C.26:2H-1 et seq.), one of the witnesses shall be an**
43 **individual designated by the facility.]¹**
44

45 6. (New section) a. The attending physician shall ensure that
46 all appropriate steps are carried out in accordance with the
47 provisions of P.L. , c. (C.) (pending before the Legislature
48 as this bill) before writing a prescription for medication that a

- 1 qualified terminally ill patient may choose to self-administer
2 pursuant to P.L. , c. (C.) (pending before the Legislature as
3 this bill), including such actions as are necessary to:
- 4 (1) make the initial determination of whether a patient is
5 terminally ill, is capable, and has voluntarily made the request for
6 medication pursuant to P.L. , c. (C.) (pending before the
7 Legislature as this bill);
- 8 (2) require that the patient demonstrate New Jersey residency
9 pursuant to section 11 of P.L. , c. (C.) (pending before the
10 Legislature as this bill);
- 11 (3) inform the patient of: the patient's medical diagnosis and
12 prognosis; the potential risks associated with taking the medication
13 to be prescribed; the probable result of taking the medication to be
14 prescribed; and the feasible alternatives to taking the medication,
15 including, but not limited to, ¹concurrent or¹ additional treatment
16 opportunities, palliative care, comfort care, hospice care, and pain
17 control;
- 18 (4) refer the patient to a consulting physician for medical
19 confirmation of the diagnosis and prognosis, and for a
20 determination that the patient is capable and acting voluntarily;
- 21 (5) refer the patient ¹**【for counseling】** to a mental health care
22 professional¹, if appropriate, pursuant to section 8 of
23 P.L. , c. (C.) (pending before the Legislature as this bill);
- 24 (6) recommend that the patient participate in a consultation
25 concerning ¹concurrent or¹ additional treatment opportunities,
26 palliative care, comfort care, hospice care, and pain control options
27 for the patient, and provide the patient with a referral to a health
28 care professional qualified to discuss these options with the patient;
- 29 (7) ²**【recommend that the patient notify the patient's next of kin**
30 **of the patient's decision to request the medication;**
- 31 (8)²**】** advise the patient about the importance of having another
32 person present if and when the patient chooses to self-administer
33 medication prescribed under P.L. , c. (C.) (pending before
34 the Legislature as this bill) and of not taking the medication in a
35 public place;
- 36 ²**【(9)】** ²(8)² inform the patient of the patient's opportunity to
37 rescind the request at any time and in any manner, and offer the
38 patient an opportunity to rescind the request at the time the patient
39 makes a second oral request as provided in section 10 of
40 P.L. , c. (C.) (pending before the Legislature as this bill);
- 41 ²**【(10) verify, immediately before writing the prescription for**
42 **medication under P.L. , c. (C.) (pending before the**
43 **Legislature as this bill), that the patient is making an informed**
44 **decision to request the medication; and**
- 45 (11)¹**】**; and
- 46 ²(9)² fulfill the medical record documentation requirements of
47 P.L. , c. (C.) (pending before the Legislature as this bill).

1 b. The attending physician shall:

2 (1) dispense medication directly, including ancillary medication
3 intended to facilitate the desired effect to minimize the patient's
4 discomfort, if the attending physician is authorized under law to
5 dispense and has a current federal Drug Enforcement
6 Administration certificate of registration; or

7 (2) ¹【with the patient's written consent:

8 (a) ¹ contact a pharmacist to inform the latter of the prescription
9 ¹【; ¹ and

10 ¹【(b) ¹ transmit the written prescription personally, by mail, or
11 by permissible electronic communication to the pharmacist, who
12 shall dispense the medication directly to either the patient, the
13 attending physician, or an expressly identified agent of the patient.

14 Medication dispensed pursuant to this subsection shall not be
15 dispensed to the patient by mail or other form of courier.

16

17 7. (New section) A patient shall not be considered a qualified
18 terminally ill patient until a consulting physician has:

19 a. examined that patient and the patient's relevant medical
20 records;

21 b. confirmed, in writing, the attending physician's diagnosis
22 that the patient is terminally ill; and

23 c. verified that the patient is capable, is acting voluntarily, and
24 has made an informed decision to request medication that, if
25 prescribed, the patient may choose to self-administer pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill).

27

28 8. (New section) a. If, in the medical opinion of the attending
29 physician or the consulting physician, a patient requesting
30 medication that the patient may choose to self-administer pursuant
31 to P.L. , c. (C.) (pending before the Legislature as this bill)

32 may not be capable ¹【because the patient may have a psychiatric or
33 psychological disorder or depression that causes impaired
34 judgment ¹】, the physician shall refer the patient to a ¹【licensed
35 psychiatrist or psychologist for counseling mental health care
36 professional ¹ to determine whether the patient is capable. A
37 consulting physician who refers a patient to a ¹【licensed
38 psychiatrist or psychologist for counseling mental health care
39 professional ¹ pursuant to this subsection shall provide written
40 notice of the referral to the attending physician.

41 b. If a patient has been referred to a ¹【licensed psychiatrist or
42 psychologist for counseling mental health care professional ¹
43 pursuant to subsection a. of this section, the attending physician
44 shall not write a prescription for medication that the patient may
45 choose to self-administer pursuant to P.L. , c. (C.)
46 (pending before the Legislature as this bill) unless the attending
47 physician has been notified in writing by the ¹【licensed psychiatrist

1 or psychologist] mental health care professional¹ of that
2 individual's determination that the patient is capable.

3

4 9. (New section) A qualified terminally ill patient shall not
5 receive a prescription for medication that the patient may choose to
6 self-administer pursuant to P.L. , c. (C.) (pending before
7 the Legislature as this bill) unless the attending physician has
8 recommended that the patient notify the patient's next of kin of the
9 patient's request for medication, except that a patient who declines
10 or is unable to notify the patient's next of kin shall not have the
11 request for medication denied for that reason.

12

13 10. (New section) a. In order to receive a prescription for
14 medication that a qualified terminally ill patient may choose to self-
15 administer pursuant to P.L. , c. (C.) (pending before the
16 Legislature as this bill), the patient shall make two oral requests and
17 one written request for the medication to the patient's attending
18 physician, subject to the following requirements:

19 (1) at least 15 days shall elapse between the initial oral request
20 and the second oral request;

21 (2) at the time the patient makes a second oral request, the
22 attending physician shall offer the patient an opportunity to rescind
23 the request;

24 (3) the patient may submit the written request to the attending
25 physician when the patient makes the initial oral request or at any
26 time thereafter;

27 (4) the written request shall meet the requirements of section 5
28 of P.L. , c. (C.) (pending before the Legislature as this
29 bill);

30 (5) at least 15 days shall elapse between the patient's initial oral
31 request and the writing of a prescription pursuant to
32 P.L. , c. (C.) (pending before the Legislature
33 as this bill) ; and

34 (6) at least 48 hours shall elapse between the attending
35 physician's receipt of the patient's written request and the writing
36 of a prescription pursuant to P.L. , c. (C.) (pending
37 before the Legislature as this bill).

38 b. A qualified terminally ill patient may rescind the request at
39 any time and in any manner without regard to the patient's mental
40 state.

41 c. At the time the patient makes an initial oral request for
42 medication that the patient may choose to self-administer pursuant
43 to P.L. , c. (C.) (pending before the Legislature as this
44 bill), the patient's attending physician shall recommend to the
45 patient that the patient participate in a consultation concerning
46 'concurrent or' additional treatment opportunities, palliative care,
47 comfort care, hospice care, and pain control options, and provide
48 the patient with a referral to a health care professional qualified to

1 discuss these options with the patient. If the patient chooses to
2 participate in such consultation, the consultation shall include, to
3 the extent the patient consents to share such information,
4 consideration of: the patient's terminal illness; the patient's
5 prognosis; current and past courses of treatment prescribed for the
6 patient in connection with the patient's terminal illness, including
7 the results of any such treatment; and any palliative care, comfort
8 care, hospice care, and pain control treatment the patient is
9 currently receiving or has received in the past.

10 d. The attending physician shall ensure that the following items
11 are included in the patient's medical record:

12 (1) the determination that the patient is a qualified terminally ill
13 patient and the basis for that determination;

14 (2) all oral and written requests by the patient to the attending
15 physician for medication that the patient may choose to self-
16 administer pursuant to P.L. , c. (C.) (pending before the
17 Legislature as this bill);

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

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

24 (5) if applicable, a report of the determination made by a
25 ¹[licensed psychiatrist or psychologist] mental health care
26 professional¹ as to whether the patient is capable pursuant to section
27 8 of P.L. , c. (C.) (pending before the Legislature as this
28 bill);

29 (6) the attending physician's recommendation that the patient
30 participate in a consultation concerning ¹concurrent or¹ additional
31 treatment opportunities, palliative care, comfort care, hospice care,
32 and pain control options; the referral provided to the patient with a
33 referral to a health care professional qualified to discuss these
34 options with the patient; an indication as to whether the patient
35 participated in the consultation; and an indication as to whether the
36 patient is currently receiving palliative care, comfort care, hospice
37 care, or pain control treatments;

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

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

45
46 11. (New section) A request for medication pursuant to
47 P.L. , c. (C.) (pending before the Legislature as this bill)
48 shall not be granted unless the qualified terminally ill patient has

1 documented that individual's New Jersey residency by furnishing to
2 the attending physician a copy of one of the following:
3 a. a driver's license or non-driver identification card issued by
4 the New Jersey Motor Vehicle Commission;
5 b. proof that the person is registered to vote in New Jersey;
6 c. a New Jersey resident gross income tax return filed for the
7 most recent tax year; or
8 d. any other government record that the attending physician
9 reasonably believes to demonstrate the individual's current
10 residency in this State.

11

12 12. (New section) Any medication dispensed pursuant to
13 P.L. , c. (C.) (pending before the Legislature as this bill)
14 that a qualified terminally ill patient chooses not to self-administer
15 shall be disposed of by lawful means ¹, including, but not limited
16 to, disposing of the medication consistent with State and federal
17 guidelines concerning disposal of prescription medications, or
18 surrendering the medication to a prescription medication drop-off
19 receptacle¹. ²The patient shall designate a person who shall be
20 responsible for the lawful disposal of the medication.²

21

22 13. (New section) a. The ²**[Director of the Division of**
23 **Consumer Affairs in the Department of Law and Public Safety]**
24 Commissioner of Health² shall require that a health care
25 professional report the following information to the ²**[division]**
26 Department of Health² on a form and in a manner prescribed by
27 regulation of the ²**[director, in consultation with the Commissioner**
28 **of Health]** commissioner²:

29 (1) No later than 30 days after the dispensing of medication
30 pursuant to P.L. , c. (C.) (pending before the Legislature as
31 this bill), the ²**[health care professional]** physician or pharmacist²
32 who dispensed the medication shall file a copy of the dispensing
33 record with the ²**[division]** department², and shall otherwise
34 facilitate the collection of such information as the director may
35 require regarding compliance with P.L. , c. (C.) (pending
36 before the Legislature as this bill).

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

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

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

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

13 c. The ²【division】 department² shall prepare and make
14 available to the public on its Internet website an annual statistical
15 report of information collected pursuant to subsection a. of this
16 section.

17
18 14. (New section) a. A provision in a contract, will, insurance
19 policy, annuity, or other agreement, whether written or oral, made
20 on or after the effective date of P.L. , c. (C.) (pending
21 before the Legislature as this bill), shall not be valid to the extent
22 that the provision would condition or restrict a person's decision to
23 make or rescind a request for medication pursuant to
24 P.L. , c. (C.) (pending before the Legislature as this bill).

25 b. An obligation owing under a contract, will, insurance policy,
26 annuity, or other agreement, made before the effective date of
27 P.L. , c. (C.) (pending before the Legislature as this bill),
28 shall not be affected by: the provisions of P.L. , c. (C.)
29 (pending before the Legislature as this bill); a person's making or
30 rescinding a request for medication pursuant to P.L. , c. (C.)
31 (pending before the Legislature as this bill); or any other action
32 taken pursuant to P.L. , c. (C.) (pending before the
33 Legislature as this bill).

34 c. On or after the effective date of P.L. , c. (C.)
35 (pending before the Legislature as this bill), procurement or
36 issuance of a life, health, or accident insurance policy or annuity, or
37 the premium or rate charged for the policy or annuity, shall not be
38 conditioned upon or otherwise take into account the making or
39 rescinding of a request for medication pursuant to
40 P.L. , c. (C.) (pending before the Legislature as this bill) by
41 any person.

42
43 15. (New section) Nothing in P.L. , c. (C.) (pending
44 before the Legislature as this bill) shall be construed to:

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

1 b. lower the applicable standard of care to be provided by a
2 health care professional who participates in P.L. , c. (C.)
3 (pending before the Legislature as this bill).
4

5 16. (New section) A person shall not be authorized to take any
6 action on behalf of a patient for the purposes of P.L. , c. (C.)
7 (pending before the Legislature as this bill) by virtue of that
8 person's designation as a guardian pursuant to N.J.S.3B:12-1 et
9 seq., a conservator pursuant to N.J.S.3B:13A-1 et seq., a health care
10 representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), or
11 a patient's representative pursuant to P.L.2011, c.145 (C.26:2H-129
12 et al.), except for communicating the patient's health care decisions
13 to a health care provider if the patient so requests.
14

15 17. (New section) a. (1) Except as provided in sections 18 and
16 19 of P.L. , c. (C.) (pending before the Legislature as this
17 bill), a person shall not be subject to civil or criminal liability or
18 professional disciplinary action ¹, or subject to censure, discipline,
19 suspension, or loss of any licensure, certification, privileges, or
20 membership,¹ for any action taken in compliance with the
21 provisions of P.L. , c. (C.) (pending before the Legislature
22 as this bill), including being present when a qualified terminally ill
23 patient self-administers medication prescribed pursuant to
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 ¹, or for the refusal to take any action in furtherance of, or to
26 otherwise participate in, a request for medication pursuant to the
27 provisions of P.L. , c. (C.) (pending before the Legislature
28 as this bill)¹. A person who substantially complies in good faith
29 with the provisions of P.L. , c. (C.) (pending before the
30 Legislature as this bill) shall be deemed to be in compliance with its
31 provisions.

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

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

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

45 c.¹ Any action taken by a health care professional to participate
46 in P.L. , c. (C.) (pending before the Legislature as this bill)
47 shall be voluntary on the part of that individual. If a health care

1 professional is unable or unwilling to carry out a patient's request
2 under P.L. , c. (C.) (pending before the Legislature as this
3 bill), and the patient transfers the patient's care to a new health care
4 professional or health care facility, the prior health care
5 professional shall transfer, upon request, a copy of the patient's
6 relevant records to the new health care professional or health care
7 facility.

8
9 18. (New section) a. A person who, without authorization of
10 the patient, and with the intent or effect of causing the patient's
11 death, willfully alters or forges a request for medication pursuant to
12 P.L. , c. (C.) (pending before the Legislature as this bill) or
13 conceals or destroys a rescission of that request, is guilty of a crime
14 of the second degree.

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

19 c. Theft of medication prescribed to a qualified terminally ill
20 patient pursuant to P.L. , c. (C.) (pending before the
21 Legislature as this bill) shall constitute an offense involving theft of
22 a controlled dangerous substance as set forth in N.J.S.2C:20-2.

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

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

31
32 19. (New section) Any governmental entity that incurs costs
33 resulting from a qualified terminally ill patient choosing to self-
34 administer medication prescribed pursuant to P.L. , c. (C.)
35 (pending before the Legislature as this bill) in a public place has a
36 claim against the estate of the patient to recover those costs and
37 reasonable attorneys' fees related to enforcing the claim.

38
39 20. (New section) A written request for a medication as
40 authorized by P.L. , c. (C.) (pending before the Legislature
41 as this bill) shall be in substantially the following form:

42
43 REQUEST FOR MEDICATION TO END MY LIFE IN A
44 HUMANE AND DIGNIFIED MANNER

45
46 I, , am an adult of sound mind and a resident
47 of New Jersey.

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

4 I have been fully informed of my diagnosis, prognosis, the nature
5 of medication to be prescribed and potential associated risks, the
6 expected result, and the feasible alternatives, including ¹concurrent
7 or additional treatment opportunities.¹ palliative care, comfort care,
8 hospice care, and pain control.

9 I request that my attending physician prescribe medication that I
10 may self-administer to end my life in a humane and dignified
11 manner and to contact any pharmacist as necessary to fill the
12 prescription.

13

14 INITIAL ONE:

15

16 I have informed my family of my decision and taken their
17 opinions into consideration.

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

19 I have no family to inform of my decision.

20

21 INITIAL ALL THAT APPLY:

22

23 My attending physician has recommended that I participate
24 in a consultation concerning ¹concurrent or¹ additional treatment
25 opportunities, palliative care, comfort care, hospice care, and pain
26 control options, and provided me with a referral to a health care
27 professional qualified to discuss these options with me.

28 I have participated in a consultation concerning
29 ¹concurrent or¹ additional treatment opportunities, palliative care,
30 comfort care, hospice care, and pain control options.

31 I am currently receiving palliative care, comfort care, or
32 hospice care.

33

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

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

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

43

44 Signed:

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46 Dated:

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DECLARATION OF WITNESSES

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

Witness 1 Witness 2
Initials Initials
.....

- 1. Is personally known to us or has provided proof of identity.
.....
- 2. Signed this request in our presence on the date of the person's signature.
.....
- 3. Appears to be of sound mind and not under duress, fraud, or undue influence.
.....
- 4. Is not a patient for whom either of us is the attending physician.
.....

Printed Name of Witness 1:
Signature of Witness 1/Date:
Printed Name of Witness 2:
Signature of Witness 2/Date:

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

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

22. (New section) The State Board of Medical Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are 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 physician pursuant thereto.

3

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

10

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

17

18 ¹25. (New section) The State Board of Social Work Examiners,
 19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
 20 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
 21 necessary to implement the provisions of sections 1 through 20 of
 22 P.L. , c. (C.) (pending before the Legislature as this bill)
 23 concerning the duties of a licensed clinical social worker pursuant
 24 thereto.¹

25

26 ¹[25.] 26.¹ (New section) a. As used in this section:

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

29 "Health care professional" means a person licensed to practice a
 30 health care profession pursuant to Title 45 of the Revised Statutes.

31 b. (1) The existing policies and procedures utilized by a
 32 health care facility shall, to the maximum extent possible, govern
 33 the taking of any action by a health care professional pursuant to
 34 sections 1 through 20 of P.L. , c. (C.) (pending before the
 35 Legislature as this bill) on the premises owned by, or under the
 36 direct control of, the facility, except as otherwise prescribed by
 37 regulation of the Commissioner of Health pursuant to paragraph (4)
 38 of this subsection.

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

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

46 (4) The Commissioner of Health, pursuant to the
 47 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
 48 1 et seq.), shall adopt such rules and regulations as are necessary to

1 implement the provisions of sections 1 through 20 of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 concerning their application to a health care facility and any action
4 taken by a health care professional on the premises owned by, or
5 under the direct control of, the facility.

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

11

12 ¹**[26.] 27.**¹ Section 1 of P.L.1991, c.270 (C.2A:62A-16) is
13 amended to read as follows:

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

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

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

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

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

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

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

45 (2) Initiating procedures for involuntary commitment to
46 treatment of the patient to an outpatient treatment provider, a short-
47 term care facility, a special psychiatric hospital, or a psychiatric

1 facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et
2 seq.);

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

5 (4) Warning the intended victim of the threat, or, in the case of
6 an intended victim who is under the age of 18, warning the parent
7 or guardian of the intended victim; or

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

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

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

17

18 ¹~~27.~~ 28.¹ N.J.S.2C:11-6 is amended to read as follows:

19 2C:11-6. Aiding Suicide. A person who purposely aids another
20 to commit suicide is guilty of a crime of the second degree if his
21 conduct causes such suicide or an attempted suicide, and otherwise
22 of a crime of the fourth degree. Any action taken in accordance with
23 the provisions of P.L. _____, c. _____ (C. _____) (pending before the
24 Legislature as this bill) shall not constitute suicide or assisted
25 suicide.

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

27

28 ¹~~28.~~ 29.¹ This act shall take effect on the first day of the
29 fourth month next following the date of enactment, but the Director
30 of the Division of Consumer Affairs in the Department of Law and
31 Public Safety, the Commissioner of Health, the State Board of
32 Medical Examiners, the New Jersey State Board of Pharmacy, ¹the
33 State Board of Social Work Examiners,¹ and the State Board of
34 Psychological Examiners may take such anticipatory administrative
35 action in advance thereof as shall be necessary for the
36 implementation of this act.

37

38

39

40

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

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)

Co-Sponsored by:

Assemblyman McKeon, Assemblywomen Mosquera, Jimenez, Chaparro,

Assemblyman Johnson, Assemblywoman Jasey, Assemblyman Holley and

Assemblywoman Murphy

SYNOPSIS

“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

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 1/30/2018)

A1504 BURZICHELLI, EUSTACE

2

1 AN ACT concerning aid in dying for the terminally ill, supplementing
2 Titles 45 and 26 of the Revised Statutes, and amending P.L.1991,
3 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 “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 b. Statistics from other states that have enacted laws to provide
22 compassionate aid in dying for terminally ill patients indicate that
23 the great majority of patients who requested medication under the
24 laws of those states, including more than 90% of patients in Oregon
25 since 1998 and between 72% and 86% of patients in Washington in
26 each year since 2009, were enrolled in hospice care at the time of
27 death, suggesting that those patients had availed themselves of
28 available treatment and comfort care options available to them at
29 the time they requested compassionate aid in dying;

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

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

34 (2) assist capable, terminally ill patients who request
35 compassionate aid in dying;

36 (3) protect vulnerable adults from abuse; and

37 (4) ensure that the process is entirely voluntary on the part of all
38 participants, including patients and those health care providers that
39 are providing care to dying patients; and

40 d. This act is in the public interest and is necessary for the
41 welfare of the State and its residents.
42

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

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

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.

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

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

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

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

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

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

22 “Health care provider” means a health care professional or health
23 care facility.

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

- 30 (1) the patient’s medical diagnosis;
31 (2) the patient’s prognosis;
32 (3) the potential risks associated with taking the medication to
33 be prescribed;
34 (4) the probable result of taking the medication to be prescribed;
35 and
36 (5) the feasible alternatives to taking the medication, including,
37 but not limited to, additional treatment opportunities, palliative
38 care, comfort care, hospice care, and pain control.

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

44 “Participate in this act” means to perform the duties of a health
45 care provider in accordance with the provisions of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), but does
47 not include: making an initial determination that a patient is
48 terminally ill and informing the patient of the medical prognosis;

A1504 BURZICHELLI, EUSTACE

4

1 providing information about the provisions of P.L. , c. (C.)
2 (pending before the Legislature as this bill) to a patient upon the
3 patient's request; or providing a patient, upon the patient's request,
4 with a referral to another health care provider.

5 "Patient" means a person who is under the care of a physician.

6 "Qualified terminally ill patient" means a capable adult who is a
7 resident of New Jersey and has satisfied the requirements to obtain
8 a prescription for medication pursuant to P.L. , c. (C.)
9 (pending before the Legislature as this bill). A person shall not be
10 considered to be a qualified terminally ill patient solely because of
11 the person's age or disability or a diagnosis of any specific illness,
12 disease, or condition.

13 "Self-administer" means a qualified terminally ill patient's act of
14 ingesting medication that has been prescribed pursuant to P.L. ,
15 c. (C.) (pending before the Legislature as this bill).

16 "Terminally ill" means that the patient is in the terminal stage of
17 an irreversibly fatal illness, disease, or condition with a prognosis,
18 based upon reasonable medical certainty, of a life expectancy of six
19 months or less.

20

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

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

28 b. is capable and has been determined by the patient's
29 attending physician and a consulting physician to be terminally ill;
30 and

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

34

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

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

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

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

1 (3) an owner, operator, or employee of a health care facility
2 where the patient is receiving medical treatment or is a resident.

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

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

9

10 6. (New section) a. The attending physician shall ensure that
11 all appropriate steps are carried out in accordance with the
12 provisions of P.L. , c. (C.) (pending before the Legislature
13 as this bill) before writing a prescription for medication that a
14 qualified terminally ill patient may choose to self-administer
15 pursuant to P.L. , c. (C.) (pending before the Legislature as
16 this bill), including such actions as are necessary to:

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

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

24 (3) inform the patient of: the patient's medical diagnosis and
25 prognosis; the potential risks associated with taking the medication
26 to be prescribed; the probable result of taking the medication to be
27 prescribed; and the feasible alternatives to taking the medication,
28 including, but not limited to, additional treatment opportunities,
29 palliative care, comfort care, hospice care, and pain control;

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

33 (5) refer the patient for counseling, if appropriate, pursuant to
34 section 8 of P.L. , c. (C.) (pending before the Legislature
35 as this bill);

36 (6) recommend that the patient participate in a consultation
37 concerning additional treatment opportunities, palliative care,
38 comfort care, hospice care, and pain control options for the patient,
39 and provide the patient with a referral to a health care professional
40 qualified to discuss these options with the patient;

41 (7) recommend that the patient notify the patient's next of kin of
42 the patient's decision to request the medication;

43 (8) advise the patient about the importance of having another
44 person present if and when the patient chooses to self-administer
45 medication prescribed under P.L. , c. (C.) (pending before
46 the Legislature as this bill) and of not taking the medication in a
47 public place;

1 (9) inform the patient of the patient's opportunity to rescind the
2 request at any time and in any manner, and offer the patient an
3 opportunity to rescind the request at the time the patient makes a
4 second oral request as provided in section 10 of
5 P.L. , c. (C.) (pending before the Legislature as this bill);

6 (10) verify, immediately before writing the prescription for
7 medication under P.L. , c. (C.) (pending before the
8 Legislature as this bill), that the patient is making an informed
9 decision to request the medication; and

10 (11) fulfill the medical record documentation requirements of
11 P.L. , c. (C.) (pending before the Legislature as this bill).

12 b. The attending physician shall:

13 (1) dispense medication directly, including ancillary medication
14 intended to facilitate the desired effect to minimize the patient's
15 discomfort, if the attending physician is authorized under law to
16 dispense and has a current federal Drug Enforcement
17 Administration certificate of registration; or

18 (2) with the patient's written consent:

19 (a) contact a pharmacist to inform the latter of the prescription;
20 and

21 (b) transmit the written prescription personally, by mail, or by
22 permissible electronic communication to the pharmacist, who shall
23 dispense the medication directly to either the patient, the attending
24 physician, or an expressly identified agent of the patient.

25 Medication dispensed pursuant to this subsection shall not be
26 dispensed to the patient by mail or other form of courier.

27

28 7. (New section) A patient shall not be considered a qualified
29 terminally ill patient until a consulting physician has:

30 a. examined that patient and the patient's relevant medical
31 records;

32 b. confirmed, in writing, the attending physician's diagnosis
33 that the patient is terminally ill; and

34 c. verified that the patient is capable, is acting voluntarily, and
35 has made an informed decision to request medication that, if
36 prescribed, the patient may choose to self-administer pursuant to
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38

39 8. (New section) a. If, in the medical opinion of the attending
40 physician or the consulting physician, a patient requesting
41 medication that the patient may choose to self-administer pursuant
42 to P.L. , c. (C.) (pending before the Legislature as this bill)
43 may not be capable because the patient may have a psychiatric or
44 psychological disorder or depression that causes impaired judgment,
45 the physician shall refer the patient to a licensed psychiatrist or
46 psychologist for counseling to determine whether the patient is
47 capable. A consulting physician who refers a patient to a licensed
48 psychiatrist or psychologist for counseling pursuant to this

1 subsection shall provide written notice of the referral to the
2 attending physician.

3 b. If a patient has been referred to a licensed psychiatrist or
4 psychologist for counseling pursuant to subsection a. of this section,
5 the attending physician shall not write a prescription for medication
6 that the patient may choose to self-administer pursuant to
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 unless the attending physician has been notified in writing by the
9 licensed psychiatrist or psychologist of that individual's
10 determination that the patient is capable.

11
12 9. (New section) A qualified terminally ill patient shall not
13 receive a prescription for medication that the patient may choose to
14 self-administer pursuant to P.L. , c. (C.) (pending before
15 the Legislature as this bill) unless the attending physician has
16 recommended that the patient notify the patient's next of kin of the
17 patient's request for medication, except that a patient who declines
18 or is unable to notify the patient's next of kin shall not have the
19 request for medication denied for that reason.

20
21 10. (New section) a. In order to receive a prescription for
22 medication that a qualified terminally ill patient may choose to self-
23 administer pursuant to P.L. , c. (C.) (pending before the
24 Legislature as this bill), the patient shall make two oral requests and
25 one written request for the medication to the patient's attending
26 physician, subject to the following requirements:

27 (1) at least 15 days shall elapse between the initial oral request
28 and the second oral request;

29 (2) at the time the patient makes a second oral request, the
30 attending physician shall offer the patient an opportunity to rescind
31 the request;

32 (3) the patient may submit the written request to the attending
33 physician when the patient makes the initial oral request or at any
34 time thereafter;

35 (4) the written request shall meet the requirements of section 5
36 of P.L. , c. (C.) (pending before the Legislature as this
37 bill);

38 (5) at least 15 days shall elapse between the patient's initial oral
39 request and the writing of a prescription pursuant to
40 P.L. , c. (C.) (pending before the Legislature
41 as this bill) ; and

42 (6) at least 48 hours shall elapse between the attending
43 physician's receipt of the patient's written request and the writing
44 of a prescription pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46 b. A qualified terminally ill patient may rescind the request at
47 any time and in any manner without regard to the patient's mental
48 state.

1 c. At the time the patient makes an initial oral request for
2 medication that the patient may choose to self-administer pursuant
3 to P.L. , c. (C.) (pending before the Legislature as this
4 bill), the patient's attending physician shall recommend to the
5 patient that the patient participate in a consultation concerning
6 additional treatment opportunities, palliative care, comfort care,
7 hospice care, and pain control options, and provide the patient with
8 a referral to a health care professional qualified to discuss these
9 options with the patient. If the patient chooses to participate in such
10 consultation, the consultation shall include, to the extent the patient
11 consents to share such information, consideration of: the patient's
12 terminal illness; the patient's prognosis; current and past courses of
13 treatment prescribed for the patient in connection with the patient's
14 terminal illness, including the results of any such treatment; and any
15 palliative care, comfort care, hospice care, and pain control
16 treatment the patient is currently receiving or has received in the
17 past.

18 d. The attending physician shall ensure that the following items
19 are included in the patient's medical record:

20 (1) the determination that the patient is a qualified terminally ill
21 patient and the basis for that determination;

22 (2) all oral and written requests by the patient to the attending
23 physician for medication that the patient may choose to self-
24 administer pursuant to P.L. , c. (C.) (pending before the
25 Legislature as this bill);

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

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

32 (5) if applicable, a report of the determination made by a
33 licensed psychiatrist or psychologist as to whether the patient is
34 capable pursuant to section 8 of P.L. , c. (C.) (pending
35 before the Legislature as this bill);

36 (6) the attending physician's recommendation that the patient
37 participate in a consultation concerning additional treatment
38 opportunities, palliative care, comfort care, hospice care, and pain
39 control options; the referral provided to the patient with a referral to
40 a health care professional qualified to discuss these options with the
41 patient; an indication as to whether the patient participated in the
42 consultation; and an indication as to whether the patient is currently
43 receiving palliative care, comfort care, hospice care, or pain control
44 treatments;

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

47 (8) a note by the attending physician indicating that all
48 requirements under P.L. , c. (C.) (pending before the

1 Legislature as this bill) have been met and indicating the steps taken
2 to carry out the patient's request for medication, including a
3 notation of the medication prescribed.
4

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

- 10 a. a driver's license or non-driver identification card issued by
11 the New Jersey Motor Vehicle Commission;
12 b. proof that the person is registered to vote in New Jersey;
13 c. a New Jersey resident gross income tax return filed for the
14 most recent tax year; or
15 d. any other government record that the attending physician
16 reasonably believes to demonstrate the individual's current
17 residency in this State.
18

19 12. (New section) Any medication dispensed pursuant to
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 that a qualified terminally ill patient chooses not to self-administer
22 shall be disposed of by lawful means.
23

24 13. (New section) a. The Director of the Division of Consumer
25 Affairs in the Department of Law and Public Safety shall require
26 that a health care professional report the following information to
27 the division on a form and in a manner prescribed by regulation of
28 the director, in consultation with the Commissioner of Health:

29 (1) No later than 30 days after the dispensing of medication
30 pursuant to P.L. , c. (C.) (pending before the Legislature as
31 this bill), the health care professional who dispensed the medication
32 shall file a copy of the dispensing record with the division, and shall
33 otherwise facilitate the collection of such information as the
34 director may require regarding compliance with P.L. , c. (C.)
35 (pending before the Legislature as this bill).

36 (2) No later than 30 days after the date of the qualified
37 terminally ill patient's death, the attending physician shall transmit
38 to the division such documentation of the patient's death as the
39 director shall require.

40 (3) In the event that anyone required to report information to the
41 division pursuant to P.L. , c. (C.) (pending before the
42 Legislature as this bill) provides an inadequate or incomplete report,
43 the division shall contact the person to request a complete report.

44 (4) To the maximum extent practicable and consistent with the
45 purposes of this section, the division shall seek to coordinate the
46 process for reporting information pursuant to this subsection with
47 the process for reporting prescription monitoring information by a

1 pharmacy permit holder pursuant to sections 25 through 30 of
2 P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

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

9 c. The division shall prepare and make available to the public
10 on its Internet website an annual statistical report of information
11 collected pursuant to subsection a. of this section.

12

13 14. (New section) a. A provision in a contract, will, insurance
14 policy, annuity, or other agreement, whether written or oral, made
15 on or after the effective date of P.L. , c. (C.) (pending
16 before the Legislature as this bill), shall not be valid to the extent
17 that the provision would condition or restrict a person's decision to
18 make or rescind a request for medication pursuant to
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 b. An obligation owing under a contract, will, insurance policy,
21 annuity, or other agreement, made before the effective date of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 shall not be affected by: the provisions of P.L. , c. (C.)
24 (pending before the Legislature as this bill); a person's making or
25 rescinding a request for medication pursuant to P.L. , c. (C.)
26 (pending before the Legislature as this bill); or any other action
27 taken pursuant to P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 c. On or after the effective date of P.L. , c. (C.)
30 (pending before the Legislature as this bill), procurement or
31 issuance of a life, health, or accident insurance policy or annuity, or
32 the premium or rate charged for the policy or annuity, shall not be
33 conditioned upon or otherwise take into account the making or
34 rescinding of a request for medication pursuant to
35 P.L. , c. (C.) (pending before the Legislature as this bill) by
36 any person.

37

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

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

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

46

47 16. (New section) A person shall not be authorized to take any
48 action on behalf of a patient for the purposes of P.L. , c. (C.)

1 (pending before the Legislature as this bill) by virtue of that
2 person's designation as a guardian pursuant to N.J.S.3B:12-1 et
3 seq., a conservator pursuant to N.J.S.3B:13A-1 et seq., a health care
4 representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), or
5 a patient's representative pursuant to P.L.2011, c.145 (C.26:2H-129
6 et al.), except for communicating the patient's health care decisions
7 to a health care provider if the patient so requests.

8
9 17. (New section) a. (1) Except as provided in sections 18 and
10 19 of P.L. , c. (C.) (pending before the Legislature as this
11 bill), a person shall not be subject to civil or criminal liability or
12 professional disciplinary action for any action taken in compliance
13 with the provisions of P.L. , c. (C.) (pending before the
14 Legislature as this bill), including being present when a qualified
15 terminally ill patient self-administers medication prescribed
16 pursuant to P.L. , c. (C.) (pending before the Legislature as
17 this bill). A person who substantially complies in good faith with
18 the provisions of P.L. , c. (C.) (pending before the
19 Legislature as this bill) shall be deemed to be in compliance with its
20 provisions.

21 (2) Any action taken in accordance with the provisions of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 shall not constitute patient abuse or neglect, suicide, assisted
24 suicide, mercy killing, or homicide under any law of this State.

25 (3) A patient's request for, or the provision of, medication in
26 compliance with the provisions of P.L. , c. (C.) (pending
27 before the Legislature as this bill) shall not provide the sole basis
28 for the appointment of a guardian or conservator.

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

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

46 b. A person who coerces or exerts undue influence on a patient
47 to request medication pursuant to P.L. , c. (C.) (pending

1 before the Legislature as this bill) or to destroy a rescission of a
2 request is guilty of a crime of the third degree.

3 c. Theft of medication prescribed to a qualified terminally ill
4 patient pursuant to P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall constitute an offense involving theft of
6 a controlled dangerous substance as set forth in N.J.S.2C:20-2.

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

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

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

22
23 20. (New section) A written request for a medication as
24 authorized by P.L. , c. (C.) (pending before the Legislature
25 as this bill) shall be in substantially the following form:

26
27 REQUEST FOR MEDICATION TO END MY LIFE IN A
28 HUMANE AND DIGNIFIED MANNER
29

30 I, , am an adult of sound mind and a resident
31 of New Jersey.

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

35 I have been fully informed of my diagnosis, prognosis, the nature
36 of medication to be prescribed and potential associated risks, the
37 expected result, and the feasible alternatives, including palliative
38 care, comfort care, hospice care, and pain control.

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

43
44 INITIAL ONE:
45

46 I have informed my family of my decision and taken their
47 opinions into consideration.

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

1 I have no family to inform of my decision.

2

3 INITIAL ALL THAT APPLY:

4

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

10I have participated in a consultation concerning additional
11 treatment opportunities, palliative care, comfort care, hospice care,
12 and pain control options.

13 I am currently receiving palliative care, comfort care, or
14 hospice care.

15

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

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

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

25

26 Signed:

27

28 Dated:

29

30 DECLARATION OF WITNESSES

31

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

35

36 Witness 1 Witness 2

37 Initials Initials

38

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

40

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

43

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

46

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

48

1 Printed Name of Witness 1:

2 Signature of Witness 1/Date:

3

4 Printed Name of Witness 2:

5 Signature of Witness 2/Date:

6

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

14

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

24

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

31

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

38

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

45

46 25. (New section) a. As used in this section:

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

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

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

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

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

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

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

31

32 26. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to
33 read as follows:

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

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

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

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

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

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

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

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

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

24 (4) Warning the intended victim of the threat, or, in the case of
25 an intended victim who is under the age of 18, warning the parent
26 or guardian of the intended victim; or

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

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

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

36
37 27. N.J.S.2C:11-6 is amended to read as follows:

38 2C:11-6. Aiding Suicide. A person who purposely aids another
39 to commit suicide is guilty of a crime of the second degree if his
40 conduct causes such suicide or an attempted suicide, and otherwise
41 of a crime of the fourth degree. Any action taken in accordance
42 with the provisions of P.L. , c. (C.) (pending before the
43 Legislature as this bill) shall not constitute suicide or assisted
44 suicide.

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

46
47 28. This act shall take effect on the first day of the fourth month
48 next following the date of enactment, but the Director of the

1 Division of Consumer Affairs in the Department of Law and Public
2 Safety, the Commissioner of Health, the State Board of Medical
3 Examiners, the New Jersey State Board of Pharmacy, and the State
4 Board of Psychological Examiners may take such anticipatory
5 administrative action in advance thereof as shall be necessary for
6 the implementation of this act.

7
8
9 STATEMENT

10
11 This bill establishes the “Aid in Dying for the Terminally Ill Act,”
12 which will allow an adult New Jersey resident, who has the capacity to
13 make health care decisions and who has been determined by that
14 individual’s attending and consulting physicians to be terminally ill, to
15 obtain medication that the patient may self-administer to terminate the
16 patient’s life. Under the bill, “terminally ill” is defined to mean the
17 patient is in the terminal stage of an irreversibly fatal illness, disease,
18 or condition with a prognosis, based upon reasonable medical
19 certainty, of a life expectancy of six months or less.

20 In order for a terminally ill patient to receive a prescription for
21 medication under the bill, the patient is required to make two oral
22 requests and one written request to the patient’s attending physician
23 for the medication. The bill requires at least 15 days to elapse between
24 the initial oral request and the second oral request, and between the
25 patient’s initial oral request and the writing of a prescription for the
26 medication. The patient may submit the written request for medication
27 either when the patient makes the initial oral request, or at any time
28 thereafter, but a minimum of 48 hours are to elapse between the
29 attending physician’s receipt of the written request and the writing of a
30 prescription for medication.

31 When a patient makes an initial oral request for medication under
32 the bill’s provisions, the attending physician is required to provide the
33 patient with information about the risks, probable results, and
34 alternatives to taking the medication; recommend that the patient
35 participate in a consultation concerning additional treatment
36 opportunities, palliative care, comfort care, hospice care, and pain
37 control options; and refer the patient to a health care professional who
38 is qualified to discuss those alternative care and treatment options. The
39 patient may choose, but is not required, to participate in such
40 consultation. The attending physician is also required to recommend
41 that the patient notify the patient’s next of kin of the request, but
42 medication may not be denied if a patient declines, or is unable to,
43 provide this notification.

44 The attending physician is required to refer the patient to a
45 consulting physician for the purpose of obtaining confirmation of the
46 attending physician’s diagnosis. Both the attending physician and the
47 consulting physician are required to verify that the patient has made an
48 informed decision when requesting medication under the bill. When

1 the patient makes the second oral request, the attending physician is to
2 offer the patient an opportunity to rescind the request. In addition, the
3 attending physician is required to notify the patient that a request may
4 be rescinded at any time and in any manner, regardless of the patient's
5 mental state.

6 A patient may make a written request for medication, in
7 accordance with the bill's provisions, so long as the patient: is an
8 adult resident of New Jersey, as demonstrated through documentation
9 submitted to the attending physician; is capable; is terminally ill, as
10 determined by the attending physician and confirmed by the consulting
11 physician; and has voluntarily expressed a wish to receive a
12 prescription for the medication.

13 The bill requires a valid written request for medication to be in a
14 form that is substantially similar to the form set forth in the bill. The
15 bill requires the written request to be signed and dated by the patient
16 and witnessed by at least two individuals who attest, in the patient's
17 presence, that, to the best of their knowledge and belief, the patient is
18 capable and is acting voluntarily.

19 The bill requires at least one of the witnesses to be a person who is
20 not:

21 (1) a relative of the qualified patient by blood, marriage, or
22 adoption;

23 (2) at the time the request is signed, entitled to any portion of the
24 patient's estate upon the patient's death; or

25 (3) an owner, operator, or employee of a health care facility where
26 the patient is receiving medical treatment or is a resident.

27 The bill additionally requires that, if the patient is a resident of a
28 long-term care facility, one of the witnesses is to be an individual
29 designated by the facility. The patient's attending physician may not
30 serve as a witness.

31 A written request form will be required to include an indication as
32 to whether the patient has informed the patient's next-of-kin about the
33 request for medication and an indication as to whether additional
34 treatment consultations have been recommended by the attending
35 physician or undertaken by the patient.

36 If the patient complies with the bill's oral and written request
37 requirements, establishes State residency, and is found by both the
38 attending physician and a consulting physician to be capable, to have a
39 terminal illness, and to be acting voluntarily, the patient will be
40 considered to be a "qualified terminally ill patient" who is eligible to
41 receive a prescription for medication. The bill expressly provides that
42 a person is not be considered to be a "qualified terminally ill patient"
43 solely on the basis of the person's age or disability or the diagnosis of
44 a specific illness, disease, or condition.

45 If either the attending physician or the consulting physician
46 believes that the patient may have a psychiatric or psychological
47 disorder or depression, which causes impaired judgment, and which
48 makes the patient incapable of making a request for medication, the

1 physician will be required to refer the patient to a licensed psychiatrist
2 or psychologist for counseling to determine whether the patient is
3 capable. If such a referral is made, the attending physician is
4 prohibited from issuing a prescription to the patient for medication
5 under the bill unless the attending physician has received written
6 notice, from the licensed psychiatrist or psychologist, affirming that
7 the patient is capable.

8 Prior to issuing a prescription for requested medication, the
9 attending physician is required to ensure that all appropriate steps have
10 been carried out, and requisite documentation submitted, in accordance
11 with the bill's provisions. The patient's medical record is to include
12 documentation of: the patient's oral and written requests and the
13 attending physician's offer to rescind the request; the attending
14 physician's recommendation for alternative care and treatment
15 consultations, and whether the patient participated in a consultation;
16 the attending physician's and consulting physician's medical diagnosis
17 and prognosis, and their determinations that the patient is terminally
18 ill, is capable of making the request, is acting voluntarily, and is
19 making an informed decision; the results of any counseling sessions
20 ordered for the patient; and a statement that all the requirements under
21 the bill have been satisfied.

22 A patient's request for, or the provision of, medication in
23 compliance with the bill may not be used as the sole basis for the
24 appointment of a guardian or conservator. The bill specifies that a
25 patient's guardian, conservator, or representative is not authorized to
26 take any action on behalf of the patient in association with the making
27 or rescinding of requests for medication under the bill's provisions,
28 except to communicate the patient's own health care decisions to a
29 health care provider upon the patient's request. The bill prohibits any
30 contract, will, insurance policy, annuity, or other agreement from
31 including a provision that conditions or restricts a person's ability to
32 make or rescind a request for medication pursuant to the bill, and
33 further specifies that the procurement or issuance of, or premiums or
34 rates charged for, life, health, or accident insurance policies or
35 annuities may not be conditioned upon the making or rescinding of a
36 request for medication under the bill's provisions. An obligation
37 owing under a contract, will, insurance policy, annuity, or other
38 agreement executed before the bill's effective date will not be affected
39 by a patient's request, or rescission of a request, for medication under
40 the bill.

41 Any person who, without the patient's authorization, willfully
42 alters or forges a request for medication pursuant to the bill, or
43 conceals or destroys a rescission of that request, with the intent or
44 effect of causing the patient's death, will be guilty of a crime of the
45 second degree, which is punishable by imprisonment for a term of five
46 to 10 years, a fine of up to \$150,000, or both. A person who coerces
47 or exerts undue influence on a patient to request medication under the
48 bill, or to destroy a rescission of a request, will be guilty of a crime of

1 the third degree, which is punishable by imprisonment for a term of
2 three to five years, a fine of up to \$15,000, or both. The bill does not
3 impose any limit on liability for civil damages in association with the
4 negligence or intentional misconduct of any person.

5 The bill provides immunity from civil and criminal liability, and
6 from professional disciplinary action, for any action that is undertaken
7 in compliance with the bill, including the act of being present when a
8 qualified terminally ill patient takes the medication prescribed to the
9 patient under the bill's provisions. Any action undertaken in
10 accordance with the bill will not be deemed to constitute patient abuse
11 or neglect, suicide, assisted suicide, mercy killing, or homicide under
12 any State law, and the bill expressly exempts actions taken pursuant to
13 the bill from the provisions of N.J.S.2C:11-6, which makes it a crime
14 to purposely aid a person in committing suicide. Nothing in the bill is
15 to be construed to authorize a physician or other person to end a
16 patient's life by lethal injection, active euthanasia, or mercy killing.

17 The bill amends section 1 of P.L.1991, c.270 (C.2A:62A-16),
18 which establishes a "duty to warn" when a health care professional
19 believes that a patient intends to carry out physical violence against the
20 patient's own self or against another person, in order to specify that
21 that "duty to warn" provisions are not applicable when a qualified
22 terminally ill patient requests medication under the bill.

23 The bill requires a patient's attending physician to notify the
24 patient of the importance of taking the prescribed medication in the
25 presence of another person and in a non-public place. The bill
26 specifies that, if any governmental entity incurs costs as a result of a
27 patient's self-administration of medication in a public place, the
28 governmental entity will have a claim against the patient's estate to
29 recover those costs, along with reasonable attorney fees.

30 The bill authorizes attending physicians, if registered with the
31 federal Drug Enforcement Administration, to dispense requested
32 medication, including ancillary medication designed to minimize
33 discomfort, directly to the patient. Otherwise, with the patient's
34 written consent, the attending physician may transmit the prescription
35 to a pharmacist, who will be required to dispense the medication
36 directly to the patient, to the attending physician, or to an expressly
37 identified agent of the patient. Medication prescribed under the bill
38 may not be dispensed by mail or other form of courier. Not later than
39 30 days after the dispensation of medication under the bill, the health
40 care professional who dispensed the medication will be required to file
41 a copy of the dispensing record with the Division of Consumer Affairs
42 (DCA) in the Department of Law and Public Safety.

43 Any medication prescribed under the bill, which the patient
44 chooses not to self-administer, is required to be disposed of by lawful
45 means. Not later than 30 days after the patient's death, the attending
46 physician will be required to transmit documentation of the patient's
47 death to the DCA. The DCA is required, to the extent practicable, to
48 coordinate the reporting of dispensing records and records of patient

A1504 BURZICHELLI, EUSTACE

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1 death with the process used for the reporting of prescription
2 monitoring information. The DCA will be required to annually
3 prepare and make available on its Internet website a statistical report
4 of information collected pursuant to the bill's provisions; information
5 made available to the public will not include personal or identifying
6 information.

7 A health care facility's existing policies and procedures will be
8 required, to the maximum extent possible, to govern actions taken by
9 health care providers pursuant to the bill. Any action taken by a health
10 care professional or facility to carry out the provisions of the bill is to
11 be voluntary. If a health care professional is unable or unwilling to
12 participate in a request for medication under the bill, the professional
13 will be required to refer the patient to another health care provider and
14 provide the patient's medical records to that provider.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1504

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 12, 2018

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 1504.

As amended by the committee, this bill establishes the “Aid in Dying for the Terminally Ill Act,” which will allow an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined by that individual’s attending and consulting physicians to be terminally ill, to obtain medication that the patient may self-administer to terminate the patient’s life. Under the bill, “terminally ill” is defined to mean the patient is in the terminal stage of an irreversibly fatal illness, disease, or condition with a prognosis, based upon reasonable medical certainty, of a life expectancy of six months or less.

In order for a terminally ill patient to receive a prescription for medication under the bill, the patient is required to make two oral requests and one written request to the patient’s attending physician for the medication. The bill requires at least 15 days to elapse between the initial oral request and the second oral request, and between the patient’s initial oral request and the writing of a prescription for the medication. The patient may submit the written request for medication either when the patient makes the initial oral request, or at any time thereafter, but a minimum of 48 hours are to elapse between the attending physician’s receipt of the written request and the writing of a prescription for medication.

When a patient makes an initial oral request for medication under the bill’s provisions, the attending physician is required to provide the patient with information about the risks, probable results, and alternatives to taking the medication; recommend that the patient participate in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options; and refer the patient to a health care professional who is qualified to discuss those alternative care and treatment options. The patient may choose, but is not required, to participate in such consultation. The attending physician is also required to recommend that the patient notify the patient’s next of kin of the request, but medication may not be denied if a patient declines, or is unable to, provide this notification.

The attending physician is required to refer the patient to a consulting physician for the purpose of obtaining confirmation of the attending physician's diagnosis. Both the attending physician and the consulting physician are required to verify that the patient has made an informed decision when requesting medication under the bill. When the patient makes the second oral request, the attending physician is to offer the patient an opportunity to rescind the request. In addition, the attending physician is required to notify the patient that a request may be rescinded at any time and in any manner, regardless of the patient's mental state.

A patient may make a written request for medication, in accordance with the bill's provisions, so long as the patient: is an adult resident of New Jersey, as demonstrated through documentation submitted to the attending physician; is capable; is terminally ill, as determined by the attending physician and confirmed by the consulting physician; and has voluntarily expressed a wish to receive a prescription for the medication.

The bill requires a valid written request for medication to be in a form that is substantially similar to the form set forth in the bill. The bill requires the written request to be signed and dated by the patient and witnessed by at least two individuals who attest, in the patient's presence, that, to the best of their knowledge and belief, the patient is capable and is acting voluntarily.

The bill requires at least one of the witnesses to be a person who is not:

- (1) a relative of the qualified patient by blood, marriage, or adoption;
- (2) at the time the request is signed, entitled to any portion of the patient's estate upon the patient's death;
- (3) an owner, operator, or employee of a health care facility, other than a long term care facility, where the patient is receiving medical treatment or is a resident.

The patient's attending physician may not serve as a witness.

A written request form will be required to include an indication as to whether the patient has informed the patient's next-of-kin about the request for medication and an indication as to whether concurrent or additional treatment consultations have been recommended by the attending physician or undertaken by the patient.

If the patient complies with the bill's oral and written request requirements, establishes State residency, and is found by both the attending physician and a consulting physician to be capable, to have a terminal illness, and to be acting voluntarily, the patient will be considered to be a "qualified terminally ill patient" who is eligible to receive a prescription for medication. The bill expressly provides that a person is not be considered to be a "qualified terminally ill patient" solely on the basis of the person's age or disability or the diagnosis of a specific illness, disease, or condition.

If either the attending physician or the consulting physician believes that the patient may lack capacity to make health care decisions, the physician will be required to refer the patient to a mental health care professional, which is defined in the amended bill to mean a licensed psychiatrist, psychologist, or clinical social worker, for a consultation to determine whether the patient is capable. If such a referral is made, the attending physician is prohibited from issuing a prescription to the patient for medication under the bill unless the attending physician has received written notice, from the mental health care professional, affirming that the patient is capable.

Prior to issuing a prescription for requested medication, the attending physician is required to ensure that all appropriate steps have been carried out, and requisite documentation submitted, in accordance with the bill's provisions. The patient's medical record is to include documentation of: the patient's oral and written requests and the attending physician's offer to rescind the request; the attending physician's recommendation for concurrent or alternative care and treatment consultations, and whether the patient participated in a consultation; the attending physician's and consulting physician's medical diagnosis and prognosis, and their determinations that the patient is terminally ill, is capable of making the request, is acting voluntarily, and is making an informed decision; the results of any counseling sessions with a mental health care professional ordered for the patient; and a statement that all the requirements under the bill have been satisfied.

A patient's request for, or the provision of, medication in compliance with the bill will not constitute abuse or neglect of an elderly person, and may not be used as the sole basis for the appointment of a guardian or conservator. The bill specifies that a patient's guardian, conservator, or representative is not authorized to take any action on behalf of the patient in association with the making or rescinding of requests for medication under the bill's provisions, except to communicate the patient's own health care decisions to a health care provider upon the patient's request. The bill prohibits any contract, will, insurance policy, annuity, or other agreement from including a provision that conditions or restricts a person's ability to make or rescind a request for medication pursuant to the bill, and further specifies that the procurement or issuance of, or premiums or rates charged for, life, health, or accident insurance policies or annuities may not be conditioned upon the making or rescinding of a request for medication under the bill's provisions. An obligation owing under a contract, will, insurance policy, annuity, or other agreement executed before the bill's effective date will not be affected by a patient's request, or rescission of a request, for medication under the bill.

Any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or

conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both. The bill does not impose any limit on liability for civil damages in association with the negligence or intentional misconduct of any person.

The amended bill provides immunity from civil and criminal liability, from professional disciplinary action, and from censure, discipline, suspension, or loss of any licensure, certification, privileges, or membership for any action that is undertaken in compliance with the bill, including the act of being present when a qualified terminally ill patient takes the medication prescribed to the patient under the bill's provisions. As amended, the bill provides that this immunity also applies to any refusal to take actions in furtherance of, or to otherwise participate in, a request for medication made under the bill. Any action undertaken in accordance with the bill will not be deemed to constitute patient abuse or neglect, suicide, assisted suicide, mercy killing, euthanasia, or homicide under any State law, and the bill expressly exempts actions taken pursuant to the bill from the provisions of N.J.S.2C:11-6, which makes it a crime to purposely aid a person in committing suicide. These immunities will not apply to acts or omissions constituting gross negligence, recklessness, or willful misconduct. Nothing in the bill is to be construed to authorize a physician or other person to end a patient's life by lethal injection, active euthanasia, or mercy killing.

The bill amends section 1 of P.L.1991, c.270 (C.2A:62A-16), which establishes a "duty to warn" when a health care professional believes that a patient intends to carry out physical violence against the patient's own self or against another person, in order to specify that that "duty to warn" provisions are not applicable when a qualified terminally ill patient requests medication under the bill.

The bill requires a patient's attending physician to notify the patient of the importance of taking the prescribed medication in the presence of another person and in a non-public place. The bill specifies that, if any governmental entity incurs costs as a result of a patient's self-administration of medication in a public place, the governmental entity will have a claim against the patient's estate to recover those costs, along with reasonable attorney fees.

The bill authorizes attending physicians, if registered with the federal Drug Enforcement Administration, to dispense requested medication, including ancillary medication designed to minimize discomfort, directly to the patient. Otherwise, the attending physician may transmit the prescription to a pharmacist, who will dispense the

medication directly to the patient, to the attending physician, or to an expressly identified agent of the patient. Medication prescribed under the bill may not be dispensed by mail or other form of courier. Not later than 30 days after the dispensation of medication under the bill, the health care professional who dispensed the medication will be required to file a copy of the dispensing record with the Division of Consumer Affairs (Division) in the Department of Law and Public Safety.

Any medication prescribed under the bill, which the patient chooses not to self-administer, is required to be disposed of by lawful means. Lawful means includes, but is not limited to, disposing of the medication consistent with State and federal guidelines concerning disposal of prescription medications or surrendering the medication to a prescription medication drop-off receptacle. No later than 30 days after the patient's death, the attending physician will be required to transmit documentation of the patient's death to the Division. The Division is required, to the extent practicable, to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The Division will be required to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions; information made available to the public will not include personal or identifying information.

A health care facility's existing policies and procedures will be required, to the maximum extent possible, to govern actions taken by health care providers pursuant to the bill. Any action taken by a health care professional or facility to carry out the provisions of the bill is to be voluntary. If a health care professional is unable or unwilling to participate in a request for medication under the bill, the professional will be required to refer the patient to another health care provider and provide the patient's medical records to that provider.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments clarify that patients are to be advised of both concurrent and additional treatment opportunities, as well as palliative care, comfort care, hospice care, and pain control, when making a request for aid in dying medication under the bill.

The committee amendments provide that licensed clinical social workers will be permitted to make a determination as to whether a patient has the capacity to make health care decisions; as introduced, the bill provided that only licensed psychiatrists and psychologists could make this determination. The committee amendments additionally add a new definition of "mental health care professional," which includes licensed psychiatrists, psychologists, and clinical social

workers, and add a provision requiring the State Board of Social Work Examiners to adopt rules and regulations to implement the provisions of the bill. The committee amendments remove references concerning the referral of a patient to a mental health care professional if the attending or consulting physician thinks the patient may have a psychiatric or psychological disorder or depression that causes impaired judgment; as amended, the bill provides for such referrals when the attending or consulting physician thinks the patient may lack the capacity to make health care decisions. The bill removes a definition of “counseling,” and various references to the term, that are obviated by these amendments.

The committee amendments revise the definition of “self-administer” to clarify that the term will not be limited to ingesting the aid in dying medication, but will instead apply to the physical administration of the medication to the patient’s own self.

The committee amendments remove a provision that would have required that, if the patient is a resident in a long term care facility, a designated staff member of the facility is required to be one of the witnesses to the patient’s written request. The committee amendments further provide an exception to the prohibition against an owner, operator, or employee of a health care facility from being a witness to the patient’s written request, to provide that this prohibition will not apply when the patient is a resident of a long term care facility. The bill defines “long term care facility” to mean a licensed nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home.

The committee amendments remove certain language concerning when a patient has provided written consent for the patient’s attending physician to contact a pharmacist regarding a prescription for aid in dying medication; the bill expressly provides elsewhere that the patient may provide such written consent when completing the written consent form, making the additional reference to the consent redundant.

The committee amendments clarify that the means of lawfully disposing of unused aid in dying medication may include disposal consistent with State and federal guidelines concerning the disposal of prescription medications or surrender to a prescription medication drop-off receptacle.

The committee amendments provide that, in addition to immunity from civil and criminal liability and professional disciplinary action, a person may not be subject to censure, discipline, suspension, or loss of any licensure, certification, privileges, or membership for any action taken in compliance with the bill. The committee amendments further provide that these protections also apply to the refusal to take any action in furtherance of, or to otherwise participate in, a request for medication under the bill.

The committee amendments clarify that, in addition to not constituting patient abuse or neglect, suicide, assisted suicide, mercy killing, or homicide, actions taken in connection with a request for medication under the bill will not constitute euthanasia.

The committee amendments provide that, in addition to not providing the sole basis for the appointment of a guardian or conservator, a patient's request for, or the provision of, medication under the bill will not constitute abuse or neglect of an elderly person.

The committee amendments provide that the immunities and protections established under the bill do not apply to acts or omissions that constitute gross negligence, recklessness, or willful misconduct.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1504

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 20, 2018

SUMMARY

Synopsis: “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.

Type of Impact: Potential State expenditure and revenue increase

Agencies Affected: Department of Corrections; Division of Consumer Affairs

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, under \$100,000	Indeterminate, under \$100,000	Indeterminate, under \$100,000
State Revenue	Indeterminate increase	Indeterminate increase	Indeterminate increase

- The Office of Legislative Services (OLS) estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100.
- This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses, as well as persons convicted of coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request.

BILL DESCRIPTION

This bill establishes the “Aid in Dying for the Terminally Ill Act,” which allows an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined to be terminally ill by that individual’s attending and consulting physicians, to obtain medication that the patient may self-administer to terminate the patient’s life. The bill establishes the requirements and procedures to be followed by patients, physicians, other health

care professionals, pharmacists and health care facilities pursuant to which a terminally ill patient may legally self-administer medication to termination his or her life. The bill provides immunity from civil and criminal liability, and from professional disciplinary action, for any action that is undertaken in compliance with the bill. The bill also provides that any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of the second degree crime of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. Second degree crimes carry the presumption of incarceration. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100. While there is insufficient data upon which to base a projection of convictions for this criminal offense, the OLS notes that over thirty convictions would have to occur in order for marginal costs to exceed \$100,000. For example, according to the non-profit organization Compassion & Choices, since Oregon's Death with Dignity Act, to which this bill is similar, has been in effect (1997) there has not been a single instance of coercion or abuse. The OLS notes that annual reports by the Oregon Public Health Authority, Public Health Division, Center for Health Statistics, does not contain information on criminal violations associated with its Death with Dignity Act.

While the bill also prescribes as a third degree offense coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request, this degree of crime carries the presumption against incarceration, so the OLS concludes that no marginal expenditures will result from this aspect of the bill.

This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses. Conviction of a second degree crime can result in a fine of up to \$150,000; conviction of a third degree crime can result in a fine of up to \$15,000.

The bill requires the Division of Consumer Affairs to the extent practicable to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The bill also requires the division to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions. The OLS concludes that no marginal costs are likely to result from the division's discharge of these additional administrative duties. For example, according

to the website of the Oregon Health Authority, a research analyst dedicates about four hours per week throughout the year and up to eight hours per week for two months on report preparation, and press calls and other questions require staff time of about four hours per month.

Section: Legislative Budget and Finance Office
Analyst: Frank W. Haines III
Legislative Budget and Finance Officer
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1504

with Assembly Floor Amendments
(Proposed by Assemblyman BURZICHELLI)

ADOPTED: JANUARY 31, 2019

These Assembly floor amendments add a provision requiring patients to designate a person who will be responsible for the lawful disposal of unused medical aid-in-dying medication.

The floor amendments revise the requirement that the dispensing record for medical aid in dying medication be transmitted to the Division of Consumer Affairs in the Department of Law and Public Safety to: (1) require that the record instead be transmitted to the Department of Health, and (2) clarify that only physicians and pharmacists are authorized to dispense aid in dying medication under the bill.

The floor amendments revise the title of the bill to read the “Medical Aid in Dying for the Terminally Ill Act,” and update the synopsis and language references throughout the bill to reflect this change.

The floor amendments make a number of technical revisions to the bill, including updating punctuation and removing several redundant language provisions.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1504

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 29, 2019

SUMMARY

- 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.
- Type of Impact:** Potential State expenditure and revenue increase
- Agencies Affected:** Department of Corrections; Department of Health

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, under \$100,000	Indeterminate, under \$100,000	Indeterminate, under \$100,000
State Revenue	Indeterminate increase	Indeterminate increase	Indeterminate increase

- The Office of Legislative Services (OLS) estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100.
- This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses, as well as persons convicted of coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request.

BILL DESCRIPTION

This bill establishes the “Medical Aid in Dying for the Terminally Ill Act,” which allows an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined to be terminally ill by that individual’s attending and consulting physicians, to obtain

medication that the patient may self-administer to terminate the patient's life. The bill establishes the requirements and procedures to be followed by patients, physicians, other health care professionals, pharmacists and health care facilities pursuant to which a terminally ill patient may legally self-administer medication to termination his or her life. The bill provides immunity from civil and criminal liability, and from professional disciplinary action, for any action that is undertaken in compliance with the bill. The bill also provides that any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of the second degree crime of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. Second degree crimes carry the presumption of incarceration. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100. While there is insufficient data upon which to base a projection of convictions for this criminal offense, the OLS notes that over thirty convictions would have to occur in order for marginal costs to exceed \$100,000. For example, according to the non-profit organization Compassion & Choices, since Oregon's Death with Dignity Act, to which this bill is similar, has been in effect (1997) there has not been a single instance of coercion or abuse. The OLS notes that annual reports by the Oregon Public Health Authority, Public Health Division, Center for Health Statistics, does not contain information on criminal violations associated with its Death with Dignity Act.

While the bill also prescribes as a third degree offense coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request, this degree of crime carries the presumption against incarceration, so the OLS concludes that no marginal expenditures will result from this aspect of the bill.

This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses. Conviction of a second degree crime can result in a fine of up to \$150,000; conviction of a third degree crime can result in a fine of up to \$15,000.

The bill requires the Department of Health to the extent practicable to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The bill also requires the department to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions. The OLS concludes that no marginal costs are likely

to result from the department's discharge of these additional administrative duties. For example, according to the website of the Oregon Health Authority, a research analyst dedicates about four hours per week throughout the year and up to eight hours per week for two months on report preparation, and press calls and other questions require staff time of about four hours per month.

Section: Legislative Budget and Finance Office

*Analyst: Frank W. Haines III
Legislative Budget and Finance Officer*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 1072

STATE OF NEW JERSEY
218th LEGISLATURE

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

“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 introduced.



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

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2

1 AN ACT concerning aid in dying for the terminally ill, supplementing
2 Titles 45 and 26 of the Revised Statutes, and amending P.L.1991,
3 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 “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 b. Statistics from other states that have enacted laws to provide
22 compassionate aid in dying for terminally ill patients indicate that
23 the great majority of patients who requested medication under the
24 laws of those states, including more than 90% of patients in Oregon
25 since 1998 and between 72% and 86% of patients in Washington in
26 each year since 2009, were enrolled in hospice care at the time of
27 death, suggesting that those patients had availed themselves of
28 available treatment and comfort care options available to them at
29 the time they requested compassionate aid in dying;

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

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

34 (2) assist capable, terminally ill patients who request
35 compassionate aid in dying;

36 (3) protect vulnerable adults from abuse; and

37 (4) ensure that the process is entirely voluntary on the part of all
38 participants, including patients and those health care providers that
39 are providing care to dying patients; and

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

42
43 3. (New section) As used in P.L. , c. (C.) (pending
44 before the Legislature as this bill):

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

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.

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

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

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

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

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

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

22 “Health care provider” means a health care professional or health
23 care facility.

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

- 30 (1) the patient’s medical diagnosis;
31 (2) the patient’s prognosis;
32 (3) the potential risks associated with taking the medication to
33 be prescribed;
34 (4) the probable result of taking the medication to be prescribed;
35 and
36 (5) the feasible alternatives to taking the medication, including,
37 but not limited to, additional treatment opportunities, palliative
38 care, comfort care, hospice care, and pain control.

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

44 “Participate in this act” means to perform the duties of a health
45 care provider in accordance with the provisions of P.L. ,
46 c. (C.) (pending before the Legislature as this bill), but does
47 not include: making an initial determination that a patient is
48 terminally ill and informing the patient of the medical prognosis;

1 providing information about the provisions of P.L. , c. (C.)
2 (pending before the Legislature as this bill) to a patient upon the
3 patient's request; or providing a patient, upon the patient's request,
4 with a referral to another health care provider.

5 "Patient" means a person who is under the care of a physician.

6 "Qualified terminally ill patient" means a capable adult who is a
7 resident of New Jersey and has satisfied the requirements to obtain
8 a prescription for medication pursuant to P.L. , c. (C.)
9 (pending before the Legislature as this bill). A person shall not be
10 considered to be a qualified terminally ill patient solely because of
11 the person's age or disability or a diagnosis of any specific illness,
12 disease, or condition.

13 "Self-administer" means a qualified terminally ill patient's act of
14 ingesting medication that has been prescribed pursuant to
15 P.L. , c. (C.) (pending before the Legislature as this bill).

16 "Terminally ill" means that the patient is in the terminal stage of
17 an irreversibly fatal illness, disease, or condition with a prognosis,
18 based upon reasonable medical certainty, of a life expectancy of six
19 months or less.

20

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

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

28 b. is capable and has been determined by the patient's
29 attending physician and a consulting physician to be terminally ill;
30 and

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

34

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

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

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

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

1 (3) an owner, operator, or employee of a health care facility
2 where the patient is receiving medical treatment or is a resident.

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

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

9

10 6. (New section) a. The attending physician shall ensure that
11 all appropriate steps are carried out in accordance with the
12 provisions of P.L. , c. (C.) (pending before the Legislature
13 as this bill) before writing a prescription for medication that a
14 qualified terminally ill patient may choose to self-administer
15 pursuant to P.L. , c. (C.) (pending before the Legislature as
16 this bill), including such actions as are necessary to:

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

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

24 (3) inform the patient of: the patient's medical diagnosis and
25 prognosis; the potential risks associated with taking the medication
26 to be prescribed; the probable result of taking the medication to be
27 prescribed; and the feasible alternatives to taking the medication,
28 including, but not limited to, additional treatment opportunities,
29 palliative care, comfort care, hospice care, and pain control;

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

33 (5) refer the patient for counseling, if appropriate, pursuant to
34 section 8 of P.L. , c. (C.) (pending before the Legislature
35 as this bill);

36 (6) recommend that the patient participate in a consultation
37 concerning additional treatment opportunities, palliative care,
38 comfort care, hospice care, and pain control options for the patient,
39 and provide the patient with a referral to a health care professional
40 qualified to discuss these options with the patient;

41 (7) recommend that the patient notify the patient's next of kin of
42 the patient's decision to request the medication;

43 (8) advise the patient about the importance of having another
44 person present if and when the patient chooses to self-administer
45 medication prescribed under P.L. , c. (C.) (pending before
46 the Legislature as this bill) and of not taking the medication in a
47 public place;

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1 (9) inform the patient of the patient's opportunity to rescind the
2 request at any time and in any manner, and offer the patient an
3 opportunity to rescind the request at the time the patient makes a
4 second oral request as provided in section 10 of
5 P.L. , c. (C.) (pending before the Legislature as this bill);

6 (10) verify, immediately before writing the prescription for
7 medication under P.L. , c. (C.) (pending before the
8 Legislature as this bill), that the patient is making an informed
9 decision to request the medication; and

10 (11) fulfill the medical record documentation requirements of
11 P.L. , c. (C.) (pending before the Legislature as this bill).

12 b. The attending physician shall:

13 (1) dispense medication directly, including ancillary medication
14 intended to facilitate the desired effect to minimize the patient's
15 discomfort, if the attending physician is authorized under law to
16 dispense and has a current federal Drug Enforcement
17 Administration certificate of registration; or

18 (2) with the patient's written consent:

19 (a) contact a pharmacist to inform the latter of the prescription;
20 and

21 (b) transmit the written prescription personally, by mail, or by
22 permissible electronic communication to the pharmacist, who shall
23 dispense the medication directly to either the patient, the attending
24 physician, or an expressly identified agent of the patient.

25 Medication dispensed pursuant to this subsection shall not be
26 dispensed to the patient by mail or other form of courier.

27

28 7. (New section) A patient shall not be considered a qualified
29 terminally ill patient until a consulting physician has:

30 a. examined that patient and the patient's relevant medical
31 records;

32 b. confirmed, in writing, the attending physician's diagnosis
33 that the patient is terminally ill; and

34 c. verified that the patient is capable, is acting voluntarily, and
35 has made an informed decision to request medication that, if
36 prescribed, the patient may choose to self-administer pursuant to
37 P.L. , c. (C.) (pending before the Legislature as this bill).

38

39 8. (New section) a. If, in the medical opinion of the attending
40 physician or the consulting physician, a patient requesting
41 medication that the patient may choose to self-administer pursuant
42 to P.L. , c. (C.) (pending before the Legislature as this bill)
43 may not be capable because the patient may have a psychiatric or
44 psychological disorder or depression that causes impaired judgment,
45 the physician shall refer the patient to a licensed psychiatrist or
46 psychologist for counseling to determine whether the patient is
47 capable. A consulting physician who refers a patient to a licensed
48 psychiatrist or psychologist for counseling pursuant to this

1 subsection shall provide written notice of the referral to the
2 attending physician.

3 b. If a patient has been referred to a licensed psychiatrist or
4 psychologist for counseling pursuant to subsection a. of this section,
5 the attending physician shall not write a prescription for medication
6 that the patient may choose to self-administer pursuant to
7 P.L. , c. (C.) (pending before the Legislature as this bill)
8 unless the attending physician has been notified in writing by the
9 licensed psychiatrist or psychologist of that individual's
10 determination that the patient is capable.

11
12 9. (New section) A qualified terminally ill patient shall not
13 receive a prescription for medication that the patient may choose to
14 self-administer pursuant to P.L. , c. (C.) (pending before
15 the Legislature as this bill) unless the attending physician has
16 recommended that the patient notify the patient's next of kin of the
17 patient's request for medication, except that a patient who declines
18 or is unable to notify the patient's next of kin shall not have the
19 request for medication denied for that reason.

20
21 10. (New section) a. In order to receive a prescription for
22 medication that a qualified terminally ill patient may choose to self-
23 administer pursuant to P.L. , c. (C.) (pending before the
24 Legislature as this bill), the patient shall make two oral requests and
25 one written request for the medication to the patient's attending
26 physician, subject to the following requirements:

27 (1) at least 15 days shall elapse between the initial oral request
28 and the second oral request;

29 (2) at the time the patient makes a second oral request, the
30 attending physician shall offer the patient an opportunity to rescind
31 the request;

32 (3) the patient may submit the written request to the attending
33 physician when the patient makes the initial oral request or at any
34 time thereafter;

35 (4) the written request shall meet the requirements of section 5
36 of P.L. , c. (C.) (pending before the Legislature as this
37 bill);

38 (5) at least 15 days shall elapse between the patient's initial oral
39 request and the writing of a prescription pursuant to
40 P.L. , c. (C.) (pending before the Legislature
41 as this bill) ; and

42 (6) at least 48 hours shall elapse between the attending
43 physician's receipt of the patient's written request and the writing
44 of a prescription pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill).

46 b. A qualified terminally ill patient may rescind the request at
47 any time and in any manner without regard to the patient's mental
48 state.

1 c. At the time the patient makes an initial oral request for
2 medication that the patient may choose to self-administer pursuant
3 to P.L. , c. (C.) (pending before the Legislature as this
4 bill), the patient's attending physician shall recommend to the
5 patient that the patient participate in a consultation concerning
6 additional treatment opportunities, palliative care, comfort care,
7 hospice care, and pain control options, and provide the patient with
8 a referral to a health care professional qualified to discuss these
9 options with the patient. If the patient chooses to participate in such
10 consultation, the consultation shall include, to the extent the patient
11 consents to share such information, consideration of: the patient's
12 terminal illness; the patient's prognosis; current and past courses of
13 treatment prescribed for the patient in connection with the patient's
14 terminal illness, including the results of any such treatment; and any
15 palliative care, comfort care, hospice care, and pain control
16 treatment the patient is currently receiving or has received in the
17 past.

18 d. The attending physician shall ensure that the following items
19 are included in the patient's medical record:

20 (1) the determination that the patient is a qualified terminally ill
21 patient and the basis for that determination;

22 (2) all oral and written requests by the patient to the attending
23 physician for medication that the patient may choose to self-
24 administer pursuant to P.L. , c. (C.) (pending before the
25 Legislature as this bill);

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

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

32 (5) if applicable, a report of the determination made by a
33 licensed psychiatrist or psychologist as to whether the patient is
34 capable pursuant to section 8 of P.L. , c. (C.) (pending
35 before the Legislature as this bill);

36 (6) the attending physician's recommendation that the patient
37 participate in a consultation concerning additional treatment
38 opportunities, palliative care, comfort care, hospice care, and pain
39 control options; the referral provided to the patient with a referral to
40 a health care professional qualified to discuss these options with the
41 patient; an indication as to whether the patient participated in the
42 consultation; and an indication as to whether the patient is currently
43 receiving palliative care, comfort care, hospice care, or pain control
44 treatments;

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

47 (8) a note by the attending physician indicating that all
48 requirements under P.L. , c. (C.) (pending before the

1 Legislature as this bill) have been met and indicating the steps taken
2 to carry out the patient's request for medication, including a
3 notation of the medication prescribed.

4
5 11. (New section) A request for medication pursuant to
6 P.L. , c. (C.) (pending before the Legislature as this bill)
7 shall not be granted unless the qualified terminally ill patient has
8 documented that individual's New Jersey residency by furnishing to
9 the attending physician a copy of one of the following:

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

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

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

15 d. any other government record that the attending physician
16 reasonably believes to demonstrate the individual's current
17 residency in this State.

18

19 12. (New section) Any medication dispensed pursuant to
20 P.L. , c. (C.) (pending before the Legislature as this bill)
21 that a qualified terminally ill patient chooses not to self-administer
22 shall be disposed of by lawful means.

23

24 13. (New section) a. The Director of the Division of Consumer
25 Affairs in the Department of Law and Public Safety shall require
26 that a health care professional report the following information to
27 the division on a form and in a manner prescribed by regulation of
28 the director, in consultation with the Commissioner of Health:

29 (1) No later than 30 days after the dispensing of medication
30 pursuant to P.L. , c. (C.) (pending before the Legislature as
31 this bill), the health care professional who dispensed the medication
32 shall file a copy of the dispensing record with the division, and shall
33 otherwise facilitate the collection of such information as the
34 director may require regarding compliance with P.L. , c. (C.)
35 (pending before the Legislature as this bill).

36 (2) No later than 30 days after the date of the qualified
37 terminally ill patient's death, the attending physician shall transmit
38 to the division such documentation of the patient's death as the
39 director shall require.

40 (3) In the event that anyone required to report information to the
41 division pursuant to P.L. , c. (C.) (pending before the
42 Legislature as this bill) provides an inadequate or incomplete report,
43 the division shall contact the person to request a complete report.

44 (4) To the maximum extent practicable and consistent with the
45 purposes of this section, the division shall seek to coordinate the
46 process for reporting information pursuant to this subsection with
47 the process for reporting prescription monitoring information by a

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1 pharmacy permit holder pursuant to sections 25 through 30 of
2 P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

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

9 c. The division shall prepare and make available to the public
10 on its Internet website an annual statistical report of information
11 collected pursuant to subsection a. of this section.

12

13 14. (New section) a. A provision in a contract, will, insurance
14 policy, annuity, or other agreement, whether written or oral, made
15 on or after the effective date of P.L. , c. (C.) (pending
16 before the Legislature as this bill), shall not be valid to the extent
17 that the provision would condition or restrict a person's decision to
18 make or rescind a request for medication pursuant to
19 P.L. , c. (C.) (pending before the Legislature as this bill).

20 b. An obligation owing under a contract, will, insurance policy,
21 annuity, or other agreement, made before the effective date of
22 P.L. , c. (C.) (pending before the Legislature as this bill),
23 shall not be affected by: the provisions of P.L. , c. (C.)
24 (pending before the Legislature as this bill); a person's making or
25 rescinding a request for medication pursuant to P.L. , c. (C.)
26 (pending before the Legislature as this bill); or any other action
27 taken pursuant to P.L. , c. (C.) (pending before the
28 Legislature as this bill).

29 c. On or after the effective date of P.L. , c. (C.)
30 (pending before the Legislature as this bill), procurement or
31 issuance of a life, health, or accident insurance policy or annuity, or
32 the premium or rate charged for the policy or annuity, shall not be
33 conditioned upon or otherwise take into account the making or
34 rescinding of a request for medication pursuant to
35 P.L. , c. (C.) (pending before the Legislature as this bill) by
36 any person.

37

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

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

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

46

47 16. (New section) A person shall not be authorized to take any
48 action on behalf of a patient for the purposes of P.L. , c. (C.)

1 (pending before the Legislature as this bill) by virtue of that
2 person's designation as a guardian pursuant to N.J.S.3B:12-1 et
3 seq., a conservator pursuant to N.J.S.3B:13A-1 et seq., a health care
4 representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), or
5 a patient's representative pursuant to P.L.2011, c.145 (C.26:2H-129
6 et al.), except for communicating the patient's health care decisions
7 to a health care provider if the patient so requests.

8
9 17. (New section) a. (1) Except as provided in sections 18 and
10 19 of P.L. , c. (C.) (pending before the Legislature as this
11 bill), a person shall not be subject to civil or criminal liability or
12 professional disciplinary action for any action taken in compliance
13 with the provisions of P.L. , c. (C.) (pending before the
14 Legislature as this bill), including being present when a qualified
15 terminally ill patient self-administers medication prescribed
16 pursuant to P.L. , c. (C.) (pending before the Legislature as
17 this bill). A person who substantially complies in good faith with
18 the provisions of P.L. , c. (C.) (pending before the
19 Legislature as this bill) shall be deemed to be in compliance with its
20 provisions.

21 (2) Any action taken in accordance with the provisions of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 shall not constitute patient abuse or neglect, suicide, assisted
24 suicide, mercy killing, or homicide under any law of this State.

25 (3) A patient's request for, or the provision of, medication in
26 compliance with the provisions of P.L. , c. (C.) (pending
27 before the Legislature as this bill) shall not provide the sole basis
28 for the appointment of a guardian or conservator.

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

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

46 b. A person who coerces or exerts undue influence on a patient
47 to request medication pursuant to P.L. , c. (C.) (pending

1 before the Legislature as this bill) or to destroy a rescission of a
2 request is guilty of a crime of the third degree.

3 c. Theft of medication prescribed to a qualified terminally ill
4 patient pursuant to P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall constitute an offense involving theft of
6 a controlled dangerous substance as set forth in N.J.S.2C:20-2.

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

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

15

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

22

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

26

27 REQUEST FOR MEDICATION TO END MY LIFE IN A
28 HUMANE AND DIGNIFIED MANNER

29

30 I, , am an adult of sound mind and a resident
31 of New Jersey.

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

35 I have been fully informed of my diagnosis, prognosis, the nature
36 of medication to be prescribed and potential associated risks, the
37 expected result, and the feasible alternatives, including palliative
38 care, comfort care, hospice care, and pain control.

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

43

44 INITIAL ONE:

45

46 I have informed my family of my decision and taken their
47 opinions into consideration.

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

1 I have no family to inform of my decision.

2

3 INITIAL ALL THAT APPLY:

4

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

10 I have participated in a consultation concerning additional
11 treatment opportunities, palliative care, comfort care, hospice care,
12 and pain control options.

13 I am currently receiving palliative care, comfort care, or
14 hospice care.

15

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

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

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

25

26 Signed:

27

28 Dated:

29

30 DECLARATION OF WITNESSES

31

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

35

36 Witness 1 Witness 2

37 Initials Initials

38

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

40

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

43

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

46

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

48

S1072 SCUTARI, CODEY

1 Printed Name of Witness 1:

2 Signature of Witness 1/Date:

3

4 Printed Name of Witness 2:

5 Signature of Witness 2/Date:

6

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

14

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

24

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

31

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

38

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

45

46 25. (New section) a. As used in this section:

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

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

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

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

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

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

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

31

32 26. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to
33 read as follows:

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

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

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

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

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

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

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

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

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

24 (4) Warning the intended victim of the threat, or, in the case of
25 an intended victim who is under the age of 18, warning the parent
26 or guardian of the intended victim; or

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

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

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

36
37 27. N.J.S.2C:11-6 is amended to read as follows:

38 2C:11-6. Aiding Suicide. A person who purposely aids another
39 to commit suicide is guilty of a crime of the second degree if his
40 conduct causes such suicide or an attempted suicide, and otherwise
41 of a crime of the fourth degree. Any action taken in accordance
42 with the provisions of P.L. , c. (C.) (pending before the
43 Legislature as this bill) shall not constitute suicide or assisted
44 suicide.

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

46
47 28. This act shall take effect on the first day of the fourth month
48 next following the date of enactment, but the Director of the

1 Division of Consumer Affairs in the Department of Law and Public
2 Safety, the Commissioner of Health, the State Board of Medical
3 Examiners, the New Jersey State Board of Pharmacy, and the State
4 Board of Psychological Examiners may take such anticipatory
5 administrative action in advance thereof as shall be necessary for
6 the implementation of this act.

7

8

9

STATEMENT

10

11 This bill establishes the “Aid in Dying for the Terminally Ill Act,”
12 which will allow an adult New Jersey resident, who has the capacity to
13 make health care decisions and who has been determined by that
14 individual’s attending and consulting physicians to be terminally ill, to
15 obtain medication that the patient may self-administer to terminate the
16 patient’s life. Under the bill, “terminally ill” is defined to mean the
17 patient is in the terminal stage of an irreversibly fatal illness, disease,
18 or condition with a prognosis, based upon reasonable medical
19 certainty, of a life expectancy of six months or less.

20 In order for a terminally ill patient to receive a prescription for
21 medication under the bill, the patient is required to make two oral
22 requests and one written request to the patient’s attending physician
23 for the medication. The bill requires at least 15 days to elapse between
24 the initial oral request and the second oral request, and between the
25 patient’s initial oral request and the writing of a prescription for the
26 medication. The patient may submit the written request for medication
27 either when the patient makes the initial oral request, or at any time
28 thereafter, but a minimum of 48 hours are to elapse between the
29 attending physician’s receipt of the written request and the writing of a
30 prescription for medication.

31 When a patient makes an initial oral request for medication under
32 the bill’s provisions, the attending physician is required to provide the
33 patient with information about the risks, probable results, and
34 alternatives to taking the medication; recommend that the patient
35 participate in a consultation concerning additional treatment
36 opportunities, palliative care, comfort care, hospice care, and pain
37 control options; and refer the patient to a health care professional who
38 is qualified to discuss those alternative care and treatment options. The
39 patient may choose, but is not required, to participate in such
40 consultation. The attending physician is also required to recommend
41 that the patient notify the patient’s next of kin of the request, but
42 medication may not be denied if a patient declines, or is unable to,
43 provide this notification.

44 The attending physician is required to refer the patient to a
45 consulting physician for the purpose of obtaining confirmation of the
46 attending physician’s diagnosis. Both the attending physician and the
47 consulting physician are required to verify that the patient has made an
48 informed decision when requesting medication under the bill. When

1 the patient makes the second oral request, the attending physician is to
2 offer the patient an opportunity to rescind the request. In addition, the
3 attending physician is required to notify the patient that a request may
4 be rescinded at any time and in any manner, regardless of the patient's
5 mental state.

6 A patient may make a written request for medication, in
7 accordance with the bill's provisions, so long as the patient: is an
8 adult resident of New Jersey, as demonstrated through documentation
9 submitted to the attending physician; is capable; is terminally ill, as
10 determined by the attending physician and confirmed by the consulting
11 physician; and has voluntarily expressed a wish to receive a
12 prescription for the medication.

13 The bill requires a valid written request for medication to be in a
14 form that is substantially similar to the form set forth in the bill. The
15 bill requires the written request to be signed and dated by the patient
16 and witnessed by at least two individuals who attest, in the patient's
17 presence, that, to the best of their knowledge and belief, the patient is
18 capable and is acting voluntarily.

19 The bill requires at least one of the witnesses to be a person who is
20 not:

21 (1) a relative of the qualified patient by blood, marriage, or
22 adoption;

23 (2) at the time the request is signed, entitled to any portion of the
24 patient's estate upon the patient's death; or

25 (3) an owner, operator, or employee of a health care facility where
26 the patient is receiving medical treatment or is a resident.

27 The bill additionally requires that, if the patient is a resident of a
28 long-term care facility, one of the witnesses is to be an individual
29 designated by the facility. The patient's attending physician may not
30 serve as a witness.

31 A written request form will be required to include an indication as
32 to whether the patient has informed the patient's next-of-kin about the
33 request for medication and an indication as to whether additional
34 treatment consultations have been recommended by the attending
35 physician or undertaken by the patient.

36 If the patient complies with the bill's oral and written request
37 requirements, establishes State residency, and is found by both the
38 attending physician and a consulting physician to be capable, to have a
39 terminal illness, and to be acting voluntarily, the patient will be
40 considered to be a "qualified terminally ill patient" who is eligible to
41 receive a prescription for medication. The bill expressly provides that
42 a person is not be considered to be a "qualified terminally ill patient"
43 solely on the basis of the person's age or disability or the diagnosis of
44 a specific illness, disease, or condition.

45 If either the attending physician or the consulting physician
46 believes that the patient may have a psychiatric or psychological
47 disorder or depression, which causes impaired judgment, and which
48 makes the patient incapable of making a request for medication, the

1 physician will be required to refer the patient to a licensed psychiatrist
2 or psychologist for counseling to determine whether the patient is
3 capable. If such a referral is made, the attending physician is
4 prohibited from issuing a prescription to the patient for medication
5 under the bill unless the attending physician has received written
6 notice, from the licensed psychiatrist or psychologist, affirming that
7 the patient is capable.

8 Prior to issuing a prescription for requested medication, the
9 attending physician is required to ensure that all appropriate steps have
10 been carried out, and requisite documentation submitted, in accordance
11 with the bill's provisions. The patient's medical record is to include
12 documentation of: the patient's oral and written requests and the
13 attending physician's offer to rescind the request; the attending
14 physician's recommendation for alternative care and treatment
15 consultations, and whether the patient participated in a consultation;
16 the attending physician's and consulting physician's medical diagnosis
17 and prognosis, and their determinations that the patient is terminally
18 ill, is capable of making the request, is acting voluntarily, and is
19 making an informed decision; the results of any counseling sessions
20 ordered for the patient; and a statement that all the requirements under
21 the bill have been satisfied.

22 A patient's request for, or the provision of, medication in
23 compliance with the bill may not be used as the sole basis for the
24 appointment of a guardian or conservator. The bill specifies that a
25 patient's guardian, conservator, or representative is not authorized to
26 take any action on behalf of the patient in association with the making
27 or rescinding of requests for medication under the bill's provisions,
28 except to communicate the patient's own health care decisions to a
29 health care provider upon the patient's request. The bill prohibits any
30 contract, will, insurance policy, annuity, or other agreement from
31 including a provision that conditions or restricts a person's ability to
32 make or rescind a request for medication pursuant to the bill, and
33 further specifies that the procurement or issuance of, or premiums or
34 rates charged for, life, health, or accident insurance policies or
35 annuities may not be conditioned upon the making or rescinding of a
36 request for medication under the bill's provisions. An obligation
37 owing under a contract, will, insurance policy, annuity, or other
38 agreement executed before the bill's effective date will not be affected
39 by a patient's request, or rescission of a request, for medication under
40 the bill.

41 Any person who, without the patient's authorization, willfully
42 alters or forges a request for medication pursuant to the bill, or
43 conceals or destroys a rescission of that request, with the intent or
44 effect of causing the patient's death, will be guilty of a crime of the
45 second degree, which is punishable by imprisonment for a term of five
46 to 10 years, a fine of up to \$150,000, or both. A person who coerces
47 or exerts undue influence on a patient to request medication under the
48 bill, or to destroy a rescission of a request, will be guilty of a crime of

1 the third degree, which is punishable by imprisonment for a term of
2 three to five years, a fine of up to \$15,000, or both. The bill does not
3 impose any limit on liability for civil damages in association with the
4 negligence or intentional misconduct of any person.

5 The bill provides immunity from civil and criminal liability, and
6 from professional disciplinary action, for any action that is undertaken
7 in compliance with the bill, including the act of being present when a
8 qualified terminally ill patient takes the medication prescribed to the
9 patient under the bill's provisions. Any action undertaken in
10 accordance with the bill will not be deemed to constitute patient abuse
11 or neglect, suicide, assisted suicide, mercy killing, or homicide under
12 any State law, and the bill expressly exempts actions taken pursuant to
13 the bill from the provisions of N.J.S.2C:11-6, which makes it a crime
14 to purposely aid a person in committing suicide. Nothing in the bill is
15 to be construed to authorize a physician or other person to end a
16 patient's life by lethal injection, active euthanasia, or mercy killing.

17 The bill amends section 1 of P.L.1991, c.270 (C.2A:62A-16),
18 which establishes a "duty to warn" when a health care professional
19 believes that a patient intends to carry out physical violence against the
20 patient's own self or against another person, in order to specify that
21 that "duty to warn" provisions are not applicable when a qualified
22 terminally ill patient requests medication under the bill.

23 The bill requires a patient's attending physician to notify the
24 patient of the importance of taking the prescribed medication in the
25 presence of another person and in a non-public place. The bill
26 specifies that, if any governmental entity incurs costs as a result of a
27 patient's self-administration of medication in a public place, the
28 governmental entity will have a claim against the patient's estate to
29 recover those costs, along with reasonable attorney fees.

30 The bill authorizes attending physicians, if registered with the
31 federal Drug Enforcement Administration, to dispense requested
32 medication, including ancillary medication designed to minimize
33 discomfort, directly to the patient. Otherwise, with the patient's
34 written consent, the attending physician may transmit the prescription
35 to a pharmacist, who will be required to dispense the medication
36 directly to the patient, to the attending physician, or to an expressly
37 identified agent of the patient. Medication prescribed under the bill
38 may not be dispensed by mail or other form of courier. Not later than
39 30 days after the dispensation of medication under the bill, the health
40 care professional who dispensed the medication will be required to file
41 a copy of the dispensing record with the Division of Consumer Affairs
42 (DCA) in the Department of Law and Public Safety.

43 Any medication prescribed under the bill, which the patient
44 chooses not to self-administer, is required to be disposed of by lawful
45 means. Not later than 30 days after the patient's death, the attending
46 physician will be required to transmit documentation of the patient's
47 death to the DCA. The DCA is required, to the extent practicable, to
48 coordinate the reporting of dispensing records and records of patient

1 death with the process used for the reporting of prescription
2 monitoring information. The DCA will be required to annually
3 prepare and make available on its Internet website a statistical report
4 of information collected pursuant to the bill's provisions; information
5 made available to the public will not include personal or identifying
6 information.

7 A health care facility's existing policies and procedures will be
8 required, to the maximum extent possible, to govern actions taken by
9 health care providers pursuant to the bill. Any action taken by a health
10 care professional or facility to carry out the provisions of the bill is to
11 be voluntary. If a health care professional is unable or unwilling to
12 participate in a request for medication under the bill, the professional
13 will be required to refer the patient to another health care provider and
14 provide the patient's medical records to that provider.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO
SENATE, No. 1072

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 7, 2019

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1072.

As amended by the committee, this bill establishes the “Medical Aid in Dying for the Terminally Ill Act,” which will allow an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined by that individual’s attending and consulting physicians to be terminally ill, to obtain medication that the patient may self-administer to terminate the patient’s life. Under the bill, “terminally ill” is defined to mean the patient is in the terminal stage of an irreversibly fatal illness, disease, or condition with a prognosis, based upon reasonable medical certainty, of a life expectancy of six months or less.

In order for a terminally ill patient to receive a prescription for medication under the bill, the patient is required to make two oral requests and one written request to the patient’s attending physician for the medication. The bill requires at least 15 days to elapse between the initial oral request and the second oral request, and between the patient’s initial oral request and the writing of a prescription for the medication. The patient may submit the written request for medication either when the patient makes the initial oral request, or at any time thereafter, but a minimum of 48 hours are to elapse between the attending physician’s receipt of the written request and the writing of a prescription for medication.

When a patient makes an initial oral request for medication under the bill’s provisions, the attending physician is required to provide the patient with information about the risks, probable results, and alternatives to taking the medication; recommend that the patient participate in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options; and refer the patient to a health care professional who is qualified to discuss those alternative care and treatment options. The patient may choose, but is not required, to participate in such consultation. The attending physician is also required to

recommend that the patient notify the patient's next of kin of the request, but medication may not be denied if a patient declines, or is unable to, provide this notification.

The attending physician is required to refer the patient to a consulting physician for the purpose of obtaining confirmation of the attending physician's diagnosis. Both the attending physician and the consulting physician are required to verify that the patient has made an informed decision when requesting medication under the bill. When the patient makes the second oral request, the attending physician is to offer the patient an opportunity to rescind the request. In addition, the attending physician is required to notify the patient that a request may be rescinded at any time and in any manner, regardless of the patient's mental state.

A patient may make a written request for medication, in accordance with the bill's provisions, so long as the patient: is an adult resident of New Jersey, as demonstrated through documentation submitted to the attending physician; is capable; is terminally ill, as determined by the attending physician and confirmed by the consulting physician; and has voluntarily expressed a wish to receive a prescription for the medication.

The bill requires a valid written request for medication to be in a form that is substantially similar to the form set forth in the bill. The bill requires the written request to be signed and dated by the patient and witnessed by at least two individuals who attest, in the patient's presence, that, to the best of their knowledge and belief, the patient is capable and is acting voluntarily.

The bill requires at least one of the witnesses to be a person who is not:

- (1) a relative of the qualified patient by blood, marriage, or adoption;
- (2) at the time the request is signed, entitled to any portion of the patient's estate upon the patient's death; or
- (3) an owner, operator, or employee of a health care facility, other than a long term care facility, where the patient is receiving medical treatment or is a resident.

The patient's attending physician may not serve as a witness.

A written request form will be required to include an indication as to whether the patient has informed the patient's next-of-kin about the request for medication and an indication as to whether concurrent or additional treatment consultations have been recommended by the attending physician or undertaken by the patient.

If the patient complies with the bill's oral and written request requirements, establishes State residency, and is found by both the attending physician and a consulting physician to be capable, to have a terminal illness, and to be acting voluntarily, the patient will be considered to be a "qualified terminally ill patient" who is eligible to receive a prescription for medication. The bill expressly provides that

a person is not be considered to be a “qualified terminally ill patient” solely on the basis of the person’s age or disability or the diagnosis of a specific illness, disease, or condition.

If either the attending physician or the consulting physician believes that the patient may lack capacity to make health care decisions, the physician will be required to refer the patient to a mental health care professional, which is defined in the amended bill to mean a licensed psychiatrist, psychologist, or clinical social worker, for a consultation to determine whether the patient is capable. If such a referral is made, the attending physician is prohibited from issuing a prescription to the patient for medication under the bill unless the attending physician has received written notice, from the mental health care professional, affirming that the patient is capable.

Prior to issuing a prescription for requested medication, the attending physician is required to ensure that all appropriate steps have been carried out, and requisite documentation submitted, in accordance with the bill’s provisions. The patient’s medical record is to include documentation of: the patient’s oral and written requests and the attending physician’s offer to rescind the request; the attending physician’s recommendation for concurrent or alternative care and treatment consultations, and whether the patient participated in a consultation; the medical diagnosis and prognosis of both the attending physician and the consulting physician, and their determinations that the patient is terminally ill, is capable of making the request, is acting voluntarily, and is making an informed decision; the results of any counseling sessions with a mental health care professional ordered for the patient; and a statement that all the requirements under the bill have been satisfied.

A patient’s request for, or the provision of, medication in compliance with the bill will not constitute abuse or neglect of an elderly person, and may not be used as the sole basis for the appointment of a guardian or conservator. The bill specifies that a patient’s guardian, conservator, or representative is not authorized to take any action on behalf of the patient in association with the making or rescinding of requests for medication under the bill’s provisions, except to communicate the patient’s own health care decisions to a health care provider upon the patient’s request. The bill prohibits any contract, will, insurance policy, annuity, or other agreement from including a provision that conditions or restricts a person’s ability to make or rescind a request for medication pursuant to the bill, and further specifies that the procurement or issuance of, or premiums or rates charged for, life, health, or accident insurance policies or annuities may not be conditioned upon the making or rescinding of a request for medication under the bill’s provisions. An obligation owing under a contract, will, insurance policy, annuity, or other agreement executed before the bill’s effective date will not be affected

by a patient's request, or rescission of a request, for medication under the bill.

Any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both. The bill does not impose any limit on liability for civil damages in association with the negligence or intentional misconduct of any person.

The amended bill provides immunity from civil and criminal liability, from professional disciplinary action, and from censure, discipline, suspension, or loss of any licensure, certification, privileges, or membership for any action that is undertaken in compliance with the bill, including the act of being present when a qualified terminally ill patient takes the medication prescribed to the patient under the bill's provisions. As amended, the bill provides that this immunity also applies to any refusal to take actions in furtherance of, or to otherwise participate in, a request for medication made under the bill. Any action undertaken in accordance with the bill will not be deemed to constitute patient abuse or neglect, suicide, assisted suicide, mercy killing, euthanasia, or homicide under any State law, and the bill expressly exempts actions taken pursuant to the bill from the provisions of N.J.S.2C:11-6, which makes it a crime to purposely aid a person in committing suicide. These immunities will not apply to acts or omissions constituting gross negligence, recklessness, or willful misconduct. Nothing in the bill is to be construed to authorize a physician or other person to end a patient's life by lethal injection, active euthanasia, or mercy killing.

The bill amends section 1 of P.L.1991, c.270 (C.2A:62A-16), which establishes a "duty to warn" when a health care professional believes that a patient intends to carry out physical violence against the patient's own self or against another person, in order to specify that that "duty to warn" provisions are not applicable when a qualified terminally ill patient requests medication under the bill.

The bill requires a patient's attending physician to notify the patient of the importance of taking the prescribed medication in the presence of another person and in a non-public place. The bill specifies that, if any governmental entity incurs costs as a result of a patient's self-administration of medication in a public place, the governmental entity will have a claim against the patient's estate to recover those costs, along with reasonable attorney fees.

The bill authorizes attending physicians, if registered with the federal Drug Enforcement Administration, to dispense requested medication, including ancillary medication designed to minimize discomfort, directly to the patient. Otherwise, the attending physician may transmit the prescription to a pharmacist, who will dispense the medication directly to the patient, to the attending physician, or to an expressly identified agent of the patient. Medication prescribed under the bill may not be dispensed by mail or other form of courier. Not later than 30 days after the dispensation of medication under the bill, the physician or pharmacist who dispensed the medication will be required to file a copy of the dispensing record with the Department of Health.

Any medication prescribed under the bill, which the patient chooses not to self-administer, is required to be disposed of by lawful means, and patients are to designate a person who will be responsible for the lawful disposal of the medication. Lawful means includes, but is not limited to, disposing of the medication consistent with State and federal guidelines concerning disposal of prescription medications or surrendering the medication to a prescription medication drop-off receptacle. No later than 30 days after the patient's death, the attending physician will be required to transmit documentation of the patient's death to the Department of Health. The department is required, to the extent practicable, to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The department will be required to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions; information made available to the public will not include personal or identifying information.

A health care facility's existing policies and procedures will be required, to the maximum extent possible, to govern actions taken by health care providers pursuant to the bill. Any action taken by a health care professional or facility to carry out the provisions of the bill is to be voluntary. If a health care professional is unable or unwilling to participate in a request for medication under the bill, the professional will be required to refer the patient to another health care provider and provide the patient's medical records to that provider.

COMMITTEE AMENDMENTS:

The committee amendments revise the title of the bill to read the "Medical Aid in Dying for the Terminally Ill Act," and update the synopsis and language references throughout the bill to reflect this change.

The committee amendments clarify that patients are to be advised of both concurrent and additional treatment opportunities, as well as palliative care, comfort care, hospice care, and pain control, when making a request for aid in dying medication under the bill.

The committee amendments provide that licensed clinical social workers will be permitted to make a determination as to whether a patient has the capacity to make health care decisions; as introduced, the bill provided that only licensed psychiatrists and psychologists could make this determination. The committee amendments additionally add a new definition of “mental health care professional,” which includes licensed psychiatrists, psychologists, and clinical social workers, and add a provision requiring the State Board of Social Work Examiners to adopt rules and regulations to implement the provisions of the bill. The committee amendments remove references concerning the referral of a patient to a mental health care professional if the attending or consulting physician thinks the patient may have a psychiatric or psychological disorder or depression that causes impaired judgment; as amended, the bill provides for such referrals when the attending or consulting physician thinks the patient may lack the capacity to make health care decisions. The bill removes a definition of “counseling,” and various references to the term, that are obviated by these amendments.

The committee amendments revise the definition of “self-administer” to clarify that the term will not be limited to ingesting the aid in dying medication, but will instead apply to the physical administration of the medication to the patient’s own self.

The committee amendments remove a provision that would have required that, if the patient is a resident in a long term care facility, a designated staff member of the facility is required to be one of the witnesses to the patient’s written request. The committee amendments further provide an exception to the prohibition against an owner, operator, or employee of a health care facility from being a witness to the patient’s written request, to provide that this prohibition will not apply when the patient is a resident of a long term care facility. The bill defines “long term care facility” to mean a licensed nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home.

The committee amendments remove certain language concerning when a patient has provided written consent for the patient’s attending physician to contact a pharmacist regarding a prescription for aid in dying medication; the bill expressly provides elsewhere that the patient may provide such written consent when completing the written consent form, making the additional reference to the consent redundant.

The committee amendments clarify that the means of lawfully disposing of unused aid in dying medication may include disposal consistent with State and federal guidelines concerning the disposal of prescription medications or surrender to a prescription medication drop-off receptacle. Patients are to designate a person who will be responsible for lawfully disposing of the medication.

The committee amendments revise the requirement that the dispensing record for medical aid in dying medication be transmitted to the Division of Consumer Affairs in the Department of Law and Public Safety to: (1) require that the record instead be transmitted to the Department of Health, and (2) clarify that only physicians and pharmacists are authorized to dispense aid in dying medication under the bill.

The committee amendments provide that, in addition to immunity from civil and criminal liability and professional disciplinary action, a person may not be subject to censure, discipline, suspension, or loss of any licensure, certification, privileges, or membership for any action taken in compliance with the bill. The committee amendments further provide that these protections also apply to the refusal to take any action in furtherance of, or to otherwise participate in, a request for medication under the bill.

The committee amendments provide that the immunities and protections established under the bill do not apply to acts or omissions that constitute gross negligence, recklessness, or willful misconduct.

The committee amendments clarify that, in addition to not constituting patient abuse or neglect, suicide, assisted suicide, mercy killing, or homicide, actions taken in connection with a request for medication under the bill will not constitute euthanasia.

The committee amendments provide that, in addition to not providing the sole basis for the appointment of a guardian or conservator, a patient's request for, or the provision of, medication under the bill will not constitute abuse or neglect of an elderly person.

The committee amendments make a number of technical revisions to the bill, including updating punctuation and removing several redundant language provisions.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1072 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 29, 2019

SUMMARY

- 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.
- Type of Impact:** Potential State expenditure and revenue increase
- Agencies Affected:** Department of Corrections; Department of Health

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate, under \$100,000	Indeterminate, under \$100,000	Indeterminate, under \$100,000
State Revenue	Indeterminate increase	Indeterminate increase	Indeterminate increase

- The Office of Legislative Services (OLS) estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100.
- This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses, as well as persons convicted of coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request.

BILL DESCRIPTION

This bill establishes the “Medical Aid in Dying for the Terminally Ill Act,” which allows an adult New Jersey resident, who has the capacity to make health care decisions and who has been determined to be terminally ill by that individual’s attending and consulting physicians, to obtain

medication that the patient may self-administer to terminate the patient's life. The bill establishes the requirements and procedures to be followed by patients, physicians, other health care professionals, pharmacists and health care facilities pursuant to which a terminally ill patient may legally self-administer medication to termination his or her life. The bill provides immunity from civil and criminal liability, and from professional disciplinary action, for any action that is undertaken in compliance with the bill. The bill also provides that any person who, without the patient's authorization, willfully alters or forges a request for medication pursuant to the bill, or conceals or destroys a rescission of that request, with the intent or effect of causing the patient's death, will be guilty of a crime of the second degree, which is punishable by imprisonment for a term of five to 10 years, a fine of up to \$150,000, or both. A person who coerces or exerts undue influence on a patient to request medication under the bill, or to destroy a rescission of a request, will be guilty of a crime of the third degree, which is punishable by imprisonment for a term of three to five years, a fine of up to \$15,000, or both.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill may potentially increase annual State expenditures by indeterminate amounts, less than \$100,000, due primarily to the possibility of incarceration of individuals convicted of the second degree crime of willfully altering or forging a request for medication pursuant to the bill, or concealing or destroying a rescission of that request, with the intent or effect of causing the patient's death. Second degree crimes carry the presumption of incarceration. The annual marginal cost of housing an individual in a State correctional facility is about \$3,100. While there is insufficient data upon which to base a projection of convictions for this criminal offense, the OLS notes that over thirty convictions would have to occur in order for marginal costs to exceed \$100,000. For example, according to the non-profit organization Compassion & Choices, since Oregon's Death with Dignity Act, to which this bill is similar, has been in effect (1997) there has not been a single instance of coercion or abuse. The OLS notes that annual reports by the Oregon Public Health Authority, Public Health Division, Center for Health Statistics, does not contain information on criminal violations associated with its Death with Dignity Act.

While the bill also prescribes as a third degree offense coercing or exerting undue influence on a patient to request medication under the bill, or destroying a rescission of a request, this degree of crime carries the presumption against incarceration, so the OLS concludes that no marginal expenditures will result from this aspect of the bill.

This bill may also increase by an indeterminate amount State revenue from fines imposed on persons guilty of the above offenses. Conviction of a second degree crime can result in a fine of up to \$150,000; conviction of a third degree crime can result in a fine of up to \$15,000.

The bill requires the Department of Health to the extent practicable to coordinate the reporting of dispensing records and records of patient death with the process used for the reporting of prescription monitoring information. The bill also requires the department to annually prepare and make available on its Internet website a statistical report of information collected pursuant to the bill's provisions. The OLS concludes that no marginal costs are likely

to result from the department's discharge of these additional administrative duties. For example, according to the website of the Oregon Health Authority, a research analyst dedicates about four hours per week throughout the year and up to eight hours per week for two months on report preparation, and press calls and other questions require staff time of about four hours per month.

Section: Legislative Budget and Finance Office

*Analyst: Frank W. Haines III
Legislative Budget and Finance Officer*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



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Newark, N.J.

Governor Murphy Signs Legislation to Permit Death with Dignity in New Jersey

04/12/2019

TRENTON – Governor Phil Murphy today signed legislation that will allow terminally ill New Jersey adults to end their lives peacefully, with dignity, and at their own discretion. The bill, which was sponsored by Assemblyman John Burzichelli and Senator Nick Scutari, makes New Jersey the eighth state to allow such end-of-life decisions with the assistance of medical professionals.

“Allowing residents with terminal illnesses to make end-of-life choices for themselves is the right thing to do,” **said Governor Murphy**. “By signing this bill today, we are providing terminally ill patients and their families with the humanity, dignity, and respect that they so richly deserve at the most difficult times any of us will face. I commend Assemblyman Burzichelli for steering us down this long, difficult road, and thank the Legislature for its courage in tackling this challenging issue.”

“Over the course of seven years, we’ve heard countless heartbreaking stories of terminally ill patients and their families yearning to make a personal choice that simply was not provided for under law,” **said Assemblyman John Burzichelli**. “The choice for patients, who are critically ill and with a short life expectancy prescribed by their doctors, to determine their final day on this earth with dignity deserved honest and intellectual discussion. I’ve had many, many conversations with religious and non-profit organizations such as Compassion and Choices of New Jersey to get their take on the legislation. I thank all who have contributed over the years to the open dialogue, for and against it, and to the Governor for giving it the attention it deserved. It’s been a long, learned discussion, one that I’m sure will continue as we move forward today.”

“This will provide a humane choice for terminally-ill patients who are experiencing tremendous suffering and pain. It offers the freedom of choice for those with no hope of surviving beyond six months to end their suffering in a dignified way,” **said Senate President Steve Sweeney**. “It is a very personal decision. I watched someone I loved suffer for the last six months of her life from cancer while her children watched. Her suffering was prolonged to a point where she entered a hospice where her medications were increased until she passed away. I don’t think that was humane for her or for her loved ones. This will offer patients in end-of-life circumstances an option to decide their own fate in their final days.”

“There is no good reason for terminally ill patients to be forced to endure prolonged pain and suffering if they make the choice to end their lives with dignity,” **said Senator Nicholas P. Scutari**. “This law respects the free will of terminally ill patients and provides a humane and dignified process for those qualified to end their lives. I am very proud of New Jersey to support this law and the compassion it provides to those suffering.”

“There are many strong opinions on this issue, but the truth is, only these patients understand what it is like to know death is approaching,” **said Assemblyman Joe Danielson**. “This law will give terminally ill patients the choice to meet their end on their own terms. This is the humane approach. We cannot prevent them from dying, but we can at least provide the option and let them to do it with dignity.”

The “Medical Aid in Dying for the Terminally Ill Act” permits terminally ill, adult patients residing in New Jersey to obtain and self-administer medication to end their lives peacefully and humanely. A patient’s attending and consulting physicians must determine that the patient has a life expectancy of six months or less, has the capacity to make health care decisions, and is acting voluntarily, in order for the patient to obtain the medication. The bill establishes additional procedures and safeguards that patients, physicians, and other health care professionals must follow before a qualifying patient may legally obtain and self-administer the medication.

“My wife Brittany Maynard spoke up so terminally ill New Jerseyans in her predicament would not have to leave their home like we did just to secure the option of a gentle dying process,” **said Dan Diaz, an advocate who works with Compassion and Choices.** “New Jersey becomes the fifth state in the five years since her death to pass this vitally important legislation. With immense pride in her legacy, I am very thankful to the New Jersey legislators who passed this law without excessive regulations that would prevent dying New Jerseyans from using this option.”

“Given our growing tidal wave of momentum nationwide, it is only a matter of time before every resident of every state has this peaceful dying option. But today we thank Gov. Murphy for making this option within reach for dying New Jerseyans who desperately need it,” **said Kim Callinan, CEO of Compassion & Choices, which led the grassroots campaign to pass the law in New Jersey and other states.** “We will help the Murphy administration implement this law as smoothly and quickly as possible to ensure dying New Jerseyans can use this option, if they need it.”

“It is impossible for my terminally ill sister Melissa and I to express our profound sense of relief that this legislation is now law,” **said law supporter Laurie Wilcox, a retired nurse in Clark with rheumatoid arthritis that has invaded her lung tissue and requires her to wear an oxygen tank most of the day to breathe.** “As nurses, we know the limits of modern medicine to relieve suffering and we are so grateful we now have the option to peacefully end our end-of-life suffering, if we need it.”

“I am eternally grateful to Gov. Murphy and Assemblyman Burzichelli, for giving me this option to die peacefully, if I decide I need it,” **said supporter Susan Boyce, a Rumson resident who has a terminal lung disease.** “Just having this option is a godsend that will enable me to live the rest of my life, however long it is, as fully as possible knowing I won’t have to suffer needlessly at the end.”

I watched my mother die a horrible, drawn-out death. She lost all of her dignity, all of her happiness. Everything hurt and we knew she was dying and all we could do was sit there and wait while she begged for relief,” **said Jessica Guenzel, a supporter and Rutherford resident.** “She didn’t have to die that way. With the signing of this bill, terminally ill people in New Jersey who are suffering have another option. They can decide with those closest to them what their last days or hours will look like and they can leave this world on their terms. I think my mom would have liked to have spent her last hours at the park with her kids on a nice day, then taking a bubble bath and tucking into bed knowing she would gently slip away in her sleep. She deserved that option. Now others have it. Thank you to the legislators who pushed and voted for this bill and thank you to Governor Murphy for helping me fulfill a promise to my mom.

The bill will take effect on August 1, 2019.

Read Governor Murphy’s signing statement [here](#).





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**GOVERNOR'S STATEMENT UPON SIGNING
ASSEMBLY BILL NO. 1504
(Second Reprint)**

Today I am signing the "Medical Aid in Dying for the Terminally Ill Act", Assembly Bill No. 1504 (Second Reprint), which permits terminally ill, adult patients residing in New Jersey to obtain and self-administer medication to end their lives peacefully and humanely. I commend the bill's sponsors - particularly Assemblyman Burzichelli, for whom this bill has been an extremely passionate and personal mission since he first introduced it seven years ago - for their tireless efforts to craft legislation that respects the dignity and autonomy of capable individuals to make end-of-life decisions.

The legislation I am signing today is the product of a near-decade long debate among policy makers, religious organizations, experts in the medical community, advocates for persons with disabilities, and patients, among many others. Without question, reasonable and well-meaning individuals can, and very often do, hold different moral views on this topic. Through years of legislative hearings, countless witnesses, many of whom shared deeply personal and heart-wrenching testimony, offered compelling arguments both in favor of and against this legislation.

As a lifelong, practicing Catholic, I acknowledge that I have personally grappled with my position on this issue. My faith has informed and enhanced many of my most deeply held progressive values. Indeed, it has influenced my perspectives on issues involving social justice, social welfare, and even those topics traditionally regarded as strictly economic, such as the minimum wage. On this issue, I am torn between certain principles of my faith and my compassion for those who suffer unnecessary, and often intolerable, pain at the end of their lives.

It is undeniable that there are people with terminal illnesses whose lives are reduced to agony and pain. Some of these individuals may thoughtfully and rationally wish to bring an end to their own suffering but cannot do so because the law prevents it and compels them to suffer, unnecessarily and against their will. I have seen such debilitating suffering firsthand in my own family, and I deeply empathize with all individuals and their families who have struggled with end-of-life medical decisions. As things now stand, it is the law, rather than one's own moral and personal beliefs, that governs such decisions. That is not as it should be. After careful consideration, internal reflection, and prayer, I have concluded that, while my faith may lead me to a particular decision for myself, as a public official I cannot deny this alternative to those who may reach a different conclusion. I believe this choice is a

personal one and, therefore, signing this legislation is the decision that best respects the freedom and humanity of all New Jersey residents.

Date: April 12, 2019

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor