ASSEMBLY, No. 2270

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

Sponsored by:
Assemblyman JOHN J. BURZICHELLI
District 3 (Cumberland, Gloucester and Salem)
Assemblyman TIMOTHY J. EUSTACE
District 38 (Bergen and Passaic)

Co-Sponsored by:
Assemblymen Cryan, McKeon, Assemblywoman Jasey and Assemblyman Wilson

SYNOPSIS
“New Jersey Death with Dignity Act”; permits qualified patient to self-administer medication to end life in humane and dignified manner, subject to voter approval.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 6/6/2014)

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) Sections 1 through 21 of this act shall be known and may be cited as the “New Jersey Death with Dignity Act.”

2. (New section) The Legislature finds and declares that:
   a. The public welfare requires a defined and safeguarded process, with procedural safeguards to protect the interests of patients and health care providers, by which a patient who is an adult New Jersey resident with the capacity to make health care decisions, and who has been determined by that individual’s attending physician and consulting physician to be suffering from a terminal disease that will cause death within six months, may obtain medication that the patient may self-administer to end his life in a humane and dignified manner;
   b. The public welfare requires that such a process be entirely voluntary on the part of all participants, including the patient, the patient’s physicians, and any other health care provider furnishing services or care to the patient; and
   c. This act is necessary for the welfare of the State and its residents, and it is intended that it be liberally construed to effectuate its purposes.

3. (New section) As used in this act:
   “Adult” means an individual who is 18 years of age or older.
   “Attending physician” means the physician who has primary responsibility for the care of a patient and treatment of the patient’s terminal disease.
   “Capable” means having the capacity to make health care decisions and to communicate them to a health care professional, including communication through persons familiar with the patient’s manner of communicating if those persons are available.
   “Consulting physician” means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient’s disease.
   “Counseling” means one or more consultations as necessary between a psychiatrist or psychologist licensed pursuant to Title 45 of the Revised Statutes and a patient for the purpose of determining

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.
that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

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

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

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

1. the patient’s medical diagnosis;
2. the patient’s prognosis;
3. the potential risks associated with taking the medication to be prescribed;
4. the probable result of taking the medication to be prescribed;
5. the feasible alternatives to taking the medication, including, but not limited to, palliative care, hospice care, and pain control.

“Medically confirmed” means that the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient’s relevant medical records.

“Participating in this act” or “participation in this act” means to perform the duties of an attending physician or consulting physician, a psychiatrist or psychologist providing counseling, or a pharmacist dispensing medication, in accordance with the provisions of this act, but does not include: making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis; providing information about the provisions of this act to a patient upon the patient’s request; or providing a patient, upon the patient’s request, with a referral to another physician.

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

“Physician” means a doctor of medicine or osteopathy licensed to practice medicine in New Jersey by the State Board of Medical Examiners.

“Qualified patient” means a capable adult who is a resident of New Jersey and has satisfied the requirements of this act in order to obtain a prescription for medication that the qualified patient may self-administer to end the patient’s life in a humane and dignified manner. A person shall not be considered to be a qualified patient solely because of the person’s age or disability.

“Self-administer” means a qualified patient’s act of ingesting medication to end that individual’s life in a humane and dignified manner.
“Terminal disease” means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in a patient’s death within six months.

4. (New section) A patient may make a written request for medication that the patient may self-administer in order to end that individual’s life in a humane and dignified manner in accordance with the provisions of this act, if the patient:
   a. is an adult resident of New Jersey;
   b. is capable and has been determined by the patient’s attending physician and consulting physician to be suffering from a terminal disease; and
   c. has voluntarily expressed a wish to die.

5. (New section) a. A valid request for medication under this act shall be in substantially the form set forth in section 20 of this act, signed and dated by the patient and witnessed by at least two individuals who, in the patient’s presence, attest that, to the best of their knowledge and belief, the patient is capable and is acting voluntarily to sign the request.
   b. At least one of the witnesses shall be a person who is not:
      (1) a relative of the patient by blood, marriage, or adoption;
      (2) at the time the request is signed, entitled to any portion of the estate of the qualified patient upon the patient’s death under any will or by operation of law; and
      (3) an owner, operator, or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.
   c. The patient’s attending physician at the time the request is signed shall not serve as a witness.
   d. If, at the time the written request is made, the patient is a resident of a long-term care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), one of the witnesses shall be an individual designated by the facility.

6. (New section) a. The attending physician shall ensure that all appropriate steps are carried out in accordance with the provisions of this act before writing a prescription for medication to enable a qualified patient to end the patient’s life in a humane and dignified manner, for which purpose that physician shall:
   (1) make the initial determination of whether a patient has a terminal disease, is capable, and has made the request for medication voluntarily;
   (2) require that the patient demonstrate New Jersey residency;
   (3) inform the patient of: the patient’s medical diagnosis; the patient’s prognosis; the potential risks associated with taking the medication to be prescribed; the probable result of taking the medication to be prescribed; and the feasible alternatives to taking
the medication, including, but not limited to, palliative care, hospice care, and pain control;
(4) refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;
(5) refer the patient for counseling, if appropriate, pursuant to this act;
(6) recommend that the patient notify the patient’s next of kin of the patient’s decision to request the medication;
(7) advise the patient about the importance of having another person present when the patient takes the medication prescribed under this act and of not taking the medication in a public place;
(8) inform the patient of the patient’s opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind the request at the end of the 15-day waiting period required by this act;
(9) verify, immediately before writing the prescription for medication under this act, that the patient is making an informed decision to request the medication; and
(10) fulfill the medical record documentation requirements of this act.

b. The attending physician shall:
(1) dispense medication directly, including ancillary medication intended to facilitate the desired effect to minimize the patient’s discomfort, if the attending physician is authorized under law to dispense and has a current federal Drug Enforcement Administration certificate of registration; or
(2) with the patient’s written consent:
   (a) contact a pharmacist to inform the latter of the prescription; and
   (b) transmit the written prescription personally, by mail, or by otherwise permissible electronic communication to the pharmacist, who shall dispense the medication directly to either the patient, the attending physician, or an expressly identified agent of the patient.
Medication dispensed pursuant to this subsection shall not be dispensed to the patient by mail or other form of courier.
c. The attending physician may sign the patient's death certificate, which shall list the underlying terminal disease as the cause of death.

7. (New section) A person shall not be considered a qualified patient until a consulting physician has:
   a. examined that person and the person’s relevant medical records;
   b. confirmed, in writing, the attending physician's diagnosis that the person is suffering from a terminal disease; and
c. verified that the person is capable, is acting voluntarily, and has made an informed decision to request medication to end the person's life in a humane and dignified manner.

8. (New section) If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient for counseling. Medication to end a patient's life in a humane and dignified manner shall not be prescribed unless the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

9. (New section) A patient shall not receive a prescription for medication to end the patient's life in a humane and dignified manner unless the patient has made an informed decision. Immediately before writing a prescription for medication pursuant to this act, the attending physician shall verify that the patient is making an informed decision.

10. (New section) A patient shall not receive a prescription for medication to end the patient's life in a humane and dignified manner unless the attending physician has recommended that the patient notify the patient's next of kin of the patient's request for medication pursuant to this act, except that a patient who declines or is unable to notify the patient's next of kin shall not have the request for medication denied for that reason.

11. (New section) a. In order to receive a prescription for medication that a qualified patient may self-administer to end the patient's life in a humane and dignified manner, the patient shall make an oral request and a written request for the medication, and reiterate the oral request to the patient’s attending physician at least 15 days after making the initial oral request. At the time the patient makes a second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

   (1) At least 15 days shall elapse between the patient's initial oral request and the writing of a prescription pursuant to this act.

   (2) At least 48 hours shall elapse between the time the patient signs the written request and the writing of a prescription pursuant to this act.

   b. A qualified patient may rescind the request at any time and in any manner without regard to the patient’s mental state. The attending physician shall not write a prescription for medication pursuant to this act without offering the patient an opportunity to rescind the request.
The following items shall be documented in the patient's medical record for the purposes of this act:

1. (1) the oral requests and the written request by the patient to the attending physician for medication to end the patient’s life in a humane and dignified manner;
2. (2) the attending physician's diagnosis and prognosis, and determination that the patient is capable, is acting voluntarily, and has made an informed decision;
3. (3) the consulting physician's diagnosis and prognosis, and verification that the patient is capable, is acting voluntarily, and has made an informed decision;
4. (4) a report of the outcome and determinations made during counseling of the patient pursuant to this act;
5. (5) the attending physician's offer to the patient to rescind the patient’s request at the time of the patient's second oral request; and
6. (6) a note by the attending physician indicating that all requirements under this act have been met and indicating the steps taken to carry out the patient’s request for medication, including a notation of the medication prescribed.

12. (New section) A request for medication pursuant to this act shall not be granted unless the qualified patient has documented that individual’s New Jersey residency by furnishing to the attending physician a copy of one of the following as applies to that individual:

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

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

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

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

13. (New section) Any medication dispensed pursuant to this act that is not self-administered by a qualified patient shall be disposed of by lawful means.

14. (New section) a. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall require that a health care professional report the following information to the division on a form and in a manner prescribed by regulation of the director:

(1) No later than 30 days after the dispensing of medication pursuant to this act, the health care professional who dispensed the medication shall file a copy of the dispensing record with the division, and shall otherwise facilitate the collection of such
information as the director may require regarding compliance with this act.

(2) No later than 30 days after the date of the patient’s death, the physician who prescribed the medication shall transmit to the division such documentation of the patient’s death as the director shall require.

(3) In the event that anyone required to report information to the division pursuant to this act provides an inadequate or incomplete report, the division shall contact the person to request a complete report.

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

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

15. (New section) a. A provision in a contract, will, insurance policy, annuity, or other agreement, whether written or oral, made on or after the effective date of this act, shall not be valid to the extent that the provision would condition or restrict a person’s decision to make or rescind a request for medication to end the person’s life in a humane and dignified manner.

b. An obligation owing under a contract, will, insurance policy, annuity, or other agreement, made before the effective date of this act, shall not be affected by: the provisions of this act; a person’s making or rescinding a request for medication to end the person’s life in a humane and dignified manner; or any other action taken pursuant to this act.

c. On or after the effective date of this act, procurement or issuance of a life, health, or accident insurance policy or annuity or the premium or rate charged for the policy or annuity shall not be conditioned upon or otherwise take into account the making or rescinding of a request for medication pursuant to this act by any person.

16. (New section) Nothing in this act shall be construed to:

a. authorize a physician or any other person to end a patient’s life by lethal injection, active euthanasia, or mercy killing; or

b. lower the applicable standard of care to be provided by a health care professional who participates in this act.

17. (New section) a. (1) A person shall not be subject to civil or criminal liability or professional disciplinary action for any action taken in compliance with the provisions of this act, including
being present when a qualified patient takes medication to end the
patient’s life in a humane and dignified manner pursuant to this act.
A person who substantially complies in good faith with the
provisions of this act shall be deemed to be in compliance with the
act.

(2) Any action taken in accordance with the provisions of this
act shall not constitute suicide, assisted suicide, mercy killing, or
homicide under any criminal law of this State.

(3) A patient’s request for, or the provision of, medication in
compliance with the provisions of this act shall not constitute
neglect for any purpose of law or provide the sole basis for the
appointment of a guardian or conservator.

b. Any action taken by a health care professional to participate
in this act shall be voluntary on the part of that individual. If a
health care professional is unable or unwilling to carry out a
patient’s request under this act, and the patient transfers his care to a
new health care professional, the prior health care professional shall
transfer, upon request, a copy of the patient’s relevant records to the
new health care professional.

18. (New section) a. A person who, without authorization of
the patient, willfully alters or forges a request for medication
pursuant to this act, or conceals or destroys a rescission of that
request with the intent or effect of causing the patient’s death, is
guilty of a crime of the second degree.

b. A person who coerces or exerts undue influence on a patient
to request medication to end the patient’s life, or to destroy a
rescission of a request, is guilty of a crime of the third degree.

c. Nothing in this act shall limit liability for civil damages
resulting from the negligence or intentional misconduct of any
person.

d. The penalties set forth in this section shall not preclude the
imposition of any other criminal penalty applicable under law for
conduct that is inconsistent with the provisions of this act.

19. (New section) Any governmental entity that incurs costs
resulting from a person terminating his life pursuant to this act in a
public place has a claim against the estate of the person to recover
such costs and reasonable attorneys’ fees related to enforcing the
claim.

20. (New section) A request for a medication as authorized by
this act shall be in substantially the following form:
REQUEST FOR MEDICATION TO END MY LIFE IN A
HUMANE AND DIGNIFIED MANNER

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

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

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

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

INITIAL ONE:

. . . . . I have informed my family of my decision and taken their
opinions into consideration.
. . . . . I have decided not to inform my family of my decision.
. . . . . I have no family to inform of my decision.

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

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

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

Signed:. . . . . . . . . . . . . . .

Dated:. . . . . . . . . . . . . . .

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.

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 facility where the person is a patient or resident. If the patient is a resident of a long-term care facility, one of the witnesses shall be an individual designated by the facility.

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 this act, including the required reporting of information to the division by health care providers pursuant to section 14 of this act.

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 P.L. , c. (C. ) (pending before the Legislature as this bill) concerning the duties of a licensed physician pursuant thereto.

23. (New section) The New Jersey State Board of Pharmacy, 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) concerning the duties of a licensed pharmacist pursuant thereto.

24. (New section) The State Board of Psychological 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
P.L. c. (pending before the Legislature as this bill)
concerning the duties of a licensed psychologist pursuant thereto.

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

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

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

b. A health care facility may adopt a written policy to prohibit
a health care professional from taking any action pursuant to
sections 1 through 20 of P.L. c. (pending before the
Legislature as this bill) on the premises owned by, or under the
direct control of, the facility if the facility has given prior written
notice of the written policy to all health care professionals with
privileges to practice on those premises. The provisions of this
subsection shall not preclude a health care professional from
providing to a patient any health care services to which the
provisions of sections 1 through 20 of P.L. c. (pending
before the Legislature as this bill) do not apply.

c. A health care professional who violates a written policy as
set forth in subsection b. of this section, after being notified in
writing of that policy, is subject to such of the following actions as
the health care facility deems appropriate:

(1) the loss of privileges or membership, or other sanctions
provided under the medical staff bylaws, policies, and procedures of
the facility if the health care professional is a member of the
medical staff at the facility and takes the prohibited action while on
the premises of that facility, but not including the private medical
office of a physician or other provider; and

(2) the termination of a lease or other contract for the occupancy
of real property or other nonmonetary remedy provided by the lease
or contract if the health care professional takes the prohibited action
while on the premises of the health care facility or on property that
is owned by or under the direct control of the facility; provided,
however, that no lease or other contract made on or after the
effective date of this act shall authorize or permit any nonmonetary
remedy for taking the prohibited action in the form of loss or
restriction of medical staff privileges or exclusion from a managed
care plan health care provider network; or

(3) the termination of a contract or other nonmonetary remedy
provided by contract if the health care professional takes the
prohibited action while acting in the course and scope of that
individual’s capacity as an employee or independent contractor of
the health care facility, except that nothing in this subparagraph
shall preclude:
(a) a health care professional from taking the prohibited action while acting outside the course and scope of that individual’s capacity as an employee or independent contractor; or
(b) a patient from contracting with the patient’s attending physician and consulting physician to act outside the course and scope of either physician’s capacity as an employee or independent contractor of the health care facility.

(4) A health care facility shall follow all otherwise applicable due process and other procedures that the facility may have in place relating to the imposition of sanctions on a health care professional.

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

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

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

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

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

A duty to warn and protect shall not be incurred when a qualified patient requests medication that the patient may self-administer in order to end the patient’s life in a humane and dignified manner in accordance with the provisions of P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

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

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

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

28. This act shall be submitted to the people for their approval or rejection at the next general election to be held at least 70 days following the date of its enactment for the purpose of complying with Article II, Section I, paragraph 2 of the New Jersey Constitution.

29. This voter referendum shall be submitted to the people in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check ( ) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check ( ) in the square opposite the word "No."

b. In every municipality the following question:
| YES | **AUTHORIZATION TO ALLOW CERTAIN PERSONS TO USE MEDICATION TO END THEIR LIFE IN A HUMANE AND DIGNIFIED WAY**  
Do you approve allowing an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way? |

| NO | **INTERPRETIVE STATEMENT**  
Voter approval of P. L. , c. (C. ) (pending before the Legislature as this bill) will permit an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way. |

30. This act shall take effect on the first day of the third month next following voter approval of this act at the designated general election.

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**STATEMENT**

This bill, which is designated as the “New Jersey Death with Dignity Act,” would 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 suffering from a terminal disease that will cause death within six months, to obtain medication that the patient may self-administer to end his life in a humane and dignified manner.

The bill provides that a patient may make a written request for medication that the patient may self-administer in order to end that individual’s life in a humane and dignified manner in accordance with this bill if the patient:

1. is an adult resident of New Jersey;
2. is capable and has been determined by the patient’s attending physician and consulting physician to be suffering from a terminal disease; and
3. has voluntarily expressed a wish to die.

A person is not to be considered a “qualified patient” (that is, eligible to obtain a prescription for medication as provided in this bill) solely because of the person’s age or disability.

A valid request for medication under the bill is to be in substantially the form set forth in the bill, signed and dated by the
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patient and witnessed by at least two individuals who, in the
2 patient’s presence, attest that, to the best of their knowledge and
3 belief, the patient is capable and is acting voluntarily to sign the
4 request.

At least one of the witnesses must be a person who is not:
5 (1) a relative of the patient by blood, marriage, or adoption;
6 (2) at the time the request is signed, entitled to any portion of
7 the estate of the qualified patient upon the patient’s death under any
8 will or by operation of law; and
9 (3) an owner, operator, or employee of a health care facility
10 where the qualified patient is receiving medical treatment or is a
11 resident.

12 The patient's attending physician at the time the request is signed
13 is not permitted to serve as a witness.

14 The attending physician is to ensure that all appropriate steps are
15 carried out in accordance with the bill before writing a prescription
16 for medication to enable a qualified patient to end the patient’s life
17 in a humane and dignified manner.

18 The attending physician is to dispense medication directly,
19 including ancillary medication intended to facilitate the desired
20 effect to minimize the patient’s discomfort, if the attending
21 physician is authorized under law to dispense and has a current
22 federal Drug Enforcement Administration certificate of registration;
23 or, with the patient’s written consent, contact a pharmacist to inform
24 the latter of the prescription; and transmit the written prescription
25 personally, by mail, or by otherwise permissible electronic
26 communication to the pharmacist, who is to dispense the medication
27 directly to either the patient, the attending physician, or an
28 expressly identified agent of the patient. Medication is not to be
29 dispensed to the patient by mail or other form of courier.

30 The attending physician may sign the patient’s death certificate,
31 which is to list the underlying terminal disease as the cause of
32 death.

33 A person is not to be considered a qualified patient until a
34 consulting physician has:
35 (1) examined that person and the person’s relevant medical
36 records;
37 (2) confirmed, in writing, the attending physician’s diagnosis
38 that the person is suffering from a terminal disease; and
39 (3) verified that the person is capable, is acting voluntarily, and
40 has made an informed decision to request medication to end the
41 person’s life in a humane and dignified manner.

42 If, in the opinion of the attending physician or the consulting
43 physician, a patient may be suffering from a psychiatric or
44 psychological disorder or depression causing impaired judgment,
45 either physician is to refer the patient for counseling. Medication to
46 end a patient’s life in a humane and dignified manner is not to be
47 prescribed unless the person performing the counseling determines
that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

A patient is not to receive a prescription for the medication unless the patient has made an informed decision. Immediately before writing the prescription, the attending physician is to verify that the patient is making an informed decision.

A patient is not to receive a prescription for the medication unless the attending physician has recommended that the patient notify the patient’s next of kin of the patient’s request for the medication, except that the patient’s request is not to be denied because the patient declines or is unable to notify the patient’s next of kin.

In order to receive the prescription, the patient must make an oral request and a written request, and reiterate the oral request to the patient’s attending physician at least 15 days after making the initial oral request. At the time the patient makes a second oral request, the attending physician is to offer the patient an opportunity to rescind the request. At least 15 days must elapse between the patient’s initial oral request and the writing of a prescription, and at least 48 hours between the time the patient signs the written request and the writing of a prescription.

A qualified patient may rescind the request at any time and in any manner without regard to the patient’s mental state. The attending physician is not to write a prescription for medication without offering the patient an opportunity to rescind the request.

The following items are to be documented in the patient’s medical record:

(1) the oral requests and the written request by the patient to the attending physician for medication to end the patient’s life in a humane and dignified manner;

(2) the attending physician’s diagnosis and prognosis, and determination that the patient is capable, is acting voluntarily, and has made an informed decision;

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

(4) a report of the outcome and determinations made during counseling of the patient pursuant to the bill;

(5) the attending physician’s offer to the patient to rescind the patient’s request at the time of the patient’s second oral request; and

(6) a note by the attending physician indicating that all requirements under the bill have been met and indicating the steps taken to carry out the patient’s request for medication, including a notation of the medication prescribed.

A request for medication is not to be granted unless the qualified patient has demonstrated that individual’s New Jersey residency to the attending physician as set forth in the bill.
The Director of the Division of Consumer Affairs (DCA) in the Department of Law and Public Safety is to require that a health care provider report the following information to DCA on a form and in a manner prescribed by regulation of the commissioner:

(1) No later than 30 days after the dispensing of medication pursuant to this bill, the provider who dispensed the medication is to file a copy of the dispensing record with DCA, and otherwise facilitate the collection of such information as the director may require regarding compliance with the bill.

(2) No later than 30 days after the date of the patient’s death, the provider who prescribed the medication is to transmit to DCA such documentation of the patient’s death as the director requires.

Any information collected by DCA that contains material or data that could be used to identify an individual patient or health care provider shall not be included under materials available to public inspection.

DCA is to prepare and make available to the public on its Internet website an annual statistical report of information collected pursuant to the bill.

Nothing in this bill is to be construed to: authorize a physician or any other person to end a patient’s life by lethal injection, active euthanasia, or mercy killing; or lower the applicable standard of care to be provided by a health care professional who takes any action in accordance with the provisions of the bill.

A person is not subject to civil or criminal liability or professional disciplinary action for any action taken in compliance with the bill, including being present when a qualified patient takes medication to end the patient’s life in a humane and dignified manner.

Any action taken in accordance with the bill will not constitute suicide, assisted suicide, mercy killing, or homicide under any criminal law of this State.

A patient's request for, or the provision of, medication in compliance with the bill will not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator.

Any action taken by a health care professional to carry out the provisions of this bill is voluntary on the part of that individual.

A person who, without authorization of the patient, 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, is guilty of a crime of the second degree (punishable by imprisonment for a term of five to 10 years, or a fine of up to $150,000, or both). A person who coerces or exerts undue influence on a patient to request medication to end the patient's life, or to destroy a rescission of a request, is guilty of a crime of the third degree (punishable by imprisonment for a term of three to five years, or a fine of up to $15,000, or both).
A health care facility may adopt a written policy to prohibit a
health care professional from carrying out the provisions of the bill
on the premises owned by, or under the direct control of, the facility
if the facility has given prior written notice of the written policy to
all health care professionals with privileges to practice on those
premises. A health care professional who violates the written
policy, after being notified in writing of that policy, is subject to
such disciplinary action by the health care facility that adopted the
written policy as is set forth in the bill.

The bill amends section 1 of P.L.1991, c.270 (C.2A:62A-16) to
stipulate that when a qualified patient requests medication that the
patient may self-administer in order to end the patient’s life in a
humane and dignified manner in accordance with the provisions of
this bill, a health care professional licensed in this State would not
be required to take any of the actions set forth in that statute that
apply if a health care professional believes a patient intends to carry
out an act of imminent, serious physical violence against a readily
identifiable individual or against himself (that is, to arrange for the
patient to be admitted voluntarily to a psychiatric facility, or initiate
procedures for involuntary commitment to treatment of the patient,
or advise a local law enforcement authority).

The bill also amends N.J.S.2C:11-6 (which makes it a crime to
purposely aid a person to commit suicide) to stipulate that any
action taken in accordance with the provisions of this bill does not
constitute suicide or assisted suicide.

The bill will only become operative if approved by the voters in
a Statewide referendum and would take effect on the first day of the
third month next following voter approval.