

[First Reprint]

**ASSEMBLY, No. 1504**

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

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblyman JOHN J. BURZICHELLI**  
**District 3 (Cumberland, Gloucester and Salem)**  
**Assemblyman TIM EUSTACE**  
**District 38 (Bergen and Passaic)**  
**Assemblyman JOE DANIELSEN**  
**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

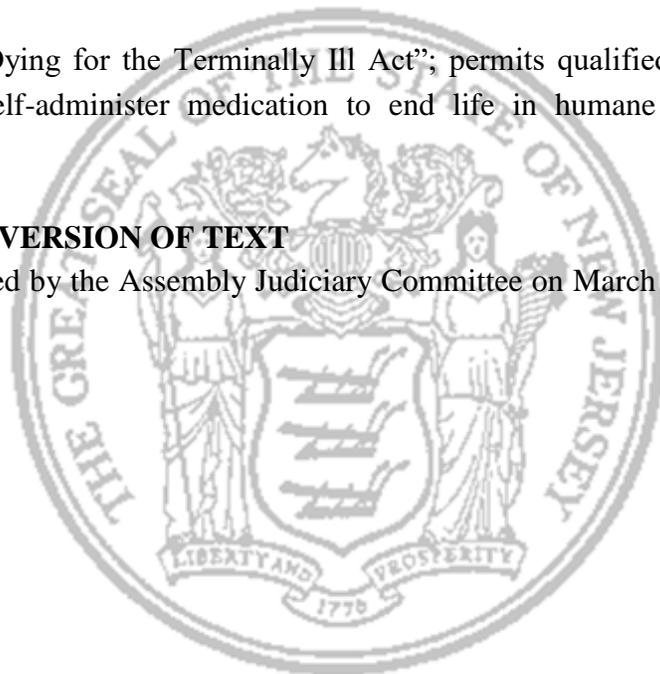
**Assemblyman McKeon, Assemblywomen Mosquera, Jimenez, Chaparro,**  
**Assemblyman Johnson, Assemblywoman Jasey, Assemblyman Holley,**  
**Assemblywoman Murphy, Assemblymen Andrzejczak, Mukherji and**  
**Mejia**

**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 reported by the Assembly Judiciary Committee on March 12, 2018, with amendments.



**(Sponsorship Updated As Of: 11/27/2018)**

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17 provided, withheld, or withdrawn, this State affirms the right of a  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):

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted March 12, 2018.

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

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

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

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

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

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

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

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

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

31 (1) the patient’s medical diagnosis;

32 (2) the patient’s prognosis;

33 (3) the potential risks associated with taking the medication to  
34 be prescribed;

35 (4) the probable result of taking the medication to be prescribed;  
36 and

37 (5) the feasible alternatives to taking the medication, including,  
38 but not limited to, <sup>1</sup>concurrent or<sup>1</sup> additional treatment  
39 opportunities, palliative care, comfort care, hospice care, and pain  
40 control.

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

45 “Medically confirmed” means that the medical opinion of the  
46 attending physician has been confirmed pursuant to section 7 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill)

1 by a consulting physician who has examined the patient and the  
2 patient's relevant medical records.

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

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

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

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

23 “Self-administer” means a qualified terminally ill patient's act of  
24 <sup>1</sup>[ingesting] physically administering, to the patient’s own self,<sup>1</sup>  
25 medication that has been prescribed pursuant to P.L. , c. (C. )  
26 (pending before the Legislature as this bill).

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

31

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

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

39 b. is capable and has been determined by the patient’s  
40 attending physician and a consulting physician to be terminally ill;  
41 and

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

45

46 5. (New section) a. A valid written request for medication  
47 under P.L. , c. (C. ) (pending before the Legislature as this  
48 bill) shall be in substantially the form set forth in section 20 of

1 P.L. , c. (C. ) (pending before the Legislature as this bill),  
 2 signed and dated by the patient and witnessed by at least two  
 3 individuals who, in the patient's presence, attest that, to the best of  
 4 their knowledge and belief, the patient is capable and is acting  
 5 voluntarily to sign the request.

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

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

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

11 (3) an owner, operator, or employee of a health care facility <sup>1</sup>,  
 12 other than a long term care facility.<sup>1</sup> where the patient is receiving  
 13 medical treatment or is a resident.

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

16 <sup>1</sup>**d.** If, at the time the written request is made, the patient is a  
 17 resident of a long-term care facility licensed pursuant to P.L.1971,  
 18 c.136 (C.26:2H-1 et seq.), one of the witnesses shall be an  
 19 individual designated by the facility. **1**<sup>1</sup>

20

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

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

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

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

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

45 (5) refer the patient <sup>1</sup>**for counseling** <sup>1</sup>to a mental health care  
 46 professional<sup>1</sup>, if appropriate, pursuant to section 8 of P.L. ,  
 47 c. (C. ) (pending before the Legislature as this bill);

1 (6) recommend that the patient participate in a consultation  
2 concerning <sup>1</sup>concurrent or<sup>1</sup> additional treatment opportunities,  
3 palliative care, comfort care, hospice care, and pain control options  
4 for the patient, and provide the patient with a referral to a health  
5 care professional qualified to discuss these options with the patient;

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

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

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

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

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

24 b. The attending physician shall:

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

30 (2) <sup>1</sup>**with the patient's written consent:**

31 (a) <sup>1</sup>**contact a pharmacist to inform the latter of the prescription**  
32 <sup>1</sup>**;**<sup>1</sup> and

33 <sup>1</sup>**(b)**<sup>1</sup> transmit the written prescription personally, by mail, or  
34 by permissible electronic communication to the pharmacist, who  
35 shall dispense the medication directly to either the patient, the  
36 attending physician, or an expressly identified agent of the patient.

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

39

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

42 a. examined that patient and the patient's relevant medical  
43 records;

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

46 c. verified that the patient is capable, is acting voluntarily, and  
47 has made an informed decision to request medication that, if

1 prescribed, the patient may choose to self-administer pursuant to  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3  
4 8. (New section) a. If, in the medical opinion of the attending  
5 physician or the consulting physician, a patient requesting  
6 medication that the patient may choose to self-administer pursuant  
7 to P.L. , c. (C. ) (pending before the Legislature as this bill)  
8 may not be capable <sup>1</sup>【because the patient may have a psychiatric or  
9 psychological disorder or depression that causes impaired  
10 judgment】<sup>1</sup>, the physician shall refer the patient to a <sup>1</sup>【licensed  
11 psychiatrist or psychologist for counseling】 mental health care  
12 professional<sup>1</sup> to determine whether the patient is capable. A  
13 consulting physician who refers a patient to a <sup>1</sup>【licensed  
14 psychiatrist or psychologist for counseling】 mental health care  
15 professional<sup>1</sup> pursuant to this subsection shall provide written  
16 notice of the referral to the attending physician.

17 b. If a patient has been referred to a <sup>1</sup>【licensed psychiatrist or  
18 psychologist for counseling】 mental health care professional<sup>1</sup>  
19 pursuant to subsection a. of this section, the attending physician  
20 shall not write a prescription for medication that the patient may  
21 choose to self-administer pursuant to P.L. , c. (C. )  
22 (pending before the Legislature as this bill) unless the attending  
23 physician has been notified in writing by the <sup>1</sup>【licensed psychiatrist  
24 or psychologist】 mental health care professional<sup>1</sup> of that  
25 individual's determination that the patient is capable.

26  
27 9. (New section) A qualified terminally ill patient shall not  
28 receive a prescription for medication that the patient may choose to  
29 self-administer pursuant to P.L. , c. (C. ) (pending before  
30 the Legislature as this bill) unless the attending physician has  
31 recommended that the patient notify the patient's next of kin of the  
32 patient's request for medication, except that a patient who declines  
33 or is unable to notify the patient's next of kin shall not have the  
34 request for medication denied for that reason.

35  
36 10. (New section) a. In order to receive a prescription for  
37 medication that a qualified terminally ill patient may choose to self-  
38 administer pursuant to P.L. , c. (C. ) (pending before the  
39 Legislature as this bill), the patient shall make two oral requests and  
40 one written request for the medication to the patient's attending  
41 physician, subject to the following requirements:

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

44 (2) at the time the patient makes a second oral request, the  
45 attending physician shall offer the patient an opportunity to rescind  
46 the request;

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

1 (5) if applicable, a report of the determination made by a  
2 ~~licensed psychiatrist or psychologist~~ mental health care  
3 professional<sup>1</sup> as to whether the patient is capable pursuant to section  
4 8 of P.L. , c. (C. ) (pending before the Legislature as this  
5 bill);

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

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

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

22  
23 11. (New section) A request for medication pursuant to  
24 P.L. , c. (C. ) (pending before the Legislature as this bill)  
25 shall not be granted unless the qualified terminally ill patient has  
26 documented that individual's New Jersey residency by furnishing to  
27 the attending physician a copy of one of the following:

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

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

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

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

36  
37 12. (New section) Any medication dispensed pursuant to  
38 P.L. , c. (C. ) (pending before the Legislature as this bill)  
39 that a qualified terminally ill patient chooses not to self-administer  
40 shall be disposed of by lawful means <sup>1</sup>, including, but not limited  
41 to, disposing of the medication consistent with State and federal  
42 guidelines concerning disposal of prescription medications, or  
43 surrendering the medication to a prescription medication drop-off  
44 receptacle<sup>1</sup>.

45  
46 13. (New section) a. The Director of the Division of Consumer  
47 Affairs in the Department of Law and Public Safety shall require

1 that a health care professional report the following information to  
2 the division on a form and in a manner prescribed by regulation of  
3 the director, in consultation with the Commissioner of Health:

4 (1) No later than 30 days after the dispensing of medication  
5 pursuant to P.L. , c. (C. ) (pending before the Legislature as  
6 this bill), the health care professional who dispensed the medication  
7 shall file a copy of the dispensing record with the division, and shall  
8 otherwise facilitate the collection of such information as the  
9 director may require regarding compliance with P.L. , c. (C. )  
10 (pending before the Legislature as this bill).

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

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

19 (4) To the maximum extent practicable and consistent with the  
20 purposes of this section, the division shall seek to coordinate the  
21 process for reporting information pursuant to this subsection with  
22 the process for reporting prescription monitoring information by a  
23 pharmacy permit holder pursuant to sections 25 through 30 of  
24 P.L.2007, c.244 (C.45:1-45 through C.45:1-50).

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

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

34  
35 14. (New section) a. A provision in a contract, will, insurance  
36 policy, annuity, or other agreement, whether written or oral, made  
37 on or after the effective date of P.L. , c. (C. ) (pending  
38 before the Legislature as this bill), shall not be valid to the extent  
39 that the provision would condition or restrict a person's decision to  
40 make or rescind a request for medication pursuant to  
41 P.L. , c. (C. ) (pending before the Legislature as this bill).

42 b. An obligation owing under a contract, will, insurance policy,  
43 annuity, or other agreement, made before the effective date of  
44 P.L. , c. (C. ) (pending before the Legislature as this bill),  
45 shall not be affected by: the provisions of P.L. , c. (C. )  
46 (pending before the Legislature as this bill); a person's making or  
47 rescinding a request for medication pursuant to P.L. , c. (C. )  
48 (pending before the Legislature as this bill); or any other action

1 taken pursuant to P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3 c. On or after the effective date of P.L. , c. (C. )  
4 (pending before the Legislature as this bill), procurement or  
5 issuance of a life, health, or accident insurance policy or annuity, or  
6 the premium or rate charged for the policy or annuity, shall not be  
7 conditioned upon or otherwise take into account the making or  
8 rescinding of a request for medication pursuant to  
9 P.L. , c. (C. ) (pending before the Legislature as this bill) by  
10 any person.

11  
12 15. (New section) Nothing in P.L. , c. (C. ) (pending  
13 before the Legislature as this bill) shall be construed to:

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

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

20  
21 16. (New section) A person shall not be authorized to take any  
22 action on behalf of a patient for the purposes of P.L. , c. (C. )  
23 (pending before the Legislature as this bill) by virtue of that  
24 person's designation as a guardian pursuant to N.J.S.3B:12-1 et  
25 seq., a conservator pursuant to N.J.S.3B:13A-1 et seq., a health care  
26 representative pursuant to P.L.1991, c.201 (C.26:2H-53 et seq.), or  
27 a patient's representative pursuant to P.L.2011, c.145 (C.26:2H-129  
28 et al.), except for communicating the patient's health care decisions  
29 to a health care provider if the patient so requests.

30  
31 17. (New section) a. (1) Except as provided in sections 18 and  
32 19 of P.L. , c. (C. ) (pending before the Legislature as this  
33 bill), a person shall not be subject to civil or criminal liability or  
34 professional disciplinary action <sup>1</sup>, or subject to censure, discipline,  
35 suspension, or loss of any licensure, certification, privileges, or  
36 membership,<sup>1</sup> for any action taken in compliance with the  
37 provisions of P.L. , c. (C. ) (pending before the Legislature  
38 as this bill), including being present when a qualified terminally ill  
39 patient self-administers medication prescribed pursuant to P.L. ,  
40 c. (C. ) (pending before the Legislature as this bill) <sup>1</sup>, or for  
41 the refusal to take any action in furtherance of, or to otherwise  
42 participate in, a request for medication pursuant to the provisions of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>.

44 A person who substantially complies in good faith with the  
45 provisions of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill) shall be deemed to be in compliance with its provisions.

47 (2) Any action taken in accordance with the provisions of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill)

1 shall not constitute patient abuse or neglect, suicide, assisted  
2 suicide, mercy killing, <sup>1</sup>euthanasia,<sup>1</sup> or homicide under any law of  
3 this State.

4 (3) A patient's request for, or the provision of, medication in  
5 compliance with the provisions of P.L. , c. (C. ) (pending  
6 before the Legislature as this bill) shall not <sup>1</sup>constitute abuse or  
7 neglect of an elderly person or<sup>1</sup> provide the sole basis for the  
8 appointment of a guardian or conservator.

9 b. <sup>1</sup>The provisions of subsection a. of this section shall not  
10 apply to acts or omissions constituting gross negligence,  
11 recklessness, or willful misconduct.

12 c.<sup>1</sup> Any action taken by a health care professional to participate  
13 in P.L. , c. (C. ) (pending before the Legislature as this bill)  
14 shall be voluntary on the part of that individual. If a health care  
15 professional is unable or unwilling to carry out a patient's request  
16 under P.L. , c. (C. ) (pending before the Legislature as this  
17 bill), and the patient transfers the patient's care to a new health care  
18 professional or health care facility, the prior health care  
19 professional shall transfer, upon request, a copy of the patient's  
20 relevant records to the new health care professional or health care  
21 facility.

22

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

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

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

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

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

45

46 19. (New section) Any governmental entity that incurs costs  
47 resulting from a qualified terminally ill patient choosing to self-

1 administer medication prescribed pursuant to P.L. , c. (C. )  
2 (pending before the Legislature as this bill) in a public place has a  
3 claim against the estate of the patient to recover those costs and  
4 reasonable attorneys' fees related to enforcing the claim.  
5

6 20. (New section) A written request for a medication as  
7 authorized by P.L. , c. (C. ) (pending before the Legislature  
8 as this bill) shall be in substantially the following form:  
9

10 REQUEST FOR MEDICATION TO END MY LIFE IN A  
11 HUMANE AND DIGNIFIED MANNER  
12

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

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

18 I have been fully informed of my diagnosis, prognosis, the nature  
19 of medication to be prescribed and potential associated risks, the  
20 expected result, and the feasible alternatives, including <sup>1</sup>concurrent  
21 or additional treatment opportunities.<sup>1</sup> palliative care, comfort care,  
22 hospice care, and pain control.

23 I request that my attending physician prescribe medication that I  
24 may self-administer to end my life in a humane and dignified  
25 manner and to contact any pharmacist as necessary to fill the  
26 prescription.  
27

28 INITIAL ONE:  
29

30 . . . . I have informed my family of my decision and taken their  
31 opinions into consideration.

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

33 . . . . I have no family to inform of my decision.  
34

35 INITIAL ALL THAT APPLY:  
36

37 . . . . My attending physician has recommended that I participate  
38 in a consultation concerning <sup>1</sup>concurrent or<sup>1</sup> additional treatment  
39 opportunities, palliative care, comfort care, hospice care, and pain  
40 control options, and provided me with a referral to a health care  
41 professional qualified to discuss these options with me.

42 . . . . I have participated in a consultation concerning  
43 <sup>1</sup>concurrent or<sup>1</sup> additional treatment opportunities, palliative care,  
44 comfort care, hospice care, and pain control options.

45 . . . I am currently receiving palliative care, comfort care, or  
46 hospice care.  
47

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

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

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

10  
11 Signed: . . . . .

12  
13 Dated: . . . . .

14  
15 DECLARATION OF WITNESSES  
16

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

20  
21 Witness 1      Witness 2  
22 Initials      Initials  
23 . . . . .      . . . . .

24 1. Is personally known to us or has provided proof of identity.  
25 . . . . .      . . . . .

26 2. Signed this request in our presence on the date of the person's  
27 signature.  
28 . . . . .      . . . . .

29 3. Appears to be of sound mind and not under duress, fraud, or  
30 undue influence.  
31 . . . . .      . . . . .

32 4. Is not a patient for whom either of us is the attending physician.  
33 . . . . .      . . . . .

34 Printed Name of Witness 1: . . . . .

35 Signature of Witness 1/Date: . . . . .

36

37 Printed Name of Witness 2: . . . . .

38 Signature of Witness 2/Date: . . . . .

39

40 NOTE: At least one witness shall not be a relative by blood,  
41 marriage, or adoption of the person signing this request, shall not be  
42 entitled to any portion of the person's estate upon death, and shall  
43 not own, operate, or be employed at a health care facility<sup>1</sup>, other  
44 than a long term care facility,<sup>1</sup> where the person is a patient or  
45 resident. <sup>1</sup>**[If the patient is a resident of a long-term care facility,**  
46 **one of the witnesses shall be an individual designated by the**  
47 **facility.]<sup>1</sup>**

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

10  
 11 22. (New section) The State Board of Medical 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 physician pursuant thereto.

17  
 18 23. (New section) The New Jersey State Board of Pharmacy,  
 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 pharmacist pursuant thereto.

24  
 25 24. (New section) The State Board of Psychological 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 psychologist pursuant thereto.

31  
 32 <sup>1</sup>25. (New section) The State Board of Social Work Examiners,  
 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 clinical social worker pursuant  
 38 thereto.<sup>1</sup>

39  
 40 <sup>1</sup>**[25.] 26.<sup>1</sup>** (New section) a. As used in this section:

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

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

45 b. (1) The existing policies and procedures utilized by a  
 46 health care facility shall, to the maximum extent possible, govern  
 47 the taking of any action by a health care professional pursuant to  
 48 sections 1 through 20 of P.L. , c. (C. ) (pending before the

1 Legislature as this bill) on the premises owned by, or under the  
2 direct control of, the facility, except as otherwise prescribed by  
3 regulation of the Commissioner of Health pursuant to paragraph (4)  
4 of this subsection.

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

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

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

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

25

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

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

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

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

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

47 A duty to warn and protect shall not be incurred when a qualified  
48 terminally ill patient requests medication that the patient may

1 choose to self-administer in accordance with the provisions of  
 2 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

30  
 31 <sup>1</sup>**[27.] 28.**<sup>1</sup> N.J.S.2C:11-6 is amended to read as follows:

32 2C:11-6. Aiding Suicide. A person who purposely aids another  
 33 to commit suicide is guilty of a crime of the second degree if his  
 34 conduct causes such suicide or an attempted suicide, and otherwise  
 35 of a crime of the fourth degree. Any action taken in accordance  
 36 with the provisions of P.L. , c. (C. ) (pending before the  
 37 Legislature as this bill) shall not constitute suicide or assisted  
 38 suicide.

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

40  
 41 <sup>1</sup>**[28.] 29.**<sup>1</sup> This act shall take effect on the first day of the  
 42 fourth month next following the date of enactment, but the Director  
 43 of the Division of Consumer Affairs in the Department of Law and  
 44 Public Safety, the Commissioner of Health, the State Board of  
 45 Medical Examiners, the New Jersey State Board of Pharmacy, <sup>1</sup>the  
 46 State Board of Social Work Examiners,<sup>1</sup> and the State Board of

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- 1 Psychological Examiners may take such anticipatory administrative
- 2 action in advance thereof as shall be necessary for the
- 3 implementation of this act.