

# 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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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17 provided, withheld, or withdrawn, this State affirms the right of a  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.