

ASSEMBLY, No. 3328

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED SEPTEMBER 27, 2012

Sponsored by:

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

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/4/2012)

A3328 BURZICHELLI, EUSTACE

2

1 AN ACT concerning death with dignity, supplementing Titles 45 and
2 26 of the Revised Statutes, and amending P.L.1991, c.270 and
3 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 this act shall be
9 known and may be cited as the “New Jersey Death with Dignity
10 Act.”

11

12 2. (New section) The Legislature finds and declares that:

13 a. The public welfare requires a defined and safeguarded
14 process, with procedural safeguards to protect the interests of
15 patients and health care providers, by which a patient who is an
16 adult New Jersey resident with the capacity to make health care
17 decisions, and who has been determined by that individual’s
18 attending physician and consulting physician to be suffering from a
19 terminal disease that will cause death within six months, may obtain
20 medication that the patient may self-administer to end his life in a
21 humane and dignified manner;

22 b. The public welfare requires that such a process be entirely
23 voluntary on the part of all participants, including the patient, the
24 patient’s physicians, and any other health care provider furnishing
25 services or care to the patient; and

26 c. This act is necessary for the welfare of the State and its
27 residents, and it is intended that it be liberally construed to
28 effectuate its purposes.

29

30 3. (New section) As used in this act:

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

32 “Attending physician” means the physician who has primary
33 responsibility for the care of a patient and treatment of the patient’s
34 terminal disease.

35 “Capable” means having the capacity to make health care
36 decisions and to communicate them to a health care professional,
37 including communication through persons familiar with the
38 patient’s manner of communicating if those persons are available.

39 “Consulting physician” means a physician who is qualified by
40 specialty or experience to make a professional diagnosis and
41 prognosis regarding a patient’s disease.

42 “Counseling” means one or more consultations as necessary
43 between a psychiatrist or psychologist licensed pursuant to Title 45
44 of the Revised Statutes and a patient for the purpose of determining

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

Matter underlined thus is new matter.

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

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

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

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

12 (1) the patient’s medical diagnosis;

13 (2) the patient’s prognosis;

14 (3) the potential risks associated with taking the medication to
15 be prescribed;

16 (4) the probable result of taking the medication to be prescribed;
17 and

18 (5) the feasible alternatives to taking the medication, including,
19 but not limited to, palliative care, hospice care, and pain control.

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

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

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

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

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

44 “Self-administer” means a qualified patient’s act of ingesting
45 medication to end that individual’s life in a humane and dignified
46 manner.

1 “Terminal disease” means an incurable and irreversible disease
2 that has been medically confirmed and will, within reasonable
3 medical judgment, result in a patient’s death within six months.

4
5 4. (New section) A patient may make a written request for
6 medication that the patient may self-administer in order to end that
7 individual’s life in a humane and dignified manner in accordance
8 with the provisions of this act, if the patient:

- 9 a. is an adult resident of New Jersey;
10 b. is capable and has been determined by the patient’s
11 attending physician and consulting physician to be suffering from a
12 terminal disease; and
13 c. has voluntarily expressed a wish to die.

14
15 5. (New section) a. A valid request for medication under this
16 act shall be in substantially the form set forth in section 20 of this
17 act, signed and dated by the patient and witnessed by at least two
18 individuals who, in the patient’s presence, attest that, to the best of
19 their knowledge and belief, the patient is capable and is acting
20 voluntarily to sign the request.

- 21 b. At least one of the witnesses shall be a person who is not:
22 (1) a relative of the patient by blood, marriage, or adoption;
23 (2) at the time the request is signed, entitled to any portion of
24 the estate of the qualified patient upon the patient’s death under any
25 will or by operation of law; and
26 (3) an owner, operator, or employee of a health care facility
27 where the qualified patient is receiving medical treatment or is a
28 resident.

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

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

35
36 6. (New section) a. The attending physician shall ensure that
37 all appropriate steps are carried out in accordance with the
38 provisions of this act before writing a prescription for medication to
39 enable a qualified patient to end the patient’s life in a humane and
40 dignified manner, for which purpose that physician shall:

- 41 (1) make the initial determination of whether a patient has a
42 terminal disease, is capable, and has made the request for
43 medication voluntarily;
44 (2) require that the patient demonstrate New Jersey residency;
45 (3) inform the patient of: the patient’s medical diagnosis; the
46 patient’s prognosis; the potential risks associated with taking the
47 medication to be prescribed; the probable result of taking the
48 medication to be prescribed; and the feasible alternatives to taking

- 1 the medication, including, but not limited to, palliative care, hospice
2 care, and pain control;
- 3 (4) refer the patient to a consulting physician for medical
4 confirmation of the diagnosis, and for a determination that the
5 patient is capable and acting voluntarily;
- 6 (5) refer the patient for counseling, if appropriate, pursuant to
7 this act;
- 8 (6) recommend that the patient notify the patient's next of kin of
9 the patient's decision to request the medication;
- 10 (7) advise the patient about the importance of having another
11 person present when the patient takes the medication prescribed
12 under this act and of not taking the medication in a public place;
- 13 (8) 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 end of the 15-day waiting
16 period required by this act;
- 17 (9) verify, immediately before writing the prescription for
18 medication under this act, that the patient is making an informed
19 decision to request the medication; and
- 20 (10) fulfill the medical record documentation requirements of
21 this act.
- 22 b. The attending physician shall:
- 23 (1) dispense medication directly, including ancillary medication
24 intended to facilitate the desired effect to minimize the patient's
25 discomfort, if the attending physician is authorized under law to
26 dispense and has a current federal Drug Enforcement
27 Administration certificate of registration; or
- 28 (2) with the patient's written consent:
- 29 (a) contact a pharmacist to inform the latter of the prescription;
30 and
- 31 (b) transmit the written prescription personally, by mail, or by
32 otherwise permissible electronic communication to the pharmacist,
33 who shall dispense the medication directly to either the patient, the
34 attending physician, or an expressly identified agent of the patient.
35 Medication dispensed pursuant to this subsection shall not be
36 dispensed to the patient by mail or other form of courier.
- 37 c. The attending physician may sign the patient's death
38 certificate, which shall list the underlying terminal disease as the
39 cause of death.
- 40
- 41 7. (New section) A person shall not be considered a qualified
42 patient until a consulting physician has:
- 43 a. examined that person and the person's relevant medical
44 records;
- 45 b. confirmed, in writing, the attending physician's diagnosis
46 that the person is suffering from a terminal disease; and

1 c. verified that the person is capable, is acting voluntarily, and
2 has made an informed decision to request medication to end the
3 person's life in a humane and dignified manner.

4
5 8. (New section) If, in the opinion of the attending physician
6 or the consulting physician, a patient may be suffering from a
7 psychiatric or psychological disorder or depression causing
8 impaired judgment, either physician shall refer the patient for
9 counseling. Medication to end a patient's life in a humane and
10 dignified manner shall not be prescribed unless the person
11 performing the counseling determines that the patient is not
12 suffering from a psychiatric or psychological disorder or depression
13 causing impaired judgment.

14
15 9. (New section) A patient shall not receive a prescription for
16 medication to end the patient's life in a humane and dignified
17 manner unless the patient has made an informed decision.
18 Immediately before writing a prescription for medication pursuant
19 to this act, the attending physician shall verify that the patient is
20 making an informed decision.

21
22 10. (New section) A patient shall not receive a prescription for
23 medication to end the patient's life in a humane and dignified
24 manner unless the attending physician has recommended that the
25 patient notify the patient's next of kin of the patient's request for
26 medication pursuant to this act, except that a patient who declines
27 or is unable to notify the patient's next of kin shall not have the
28 request for medication denied for that reason.

29
30 11. (New section) a. In order to receive a prescription for
31 medication that a qualified patient may self-administer to end the
32 patient's life in a humane and dignified manner, the patient shall
33 make an oral request and a written request for the medication, and
34 reiterate the oral request to the patient's attending physician at least
35 15 days after making the initial oral request. At the time the patient
36 makes a second oral request, the attending physician shall offer the
37 patient an opportunity to rescind the request.

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

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

43 b. A qualified patient may rescind the request at any time and
44 in any manner without regard to the patient's mental state. The
45 attending physician shall not write a prescription for medication
46 pursuant to this act without offering the patient an opportunity to
47 rescind the request.

- 1 c. The following items shall be documented in the patient's
2 medical record for the purposes of this act:
- 3 (1) the oral requests and the written request by the patient to the
4 attending physician for medication to end the patient's life in a
5 humane and dignified manner;
- 6 (2) the attending physician's diagnosis and prognosis, and
7 determination that the patient is capable, is acting voluntarily, and
8 has made an informed decision;
- 9 (3) the consulting physician's diagnosis and prognosis, and
10 verification that the patient is capable, is acting voluntarily, and has
11 made an informed decision;
- 12 (4) a report of the outcome and determinations made during
13 counseling of the patient pursuant to this act;
- 14 (5) the attending physician's offer to the patient to rescind the
15 patient's request at the time of the patient's second oral request; and
- 16 (6) a note by the attending physician indicating that all
17 requirements under this act have been met and indicating the steps
18 taken to carry out the patient's request for medication, including a
19 notation of the medication prescribed.

- 20
- 21 12. (New section) A request for medication pursuant to this act
22 shall not be granted unless the qualified patient has documented that
23 individual's New Jersey residency by furnishing to the attending
24 physician a copy of one of the following as applies to that
25 individual:
- 26 a. a driver's license or non-driver identification card issued by
27 the New Jersey Motor Vehicle Commission;
- 28 b. proof that the person is registered to vote in New Jersey;
- 29 c. a New Jersey resident gross income tax return filed for the
30 most recent tax year; or
- 31 d. any other government record that the attending physician
32 reasonably believes to demonstrate the individual's current
33 residency in this State.

- 34
- 35 13. (New section) Any medication dispensed pursuant to this
36 act that is not self-administered by a qualified patient shall be
37 disposed of by lawful means.

- 38
- 39 14. (New section) a. The Director of the Division of Consumer
40 Affairs in the Department of Law and Public Safety shall require
41 that a health care professional report the following information to
42 the division on a form and in a manner prescribed by regulation of
43 the director:
- 44 (1) No later than 30 days after the dispensing of medication
45 pursuant to this act, the health care professional who dispensed the
46 medication shall file a copy of the dispensing record with the
47 division, and shall otherwise facilitate the collection of such

1 information as the director may require regarding compliance with
2 this act.

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

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

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

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

20

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

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

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

39

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

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

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

45

46 17. (New section) a. (1) A person shall not be subject to civil
47 or criminal liability or professional disciplinary action for any
48 action taken in compliance with the provisions of this act, including

1 being present when a qualified patient takes medication to end the
2 patient's life in a humane and dignified manner pursuant to this act.
3 A person who substantially complies in good faith with the
4 provisions of this act shall be deemed to be in compliance with the
5 act.

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

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

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

20

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

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

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

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

35

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

41

42 20. (New section) A request for a medication as authorized by
43 this act shall be in substantially the following form:

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

3

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

6

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

8

9

10 Printed Name of Witness 1:

11 Signature of Witness 1/Date:

12

13 Printed Name of Witness 2:

14 Signature of Witness 2/Date:

15

16 NOTE: At least one witness shall not be a relative by blood,
17 marriage, or adoption of the person signing this request, shall not be
18 entitled to any portion of the person's estate upon death, and shall
19 not own, operate, or be employed at a health care facility where the
20 person is a patient or resident. If the patient is a resident of a long-
21 term care facility, one of the witnesses shall be an individual
22 designated by the facility.

23

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

31

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

38

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

45

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

1 necessary to implement the provisions of sections 1 through 20 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 concerning the duties of a licensed psychologist pursuant thereto.

4

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

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

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

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

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

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

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

41 (3) the termination of a contract or other nonmonetary remedy
42 provided by contract if the health care professional takes the
43 prohibited action while acting in the course and scope of that
44 individual’s capacity as an employee or independent contractor of
45 the health care facility, except that nothing in this subparagraph
46 shall preclude:

1 (a) a health care professional from taking the prohibited action
2 while acting outside the course and scope of that individual's
3 capacity as an employee or independent contractor; or

4 (b) a patient from contracting with the patient's attending
5 physician and consulting physician to act outside the course and
6 scope of either physician's capacity as an employee or independent
7 contractor of the health care facility.

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

11

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17

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

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

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

26

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

32

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

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

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

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

43 b. In every municipality the following question:

1

	YES	<p style="text-align: center;">AUTHORIZATION TO ALLOW CERTAIN PERSONS TO USE MEDICATION TO END THEIR LIFE IN A HUMANE AND DIGNIFIED WAY</p> <p>Do you approve allowing an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way?</p>
	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Voter approval of P. L. , c. (C.) (pending before the Legislature as this bill) will permit an adult who is able to make health care decisions and has a terminal disease that will cause death within six months to use a prescribed drug to end his life in a humane and dignified way.</p>

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

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STATEMENT

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10 This bill, which is designated as the “New Jersey Death with
11 Dignity Act,” would allow an adult New Jersey resident, who has
12 the capacity to make health care decisions and who has been
13 determined by that individual’s attending and consulting physicians
14 to be suffering from a terminal disease that will cause death within
15 six months, to obtain medication that the patient may self-
16 administer to end his life in a humane and dignified manner.

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

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

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

29 A valid request for medication under the bill is to be in
30 substantially the form set forth in the bill, signed and dated by the

1 patient and witnessed by at least two individuals who, in the
2 patient's presence, attest that, to the best of their knowledge and
3 belief, the patient is capable and is acting voluntarily to sign the
4 request.

5 At least one of the witnesses must be a person who is not:

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

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

10 (3) an owner, operator, or employee of a health care facility
11 where the qualified patient is receiving medical treatment or is a
12 resident.

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

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

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

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

34 A person is not to be considered a qualified patient until a
35 consulting physician has:

36 (1) examined that person and the person's relevant medical
37 records;

38 (2) confirmed, in writing, the attending physician's diagnosis
39 that the person is suffering from a terminal disease; and

40 (3) verified that the person is capable, is acting voluntarily, and
41 has made an informed decision to request medication to end the
42 person's life in a humane and dignified manner.

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

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

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

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

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

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

26 The following items are to be documented in the patient's
27 medical record:

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

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

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

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

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

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

45 A request for medication is not to be granted unless the qualified
46 patient has demonstrated that individual's New Jersey residency to
47 the attending physician as set forth in the bill.

1 The Director of the Division of Consumer Affairs (DCA) in the
2 Department of Law and Public Safety is to require that a health care
3 provider report the following information to DCA on a form and in
4 a manner prescribed by regulation of the commissioner:

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

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

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

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

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

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

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

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

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

39 A person who, without authorization of the patient, willfully
40 alters or forges a request for medication pursuant to the bill, or
41 conceals or destroys a rescission of that request with the intent or
42 effect of causing the patient's death, is guilty of a crime of the
43 second degree (punishable by imprisonment for a term of five to 10
44 years, or a fine of up to \$150,000, or both). A person who coerces
45 or exerts undue influence on a patient to request medication to end
46 the patient's life, or to destroy a rescission of a request, is guilty of a
47 crime of the third degree (punishable by imprisonment for a term of
48 three to five years, or a fine of up to \$15,000, or both).

1 A health care facility may adopt a written policy to prohibit a
2 health care professional from carrying out the provisions of the bill
3 on the premises owned by, or under the direct control of, the facility
4 if the facility has given prior written notice of the written policy to
5 all health care professionals with privileges to practice on those
6 premises. A health care professional who violates the written
7 policy, after being notified in writing of that policy, is subject to
8 such disciplinary action by the health care facility that adopted the
9 written policy as is set forth in the bill.

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

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

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