

[Third Reprint]
ASSEMBLY, No. 2270

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

Sponsored by:

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

Co-Sponsored by:

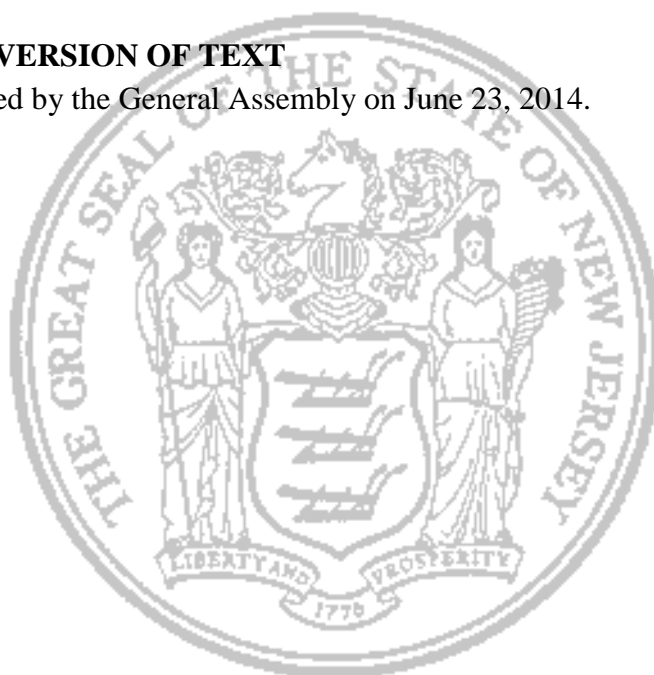
Assemblymen Cryan, McKeon, Assemblywoman Jasey and Assemblyman Wilson

SYNOPSIS

“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 amended by the General Assembly on June 23, 2014.



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

1 AN ACT concerning ¹**【death with dignity】** aid in dying for the
 2 terminally ill¹, supplementing Titles 45 and 26 of the Revised
 3 Statutes, and amending P.L.1991, c.270 and N.J.S.2C:11-6.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. (New section) Sections 1 through 21 of ²**【this act】** P.L.____,
 9 c.____ (C.____) (pending before the Legislature as this bill)² shall be
 10 known and may be cited as the ¹**【“New Jersey Death with Dignity**
 11 **Act.”】** “Aid in Dying for the Terminally Ill Act.”¹

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

14 a. ²**【The public welfare requires a defined and safeguarded**
 15 **process, with procedural safeguards to protect the interests of**
 16 **patients and health care providers, by which a patient who is an**
 17 **adult New Jersey resident with the capacity to make health care**
 18 **decisions, and who has been determined by that individual’s**
 19 **attending physician and consulting physician to be suffering from a**
 20 **terminal disease that will cause death within six months, may obtain**
 21 **medication that the patient may self-administer to end his life in a**
 22 **humane and dignified manner】** Recognizing New Jersey’s long-
 23 standing commitment to individual dignity, informed consent, and
 24 the fundamental right of competent adults to make health care
 25 decisions about whether to have life-prolonging medical or surgical
 26 means or procedures provided, withheld, or withdrawn, this State
 27 affirms the right of a qualified terminally ill patient, protected by
 28 appropriate safeguards, to obtain medication that the patient may
 29 choose to self-administer in order to bring about the patient’s
 30 humane and dignified death²;

31 b. ²Statistics from other states that have enacted laws to
 32 provide compassionate aid in dying for terminally ill patients
 33 indicate that the great majority of patients who requested
 34 medication under the laws of those states, including more than 90%
 35 of patients in Oregon since 1998 and between 72% and 86% of
 36 patients in Washington in each year since 2009, were enrolled in
 37 hospice care at the time of death, suggesting that those patients had
 38 availed themselves of available treatment and comfort care options
 39 available to them at the time they requested compassionate aid in
 40 dying;

41 c.² The public welfare requires ²**【that such a process be entirely**
 42 **voluntary on the part of all participants, including the patient, the**

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHE committee amendments adopted June 5, 2014.

²Assembly floor amendments adopted June 16, 2014.

³Assembly floor amendments adopted June 23, 2014.

1 patient's physicians, and any other health care provider furnishing
 2 services or care to the patient **】** a defined and safeguarded process in
 3 order to effectuate the purposes of this act, which will:

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

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

8 (3) protect vulnerable adults from abuse; and

9 (4) ensure that the process is entirely voluntary on the part of all
 10 participants, including patients and those health care providers that
 11 are providing care to dying patients²; and

12 ²**【c.】** d.² This act is ²in the public interest and is² necessary for
 13 the welfare of the State and its residents ²【, and it is intended that it
 14 be liberally construed to effectuate its purposes】².

15
 16 3. (New section) As used in ²**【this act】** P.L. ____, c. ____ (C. ____)
 17 (pending before the Legislature as this bill)²:

18 "Adult" means an individual who is 18 years of age or older.

19 "Attending physician" means ²**【the】** a² physician ²licensed
 20 pursuant to Title 45 of the Revised Statutes² who has primary
 21 responsibility for the ²treatment and² care of a ²qualified terminally
 22 ill² patient and treatment of the patient's ²【terminal】 illness,²
 23 disease ², or condition².

24 "Capable" means having the capacity to make health care
 25 decisions and to communicate them to a health care ²**【professional】**
 26 provider², including communication through persons familiar with
 27 the patient's manner of communicating if those persons are
 28 available.

29 "Consulting physician" means a physician ²licensed pursuant to
 30 Title 45 of the Revised Statutes² who is qualified by specialty or
 31 experience to make a professional diagnosis and prognosis
 32 regarding a patient's ²illness,² disease ², or condition².

33 "Counseling" means one or more consultations as necessary
 34 between a psychiatrist or psychologist licensed pursuant to Title 45
 35 of the Revised Statutes and a patient for the purpose of determining
 36 that the patient is capable and not suffering from a psychiatric or
 37 psychological disorder or depression causing impaired judgment.

38 "Health care facility" means a health care facility licensed
 39 pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) ².²

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

42 ²"Health care provider" means a health care professional or
 43 health care facility.²

44 "Informed decision" means a decision by a qualified ²terminally
 45 ill² patient to request and obtain a prescription for medication that
 46 the ²【qualified】² patient may ²choose to² self-administer to end the

1 patient's life in a humane and dignified manner, which is based on
2 an appreciation of the relevant facts and after being fully informed
3 by the attending physician of:

4 (1) the patient's medical diagnosis;

5 (2) the patient's prognosis;

6 (3) the potential risks associated with taking the medication to
7 be prescribed;

8 (4) the probable result of taking the medication to be prescribed;

9 and

10 (5) the feasible alternatives to taking the medication, including,
11 but not limited to, ²additional treatment opportunities,² palliative
12 care, ²comfort care,² hospice care, and pain control.

13 "Medically confirmed" means that the medical opinion of the
14 attending physician has been confirmed ²pursuant to section 7 of
15 P.L. , c. (C.) (pending before the Legislature as this bill)²
16 by a consulting physician who has examined the patient and the
17 patient's relevant medical records.

18 ²**["Participating in this act" or "participation in this act"]**
19 "Participate in this act"² means to perform the duties of ²**[an**
20 attending physician or consulting physician, a psychiatrist or
21 psychologist providing counseling, or a pharmacist dispensing
22 medication,] a health care provider² in accordance with the
23 provisions of ²**[this act] P.L. , c. (C.) (pending before**
24 the Legislature as this bill)², but does not include: making an initial
25 determination that a patient ²**[has a terminal disease] is terminally**
26 ill² and informing the patient of the medical prognosis; providing
27 information about the provisions of ²**[this act] P.L. , c. (C.)**
28 (pending before the Legislature as this bill)² to a patient upon the
29 patient's request; or providing a patient, upon the patient's request,
30 with a referral to another ²**[physician] health care provider**².

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

32 ²**["Physician" means a doctor of medicine or osteopathy licensed**
33 **to practice medicine in New Jersey by the State Board of Medical**
34 **Examiners.]**²

35 "Qualified ²terminally ill² patient" means a capable adult who is
36 a resident of New Jersey and has satisfied the requirements ²**[of this**
37 **act in order]**² to obtain a prescription for medication ²**[that the**
38 **qualified patient may self-administer to end the patient's life in a**
39 **humane and dignified manner]** pursuant to P.L. , c. (C.)
40 (pending before the Legislature as this bill)². A person shall not be
41 considered to be a qualified ²terminally ill² patient solely because
42 of the person's age or disability ²or a diagnosis of any specific
43 illness, disease, or condition².

44 "Self-administer" means a qualified ²terminally ill² patient's act
45 of ingesting medication ²**[to end that individual's life in a humane**

1 and dignified manner】 that has been prescribed pursuant to P.L. _____,
 2 c. _____ (C. _____) (pending before the Legislature as this bill)².

3 ²【“Terminal disease” means an incurable and irreversible disease
 4 that has been medically confirmed and will, within reasonable
 5 medical judgment, result in a patient’s death within six months.】
 6 “Terminally ill” means that the patient is in the terminal stage of an
 7 irreversibly fatal illness, disease, or condition ³【. A determination
 8 of a specific life expectancy is not required as a precondition for a
 9 diagnosis that the patient is “terminally ill,” but】 with³ a prognosis,
 10 based upon reasonable medical certainty, of a life expectancy of six
 11 months or less ³【, with or without the provision of life-sustaining
 12 treatment, shall be deemed to constitute evidence that the patient is
 13 “terminally ill” for the purposes of P.L. _____, c. _____ (C. _____) (pending
 14 before the Legislature as this bill)】³ ²
 15

16 4. (New section) A ²terminally ill² patient may make a written
 17 request for medication that the patient may ²choose to² self-
 18 administer ²【in order to end that individual’s life in a humane and
 19 dignified manner in accordance with the provisions of this act】
 20 pursuant to P.L. _____, c. _____ (C. _____) (pending before the Legislature
 21 as this bill)², if the patient:

22 a. is an adult resident of New Jersey ²as demonstrated pursuant
 23 to section 11 of P.L. _____, c. _____ (C. _____) (pending before the
 24 Legislature as this bill)²;

25 b. is capable and has been determined by the patient’s
 26 attending physician and ²a² consulting physician to be ²【suffering
 27 from a terminal disease】 terminally ill²; and

28 c. has voluntarily expressed a wish to ²【die】 receive a
 29 prescription for medication pursuant to P.L. _____, c. _____ (C. _____)
 30 (pending before the Legislature as this bill)².
 31

32 5. (New section) a. A valid ²written² request for medication
 33 under ²【this act】 P.L. _____, c. _____ (C. _____) (pending before the
 34 Legislature as this bill)² shall be in substantially the form set forth
 35 in section 20 of ²【this act】 P.L. _____, c. _____ (C. _____) (pending before
 36 the Legislature as this bill)², signed and dated by the patient and
 37 witnessed by at least two individuals who, in the patient’s presence,
 38 attest that, to the best of their knowledge and belief, the patient is
 39 capable and is acting voluntarily to sign the request.

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

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

42 (2) at the time the request is signed, entitled to any portion of
 43 the ²patient’s² estate ²【of the qualified patient】² upon the patient’s
 44 death under any will or by operation of law; and

(3) an owner, operator, or employee of a health care facility where the ²qualified² patient is receiving medical treatment or is a resident.

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

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

6. (New section) a. The attending physician shall ensure that all appropriate steps are carried out in accordance with the provisions of ²this act² P.L. , c. (C.) (pending before the Legislature as this bill)² before writing a prescription for medication ²to enable² that² a qualified ²terminally ill² patient ²to end the patient's life in a humane and dignified manner, for which purpose that physician shall² may choose to self-administer pursuant to P.L. , c. (C.) (pending before the Legislature as this bill), including such actions as are necessary to²:

(1) make the initial determination of whether a patient ²has a terminal disease² is terminally ill², is capable, and has ²voluntarily² made the request for medication ²voluntarily² pursuant to P.L. , c. (C.) (pending before the Legislature as this bill)²;

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

(3) inform the patient of: the patient's medical diagnosis ²the patient's² and² prognosis; the potential risks associated with taking the medication to be prescribed; the probable result of taking the medication to be prescribed; and the feasible alternatives to taking the medication, including, but not limited to, ²additional treatment opportunities,² palliative care, ²comfort care,² hospice care, and pain control;

(4) refer the patient to a consulting physician for medical confirmation of the diagnosis ²and prognosis², and for a determination that the patient is capable and acting voluntarily;

(5) refer the patient for counseling, if appropriate, pursuant to ²this act² section 8 of P.L. , c. (C.) (pending before the Legislature as this bill);

(6) recommend that the patient participate in a consultation concerning additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options for the patient, and provide the patient with a referral to a health care professional qualified to discuss these options with the patient²;

²(6)² (7)² recommend that the patient notify the patient's next of kin of the patient's decision to request the medication;

1 ²[(7)] (8)² advise the patient about the importance of having
 2 another person present ²if and² when the patient ²[takes the]
 3 chooses to self-administer² medication prescribed under ²[this act]
 4 P.L. , c. (C.) (pending before the Legislature as this bill)²
 5 and of not taking the medication in a public place;

6 ²[(8)] (9)² inform the patient of the patient's opportunity to
 7 rescind the request at any time and in any manner, and offer the
 8 patient an opportunity to rescind the request at the ²[end of the 15-
 9 day waiting period required by this act] time the patient makes a
 10 second oral request as provided in section 10 of P.L. ,
 11 c. (C.) (pending before the Legislature as this bill)²;

12 ²[(9)] (10)² verify, immediately before writing the prescription
 13 for medication under ²[this act] P.L. , c. (C.) (pending
 14 before the Legislature as this bill)², that the patient is making an
 15 informed decision to request the medication; and

16 ²[(10)] (11)² fulfill the medical record documentation
 17 requirements of ²[this act] P.L. , c. (C.) (pending before
 18 the Legislature as this bill)².

19 b. The attending physician shall:

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

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

26 (a) contact a pharmacist to inform the latter of the prescription;
 27 and

28 (b) transmit the written prescription personally, by mail, or by
 29 ²[otherwise]² permissible electronic communication to the
 30 pharmacist, who shall dispense the medication directly to either the
 31 patient, the attending physician, or an expressly identified agent of
 32 the patient.

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

35 ²[c. The attending physician may sign the patient's death
 36 certificate, which shall list the underlying terminal disease as the
 37 cause of death.]²

38

39 7. (New section) A ²[person] patient² shall not be considered
 40 a qualified ²terminally ill² patient until a consulting physician has:

41 a. examined that ²[person] patient² and the ²[person's]
 42 patient's² relevant medical records;

43 b. confirmed, in writing, the attending physician's diagnosis
 44 that the ²[person is suffering from a terminal disease] patient is
 45 terminally ill²; and

1 c. verified that the ²**[person]** patient² is capable, is acting
2 voluntarily, and has made an informed decision to request
3 medication ²**[to end the person's life in a humane and dignified**
4 **manner]** that, if prescribed, the patient may choose to self-
5 administer pursuant to P.L. , c. (C.) (pending before the
6 Legislature as this bill)².

7
8 8. (New section) ²a.² If, in the ²medical² opinion of the
9 attending physician or the consulting physician, a patient
10 ²requesting medication that the patient may choose to self-
11 administer pursuant to P.L. , c. (C.) (pending before the
12 Legislature as this bill) may not be capable because the patient²
13 may ²**[be suffering from]** have² a psychiatric or psychological
14 disorder or depression ²**[causing]** that causes² impaired judgment,
15 ²**[either]** the² physician shall refer the patient ²to a licensed
16 psychiatrist or psychologist² for counseling ²to determine whether
17 the patient is capable. A consulting physician who refers a patient
18 to a licensed psychiatrist or psychologist for counseling pursuant to
19 this subsection shall provide written notice of the referral to the
20 attending physician². ²**[Medication to end a patient's life in a**
21 **humane and dignified manner shall not be prescribed unless the**
22 **person performing the counseling determines that the patient is not**
23 **suffering from a psychiatric or psychological disorder or depression**
24 **causing impaired judgment.]**

25 b. If a patient has been referred to a licensed psychiatrist or
26 psychologist for counseling pursuant to subsection a. of this section,
27 the attending physician shall not write a prescription for medication
28 that the patient may choose to self-administer pursuant to P.L. ,
29 c. (C.) (pending before the Legislature as this bill) unless
30 the attending physician has been notified in writing by the licensed
31 psychiatrist or psychologist of that individual's determination that
32 the patient is capable.²

33
34 ²**[9. (New section) A patient shall not receive a prescription for**
35 **medication to end the patient's life in a humane and dignified**
36 **manner unless the patient has made an informed decision.**
37 **Immediately before writing a prescription for medication pursuant**
38 **to this act, the attending physician shall verify that the patient is**
39 **making an informed decision.]**²

40
41 ²**[10.]** ²9.² (New section) A ²qualified terminally ill² patient
42 shall not receive a prescription for medication ²**[to end the patient's**
43 **life in a humane and dignified manner]** that the patient may choose
44 to self-administer pursuant to P.L. , c. (C.) (pending
45 before the Legislature as this bill)² unless the attending physician
46 has recommended that the patient notify the patient's next of kin of

1 the patient's request for medication ²【pursuant to this act】², except
 2 that a patient who declines or is unable to notify the patient's next
 3 of kin shall not have the request for medication denied for that
 4 reason.

5
 6 ²【11.】 10.² (New section) a. ²【In order to receive a
 7 prescription for medication that a qualified patient may self-
 8 administer to end the patient's life in a humane and dignified
 9 manner, the patient shall make an oral request and a written request
 10 for the medication, and reiterate the oral request to the patient's
 11 attending physician at least 15 days after making the initial oral
 12 request. At the time the patient makes a second oral request, the
 13 attending physician shall offer the patient an opportunity to rescind
 14 the request.

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

17 (2) At least 48 hours shall elapse between the time the patient
 18 signs the written request and the writing of a prescription pursuant
 19 to this act.】 In order to receive a prescription for medication that a
 20 qualified terminally ill patient may choose to self-administer
 21 pursuant to P.L. , c. (C.) (pending before the Legislature
 22 as this bill), the patient shall make two oral requests and one written
 23 request for the medication to the patient's attending physician,
 24 subject to the following requirements:

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

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

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

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

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

39 (6) at least 48 hours shall elapse between the attending
 40 physician's receipt of the patient's written request and the writing
 41 of a prescription pursuant to P.L. , c. (C.) (pending
 42 before the Legislature as this bill)².

43 b. A qualified ²terminally ill² patient may rescind the request at
 44 any time and in any manner without regard to the patient's mental
 45 state. ²【The attending physician shall not write a prescription for
 46 medication pursuant to this act without offering the patient an
 47 opportunity to rescind the request.】²

1 c. ²At 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.² The ²attending physician shall ensure that the² following
19 items ²shall be documented ²are included² in the patient's medical
20 record ²for the purposes of this act²:

21 (1) ²the determination that the patient is a qualified terminally
22 ill patient and the basis for that determination;

23 (2)² ²the oral requests and the written request ²all oral and
24 written requests² by the patient to the attending physician for
25 medication ²to end the patient's life in a humane and dignified
26 manner ²that the patient may choose to self-administer pursuant to
27 P.L. , c. (C.) (pending before the Legislature as this
28 bill)²;

29 ²[(2)] (3)² the attending physician's diagnosis and prognosis,
30 and determination that the patient is capable, is acting voluntarily,
31 and has made an informed decision;

32 ²[(3)] (4)² the consulting physician's diagnosis and prognosis,
33 and verification that the patient is capable, is acting voluntarily, and
34 has made an informed decision;

35 ²[(4) a report of the outcome and determinations made during
36 counseling of the patient pursuant to this act;]²

37 (5) ²if applicable, a report of the determination made by a
38 licensed psychiatrist or psychologist as to whether the patient is
39 capable pursuant to section 8 of P.L. , c. (C.) (pending
40 before the Legislature as this bill);

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

1 receiving palliative care, comfort care, hospice care, or pain control
2 treatments;

3 (7)² the attending physician's offer to the patient to rescind the
4 patient's request at the time of the patient's second oral request; and

5 ²[(6)] (8)² a note by the attending physician indicating that all
6 requirements under ²[(this act)] P.L. _____, c. _____ (C. _____) (pending
7 before the Legislature as this bill)² have been met and indicating the
8 steps taken to carry out the patient's request for medication,
9 including a notation of the medication prescribed.

10
11 ²[(12.)] 11.² (New section) A request for medication pursuant to
12 ²[(this act)] P.L. _____, c. _____ (C. _____) (pending before the Legislature
13 as this bill)² shall not be granted unless the qualified ²terminally ill²
14 patient has documented that individual's New Jersey residency by
15 furnishing to the attending physician a copy of one of the following
16 ²[(as applies to that individual)]²:

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

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

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

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

25
26 ²[(13.)] 12.² (New section) Any medication dispensed pursuant
27 to ²[(this act that is not self-administered by a qualified patient)]
28 P.L. _____, c. _____ (C. _____) (pending before the Legislature as this bill)
29 that a qualified terminally ill patient chooses not to self-administer²
30 shall be disposed of by lawful means.

31
32 ²[(14.)] 13.² (New section) a. The Director of the Division of
33 Consumer Affairs in the Department of Law and Public Safety shall
34 require that a health care professional report the following
35 information to the division on a form and in a manner prescribed by
36 regulation of the director ², in consultation with the Commissioner
37 of Health²:

38 (1) No later than 30 days after the dispensing of medication
39 pursuant to ²[(this act)] P.L. _____, c. _____ (C. _____) (pending before the
40 Legislature as this bill)², the health care professional who dispensed
41 the medication shall file a copy of the dispensing record with the
42 division, and shall otherwise facilitate the collection of such
43 information as the director may require regarding compliance with
44 ²[(this act)] P.L. _____, c. _____ (C. _____) (pending before the Legislature
45 as this bill)².

1 (2) No later than 30 days after the date of the ²qualified
2 terminally ill² patient's death, the ²attending² physician ²who
3 prescribed the medication² shall transmit to the division such
4 documentation of the patient's death as the director shall require.

5 (3) In the event that anyone required to report information to the
6 division pursuant to ²this act P.L. _____, c. _____ (C. _____) (pending
7 before the Legislature as this bill)² provides an inadequate or
8 incomplete report, the division shall contact the person to request a
9 complete report.

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

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

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

25
26 ²[15.] 14.² (New section) a. A provision in a contract, will,
27 insurance policy, annuity, or other agreement, whether written or
28 oral, made on or after the effective date of ²this act P.L. _____,
29 c. _____ (C. _____) (pending before the Legislature as this bill)², shall
30 not be valid to the extent that the provision would condition or
31 restrict a person's decision to make or rescind a request for
32 medication ²to end the person's life in a humane and dignified
33 manner pursuant to P.L. _____, c. _____ (C. _____) (pending before the
34 Legislature as this bill)².

35 b. An obligation owing under a contract, will, insurance policy,
36 annuity, or other agreement, made before the effective date of ²this
37 act P.L. _____, c. _____ (C. _____) (pending before the Legislature as this
38 bill)², shall not be affected by: the provisions of ²this act
39 P.L. _____, c. _____ (C. _____) (pending before the Legislature as this
40 bill)²; a person's making or rescinding a request for medication ²to
41 end the person's life in a humane and dignified manner pursuant to
42 P.L. _____, c. _____ (C. _____) (pending before the Legislature as this
43 bill)²; or any other action taken pursuant to ²this act P.L. _____,
44 c. _____ (C. _____) (pending before the Legislature as this bill)².

45 c. On or after the effective date of ²this act P.L. _____,
46 c. _____ (C. _____) (pending before the Legislature as this bill)²,

procurement or issuance of a life, health, or accident insurance policy or annuity ², ² or the premium or rate charged for the policy or annuity ², ² shall not be conditioned upon or otherwise take into account the making or rescinding of a request for medication pursuant to ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² by any person.

² **[16.] 15.** ² (New section) Nothing in ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² shall be construed to:

a. authorize a physician or any other person to end a patient's life by lethal injection, active euthanasia, or mercy killing ², or any act that constitutes assisted suicide under any law of this State²; or

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

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

17. (New section) a. (1) ² **[A]** Except as provided in section 19 of P.L. , c. (C.) (pending before the Legislature as this bill), a² person shall not be subject to civil or criminal liability or professional disciplinary action for any action taken in compliance with the provisions of ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)², including being present when a qualified ² **terminally ill**² patient ² **[takes]** **self-administers**² medication ² **[to end the patient's life in a humane and dignified manner]** **prescribed**² pursuant to ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)². A person who substantially complies in good faith with the provisions of ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² shall be deemed to be in compliance with ² **[the act]** **its provisions**².

(2) Any action taken in accordance with the provisions of ² **[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² shall not constitute ² **patient abuse or neglect**,² suicide,

1 assisted suicide, mercy killing, or homicide under any ²**[criminal]**²
2 law of this State.

3 (3) A patient's request for, or the provision of, medication in
4 compliance with the provisions of ²**[this act]** P.L. , c. (C.)
5 (pending before the Legislature as this bill)² shall not ²**[constitute]**
6 neglect for any purpose of law or² provide the sole basis for the
7 appointment of a guardian or conservator.

8 b. Any action taken by a health care professional to participate
9 in ²**[this act]** P.L. , c. (C.) (pending before the
10 Legislature as this bill)² shall be voluntary on the part of that
11 individual. If a health care professional is unable or unwilling to
12 carry out a patient's request under ²**[this act]** P.L. , c. (C.)
13 (pending before the Legislature as this bill)², and the patient
14 transfers ²**[his]** the patient's² care to a new health care professional
15 ²or health care facility², the prior health care professional shall
16 transfer, upon request, a copy of the patient's relevant records to the
17 new health care professional ²or health care facility².
18

19 18. (New section) a. A person who, without authorization of
20 the patient, ²and with the intent or effect of causing the patient's
21 death,² willfully alters or forges a request for medication pursuant
22 to ²**[this act]**, P.L. , c. (C.) (pending before the
23 Legislature as this bill)² or conceals or destroys a rescission of that
24 request ²**[with the intent or effect of causing the patient's death]**², 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 ²**[to end the patient's life]**, pursuant to
28 P.L. , c. (C.) (pending before the Legislature as this bill)²
29 or to destroy a rescission of a request ²**[.]**² is guilty of a crime of
30 the third degree.

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

35 d.² Nothing in ²**[this act]** P.L. , c. (C.) (pending
36 before the Legislature as this bill)² shall limit liability for civil
37 damages resulting from the negligence or intentional misconduct of
38 any person.

39 ²**[d.]** e.² The penalties set forth in this section shall not
40 preclude the imposition of any other criminal penalty applicable
41 under law for conduct that is inconsistent with the provisions of
42 ²**[this act]** P.L. , c. (C.) (pending before the Legislature
43 as this bill)².

19. (New section) Any governmental entity that incurs costs resulting from a ²**[person terminating his life]** qualified terminally ill patient choosing to self-administer medication prescribed² pursuant to ²**[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² in a public place has a claim against the estate of the ²**[person]** patient² to recover ²**[such]** those² costs and reasonable attorneys' fees related to enforcing the claim.

20. (New section) A ²written² request for a medication as authorized by ²**[this act]** P.L. , c. (C.) (pending before the Legislature as this bill)² shall be in substantially the following form:

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

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

I am suffering from , which my attending physician has determined is a terminal ²illness,² disease ², or condition² and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including palliative care, ²comfort care,² hospice care, and pain control.

I request that my attending physician prescribe medication that I may self-administer to end my life in a humane and dignified manner and to contact any pharmacist ²as necessary² to fill the prescription.

INITIAL ONE:

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

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

. I have no family to inform of my decision.

²INITIAL ALL THAT APPLY:

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

1 I have participated in a consultation concerning additional
2 treatment opportunities, palliative care, comfort care, hospice care,
3 and pain control options.

4 I am currently receiving palliative care, comfort care, or
5 hospice care.²

6
7 I understand that I have the right to rescind this request at any
8 time.

9 I understand the full import of this request ²,² and I expect to die
10 if and when I take the medication to be prescribed. I further
11 understand that ²,² although most deaths occur within three hours,
12 my death may take longer and my physician has counseled me
13 about this possibility.

14 I make this request voluntarily and without reservation, and I
15 accept full ²**[moral]**² responsibility for my ²**[actions]** decision².

16
17 Signed:.....

18
19 Dated:.....

20
21 DECLARATION OF WITNESSES

22
23 By initialing and signing below on or after the date the person
24 named above signs, we declare that the person making and signing
25 the above request:

26
27 Witness 1 Witness 2

28 Initials Initials

29

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

31

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

34

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

37

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

39

40
41 Printed Name of Witness 1:

42 Signature of Witness 1/Date:

43
44 Printed Name of Witness 2:

45 Signature of Witness 2/Date:

46
47 NOTE: At least one witness shall not be a relative by blood,
48 marriage, or adoption of the person signing this request, shall not be

1 entitled to any portion of the person's estate upon death, and shall
2 not own, operate, or be employed at a health care facility where the
3 person is a patient or resident. If the patient is a resident of a long-
4 term care facility, one of the witnesses shall be an individual
5 designated by the facility.

6
7 21. (New section) The Director of the Division of Consumer
8 Affairs in the Department of Law and Public Safety, pursuant to the
9 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
10 seq.), shall adopt such rules and regulations as are necessary to
11 implement the provisions of sections 1 through 20 of ²**[this act]**
12 P.L. , c. (C.) (pending before the Legislature as this
13 bill)², including the required reporting of information to the
14 division by health care ²**[providers]** professionals² pursuant to
15 section ²**[14]** 13² of ²**[this act]** P.L. , c. (C.) (pending
16 before the Legislature as this bill)².

17
18 22. (New section) The State Board of Medical Examiners,
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are
21 necessary to implement the provisions of sections 1 through 20 of
22 P.L. , c. (C.) (pending before the Legislature as this bill)
23 concerning the duties of a licensed physician pursuant thereto.

24
25 23. (New section) The New Jersey State Board of Pharmacy,
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 pharmacist pursuant thereto.

31
32 24 New section) The State Board of Psychological 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 psychologist pursuant thereto.

38
39 25. (New section) a. As used in this section:

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

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

44 b. ²**[A health care facility may adopt a written policy to**
45 **prohibit a health care professional from taking]** (1) The existing
46 policies and procedures utilized by a health care facility shall, to the
47 maximum extent possible, govern the taking of² any action ²by a

1 health care professional² pursuant to sections 1 through 20 of
2 P.L. , c. (C.) (pending before the Legislature as this bill) on
3 the premises owned by, or under the direct control of, the facility
4 ²if the facility has given prior written notice of the written policy
5 to all health care professionals with privileges to practice on those
6 premises , except as otherwise prescribed by regulation of the
7 Commissioner of Health pursuant to paragraph (4) of this
8 subsection.

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

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

16 (4) The Commissioner of Health, 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),
21 concerning their application to a health care facility and any action
22 taken by a health care professional on the premises owned by, or
23 under the direct control of, the facility².

24 ²(5)² The provisions of this subsection shall not preclude a
25 ²health care facility or² health care professional from providing to a
26 patient any health care services to which the provisions of sections
27 1 through 20 of P.L. , c. (C.) (pending before the Legislature
28 as this bill) do not apply.

29 ²c. A health care professional who violates a written policy as
30 set forth in subsection b. of this section, after being notified in
31 writing of that policy, is subject to such of the following actions as
32 the health care facility deems appropriate:

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

39 (2) the termination of a lease or other contract for the occupancy
40 of real property or other nonmonetary remedy provided by the lease
41 or contract if the health care professional takes the prohibited action
42 while on the premises of the health care facility or on property that
43 is owned by or under the direct control of the facility; provided,
44 however, that no lease or other contract made on or after the
45 effective date of this act shall authorize or permit any nonmonetary
46 remedy for taking the prohibited action in the form of loss or

1 restriction of medical staff privileges or exclusion from a managed
2 care plan health care provider network; or

3 (3) the termination of a contract or other nonmonetary remedy
4 provided by contract if the health care professional takes the
5 prohibited action while acting in the course and scope of that
6 individual's capacity as an employee or independent contractor of
7 the health care facility, except that nothing in this subparagraph
8 shall preclude:

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

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

16 (4) A health care facility shall follow all otherwise applicable
17 due process and other procedures that the facility may have in place
18 relating to the imposition of sanctions on a health care
19 professional.】²

20
21 26. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to
22 read as follows:

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

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

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

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

42 A duty to warn and protect shall not be incurred when a qualified
43 ²terminally ill² patient requests medication that the patient may
44 ²choose to² self-administer ²in order to end the patient's life in a
45 humane and dignified manner】² in accordance with the provisions
46 of P.L. , c. (C.) (pending before the Legislature as this bill).

47 c. A licensed practitioner of psychology, psychiatry, medicine,
48 nursing, clinical social work, or marriage counseling shall discharge

1 the duty to warn and protect as set forth in subsection b. of this
2 section by doing **any** one or more of the following:

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

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

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

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

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

20 d. A practitioner who is licensed in the State of New Jersey to
21 practice psychology, psychiatry, medicine, nursing, clinical social
22 work, or marriage counseling who, in complying with subsection c.
23 of this section, discloses a privileged communication, is immune
24 from civil liability in regard to that disclosure.
25 (cf: P.L.2009, c.112, s.21)

26
27 27. N.J.S.2C:11-6 is amended to read as follows:

28 2C:11-6. ¹Aiding Suicide.¹ A person who purposely aids
29 another to commit suicide is guilty of a crime of the second degree
30 if his conduct causes such suicide or an attempted suicide, and
31 otherwise of a crime of the fourth degree. Any action taken in
32 accordance with the provisions of P.L. , c. (C.) (pending
33 before the Legislature as this bill) shall not constitute suicide or
34 assisted suicide.

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

36
37 ¹**[28. This act shall be submitted to the people for their approval**
38 **or rejection at the next general election to be held at least 70 days**
39 **following the date of its enactment for the purpose of complying**
40 **with Article II, Section I, paragraph 2 of the New Jersey**
41 **Constitution.]**¹

42
43 ¹**[29. This voter referendum shall be submitted to the people in**
44 **the following manner and form:**

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

- 1 a. In every municipality in which voting machines are not used,
2 a legend which shall immediately precede the question as follows:
3 If you favor the proposition printed below make a cross (X), plus
4 (+), or check (✓) in the square opposite the word "Yes." If you are
5 opposed thereto make a cross (X), plus (+) or check (✓) in the
6 square opposite the word "No."
7 b. In every municipality the following question:
8

	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. 】¹</p>

9

10 ¹**[30.] 28.**¹ This act shall take effect on the first day of the
11 ¹**[third] fourth**¹ month next following ¹**[voter approval of this act**
12 **at the designated general election]** the date of enactment, but the
13 Director of the Division of Consumer Affairs in the Department of
14 Law and Public Safety, the Commissioner of Health, the State
15 Board of Medical Examiners, the New Jersey State Board of
16 Pharmacy, and the State Board of Psychological Examiners may
17 take such anticipatory administrative action in advance thereof as
18 shall be necessary for the implementation of this act¹.