ASSEMBLY, No. 4921

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

Sponsored by:
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District 7 (Burlington)
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SYNOPSIS
Waives 15 day waiting period for medical aid in dying under certain circumstances.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning medical aid in dying and amending P.L.2019, c.59.

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

1. Section 10 of P.L.2019, c.59 (C.26:16-10) is amended to read as follows:

10. a. In order to receive a prescription for medication that a qualified terminally ill patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.), the patient shall make two oral requests and one written request for the medication to the patient's attending physician, subject to the following requirements:

(1) at least 15 days shall elapse between the initial oral request and the second oral request unless, within reasonable medical certainty, the patient is not expected to survive for 15 days, in which case the requirement for a second oral request may be waived;

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

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

(4) the written request shall meet the requirements of section 5 of P.L.2019, c.59 (C.26:16-5);

(5) at least 15 days shall elapse between the patient's initial oral request and the writing of a prescription pursuant to P.L.2019, c.59 (C.26:16-1 et al.) unless, within reasonable medical certainty, the patient is not expected to survive for 15 days, in which case at least 48 hours shall elapse between the patient's initial oral request and the writing of a prescription pursuant to P.L.2019, c.59 (C.26:6-1 et al.); and

(6) at least 48 hours shall elapse between the attending physician's receipt of the patient's written request and the writing of a prescription pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

b. A qualified terminally ill patient may rescind the request at any time and in any manner without regard to the patient's mental state.

c. At the time the patient makes an initial oral request for medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.), the patient's attending physician shall recommend to the patient that the patient participate in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options, and provide the patient with a referral to a health

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.
The attending physician shall ensure that the following items are included in the patient's medical record:

1. The determination that the patient is a qualified terminally ill patient and the basis for that determination;
2. All oral and written requests by the patient to the attending physician for medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.);
3. The attending physician's diagnosis and prognosis, and determination that the patient is capable, is acting voluntarily, and has made an informed decision;
4. The consulting physician's diagnosis and prognosis, and verification that the patient is capable, is acting voluntarily, and has made an informed decision;
5. If applicable, a report of the determination made by a mental health care professional as to whether the patient is capable pursuant to section 8 of P.L.2019, c.59 (C.26:16-8);
6. The attending physician's recommendation that the patient participate in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options; the referral provided to the patient with a referral to a health care professional qualified to discuss these options with the patient; an indication as to whether the patient participated in the consultation; and an indication as to whether the patient is currently receiving palliative care, comfort care, hospice care, or pain control treatments;
7. The attending physician's offer to the patient to rescind the patient's request at the time of the patient's second oral request, as applicable; [and]
8. A note by the attending physician indicating that all requirements under P.L.2019, c.59 (C.26:16-1 et al.) have been met and indicating the steps taken to carry out the patient's request for medication, including a notation of the medication prescribed; and
9. If the requirements for a second oral request pursuant to paragraph (1) of subsection a. of this section and for a 15-day waiting period pursuant to paragraph (5) of subsection a. of this section are waived based on a determination that the patient is not expected to survive for 15 days, documentation of the medical basis for that determination.

(cf: P.L.2019, c.59, s.10)
2. This act shall take effect immediately.

STATEMENT

This bill waives the 15 day waiting period for medical aid in dying under certain circumstances.

Under current law, in order to receive a prescription for medication that a qualified terminally ill patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.), the patient is to make two oral requests and one written request for the medication to the patient's attending physician, subject to the following requirements, with at least 15 days elapsing between the first and second oral requests, and between the first oral request and the issuance of a prescription for the medication. Additionally, at least 48 hours must elapse between the receipt of the written request, which may be submitted at any time, and issuance of the prescription.

This bill waives the 15-day waiting periods in the case of a patient who, based on reasonable medical certainty, is not expected to survive for 15 days. The attending physician will be required to document the medical basis for the determination that the patient is not expected to survive for 15 days. The bill retains the 48-hour waiting period between submission of a written request and the issuance of a prescription for medical aid in dying medication.