

ASSEMBLY, No. 4921

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED DECEMBER 5, 2022

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

SYNOPSIS

Waives 15 day waiting period for medical aid in dying under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/19/2023)

1 AN ACT concerning medical aid in dying and amending P.L.2019,
2 c.59.

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

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

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

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

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

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

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

27 (5) at least 15 days shall elapse between the patient's initial oral
28 request and the writing of a prescription pursuant to P.L.2019, c.59
29 (C.26:16-1 et al.) unless, within reasonable medical certainty, the
30 patient is not expected to survive for 15 days, in which case at least
31 48 hours shall elapse between the patient's initial oral request and
32 the writing of a prescription pursuant to P.L.2019, c.59 (C.26:6-1 et
33 al.); and

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

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

40 c. At the time the patient makes an initial oral request for
41 medication that the patient may choose to self-administer pursuant
42 to P.L.2019, c.59 (C.26:16-1 et al.), the patient's attending
43 physician shall recommend to the patient that the patient participate
44 in a consultation concerning concurrent or additional treatment
45 opportunities, palliative care, comfort care, hospice care, and pain
46 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.

1 care professional qualified to discuss these options with the patient.
2 If the patient chooses to participate in such consultation, the
3 consultation shall include, to the extent the patient consents to share
4 such information, consideration of: the patient's terminal illness; the
5 patient's prognosis; current and past courses of treatment prescribed
6 for the patient in connection with the patient's terminal illness,
7 including the results of any such treatment; and any palliative care,
8 comfort care, hospice care, and pain control treatment the patient is
9 currently receiving or has received in the past.

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

12 (1) the determination that the patient is a qualified terminally ill
13 patient and the basis for that determination;

14 (2) all oral and written requests by the patient to the attending
15 physician for medication that the patient may choose to self-
16 administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.);

17 (3) the attending physician's diagnosis and prognosis, and
18 determination that the patient is capable, is acting voluntarily, and
19 has made an informed decision;

20 (4) the consulting physician's diagnosis and prognosis, and
21 verification that the patient is capable, is acting voluntarily, and has
22 made an informed decision;

23 (5) if applicable, a report of the determination made by a mental
24 health care professional as to whether the patient is capable
25 pursuant to section 8 of P.L.2019, c.59 (C.26:16-8);

26 (6) the attending physician's recommendation that the patient
27 participate in a consultation concerning concurrent or additional
28 treatment opportunities, palliative care, comfort care, hospice care,
29 and pain control options; the referral provided to the patient with a
30 referral to a health care professional qualified to discuss these
31 options with the patient; an indication as to whether the patient
32 participated in the consultation; and an indication as to whether the
33 patient is currently receiving palliative care, comfort care, hospice
34 care, or pain control treatments;

35 (7) the attending physician's offer to the patient to rescind the
36 patient's request at the time of the patient's second oral request, as
37 applicable; [and]

38 (8) a note by the attending physician indicating that all
39 requirements under P.L.2019, c.59 (C.26:16-1 et al.) have been met
40 and indicating the steps taken to carry out the patient's request for
41 medication, including a notation of the medication prescribed; and

42 (9) if the requirements for a second oral request pursuant to
43 paragraph (1) of subsection a. of this section and for a 15-day
44 waiting period pursuant to paragraph (5) of subsection a. of this
45 section are waived based on a determination that the patient is not
46 expected to survive for 15 days, documentation of the medical basis
47 for that determination.

48 (cf: P.L.2019, c.59, s.10)

1 2. This act shall take effect immediately.

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STATEMENT

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

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

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