CHAPTER 59

AN ACT concerning medical aid in dying for the terminally ill, supplementing Titles 45 and 26 of the Revised Statutes, and amending P.L.1991, c.270 and N.J.S.2C:11-6.

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

C.26:16-1 Short title.

1. Sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) shall be known and may be cited as the "Medical Aid in Dying for the Terminally Ill Act."

C.26:16-2 Findings, declarations relative to medical aid in dying for the terminally ill.

2. The Legislature finds and declares that:

a. Recognizing New Jersey's long-standing commitment to individual dignity, informed consent, and the fundamental right of competent adults to make health care decisions about whether to have life-prolonging medical or surgical means or procedures provided, withheld, or withdrawn, this State affirms the right of a qualified terminally ill patient, protected by appropriate safeguards, to obtain medication that the patient may choose to self-administer in order to bring about the patient's humane and dignified death.

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

c. The public welfare requires a defined and safeguarded process in order to effectuate the purposes of this act, which will:

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

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

(3) protect vulnerable adults from abuse; and

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

d. This act is in the public interest and is necessary for the welfare of the State and its residents.

C.26:16-3 Definitions relative to medical aid in dying for the terminally ill.

3. As used in P.L.2019, c.59 (C.26:16-1 et al.):

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

"Attending physician" means a physician licensed pursuant to Title 45 of the Revised Statutes who has primary responsibility for the treatment and care of a qualified terminally ill patient and treatment of the patient's illness, disease, or condition.

"Capable" means having the capacity to make health care decisions and to communicate them to a health care provider, including communication through persons familiar with the patient's manner of communicating if those persons are available.

"Consulting physician" means a physician licensed pursuant to Title 45 of the Revised Statutes who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient's illness, disease, or condition.

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

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

"Health care provider" means a health care professional or health care facility.

"Informed decision" means a decision by a qualified terminally ill patient to request and obtain a prescription for medication that the patient may choose to self-administer to end the patient's life in a humane and dignified manner, which is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

(1) the patient's medical diagnosis;

(2) the patient's prognosis;

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

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

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

"Long-term care facility" means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

"Medically confirmed" means that the medical opinion of the attending physician has been confirmed pursuant to section 7 of P.L.2019, c.59 (C.26:16-7) by a consulting physician who has examined the patient and the patient's relevant medical records.

"Mental health care professional" means a psychiatrist, psychologist, or clinical social worker licensed pursuant to Title 45 of the Revised Statutes.

"Participate in this act" means to perform the duties of a health care provider in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.), but does not include: making an initial determination that a patient is terminally ill and informing the patient of the medical prognosis; providing information about the provisions of P.L.2019, c.59 (C.26:16-1 et al.) to a patient upon the patient's request; or providing a patient, upon the patient's

request, with a referral to another health care provider.

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

"Qualified terminally ill patient" means a capable adult who is a resident of New Jersey and has satisfied the requirements to obtain a prescription for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.). A person shall not be considered to be a qualified terminally ill patient solely because of the person's age or disability or a diagnosis of any specific illness, disease, or condition.

"Self-administer" means a qualified terminally ill patient's act of physically administering, to the patient's own self, medication that has been prescribed pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

"Terminally ill" means that the patient is in the terminal stage of an irreversibly fatal illness, disease, or condition with a prognosis, based upon reasonable medical certainty, of a life expectancy of six months or less.

C.26:16-4 Conditions for request for medication.

4. A terminally ill patient may make a written request for medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.), if the patient:

a. is an adult resident of New Jersey as demonstrated pursuant to section 11 of P.L.2019, c.59 (C.26:16-11);

b. is capable and has been determined by the patient's attending physician and a consulting physician to be terminally ill; and

c. has voluntarily expressed a wish to receive a prescription for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

C.26:16-5 Form for valid written request for medication.

5. a. A valid written request for medication under P.L.2019, c.59 (C.26:16-1 et al.) shall be in substantially the form set forth in section 20 of P.L.2019, c.59 (C.26:16-20), signed and dated by the patient and witnessed by at least two individuals who, in the patient's presence, attest that, to the best of their knowledge and belief, the patient is capable and is acting voluntarily to sign the request.

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

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

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

(3) an owner, operator, or employee of a health care facility, other than a long term care facility, where the 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.

C.26:16-6 Responsibilities of attending physician.

6. a. The attending physician shall ensure that all appropriate steps are carried out in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) before writing a prescription for medication that a qualified terminally ill patient may choose to selfadminister pursuant to P.L.2019, c.59 (C.26:16-1 et al.), including such actions as are necessary to:

(1) make the initial determination of whether a patient is terminally ill, is capable, and has voluntarily made the request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.);

(2) require that the patient demonstrate New Jersey residency pursuant to section 11 of P.L.2019, c.59 (C.26:16-11);

(3) inform the patient of: the patient's medical diagnosis and 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, concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control;

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

(5) refer the patient to a mental health care professional, if appropriate, pursuant to section 8 of P.L.2019, c.59 (C.26:16-8);

(6) recommend that the patient participate in a consultation concerning concurrent or 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 patient;

(7) advise the patient about the importance of having another person present if and when the patient chooses to self-administer medication prescribed under P.L.2019, c.59 (C.26:16-1 et al.) and of not taking the medication in a public place;

(8) inform the patient of the patient's opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind the request at the time the patient makes a second oral request as provided in section 10 of P.L.2019, c.59 (C.26:16-10); and

(9) fulfill the medical record documentation requirements of P.L.2019, c.59 (C.26:16-1 et al.).

b. The attending physician shall:

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

(2) contact a pharmacist to inform the latter of the prescription, and transmit the written prescription personally, by mail, or by permissible electronic communication to the pharmacist, who shall dispense the medication directly to either the patient, the attending

physician, or an expressly identified agent of the patient.

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

C.26:16-7 Conditions to be considered qualified terminally ill patient.

7. A patient shall not be considered a qualified terminally ill patient until a consulting physician has:

a. examined that patient and the patient's relevant medical records;

b. confirmed, in writing, the attending physician's diagnosis that the patient is terminally ill; and

c. verified that the patient is capable, is acting voluntarily, and has made an informed decision to request medication that, if prescribed, the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

C.26:16-8 Determination of capability of patient.

8. a. If, in the medical opinion of the attending physician or the consulting physician, a patient requesting medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.) may not be capable, the physician shall refer the patient to a mental health care professional to determine whether the patient is capable. A consulting physician who refers a patient to a mental health care professional pursuant to this subsection shall provide written notice of the referral to the attending physician.

b. If a patient has been referred to a mental health care professional pursuant to subsection a. of this section, the attending physician shall not write a prescription for medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.) unless the attending physician has been notified in writing by the mental health care professional of that individual's determination that the patient is capable.

C.26:16-9 Notification of next of kin required; exception.

9. A qualified terminally ill patient shall not receive a prescription for medication that the patient may choose to self-administer pursuant to P.L.2019, c.59 (C.26:16-1 et al.) unless the attending physician has recommended that the patient notify the patient's next of kin of the patient's request for medication, except that a patient who declines or is unable to notify the patient's next of kin shall not have the request for medication denied for that reason.

C.26:16-10 Oral, written request by patient, physician's actions.

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;

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

d. 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; 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.

C.26:16-11 Documentation of New Jersey residency.

11. A request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.) shall not be granted unless the qualified terminally ill patient has documented that individual's New Jersey residency by furnishing to the attending physician a copy of one of the following:

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

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

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

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

C.26:16-12 Disposal of medication if patients chooses not to self-administer.

12. Any medication dispensed pursuant to P.L.2019, c.59 (C.26:16-1 et al.) that a qualified terminally ill patient chooses not to self-administer shall be disposed of by lawful means, including, but not limited to, disposing of the medication consistent with State and federal guidelines concerning disposal of prescription medications, or surrendering the medication to a prescription medication drop-off receptacle. The patient shall designate a person who shall be responsible for the lawful disposal of the medication.

C.26:16-13 Reporting of information, statistical report.

13. a. The Commissioner of Health shall require that a health care professional report the following information to the Department of Health on a form and in a manner prescribed by regulation of the commissioner:

(1) No later than 30 days after the dispensing of medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.), the physician or pharmacist who dispensed the medication shall file a copy of the dispensing record with the department, and shall otherwise facilitate the collection of such information as the director may require regarding compliance with P.L.2019, c.59 (C.26:16-1 et al.).

(2) No later than 30 days after the date of the qualified terminally ill patient's death, the attending physician shall transmit to the department such documentation of the patient's death as the director shall require.

(3) In the event that anyone required to report information to the department pursuant to P.L.2019, c.59 (C.26:16-1 et al.) provides an inadequate or incomplete report, the department

shall contact the person to request a complete report.

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

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

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

C.26:16-14 Provisions in certain documents would not restrict request for medication.

14. a. A provision in a contract, will, insurance policy, annuity, or other agreement, whether written or oral, made on or after the effective date of P.L.2019, c.59 (C.26:16-1 et al.), shall not be valid to the extent that the provision would condition or restrict a person's decision to make or rescind a request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

b. An obligation owing under a contract, will, insurance policy, annuity, or other agreement, made before the effective date of P.L.2019, c.59 (C.26:16-1 et al.), shall not be affected by: the provisions of P.L.2019, c.59 (C.26:16-1 et al.); a person's making or rescinding a request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.); or any other action taken pursuant to P.L.2019, c.59 (C.26:16-1 et al.).

c. On or after the effective date of P.L.2019, c.59 (C.26:16-1 et al.), procurement or issuance of a life, health, or accident insurance policy or annuity, or the premium or rate charged for the policy or annuity, shall not be conditioned upon or otherwise take into account the making or rescinding of a request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.) by any person.

C.26:16-15 Construction of act.

15. Nothing in P.L.2019, c.59 (C.26:16-1 et al.) 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, or any act that constitutes assisted suicide under any law of this State; or

b. lower the applicable standard of care to be provided by a health care professional who participates in P.L.2019, c.59 (C.26:16-1 et al.).

C.26:16-16 Certain persons not authorized to take action on behalf of patient.

16. A person shall not be authorized to take any action on behalf of a patient for the

purposes of P.L.2019, c.59 (C.26:16-1 et al.) 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.

C.26:16-17 Immunity.

17. a. (1) Except as provided in sections 18 and 19 of P.L.2019, c.59 (C.26:16-18 and C.26:16-19), a person shall not be subject to civil or criminal liability or professional disciplinary action, or subject to censure, discipline, suspension, or loss of any licensure, certification, privileges, or membership, for any action taken in compliance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.), including being present when a qualified terminally ill patient self-administers medication prescribed pursuant to P.L.2019, c.59 (C.26:16-1 et al.), or for the refusal to take any action in furtherance of, or to otherwise participate in, a request for medication pursuant to the provisions of P.L.2019, c.59 (C.26:16-1 et al.). A person who substantially complies in good faith with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) shall be deemed to be in compliance with its provisions.

(2) Any action taken in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) shall not constitute patient abuse or neglect, suicide, assisted suicide, mercy killing, euthanasia, or homicide under any law of this State.

(3) A patient's request for, or the provision of, medication in compliance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) shall not constitute abuse or neglect of an elderly person or provide the sole basis for the appointment of a guardian or conservator.

b. The provisions of subsection a. of this section shall not apply to acts or omissions constituting gross negligence, recklessness, or willful misconduct.

c. Any action taken by a health care professional to participate in P.L.2019, c.59 (C.26:16-1 et al.) shall be voluntary on the part of that individual. If a health care professional is unable or unwilling to carry out a patient's request under P.L.2019, c.59 (C.26:16-1 et al.), and the patient transfers the patient's care to a new health care professional or health care facility, the prior health care professional shall transfer, upon request, a copy of the patient's relevant records to the new health care professional or health care facility.

C.26:16-18 Violations, degree of crime.

18. a. A person who, without authorization of the patient, and with the intent or effect of causing the patient's death, willfully alters or forges a request for medication pursuant to P.L.2019, c.59 (C.26:16-1 et al.) or conceals or destroys a rescission of that request, is guilty of a crime of the second degree.

b. A person who coerces or exerts undue influence on a patient to request medication

pursuant to P.L.2019, c.59 (C.26:16-1 et al.) or to destroy a rescission of a request is guilty of a crime of the third degree.

c. Theft of medication prescribed to a qualified terminally ill patient pursuant to P.L.2019, c.59 (C.26:16-1 et al.) shall constitute an offense involving theft of a controlled dangerous substance as set forth in N.J.S.2C:20-2.

d. Nothing in P.L.2019, c.59 (C.26:16-1 et al.) shall limit liability for civil damages resulting from the negligence or intentional misconduct of any person.

e. The penalties set forth in this section shall not preclude the imposition of any other criminal penalty applicable under law for conduct that is inconsistent with the provisions of P.L.2019, c.59 (C.26:16-1 et al.).

C.26:16-19 Claims by governmental entity, certain circumstances.

19. Any governmental entity that incurs costs resulting from a qualified terminally ill patient choosing to self-administer medication prescribed pursuant to P.L.2019, c.59 (C.26:16-1 et al.) in a public place has a claim against the estate of the patient to recover those costs and reasonable attorneys' fees related to enforcing the claim.

C.26:16-20 Form for request of medication.

20. A written request for a medication as authorized by P.L.2019, c.59 (C.26:16-1 et al.) 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 illness, disease, or condition 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 concurrent or additional treatment opportunities, palliative care, comfort care, 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 as necessary 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.

INITIAL ALL THAT APPLY:

. . . . .My attending physician has recommended that I participate in a consultation concerning concurrent or 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.
. . . . .I have participated in a consultation concerning concurrent or additional treatment opportunities, palliative care, comfort care, hospice care, and pain control options.
. . . I am currently receiving palliative care, comfort care, or hospice care.

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

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

I make this request voluntarily and without reservation, and I accept full responsibility for my decision.

Signed:. . . . . .

Dated:. . . . . .

DECLARATION OF WITNESSES

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

Witness 1 Witness 2

Initials Initials
. . . . . .
1. Is personally known to us or has provided proof of identity.
. . . . . .
2. Signed this request in our presence on the date of the person's signature.
. . . . . .
3. Appears to be of sound mind and not under duress, fraud, or undue influence.
. . . . . .
4. Is not a patient for whom either of us is the attending physician.
. . . . . .
Printed Name of Witness 1: . . . . . .
Signature of Witness 1/Date: . . . . . .
Printed Name of Witness 2: . . . . . .
Signature of Witness 2/Date: . . . . . .

NOTE: At least one witness shall not be a relative by blood, marriage, or adoption of the person signing this request, shall not be entitled to any portion of the person's estate upon death, and shall not own, operate, or be employed at a health care facility, other than a long term care facility, where the person is a patient or resident.

C.52:17B:139.13 Rules, regulations.

21. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.), including the required reporting of information to the division by health care professionals pursuant to section 13 of P.L.2019, c.59 (C.26:16-13).

C.45:9-5.3 State Board of Medical Examiners; rules, regulations.

22. The State Board of Medical Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) concerning the duties of a licensed physician pursuant thereto.

C.45:14-47.1 New Jersey State Board of Pharmacy; rules, regulations.

23. The New Jersey State Board of Pharmacy, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) concerning the duties of a licensed pharmacist pursuant thereto.

C.45:14B-48 State Board of Psychological Examiners; rules, regulations.

24. The State Board of Psychological Examiners, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) concerning the duties of a licensed psychologist pursuant thereto.

C.45:15BB-11.2 State Board of Social Work Examiners; rules, regulations.

25. The State Board of Social Work Examiners, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) concerning the duties of a licensed clinical social worker pursuant thereto.

C.26:2H-5.33 Definitions relative to actions by health care facilities.

26. a. As used in this section:
"Health care facility" or "facility" means a health care facility licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).
"Health care professional" means a person licensed to practice a health care profession pursuant to Title 45 of the Revised Statutes.

b. (1) The existing policies and procedures utilized by a health care facility shall, to the maximum extent possible, govern the taking of any action by a health care professional pursuant to sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) on the premises owned by, or under the direct control of, the facility, except as otherwise prescribed by regulation of the Commissioner of Health pursuant to paragraph (4) of this subsection.

(2) Any action taken by a health care facility to participate in P.L.2019, c.59 (C.26:16-1 et al.) shall be voluntary on the part of the facility.

(3) A health care facility shall not be subject to a licensure enforcement action by the Department of Health for any action taken in compliance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.).

(4) The Commissioner of Health, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt such rules and regulations as are necessary to implement the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.), concerning their application to a health care facility and any action taken by a health care professional on the premises owned by, or under the direct control of, the facility.

(5) The provisions of this subsection shall not preclude a health care facility or health care professional from providing to a patient any health care services to which the provisions of sections 1 through 20 of P.L.2019, c.59 (C.26:16-1 et seq.) do not apply
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27. Section 1 of P.L.1991, c.270 (C.2A:62A-16) is amended to read as follows:

C.2A:62A-16 Health care professionals, immunity from civil liability; duty to warn and protect.

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

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

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

(2) The circumstances are such that a reasonable professional in the practitioner's area of expertise would believe the patient intended to carry out an act of imminent, serious physical

violence against a readily identifiable individual or against himself. A duty to warn and protect shall not be incurred when a qualified terminally ill patient requests medication that the patient may choose to self-administer in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.).

c. A licensed practitioner of psychology, psychiatry, medicine, nursing, clinical social work, or marriage and family therapy shall discharge the duty to warn and protect as set forth in subsection b. of this section by doing one or more of the following:

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

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

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

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

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

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

e. In addition to complying with subsection c. of this section, a licensed practitioner shall notify the chief law enforcement officer of the municipality in which the patient resides or the Superintendent of State Police if the patient resides in a municipality that does not have a full-time police department that a duty to warn and protect has been incurred with respect to the patient and shall provide to the chief law enforcement officer or superintendent, as appropriate, the patient’s name and other non-clinical identifying information. The chief law enforcement officer or superintendent, as appropriate, shall use that information to ascertain whether the patient has been issued a firearms purchaser identification card, permit to purchase a handgun, or any other permit or license authorizing possession of a firearm.

If the patient has been issued a firearms purchaser identification card, permit to purchase a handgun, or any other permit or license authorizing possession of a firearm, or if there is information indicating that the patient otherwise may have access to a firearm, the information provided may be used in determining whether the patient has become subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3. If the chief law enforcement officer or superintendent, as appropriate, determines that the patient has become subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3, any identification card or permit issued to the patient shall be void and subject to revocation by the Superior Court in accordance with the procedure established in subsection f. of N.J.S.2C:58-3. If the court determines that the patient is subject to any of the disabilities set forth in subsection c. of N.J.S.2C:58-3 and revokes the patient’s firearms purchaser identification

card in accordance with the procedure established in subsection f. of N.J.S.2C:58-3, the court may order the patient to surrender to the county prosecutor any firearm owned by or accessible to the patient and order the prosecutor to dispose of the firearms. When the court orders the county prosecutor to dispose of the firearms, the prosecutor shall dispose of the firearms as provided in N.J.S.2C:64-6.

If the court, upon motion of the prosecutor, finds probable cause that the patient has failed to surrender any firearm, card, or permit, the court may order a search for and removal of these items at any location where the judge has reasonable cause to believe these items are located. The judge shall state with specificity the reasons and the scope of the search and seizure authorized by the order.

A firearm surrendered or seized pursuant to this subsection which is not legally owned by the patient shall be immediately returned to the legal owner of the firearm if the legal owner submits a written request to the prosecutor attesting that the patient does not have access to the firearm.

A law enforcement officer or agency shall not be held liable in any civil action brought by any person for failing to learn of, locate, or seize a firearm pursuant to this subsection.
A patient who is determined to be subject to any of the disabilities established in paragraph (3) of subsection c. of N.J.S.2C:58-3 and submits a certificate of a medical doctor or psychiatrist licensed in New Jersey, or other satisfactory proof in accordance with that paragraph shall be entitled to the reinstatement of any firearms purchaser identification cards, permits to purchase a handgun, and any other permit or license authorizing possession of a firearm seized pursuant to this subsection.

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

Aiding suicide.

2C:11-6. Aiding Suicide. A person who purposely aids another to commit suicide is guilty of a crime of the second degree if his conduct causes such suicide or an attempted suicide, and otherwise of a crime of the fourth degree. Any action taken in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) shall not constitute suicide or assisted suicide.

29. This act shall take effect on the first day of the fourth month next following the date of enactment, but the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, the Commissioner of Health, the State Board of Medical Examiners, the New Jersey State Board of Pharmacy, the State Board of Social Work Examiners, and the State Board of Psychological Examiners may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved April 12, 2019.