

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Health and Human Services

This measure may be considered for action during today's work session.

SENATE BILL 239

Establishes provisions governing the prescribing, dispensing, and administering of medication designed to end the life of a patient. (BDR 40-677)

Sponsored By: Senators Flores, Harris, Spearman, Cannizzaro, and Assembly Members Torres, Nguyen, González, Watts, and Gorelow, et al.

Date Heard: March 14, 2023

Fiscal Notes: Effect on Local Government: No.
Effect on the State: Yes.

Senate Bill 239 authorizes a patient, under certain circumstances, to self-administer a medication that is designed to end the life of the patient and authorizes a physician to prescribe such a medication if the patient meets certain criteria.

The bill outlines requirements concerning the manner in which a patient may request, and a physician may prescribe and dispense, a medication designed to end the life of the patient. Among other things, the bill requires an attending physician who prescribes such a controlled substance to include certain information in the patient's medical record and provide certain information to the Division of Public and Behavioral Health of the Department of Health and Human Services. The Division is to review and compile these reports including data concerning the implementation of the provisions of this bill.

Senate Bill 239 also exempts certain health care providers from professional discipline, provides immunity from civil and criminal liability, and clarifies that a health provider does not violate any applicable standard of care for taking actions associated with assisting a patient to acquire a medication designed to end his or her life. A physician is not required to prescribe, and a pharmacist is not required to fill, a prescription for such medication. The owner or operator of a health care facility may prohibit an employee, independent contractor, or other person who provides services relating to prescribing such a medication from providing these services while on the premises of the facility.

Furthermore, a death resulting from the self-administration of a medication designed to end the life of a patient does not constitute suicide or homicide when done in accordance with the bill, and a patient's death certificate must list his or her terminal condition as the cause of death.

Finally, insurers are prohibited from: (1) refusing to sell, provide, or issue a policy of life insurance or annuity contract or from charging a higher rate because a person makes or revokes a request for a medication designed to end the life of the person or self-administers such a medication; and (2) conditioning life insurance benefits or the payment of claims based on any of these actions.

Amendments:

- The Compassion and Choices Network has proposed a conceptual amendment which does the following:
 - Authorizes a coroner or coroner's deputy to investigate these deaths but does not require them to. Additionally, adds language that protects local governments, coroners, and law enforcement employees from civil and criminal penalties for investigating these deaths, when there is no other underlying cause of death.

- Clarifies that the manner of death cannot indicate a suicide.
- Replaces the term mental competence, with mental capacity.
- Removes the section defining physician assistants (PA) as practitioners, excluding PA's from being able to prescribe the end of the life drug, in addition to added language referring to professional associations.
- Adds a new section that excludes deaths resulting from exercising the provisions of this bill from the definition of a suicide.

Senate Bill No. 239 Proposed Amendment

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Purpose:

Sec 3: Affirm that a coroner, coroner's deputy or local health officer is not required to investigate these deaths, but that they have discretion to do so.

Sec 4: Removed language regarding facility operators as they are often not legally able to sign death certificates. Makes clear the manner of death and cause of death used on the death certificate for these types of deaths cannot indicate suicide

Sec 8: Removed language regarding facility operators as they are often not legally able to sign death certificates.

Sec 13, 23, 27, 30: Removed language referring to 'mental competence', replaced with 'mental capacity'.

Sec 17: Added language to define informed consent under the Act.

Sec. 19 and 20: Removed section defining physician assistants as practitioners under this Act.

Sec 39: Removed language referring to professional associations.

Sec 48 and 49: Removed language requiring the sale of life insurance to a person with a prescription issued under this Act.

New Bill Section: Adding language protecting local governments, coroners, and law enforcement agencies and their employees from civil and criminal penalties for not investigating these deaths when there is no other underlying cause of death that the Coroner is otherwise obligated to investigate and report.

New Bill Section: The duties and authorities established in NRS 259.050 need to be amended to align with the provisions of this bill. There may need to be a definition established within this chapter for “suicide” to exclude deaths resulting from a person having exercised the provisions of this bill.

- Bill Page 5 -

9 **Sec. 3. 1. A coroner, coroner’s deputy or local health**
10 **officer:**

11 **(a) Is not required to certify the cause of death of a patient**
12 **who dies after self-administering a medication that is designed to**
13 **end the life of the patient in accordance with the provisions of**
14 **sections 10 to 39, inclusive, of this act; and**

(b) Must decline jurisdiction and cease investigation of the death of a
patient who dies after

15 **self-administering a medication that is designed to end the life of**
16 **the patient in accordance with the provisions of sections 10 to 39,**
17 **inclusive, of this act if the coroner or coroner’s deputy confirms**
that the terminal condition was the result of a natural cause

~~18 **the circumstances of the death with a physician, physician**~~
~~19 **assistant or advanced practice registered nurse responsible for**~~
~~20 **overseeing the care of the patient or the physician, physician**~~
~~21 **assistant or advanced practice registered nurse who prescribed the**~~
~~22 **medication.**~~

18 **2. A coroner, coroner’s deputy or local health officer may**
19 **access any records or information submitted to the Division of**
20 **Public and Behavioral Health of the Department of Health and**
21 **Human Services pursuant to section 33 of this act to confirm that**
22 **a patient died from self-administering a medication that is**
23 **designed to end the life of the patient in accordance with the**
24 **provisions of sections 10 to 39, inclusive, of this act.**

25 **Sec. 4. NRS 440.380 is hereby amended to read as follows:**

26 440.380 1. ~~The~~ **Except as otherwise provided in subsection**
27 **3, the** medical certificate of death must be signed by the physician,
28 or advanced practice registered nurse, if any, last in attendance on
29 the deceased, or pursuant to regulations adopted by the Board, it
30 may be signed by the attending physician’s associate physician, the
31 chief medical officer of the hospital or institution in which the death
32 occurred, or the pathologist who performed an autopsy upon the
33 deceased. The person who signs the medical certificate of death

34 shall specify:

- 35 (a) The social security number of the deceased.
- 36 (b) The hour and day on which the death occurred.
- 37 (c) The cause of death, so as to show the cause of disease or
- 38 sequence of causes resulting in death, giving first the primary cause

- Bill Page 6 -

6 of death or the name of the disease causing death, and the
7 contributory or secondary cause, if any, and the duration of each.

8 2. In deaths in hospitals or institutions, or of nonresidents, the
9 Physician or advanced practice registered nurse shall furnish the
10 information required under this section, and may state where, in his
11 or her opinion, the disease was contracted.

12 *3. The medical certificate of death of a patient who dies after*
13 *self-administering a medication that is designed to end the life of*
14 *the patient in accordance with sections 10 to 39, inclusive, of this*
15 *act:*

16 ~~(a) May be signed by the physician, physician assistant or~~
17 ~~advanced practice registered nurse who prescribed the medication,~~
18 ~~or the operator of a facility for hospice care, as defined in NRS~~
19 ~~440.0033, at which the patient dies;~~

20 (b) Must specify the terminal condition with which the patient
was diagnosed as the cause of death; and

21 (c) Must not indicate suicide as the cause of death or that
the patient self-administered a medication that is designed to
end the life of the patient.

- Bill Page 8 -

1 **Sec. 8.** NRS 440.470 is hereby amended to read as follows:

2 440.470 The funeral director or person acting as undertaker
3 shall present the certificate to the attending physician or attending
4 advanced practice registered nurse, if any, ~~or, under the~~
5 ~~circumstances authorized by subsection 3 of NRS 440.380, the~~
6 ~~attending physician assistant or the operator of the hospice facility~~
7 ~~at which a person dies,~~ or to the health officer or coroner, for the
8 medical certificate of the cause of death and other particulars
9 necessary to complete the record unless the attending physician,
10 or attending advanced practice registered nurse
11 ~~physician assistant or operator~~ initiated the record of death and
12 provided the required information at the time of death.

Section 13: ~~"Competent" means that a person has the ability to~~
~~22 11 make, communicate and understand the nature of decisions~~
~~23 12 concerning his or her health care.~~

Sec 13 : "Mentally capable" means that, in the opinion of the provider or licensed mental healthcare professional, if an opinion is required under section 27, the individual requesting medication pursuant to this Act has the ability to make and communicate an informed decision.

13 **Sec. 14.** "Consulting practitioner" means a practitioner to
14 whom a patient is referred pursuant to paragraph (d) of subsection
15 1 of section 26 of this act for confirmation of the diagnosis and
16 prognosis of the patient and that the patient is **capable** ~~[competent]~~

Sec. 17. ~~"Person professionally qualified in the field of~~
~~23 psychiatric mental health" has the meaning ascribed to it in~~
~~24 NRS 433.209.~~ "Informed decision" means a decision by a
mentally capable individual to request and obtain a prescription for
medication, pursuant to this Act, that the qualified individual may self-
administer to bring about a peaceful death.

Sec. 19. ~~"Physician assistant" means a person who is licensed as a~~
~~physician assistant pursuant to chapter 630 or 633 of 30 NRS.~~

Sec. 20. *"Practitioner" means a physician ~~physician assistant~~ or
advanced practice registered nurse.*

Sec 23 4. Is **mentally capable of making an informed health care
decision** ~~[competent]~~;

Sec 27 1. *If the attending practitioner to whom a patient
40 makes a request for a medication that is designed to end the life of
41 the patient or the consulting practitioner to whom a patient is
42 referred pursuant to paragraph (d) of subsection 1 of section 26 of*

43 this act determines that the patient may not be **mentally capable**
competent:

44 (a) The attending practitioner or consulting practitioner, as applicable,
must refer the patient for examination by a person

- Bill Page 13 -

1 professionally qualified in the field of psychiatric mental health;

2 and

3 (b) The attending practitioner must not prescribe a medication

4 that is designed to end the life of the patient, unless the person

5 professionally qualified in the field of psychiatric mental health

6 concludes, based on the examination, that the patient is **capable of**
making an informed ~~competent~~

~~7 to make a~~ decision concerning whether to end his or her life.

8 2. If a patient is examined pursuant to subsection 1, the

9 person professionally qualified in the field of psychiatric mental

10 health must provide to the attending practitioner and, if

11 applicable, the consulting practitioner who made the referral, his

12 or her written determination regarding whether the patient is

capable of making an informed

~~13 competent to make a~~ decision concerning whether to end his or her
life.

- Bill Page 14 -

Sec. 30

3. A person professionally qualified in the field of psychiatric

30 mental health to whom a patient is referred pursuant to section 27

31 of this act shall document in the medical record of the patient his

32 or her determination of whether the patient is **capable of making**

an informed ~~competent to make a~~

33 decision concerning whether to end his or her life.

- Bill Page 18 -

Sec 39 2. (b) A ~~professional organization or association~~ **licensing board**
shall not:

(1) Prohibit a ~~member~~ licensee from:

(I) Providing services described in sections 5 to 30, inclusive, of this act outside the scope of his or her membership and off the premises owned or operated by the professional organization or association;

(II) Being present when a patient self-administers a medication that is designed to end the life of the patient outside the scope of his or her membership and off the premises owned or operated by the professional organization or association;

- Bill Page 31-

Sec. 48. Chapter 688A of NRS is hereby amended by adding 7 thereto a new section to read as follows:

8 1. An insurer shall not:

*9 (a) Deny a claim under a policy of life insurance or annuity
10 contract, cancel a policy of life insurance or annuity contract or
11 impose an additional charge on a policyholder or beneficiary
12 solely because the insured has, in accordance with the provisions
13 of sections 10 to 39, inclusive, of this act, requested a medication
14 designed to end the life of the insured, revoked such a request or
15 self-administered such a medication.*

~~*16 (b) Refuse to sell, provide or issue a policy of life insurance or
17 annuity contract that covers a person or charge a higher rate to
18 cover a person solely because the person has, in accordance with
19 the provisions of sections 10 to 39, inclusive, of this act, requested
20 a medication designed to end the life of the person or revoked such
21 a request.*~~

Sec. 49. Chapter 688B of NRS is hereby amended by adding 29 thereto a new section to read as follows:

30 1. An insurer shall not:

*31 (a) Deny a claim under a policy of group life insurance, cancel
32 a policy of group life insurance or impose an additional charge on
33 a policyholder or beneficiary solely because the insured has, in
34 accordance with the provisions of sections 10 to 39, inclusive, of
35 this act, requested a medication designed to end the life of the
36 insured, revoked such a request or self-administered such a
37 medication.*

~~*38 (b) Refuse to sell, provide or issue a policy of group life
39 insurance that covers a person or charge a higher rate to cover a
40 person solely because the person has, in accordance with the*~~

*41 provisions of sections 10 to 39, inclusive, of this act, requested a
42 medication designed to end the life of the person or revoked such a
43 request.*

New Bill Section: Chapter 440 of NRS is hereby amended by adding thereto: A county government, coroner, law enforcement agency, or any person employed by a county government, coroner, or law enforcement agency is not subject to any criminal or civil penalty for any lack of response, investigation, or findings relating to deaths resulting from a patient self-administering a medication designed to end the life of the patient in accordance with the provisions of this act.

New Bill Section: NRS 259.050 should be amended to make clear that a coroner, sheriff, or district attorney have authority to investigate deaths resulting from a person having exercised the provisions of this bill but are not required to do so. There may need to be a definition established within this chapter for “suicide” to exclude deaths resulting from a person having exercised the provisions of this bill.