

Assembly Committee on Health and Human Services

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

SENATE BILL 239 (R1)

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, and Cannizzaro, and Assembly Members Torres, Nguyen, González, Watts, and Gorelow, et al.

Date Heard: April 26, 2023

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

Senate Bill 239 authorizes a patient, who suffers from an incurable and irreversible condition that according to reasonable medical judgment will result in death within six months, to self-administer a medication that is designed to end the life of the patient.

The bill outlines certain requirements concerning the manner in which a patient may request, and a physician or an advanced practice registered nurse 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.

Senate Bill 239 also exempts certain health care providers from professional discipline, provides immunity from civil and criminal liability, and clarifies that a health care provider does not violate any applicable standard of care for taking certain actions associated with assisting a patient to end the patient's life. Under the bill, a physician is not required to prescribe, and a pharmacist is not required to fill, a prescription for such medication. Also, the owner or operator of a health care facility may prohibit a person from providing end of life related 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, and a patient's death certificate must list the terminal condition as the cause of death. Additionally, this bill provides immunity to local governments, coroners, and law enforcement agencies from civil and criminal penalties related to self-administration of such a medication.

Finally, the bill prohibits insurers from engaging in certain practices, including charging a higher rate because a person makes certain decisions to end the life of the person.

Amendments:

Elliot Malin, Founder and President, Alpine Strategies, proposes on behalf of Compassion and Choices, the attached amendment. In summary, the amendment replaces in Section 37 (page 14, line 20) the term "refer" with "transition", and deletes "who is willing and able to provide this information" (lines 20 and 21). Thereby, an attending practitioner who is unwilling or unable to provide information concerning the prescription and self-administration of a medication that is designed to end the life of the patient must transition the patient requesting such information to another provider of health care.

Senate Bill No. 239 Proposed Amendment

Purpose: Remove language requiring providers to refer to a provider who will inform a patient requesting a prescription under this Act.

1 **Sec. 37. 1. The provisions of sections 10 to 39, inclusive, of**
2 *this act do not:*

3 (a) *Require an attending practitioner to prescribe a medication*
4 *that is designed to end the life of a patient or require a pharmacist*
5 *to fill a prescription for or dispense such a medication;*

6 (b) *Affect the responsibility of a practitioner to provide*
7 *information and treatment in accordance with the standard of*
8 *care, including, without limitation, treatment for a patient's*
9 *comfort or alleviation of pain; or*

10 (c) *Condone, authorize or approve mercy killing, euthanasia*
11 *or assisted suicide.*

12 2. *An attending practitioner shall provide a patient who is*

1 *diagnosed with a terminal condition with complete and accurate*
2 *information concerning his or her available options for care and*
3 *the risks and benefits of each option. If an attending practitioner*
4 *is unwilling or unable to provide information concerning the*
5 *prescription and self-administration of a medication that is*
6 *designed to end the life of the patient in accordance with sections*
7 *10 to 39, inclusive, of this act to a patient who requests such*
8 *information, the attending practitioner must [transition] ~~refer~~*
9 *the patient to*

10 *another provider of health care ~~who is willing and able to provide~~*
11 *~~this information~~. An attending practitioner who fails to comply*
12 *with the requirements of this subsection shall be deemed to have*
13 *failed to obtain informed consent to any care provided to the*
14 *patient after the request.*