

# FREQUENTLY ASKED **QUESTIONS**

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This page includes information adapted from FAQs by Oregon Department of Human Services, Washington State Department of Health, Vermont Department of Health, and contributions from Dr. Carol Parrot, MD.

## **WHAT IS DEATH WITH DIGNITY?**

Death with dignity can refer to:

1. An end-of-life option that allows certain eligible individuals to legally request and obtain medications from their physician to end their life in a peaceful, humane, and dignified manner;
2. State legislation codifying such an end-of-life option; and
3. A family of organizations promoting the end-of-life option around the United States.

## **DEATH WITH DIGNITY AS AN END-OF-LIFE OPTION**

### **What is Death with Dignity as an End-of-Life Option?**

Death with dignity is an end-of-life option, governed by state legislation, that allows certain people with terminal illness to voluntarily and legally request and receive a prescription medication from their physician to hasten their death in a peaceful, humane, and dignified manner.

### **What are some other terms used to refer to death with dignity?**

Death with dignity is a term originating in the title of the Oregon statute governing the prescribing of life-ending medications to eligible people with terminal illness; because our founders authored the Oregon law, our family of organizations bears its name and it's our preferred term for the practice.

Other terms include:

- physician-assisted death
- physician-assisted dying
- aid in dying
- physician aid in dying
- medical aid in dying

Incorrect and inaccurate terms that opponents of physician-assisted dying use in order to mislead the public include:

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- assisted suicide
- doctor-assisted suicide
- physician-assisted suicide
- (active) euthanasia

A legal prescription for life-ending medications is only available in states with death with dignity laws. To qualify under death with dignity statutes, you must be:

- an adult resident of a state where such a law is in effect;
- capable of making and communicating your own healthcare decisions;
- diagnosed with a terminal illness that will lead to death within six months, as confirmed by qualified healthcare providers; and
- capable of self-administering and ingesting medications without assistance.

Each state's qualification process may vary.

**How can I find a doctor in a “death with dignity state” who will prescribe life-ending medications?**

There are no lists of healthcare providers who participate in assisted-dying laws, for both confidentiality and safety reasons. Provider participation in the law is strictly voluntary.

You are more likely to find a participating provider in a non-faith-based hospital and in larger cities. End of Life Washington has compiled information about which activities each hospital in the state permits or restricts when a patient asks for assistance using their Act.

To find out if your doctor is willing to participate in the law, make an appointment with them to discuss your end-of-life goals and concerns, including the option available under the state's death with dignity law. Ask any kind of doctor: your hospice doctor, oncologist, pulmonologist, or neurologist, or even your dermatologist or psychiatrist. Any physician licensed to practice in a “death with dignity state” is allowed to participate if they agree. The law also says every physician has the choice not to participate.

If the first physician says yes, ask them for a referral to another doctor who will participate or ask another of your (probably many) doctors if they will participate. Both physicians need to certify that you meet the criteria under the law. The first physician will be your attending physician for the law. They will guide you through all the requirements of the law and, if you qualify, will write the life-ending medication prescription for you. The second certifying doctor will be the consulting physician who has to certify all criteria of the law have been met.

New Mexico is the first state to authorize advanced-practice nurses (APRN) and physician assistants (PA) to participate in supporting patient decisions under an aid-in-dying law.

### **Where can I take the medication?**

**Place of Your Choosing.** You can take (self-administer and ingest) the medications at a place of your choosing. Most people (92 percent in Oregon) choose to take the medications at home; those who reside in assisted-living or nursing home facilities tend to take them there.

**Public Place.** The aid-in-dying laws require your provider to advise you not to take the medication in a public place.

The laws also stipulate consequences for taking the medication in a public place by allowing governmental entities that incur resulting costs to recoup them from your estate. For example, California's End of Life Option Act states that:

*443.21. Any governmental entity that incurs costs resulting from a qualified individual terminating his or her life pursuant to the provisions of this part in a public place shall have a claim against the estate of the qualified individual to recover those costs and reasonable attorney fees related to enforcing the claim.*

An additional issue is the need for a funeral home to be able to reach the area to remove your remains; most funeral homes refuse to do so in a public place.

**Out-of-State.** If you take a dose prescribed

under a death with dignity law outside the state where you obtained it, you may lose the legal protections afforded by the law in question. For example, your death may be ruled a suicide under another state's law, with resulting effects on your insurance policies.

### **What kind of prescription will I receive?**

None of the medical aid-in-dying laws tell your physician exactly what prescription to give you, but all medications under these laws require the attending physician's prescription. It is up to the physician to determine the prescription.

### **How much does the medication cost?**

Cost varies based on medication type and availability, as well as the protocol used (additional medications may be prescribed by your physician to be consumed prior to the lethal medications at an extra cost). Your physician and pharmacist will have more specific information regarding your prescription.

### **When will I know it is the time to take the medication?**

No one can answer this question for you. Some people know when it's time, when they've reached a point where their disease or the pain and suffering it causes has robbed them of the quality of life they find essential.

If you decide the time is not right, that's fine; it only means the Death with Dignity Act is working as intended because it has given you the freedom and empowerment to set your own timeframe. Some people (about 30 percent) never take the medication. Simply knowing they have this

option, if they need it, gives them comfort.

### **What happens with the unused medications?**

As controlled substances, medications prescribed under death with dignity laws are regulated by federal statutes. These medications are carefully tracked from the date they are prescribed to the date the person for whom they are prescribed dies. Physicians must report all prescriptions for lethal medications to their state's health department. Similarly, pharmacists must report on dispensing these medications.

The medications must be taken by the person they are prescribed to. Criminal penalties may ensue if another person takes them.

About one in three people who obtain medications under aid-in-dying laws choose not to take them. Anyone who chooses not to ingest a prescribed dose or anyone in possession of any portion of the unused dose must dispose of the dose in a legal manner, as determined by the federal Drug Enforcement Agency or their state laws, if any.

Each state's law may have specific instructions for disposal of unused medications, so it is best to check your state's law.

Because nine out of ten patients who use the death with dignity laws are enrolled in hospice care at the time of their death, it is the responsibility of hospice to have a policy about medications left after a patient's death, including the legally prescribed lethal doses of aid-in-dying

medications, and to educate the deceased patient's family about the disposal of such medications.

In those few cases where the patient is not enrolled in hospice at their death, any unused medications need to be disposed of by those who are present at the time the patient dies.

There have been no reported cases of misuse of aid-in-dying medications during the 20+ years Oregon's law has been in effect, nor in any other states with existing death with dignity laws.

The objection that simply having the lethal dose of medicine results in its misuse fails to account for any other medications patients around the country have, e.g., Oxycontin, Oxycodone, morphine, anti-depressants, sleeping sedatives, etc., all of which could be misused and in some cases are misused. The laws in the U.S. are very clear: legally prescribed medications must be taken by the person for whom they are prescribed, and it is illegal for such medications to be used by others.

### **What options do I have if my state does not allow physician aid in dying? You can:**

- Voluntarily stop eating and drinking;
- Stop treatment or not start treatment at all. Every competent individual has a right to refuse medical therapies; or
- Use palliative sedation.

Such measures can take anywhere from several days to several weeks to result in

death. Stopping treatment or medication may lead to unanticipated effects or pain.

Your end-of-life concerns can also be addressed by hospice or your palliative care providers. Discuss your options with your physician.

## **DEATH WITH DIGNITY LEGISLATION**

### **What is Death with Dignity Legislation?**

Death with dignity, or medical aid-in-dying, statutes allow certain adults with terminal illness to request and obtain a prescription for medication to end their lives in a peaceful manner. The acts outline the process of obtaining such medication, including safeguards to protect both patients and physicians.

In states where physician-assisted dying is legal, there is no state program for participation in the existing aid-in-dying laws and people do not apply to state health departments. It is up to eligible patients and licensed physicians to implement the act on an individual, case-by-case basis.

### **Can my family member or a proxy request participation in medical aid in dying on my behalf? For example, if I am in a coma or suffer from Alzheimer's Disease or Dementia?**

No. The law requires that you ask to participate voluntarily on your own behalf and meet all the eligibility criteria at the time of your request.

### **Can physician-assisted death laws be used with advanced directives?**

No. Advance directives are documents that describe what you as a dying person want

done (or not done) medically if you can no longer make decisions for yourself. Aid-in-dying laws cannot be used under advance directives for this reason.

### **What are the residency requirements under death with dignity laws?**

Legal state residency is a requirement for accessing death with dignity laws. You must provide adequate documentation to your attending physician to verify that you are a current resident of the jurisdiction with an aid-in-dying statute. It is up to the attending physician to determine whether you have adequately established residency.

### **Can I move to a "Death with Dignity State" in order to participate in the law?**

There is nothing in death with dignity statutes that prevents you from doing this. You must be able to prove to the attending physician that you are currently a resident. It is up to the attending physician to determine whether you qualify and whether they will provide your care.

Moving to a new state is a big challenge under any circumstances. It's particularly challenging if you are terminally ill. You will likely need the support of family or friends to make your move, then reestablish your healthcare in your new location.

Moving to a state with a law does not guarantee you will qualify for medical aid in dying. Only healthcare providers can make that determination.

### **Can I just travel to a "Death with Dignity State" temporarily and then go back home with the medication?**

No. You must be a resident of one of these

states and plan to die in that state. Taking the medication prescribed under one state's physician-assisted dying law outside that state may result in you and your physician's losing legal protections afforded by the law in question.

### **How do aid-in-dying laws protect patients?**

Death with dignity statutes contain a number of safeguards, protecting patients from abuse and coercion:

- Patients must meet stringent eligibility requirements, including being an adult, state resident, mentally capable, able to self-administer and ingest the medications, and having a terminal diagnosis with a prognosis of six months or less to live. There are no exceptions.
- Only the patient can make the request(s) for medication. It is impossible to stipulate the request in an advance directive, living will, or any other end-of-life care document.
- The written request must be witnessed by at least two people, who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced to sign the request. One of the witnesses cannot be a relative of the patient by blood, marriage or adoption, anyone who would be entitled to any portion of the patient's estate, an owner, operator or employee of a health care facility where the eligible patient is receiving medical treatment or is a resident, or

the patient's attending physician.

- The patient may rescind the request at any time.
- Two physicians, one of whom is the patient's attending physician, familiar with the patient's case, must confirm the diagnosis. Each physician must be licensed by the state to practice medicine and certified to prescribe medications. (New Mexico law has slight variations.)
- If either provider determines the patient may be experiencing a psychiatric disorder causing impaired judgment, they must refer the patient for a mental health assessment. Medication cannot be prescribed until such an assessment determines the patient is mentally capable.
- The patient may have a waiting period related to the writing or dispensing of the prescription, depending on which state they reside in.
- The request process must be stopped immediately if there is any suspicion or evidence of coercion.
- The physicians must comply with strict reporting requirements for each request.
- Any illegal or ethically questionable activity conducted outside the law would be subject to other state statutes.

Data and studies show these safeguards

work as intended, protecting patients and preventing misuse.

### **How do death with dignity statutes safeguard confidentiality?**

Federal statutes, such as HIPAA, protect confidentiality of all patient records.

While states with physician-assisted dying laws do collect the names of patients in order to cross-check death certificates, the laws guarantee the confidentiality of all participating patients as well as physicians. Patients' or doctors' identifying information is never released to the public or media.

If your death results from taking medications legally prescribed and obtained under a physician aid-in-dying statute, your death certificate will list your underlying illness as the cause of death.

### **How does using a death with dignity law impact my insurance?**

Physician-assisted death statutes do not specify who must pay for the services. Individual insurers determine whether the procedure is covered under their policies, just as they do with any other medical procedure. Federal funding, including Medicaid and Medicare, cannot be used for services or medications received under these laws.

Physician aid-in-dying statutes specify that participating in death with dignity is not suicide. Therefore, your decision to end your life under an aid-in-dying statute has no effect on your life, health, or accident insurance or annuity policy.

### **How many people use death with dignity laws?**

Visit our State Report Navigator to learn more about use of the laws in each state. These figures highlight that only a small number of people with terminal illness utilize death with dignity laws to die and about 30 percent of people who do obtain the medication prescribed under these laws never take it.

The existing death with dignity laws continue to work flawlessly, to protect patients and physicians, and to provide ease of mind and relief to people facing the end of life.

### **Do aid-in-dying statutes obligate or encourage anyone to use them?**

Participation in assisted dying is strictly voluntary, for both patients and their providers. No one is encouraged or obligated to use these laws; they provide an option to those who wish to use them.

No one qualifies under aid-in-dying laws solely on the basis of age or disability.

Opponents of aid-in-dying laws allege that the mere existence of these laws encourages older folks, people with disabilities, minorities, or poor, undereducated, uninsured and other marginalized persons to prematurely end their lives. Physician-assisted death laws, however, provide a voluntary option to anyone who qualifies and wishes to voluntarily use it. No one is forced, obligated, or encouraged to use these laws; access to these laws by any one person does not preclude others from opting out.

## **Can the federal government overturn Oregon's law?**

The George W. Bush administration in the early 2000s attempted to use the federal Controlled Substances Act (CSA) to overturn the Oregon law, both through Congress and the courts. However, since the CSA bans the use and trafficking of illegal drugs and regulates the use of legal narcotics for approved medical purposes, and the Oregon Death with Dignity Act specifies only the use of legal narcotics for physician-assisted dying, their efforts failed.

In the U.S., it is the states, not the federal government, that license physicians and determine what is and is not legitimate medical practice. In 2006, the U.S. Supreme Court affirmed this by ruling, in the case *Gonzales v. Oregon*, that the federal government overstepped its authority in seeking to punish doctors who prescribed drugs to help patients with terminal illness end their lives.

## **IMPACT OF DEATH WITH DIGNITY**

### **What are the benefits of death with dignity laws for people with terminal illness and their families?**

Death with dignity legislation yields numerous direct and indirect benefits.

For patients with terminal illness, the greatest comfort these laws provide is having the freedom to control their own end. Most people who obtain medications under these laws value being able to make their own decisions, including the where and when of their death. We know this because people using the law cite loss of autonomy as their chief end-of-life concern.

Most people who are dying wish to die at comfortably at home. Nearly 92 percent of people accessing the Oregon Death with Dignity Act do. The stringent safeguards in these laws also protect patients from possible abuse, coercion, and wrongful medical practice.

We often hear stories of family members also deriving peace of mind from knowing they will not have to helplessly endure watching a loved one die a horrible death.

### **Where do physicians stand on physician-assisted dying?**

A 2016 Medscape survey found that 57 percent of medical doctors favor physician-assisted dying, up from 46 percent in 2010. We also know that many physicians who support this end-of-life option are reluctant to declare so publicly for fear of repercussions in their workplace or medical community.

The American Medical Association (AMA) opposes aid-in-dying laws. However, not only does the AMA represents a declining number of physicians (only about 1 in 3 doctors are AMA members), a 2011 survey of physicians conducted by Jackson & Coker found that 77 percent of physicians believe the AMA no longer reflects their views.

As of 2018, ten AMA state chapters, as well as the D.C. chapter, have dropped opposition to assisted dying and adopted a neutral position: California, Colorado, Hawaii, Maine, Maryland, Massachusetts, New Mexico, Nevada, Oregon, Vermont, and Washington.



A number of medical associations have endorsed physician-assisted dying, including the American Public Health Association, the American College of Legal Medicine, the American Medical Women's Association, the American Medical Student Association, and the Denver Medical Society.

### **Do death with dignity laws have any broader, societal effects?**

Death with dignity legislation leads to improvements in end-of-life care.

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Oregon consistently ranks as a top state in end-of-life care. The Oregon Death with Dignity Act has dramatically improved end-of-life care, particularly in pain management, hospice care, and support services for family members. Reports show that up to 90 percent of people using Oregon's Death with Dignity Act are on hospice at the time of death, as compared to 45 percent in the U.S. overall, according to the National Hospice and Palliative Care Organization. Oregon has the best pain, palliative, and hospice care in the nation because the law made physicians get better at diagnosing depression, pain management, and hospice referrals.

Residents of states with aid-in-dying laws are better-versed in end-of-life care issues than of those with no such statutes. A poll by National Journal and The Regence Foundation has found residents in Oregon and Washington to be more knowledgeable and supportive of a variety of end-of-life options, including hospice and palliative care, than most Americans. According to the same poll, support for death with dignity legislation has grown in both

Oregon and Washington, and a 2012 poll found 80 percent of Oregonians support the Act.

Many healthy Oregonians and Washingtonians today discuss end-of-life issues with their doctors and increasingly demand active participation and decision making in their own end-of-life care. Oregon and Washington doctors, as a result, work harder to prolong patients' lives and enhance quality of life, while respecting patients' final wishes when their suffering becomes intolerable. Because of the law's protections, most Oregonians know their doctors won't abandon them when the suffering becomes unbearable and use of the law is requested.

Oregon's medical aid-in-dying law has also helped foster open and honest conversations between doctors and patients about end of life.