



Your life. Your death. Your choice.

## ATTENDING PHYSICIAN'S GUIDE TO THE WASHINGTON DEATH WITH DIGNITY ACT

This guide briefly explains the steps any physician needs to take to become a patient's Attending Physician for the purposes of Washington's Death with Dignity Act (DWDA), and to ensure compliance with the law. DWDA protects physicians and other health care providers who participate in good faith from criminal and civil liability and from professional disciplinary action. A copy of the law is available from End of Life Washington (contact information at bottom of each page), and from the Washington State Department of Health (DOH, [www.doh.wa.gov/dwda](http://www.doh.wa.gov/dwda)). We periodically update this document to reflect medical advances and legal changes.

### Definitions:

"Attending Physician" (AP) is the physician who agrees to write the prescriptions for DWDA. The AP also takes primary responsibility for counseling the patient, ensuring compliance with the law, and submitting physician documents to the DOH.

The "Consulting Physician" (CP) examines the patient and makes a written confirmation of the patient's diagnosis, prognosis, ability to make an informed decision, and voluntary decision making.

### Who is Eligible?

The law requires the patient to:

1. Be an adult – 18 years of age or older.
2. Be a Washington resident.
3. Be able to make and communicate an informed health care decision.
4. Have a terminal illness – an incurable and irreversible disease that will, within the reasonable medical judgment of both the AP and CP, result in death within six months.
5. Make voluntary requests (two oral and one written) for life-ending medication. The written request can only be made by a patient who has been informed by the AP and CP of his/her diagnosis, prognosis, the likely effects of the DWD medicines, and of the alternatives to DWD.

### Timetable for Completing the Eligibility Process \*

Day 0	Up to Day 13 or later	Day 15 or later	Day 15 or later
Patient makes <u>1<sup>st</sup> oral request to a physician</u> ; if not to the doctor who will be AP, the charted request needs to be obtained by the AP.	After AP and CP have seen the patient, accepted the 1 <sup>st</sup> oral request, and certified the patient as eligible under the DWDA, <u>the patient may submit the <i>Written Request for Medication To End My Life Form</i> to the AP.</u>	Patient makes a <u>2<sup>nd</sup> oral request</u> to the AP, at least 15 days after the first oral request.	<b>AP may prescribe medicines</b> after receiving both oral requests, and at least 48 hours have passed after the patient has signed the <u><i>Written Request for Medication To End My Life Form</i></u> .

**\*Table dates represent the minimum time periods required (with the patient's Written Request accepted by the AP no later than day 13); most patients will require three or more weeks to complete the process.**

### Physicians' Evaluations:

Both the AP and CP must examine the patient and relevant medical records. Since there are many reasons a patient might request the option of using the DWDA, we suggest that both AP & CP explore the physical, psychological, and spiritual issues leading to a request for DWD and discuss all available end-of-life options as possible alternatives to DWD. Ask about financial and social issues and assure that the patient is not being coerced to request DWD. You may discover symptoms or other conditions that need to be addressed. Please

urge the patient to join a hospice program for optimal basic comfort care. All patients qualified for DWD are also qualified for hospice.

The AP should confirm that the patient is a Washington resident by examining a driver's license, voter registration card, evidence that the patient leases or owns property in the state, or other appropriate documentation.

Explore the existence of [advance directives](#) (living will and durable power of attorney for health care) and a [POLST \(Physician Orders for Life Sustaining Treatment\) form](#). If your patient does not have a POLST, please discuss the potential benefits this form might offer in these circumstances. (Note: End of Life Washington provides free POLST forms and advance directive packets to patients and physicians. POLST forms are available by mail only.)

### **Evaluate Impaired Judgment:**

If either the AP or CP questions whether “*the patient is able to make and communicate an informed decision to health care providers,*” the law requires referring the patient to a state-licensed psychiatrist or PhD-level psychologist for evaluation. In such cases, the AP may not write the prescription for life-ending medication until the referring psychiatrist or psychologist determines that the patient’s judgment is not impaired. If a psychiatric or psychological exam is required, the provider must complete a **Psychiatric/Psychologist Consultant Compliance Form** and provide it to the AP. In about 5% of patients in Washington and Oregon, either the AP or CP has wanted to be sure that the patient was not suffering from a psychiatric or psychological disorder causing impaired judgment. For more information on this evaluation, please contact End of Life Washington.

### **The DWDA requires that patients be counseled that:**

1. He/she may rescind the request for DWD at any time, and for any reason.
2. He/she should discuss his/her intentions with close relatives (a recommendation required to be made by the physician, but not required of the patient). **Note:** Our client support volunteers (CSV) can help facilitate family meetings about DWDA.
3. He/she should take the medication with at least one other person present (We will generally offer to send two CSVs to support patients who are taking the medicines).
4. He/she should not take the medicines in a public place.

### **DOH-Required Documentation:** (See also “Reporting Requirements,” p. 5)

The AP must document key findings on the WA DOH **Attending Physician’s Compliance Form**. The CP must verify the patient’s terminal state, competency, absence of coercion, and understanding of alternatives in a **Consulting Physician’s Compliance Form**. Compliance forms from the CP and Psychiatrist/Psychologist (if a psychiatric/psychological evaluation occurred) must be sent to the AP who submits them together with his/her compliance form to the DOH. The DOH forms are available online (<http://alturl.com/7wuzu>).

### **Medical Record Documentation Required:**

The AP must document patient requests and the elements of an informed decision in the patient’s chart. Sometimes other physicians may have recorded the patient’s first oral request for DWD (starting the clock of the patient’s process of obtaining medications); the AP should obtain a copy of such a request. Placing copies of the first oral request (if documented elsewhere), DOH compliance forms, and the DOH **Written Request for Medication To End My Life Form** in your records will serve to document important process elements:

1. Diagnosis and prognosis.
2. Potential risks associated with taking the medication (vomiting and death, and the possibility that the medication may very rarely fail to cause death).
3. The expected result of taking the medication (death).
4. Feasible end-of-life alternatives, which may include comfort care, hospice, voluntarily stopping eating and drinking, aggressive pain and/or symptom control, and palliative sedation.
5. Right to rescind: Document all reminders to the patient of his or her "right to rescind" (the law provides that the patient may change his or her mind about the request for life-ending medication at any time). The AP may also wish to place End of Life Washington’s AP **Checklist for DWD** in the record.

**The AP May Prescribe the Medication if All of the Following Requirements Are Met:**

1. You have received the completed **Consulting Physician's Compliance Form**, or you have assurance from the CP that you will receive it that same day.
2. If either you or the CP requested one, you have the **Psychiatric/Psychologist Consultant Compliance Form**.
3. At least 48 hours have passed since you received the patient's **Written Request for Medication To End My Life Form**.
4. You have received and documented the second oral request, at least 15 days after the first oral request.
5. You reminded the patient that he/she may always rescind the request for DWD.

**Obtaining the Medication:**

1. Call EOL WA for the name of a cooperating pharmacist in your vicinity, and for the latest recommended medication protocol.
  - Most pharmacies do not keep barbiturates in stock and some will refuse to fill prescriptions for DWD medications.
2. The AP must hand carry or mail the prescription to the pharmacist; faxing is not permitted.
3. If someone other than the terminally ill patient will be picking up the prescription, the DWDA requires prescriptions for this unusual medicine to include the patient's name and the name(s) of the person/people who are authorized to pick up the medication, if it is not the patient; e.g., "John Jones and Jane Smith are authorized to pick up this prescription."
4. The AP should call the pharmacist to advise that the prescription is coming. Please remind the pharmacist that when DWD meds are dispensed:
  - A **Pharmacy Dispensing Record Form** must be completed and sent to the DOH within 30 days.
  - DWD medications should not be reported into the Prescription Monitoring Program because they are for one-time use.

**Circumstances That May Prevent or Modify a Patient's Use of the DWDA:**

Some GI Problems can prevent use of the DWDA, especially:

1. Patients who are unable to ingest the entire medication mixture (four ounces of bitter, viscous liquid) within approximately two minutes.
2. Patients who have poor absorption, gastrointestinal obstruction, or uncontrolled vomiting.

A Feeding Tube may enable a patient to ingest the medicine, as long as he or she is able to push a syringe or initiate a drip into the tube.

Cardiac Problems:

1. If a patient has an implanted cardioverter defibrillator, it should be turned off before the patient takes the DWD medications.
2. If the patient has an implanted pacemaker, it is desirable – but not mandatory – to turn it off.
3. If the patient is a client of End of Life Washington, one of our volunteer medical directors can assist you by calling the appropriate patient's physician or hospice provider to have these devices turned off.

**Should the AP or CP be Present at the Time of Death?**

Your patient may request your presence at the time she or he ingests the medication. End of Life Washington encourages the patient to express such wishes and physicians to consider such requests. The DWDA provides legal immunity from prosecution, civil liability, and professional discipline for care providers acting in good faith, including physicians present at a patient's death.

End of Life Washington offers all Western WA clients a trained CSV to meet with, advise, and help clients pursue DWD in accordance with the law. We also provide advice and practical/ personal support to clients elsewhere in WA when possible. Having a CSV present at the time of death is strongly recommended. The CSV present will collect data the AP needs for the DOH **Attending Physician's After Death Reporting Form**.

If your patient is not already a client of End of Life Washington, we strongly encourage you to refer her or him to us.

Even if you are not present for your patient's death, please speak with your patient about the importance of keeping you informed about the plan to take the medication. If no physician completes the death certificate within 48 hours of death, the case may be referred to the coroner or medical examiner for investigation. An investigation might jeopardize the patient's confidentiality and distress his or her loved ones.

**After the Patient Dies:**

Family, friends, or the client support volunteer will need to notify hospice of the death. If the patient is not in hospice, attending physicians should be on hand to obtain from medical examiner or coroner's office a No Jurisdiction Assumed (NJA) number to authorize the local funeral home to pick up the body. End of Life Washington suggests mentioning that the patient used the DWDA.

**Complete the Death Certificate as follows:**

1. Under "Immediate Cause of Death," insert the patient's underlying terminal illness (item 34 on the Death Certificate).
2. The "manner of death" is natural (item 38 on the Death Certificate). If you report Death with Dignity Act, barbiturate overdose, name the medications prescribed, or describe the death as a "suicide" or "assisted suicide," the form will be returned to you to be completed properly.

**DOH Reporting Requirements:**

Within 30 days after writing the DWDA prescription, the AP must send copies of the following forms to the state DOH:

1. The **Attending Physician Compliance Form**, DOH 422-064.
2. The **Consulting Physician's Compliance Form**. DOH 422-065.
3. The patient's completed **Written Request for Medication To End My Life Form**, which must be witnessed by two individuals (see paragraph at the bottom of the form).
4. If a psychiatric or psychological evaluation was performed, the **Psychiatric/Psychological Consultant's Compliance Form**, DOH 422-066.

Within 30 days of the patient's death, the AP must complete and submit the **Attending Physician's After Death Reporting Form**.

**Send forms to: State Registrar, Center for Health Statistics  
PO Box 47856, Olympia, WA 98504-7856**

**For more information:**

End of Life Washington: [www.EndofLifeWA.org](http://www.EndofLifeWA.org), [info@EndofLifeWA.org](mailto:info@EndofLifeWA.org), 206.256.1636 or 877.222.2816 toll-free.

Washington Department of Health resources on Death with Dignity: [www.doh.wa.gov/dwda](http://www.doh.wa.gov/dwda).

---

**Useful Findings from DWDA Deaths** (optional information):

On October 27, 1997, Oregon enacted the Death with Dignity Act; Washington enacted an equivalent law on March 5, 2009. Health/Human Services departments in both states annually summarize data used to monitor the program, including the number of persons who are provided prescriptions to end their lives, the number of those persons who subsequently die and whether DWD medications were used or not, the reasons persons gave for seeking to use the law, the number enrolled in hospice programs, and the timing of death following DWD meds.<sup>1</sup> What is not monitored by either state is the number of persons who seek to end their lives but do

---

<sup>1</sup> [www.doh.wa.gov/dwda](http://www.doh.wa.gov/dwda) and <http://alturl.com/x3vf7>

not qualify, either because the patient's terminal status is hard to define, the patient is deemed not competent to use the law, or because physicians willing to participate cannot be found.

In both states roughly only 0.2% (2 per 1,000) of persons dying in any year have obtained and used DWD medications to end their lives. However, the number and percentage of persons seeking to use the DWD law has been steadily increasing; e.g., from 33 persons receiving prescriptions in Oregon its first full year (1999) to 114 cases in 2011 (an increase of 245% over 12 years), and from 16 persons dying after swallowing the medicines in 1999 to 71 in 2011 (a 344% increase over 12 years). Washington's data over 2 ½ years show the same small proportions using the DWDA and increasing trends. Typically, about 1/3 of persons who obtain prescriptions do not use the DWD medicines.

Oregon Department of Human Services 17th Annual DWD Report notes that, since January 1998, 859 patients had DWD prescriptions written and successfully hastened their deaths by ingesting a barbiturate in accordance with Oregon's DWDA. These patients slipped into comas within 1 to 38 minutes (median 5 min.) and died within 1 minute to 104 hours (median 25 min.) after ingesting the lethal quantity of barbiturate.

Recently Oregon's Compassion & Choices reported that of the past 600 cases, six (1%) patients prescribed the usual 9-10 grams of seco- or pentobarbital failed to succeed in their attempt to die and awoke hours or days later. All but one of these patients subsequently succumbed within a few days after awakening. That patient regained consciousness 65 hours after taking the medication and died from his underlying illness fourteen days later.