



CONSULTING PHYSICIAN'S GUIDE TO THE WASHINGTON'S DEATH WITH DIGNITY ACT

This guide briefly explains the steps any physician needs to take to become a patient's Consulting 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). 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; makes a written confirmation of the patient's diagnosis, prognosis, ability to make an informed decision, and voluntary decision making; and sends the DOH form to the Attending physician.

Who is Eligible?

The law requires the patient to:

- Be an adult – 18 years of age or older.
- Be a Washington resident.
- Be able to make and communicate an informed health care decision.
- 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.
- 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.

Consulting Physician's Role and Responsibilities:

From a review of the patient's history, including relevant medical records, and from your physical examination, your task is to determine whether the patient has a terminal disease that would – within reasonable medical opinion – result in death within six months. You are also required to determine whether the patient is able to make and communicate an informed decision to health care providers, and that the patient's request to use the DWDA is voluntary and not coerced.

Since there are many reasons a patient might make this request, we suggest exploring the physical, psychological, and spiritual issues leading to a request for DWD and discussing all available end-of-life options as possible alternatives. 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.

Evaluate Impaired Judgment:

If either you or the AP question 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, contact End of Life Washington.*

The CP is required to inform the patient about:

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).

DOH-Required Documentation:

The CP must complete a **Consulting Physician's Compliance Form** to document his or her findings and that the required counseling (above) occurred. This form should be **provided to the AP** as soon as possible after the patient has been seen, evaluated, and counseled. The AP will then forward the CP's form to the DOH with his or her other required forms.

Medical Record Documentation:

You must document the elements of an informed decision in the patient's chart. End of Life Washington suggests that a copy of the **Consulting Physician's Compliance Form** be inserted into the patient's medical record to document the required.

Should the Attending or Consulting Physicians be Present?

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 Washington clients an experienced Client Support Volunteer (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 Washington when possible. Having a CSV present at the time of death is strongly recommended. If your patient is not already a client of ours, we strongly encourage you to refer her or him to us.

For more information:

End of Life Washington: www.EndofLifeWA.org, 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.