



Your life. Your death. Your choice.

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

(version 08/08/21)

This guide 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.

<p><b>Definitions:</b>  “Attending Physician” (AP) is the physician who agrees to write the prescriptions for the DWDA. The AP also takes primary responsibility for counseling the patient, care decisions, ensuring compliance with the law, and submitting physician documents to the DOH.  “Consulting Physician” (CP), like the AP, meets with and examines the patient and pertinent medical records and confirms the patient’s competency, prognosis, and ability to self-administer.</p>	<p><b>Who is Eligible?</b> The DWDA requires the patient to:</p> <ol style="list-style-type: none"> <li>1. Be an adult – 18 years of age or older</li> <li>2. Be a Washington resident.</li> <li>3. Be able to make and communicate an informed health care decision</li> <li>4. Have a terminal illness – an incurable and irreversible disease that, in the reasonable medical judgment of both AP &amp; CP, will result in the patient’s death within 6 months.</li> <li>5. Make voluntary requests (2 oral requests at least 15 days apart and 1 written) for life-ending medicine. The written request may only be made after confirmation by the AP &amp; CP of the Dx, Px, and all care options.</li> <li>6. Be able to self-administer DWD medicines.</li> </ol>
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### Timetable for Completing the Eligibility Process \*

Day 0	After Day 0	Day 15 or later	Day 15 or later
Patient makes a chartable and acceptable <u>1<sup>st</sup> oral request to a physician</u> ; if made to a doctor who will not be AP, the AP needs to obtain the record of the 1 <sup>st</sup> oral request.	The patient meets with both the AP and CP After the patient has seen both AP and CP, and they agree that the patient is eligible under the DWDA, the patient submits the state’s <u>Written Request for Medication to End My Life</u> form to the AP.	Patient makes a <u>2<sup>nd</sup> oral request</u> (usually by phone) to the AP (only), at least 15 days after the 1 <sup>st</sup> oral request.	<b>AP may prescribe medicines</b> after receiving both oral requests, the consultant’s form, and if the patient has signed the patient’s <u>Written Request for Medication to End My Life</u> form at least 48 hours earlier.

\*Most patients will require three or more weeks to complete the process. If the patient signs the Written Request by day 13, then the process may be completed in 15 days.

### Physicians' Evaluations:

Both the AP and CP must examine the patient and relevant medical records. There are many reasons a patient might request the option of using the DWDA: physical, psychological, and spiritual. 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 and to support their family at the time of death. All patients qualified for DWD are also qualified for hospice. We strongly recommend that all involved physicians at least confer by phone after they have all seen the patient.

The AP should confirm that the patient is a Washington resident. Residency can be established by evidence that one has a drivers' license in the state; that one is renting, leasing, or had purchased a residence; or that one has registered to vote.

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.)

Telemedicine is an effective and legitimate way to make aid-in-dying requests. Due to COVID-19 risks, increased use of telemedicine is encouraged. For more information visit: <https://www.acamaid.org/telemedicine/>

### 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,"* first rule out medication-induced confusion, as many terminally ill persons are taking psycho-active medications. Otherwise, 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, that 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 including possible resources, please contact End of Life Washington.

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

1. They may rescind the request for DWD at any time, and for any reason.
2. They 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 volunteer client advisers (VCAs) can help facilitate family meetings about DWDA.
3. They should take the medication with at least one other person present (EOLWA will generally offer to send two VCAs to support patients who are taking the medicines or to at least be present by phone).
4. They should not take the medicines in a public place.

In addition, we recommend three additional topics be discussed:

1. Life-ending treatment options are costly and typically 1 of 3 persons who qualify for prescriptions don't use them. Advise the patient to leave the prescription in the pharmacy until they're sure they will soon take them. This saves the cost of medicine which may not be used, or which will expire after 6 months if the patient unexpectedly lives longer than 6 months. It also eliminates the need for the family to safely dispose of any unused medications.
2. Life-ending medicines are not 'a simple pill' to swallow, but a bitter liquid mixture which requires a functional upper GI tract to be absorbed. The dying process can take hours, or rarely even a day or more, while the patient is in a coma, unconscious.

- Particularly for some conditions, disease can progress rapidly and unexpectedly, closing the **'window of opportunity'** for them to take the medicine. The patient's ability to self-administer and competence must remain intact up to the act of ingesting.

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

The AP and CP must document key findings on the WA DOH **AP or CP Physician's Compliance Form**. Both AP and CP must document the patient's terminal state, competency, absence of coercion, and understanding of alternatives. 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 consent in the patient's chart.\* Sometimes other physicians may have recorded the patient's first oral request for DWD (starting the 15-day clock required for the patient to qualify for DWD); the AP should confirm that the request was, indeed, documented. 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 you have completed these important process elements:

- Diagnosis and prognosis.
- Potential risks associated with taking the medication (vomiting and death, and the possibility that the medication may very rarely fail to cause death – WA has experienced only 1 awakening in 1,200 cases).
- The expected result of taking the medication (sleep followed by coma and death).
- Alternative end-of-life options, which may include comfort care, hospice, voluntarily stopping eating and drinking, and aggressive pain and/or other symptom control when needed.
- 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).

Medical records should be kept for 7 years, as required by federal law.

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

- The AP has received the completed **Consulting Physician's Compliance Form**, or has assurance from the CP that the AP will receive it that same day.
- If either the AP or CP has requested competency evaluation, the AP has received the **Psychiatric/Psychologist Consultant Compliance Form**.
- At least forty-eight hours have elapsed since the patient signed the **Written Request**.
- The second oral request has been completed at least 15 days after the first oral request and documented in the medical record.
- The patient understands that they may rescind the request for DWD at any time.

**Obtaining the Medication:**

- Call EOLWA for the names of cooperating compounding pharmacists in the patient's vicinity, and for the latest recommended medication options.
  - Many pharmacies do not keep expensive or rarely used medicines in stock and may require up-front payment from the patient.
  - Some will refuse to fill prescriptions for DWD medications.
  - The current medicine mixtures used for DWD are only prepared by compounding pharmacies.
- Delivery of the prescription to the pharmacy:
  - For hospice patients or those in a long-term care facility, prescriptions may be faxed to the participating pharmacy. Be sure to note "HOSPICE PATIENT" or "LTCF" on the face of the prescription

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\* Physicians who are practicing independently must establish their own medical records according to established business principles. EOLWA has developed guidance to help physicians participate.

- For all other patients, the AP must deliver the original prescription to the pharmacist by mail, or hand- or courier delivery
  - The AP should call the pharmacist to advise that the prescription is coming.
3. If someone other than the 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,

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

Cognitive impairment: confusion or lack of competence on the day of death will prohibit the patient from taking the meds.

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

1. Patients who are unable to ingest the entire medication mixture (2-3 ounces of bitter, milk-consistency liquid) within 1-2 minutes.
2. Patients who have poor absorption, gastrointestinal obstruction, or uncontrolled vomiting may take longer to die. Uncontrolled vomiting should be treated aggressively until symptom free, before the medication is ingested.

A Feeding Tube or a Rectal Tube may enable a patient to ingest the medicine, as long as they are able to push a syringe or initiate a drip into the tube. Life-ending medicines can be absorbed rectally and require the insertion of a rectal tube by the patient or caretakers. Information on either type of tube administration is available from EOLWA.

### Cardiac Problem:

1. Patients with an implanted cardioverter defibrillator, should have the defibrillator function disabled before taking the DWD medications; simple pacemakers do not pose problems. EOLWA may be able to help find the medical resources to turn off defibrillators, if needed.

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

Your patient may request your presence at the time they ingest the medication. End of Life Washington encourages physicians to consider such requests and welcomes your participation<sup>†</sup>. Some physicians want to attend a few deaths to understand the processes involved, but most leave it to EOLWA volunteers. Many hospices will not permit their staff to be present for the ingestion of medications.

If your patient is not already a client of End of Life Washington, we strongly encourage you to refer her or him to us. EOLWA offers all WA clients a trained Volunteer Client Advisor (VCA) to provide advice, and help clients pursue DWD in accordance with the law. If we can't attend (e.g., because of coronavirus risks, or inability to travel to the patient's isolated home) we will educate caregivers and offer to be present by phone or videochat. EOLWA also provides advice and help to participating physicians. It is important to have a VCA, family member or friend with the patient when he takes his medications. The AP needs to know when the medicines were taken and when coma and death occurred as recorded by an observer in order to complete the **Attending Physician's After Death Reporting Form**. More importantly, having a VCA or other person present at the time of death will provide important support to the patient and family.

Make sure you speak with your patient about the importance of keeping you informed about the plan to take the medication. The AP may complete the death certificate (when that occurs, it is usually by family request), though it is most often completed by the patient's hospice doc or PCP; 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.

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<sup>†</sup> 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.

**After the Patient Dies:**

Family, friends, or the VCA will need to notify hospice of the death. If the patient is not in hospice, the VCA or attending physician should 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.

**The Death Certificate should be completed 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, names 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's 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**.

**Forms Must be sent 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

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

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