



NEW MEXICO

**Introduction to
Medical Aid in Dying**



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New Mexico Elizabeth Whitefield
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Request for Medication to End My Life
in a Peaceful Manner form

New Mexico Elizabeth Whitefield End-of-Life Options Act

The Elizabeth Whitefield End-of-Life Options Act authorizes the practice of medical aid in dying, allowing a terminally ill, mentally capable adult with six months or less to live to request a prescription for medication from a qualified clinician that the individual can choose to self-administer to bring about a peaceful death if their suffering becomes unbearable.

To be eligible to use the law, one must:

- » Be an adult
- » Terminally ill
- » Given a prognosis of six months or less to live
- » Mentally capable of making their own healthcare decisions

One must also be:

- » A resident of New Mexico
- » Acting voluntarily and making an informed decision
- » Capable of self-administering the medical aid-in-dying medication

A qualified clinician is defined as:

- » A physician licensed pursuant to the NM Medical Practice Act;
- » An osteopathic physician licensed pursuant to the NM Osteopathic Medicine Act;
- » A nurse licensed in advanced practice pursuant to the NM Nursing Practice Act; or
- » A physician assistant licensed pursuant to the NM Physician Assistant Act or the NM Osteopathic Medicine Act.

In most cases, two New Mexico qualified clinicians must confirm eligibility to use the Elizabeth Whitefield End-of-Life Options Act. At least one of the qualified clinicians confirming eligibility must be either a physician (MD) or osteopathic physician (DO).

The criteria to obtain a prescription for aid-in-dying medication varies based on whether the terminally ill individual is enrolled in hospice and whether the prescribing provider is a physician (MD or DO) or another qualified clinician [an Advance Practice Nurse (APRN) or Physician Assistant (PA)]. The waiting period to obtain the medication also varies depending on the discretion of the prescribing provider; a provider can waive the 48-hour waiting period if the patient is unlikely to survive the waiting period.

In all cases, if any provider has concerns about the individual's mental capacity or ability to make an informed decision, that provider must refer the individual to a mental health professional, defined as a state-licensed psychiatrist, psychologist, master social worker, psychiatric nurse practitioner or professional clinical mental health counselor for a determination of capacity. In that case, a prescription cannot be written for aid-in-dying medication unless and until the mental health professional determines that the individual making the request is capable of making their own medical decisions.

An individual may change their mind at any time and withdraw their request, or choose not to take the medication.

Two people must witness the completion of the required written request form contained in the bill. Only one witness can be a relative. The written request is made by filling out the Request for Medication to End My Life in a Peaceful Manner form included in the Act and this packet. Only the terminally ill individual can make the request. The request cannot be made through an advance directive or by a family member, friend or healthcare proxy. The request must be made to a qualified clinician, not office staff. Please see the "Steps" section of this document for details.

The type and dosage of aid-in-dying medication prescribed, including medications to prevent nausea and vomiting, vary with each individual. The medication is not administered via injection. The terminally ill individual must be able to ingest the medication themselves, which usually requires swallowing or by using a feeding tube or rectal catheter. No one can administer the medication to the terminally ill individual. **The prescribing clinician will send the prescription directly to the pharmacy. The pharmacy will NOT accept a prescription directly from an individual.** A designated family member or friend may pick up the medication or it can be shipped overnight by mail.

Any qualified clinician who has questions about appropriate clinical practice guidelines or the kind of medication may call Compassion & Choices' free and confidential Doc2Doc consultation line at 800.247.7421.

Terminally ill individuals should contact their insurance carrier about what their policy covers and be sure to ask their qualified clinician or pharmacy about the cost of the medication. Some healthcare insurance policies cover the cost of medical aid in dying, including the qualified clinician visits and the medication, others such as Medicare, do not.

Unused medication:

There is no time limit for an individual to take the medication. Once the prescription is filled an individual can keep the medication until their death, even if they decide to not use it. There is no obligation to take the medication. If the person who was prescribed the medication does not take or use all of it, the medication should be disposed of safely and properly in accordance with state and federal law. Please note, it is illegal to use another person's medication. If the terminally ill individual decides to pick up the medication, he or she must designate a person who will be responsible for the lawful disposal of any unused aid-in-dying medication after their death.

What to do with unused medication:

- » Use the following website to search for a controlled substance public disposal location near you: <https://apps.deadiversion.usdoj.gov/pubdispsearch/spring/main?execution=e1s1>
- » Contact the pharmacist for more information.

If pharmacists have any questions, they may call Compassion & Choices' free and confidential Pharmacist2Pharmacist consultation line at 503.943.6517 for more information.

Steps for Using the Law

- 1. Individuals enrolled in hospice are considered terminal based on the standard of care and do not require a second confirmation if the prescribing provider is a MD/DO.** If the prescribing provider for an individual enrolled in hospice is an advanced practice nurse or a physician assistant, they must obtain written confirmation from the hospice MD/DO or another consulting MD/DO of 1) the patient's mental capability to make end-of-life care decisions and 2) their ability to self-administer aid-in-dying medication before a prescription can be written.
- 2. If the prescribing provider for an individual not enrolled in hospice is an advanced registered nurse practitioner or physician assistant,** they must obtain written confirmation from a consulting MD/DO of 1) the patient's terminal prognosis, 2) their mental capability to make end-of-life care decisions and 3) their ability to self-administer aid-in-dying medication before a prescription can be written.
- 3. If the prescribing provider for an individual not enrolled in hospice is a MD/DO,** they must obtain written confirmation from a consulting qualified clinician of 1) the patient's terminal prognosis, 2) their mental capability to make end-of-life care decisions and 3) their ability to self-administer aid-in-dying medication before a prescription can be written.
- 4. If deemed necessary,** a patient's capacity to make their own healthcare decisions will also be confirmed by a psychiatrist, psychologist or licensed clinical social worker.
- 5. The Request for Medication to End My Life in a Peaceful Manner form** must be completed and given directly to the prescribing qualified clinician. **This form must be witnessed by two people.** Please read the form carefully to determine who may or may not be a witness.
- 6. A prescription for aid-in-dying medication may be filled at least 48 hours after a prescribing clinician writes the prescription. The prescribing clinician may waive this waiting period if they confirm that the requesting individual may die within the waiting period.** The prescription must be sent directly to the pharmacy by the qualified clinician, not by you, a family member or friend. The pharmacy may need time to order the medication. Some pharmacies will prepare the medication before it is picked up if the qualified clinician adds this instruction to the prescription.
- 7. The waiting period in New Mexico between requesting medication and filling the prescription is 48 hours, but the process may take longer.** We encourage people who are interested in medical aid in dying as one of their end-of-life care options to start talking to their healthcare providers well in advance. Once the prescription is written, you may choose to keep it on file at the pharmacy if and until you choose to take the medication. You need not pay for the medication until the prescription is filled.
- 8. A request may be withdrawn at any time.** There is no obligation to take the aid-in-dying medication simply because you have it in your possession. Many people find comfort in simply knowing the medication is available. If the terminally ill person does pick up the medication, they must designate the person who will be responsible for its safe disposal, if they ultimately do not take it.

Talking With Your Qualified Clinician

Some people feel anxious about discussing medical aid in dying with their qualified clinicians. By explaining your preferences early in your illness, you are more likely to have an end-of-life experience consistent with your values.

SUGGESTIONS ON HOW TO DISCUSS AID IN DYING WITH YOUR QUALIFIED CLINICIANS

Language for someone who DOES NOT have a terminal illness:

I value quality of life. If I am no longer able to find dignity in my life and I meet the legal requirements, I would like to have the option of using the Elizabeth Whitefield End-of-Life Options Act.

I hope you will honor my decisions and respect my values, as I respect yours. Will you write a prescription for medical aid-in-dying medication in accordance with the Elizabeth Whitefield End-of-Life Options Act should I become eligible? If you will not honor my request, please tell me now.

Language for someone who DOES have a terminal illness:

I want the option to advance the time of my death if my suffering becomes unbearable. Am I eligible? If yes, will you write a prescription for aid-in-dying medication in accordance with the Elizabeth Whitefield End-of-Life Options Act? If you will not write the prescription, will you record in my chart that I am eligible to use the law and refer me to a qualified clinician who is able and willing to honor my request?

If I am not eligible, what would need to change for me to meet the criteria?

If I am not eligible for medical aid in dying, are there other end of life options?

Regardless of your qualified clinician's response, it is important to ask that your request be recorded in your medical record.

You may mention that Compassion & Choices provides free and confidential consultation to qualified clinicians who have questions about end-of-life options, including medical aid in dying, through our Doc2Doc consultation program at 800.247.7421. Also feel free to give them the "Letter to Your Qualified Clinician" included in this packet.

End-of-Life Care Planning Checklist

Please see Compassion & Choices End-of-Life Information Center for more resources at CompassionAndChoices.org/information.

Many people postpone making arrangements for the end of life. Planning ahead allows individuals to spend their final days with friends and family while focusing on the present. Informing loved ones of wishes ahead of time relieves them of the possible burden of making decisions about your final arrangements.

Please consider whether any of the following are appropriate for your situation:

- Advance directive or living will
- Identifying and assigning a healthcare proxy (also called agent, durable power of attorney, healthcare representative)
- MOST (Medical Orders for Scope of Treatment) and/or DNR order (Do Not Resuscitate)
- Last will and testament or living trust
- Life insurance policies
- Memorial service and/or funeral arrangements
- Detailed instructions regarding finances (bank accounts, pensions, investments, property, etc.)

Request for Medication to End My Life in a Peaceful Manner

I, _____, am an adult of sound mind. I am suffering from a terminal illness, which is a disease or condition that is incurable and irreversible and that, according to reasonable medical judgment, will result in death within six months. My health care provider has determined that the illness is in its terminal phase. _____ (Patient Initials)

I have been fully informed of my diagnosis and prognosis, the nature of the medical aid in dying medication to be prescribed and the potential associated risks, the expected result and the feasible alternative, concurrent or additional treatment opportunities, including hospice care and palliative care focused on relieving symptoms and reducing suffering. _____ (Patient Initials)

I request that my health care provider prescribe medication that will end my life in a peaceful manner if I choose to self-administer the medication, and I authorize my health care provider to contact a willing pharmacist about to fulfill this request. _____ (Patient Initials)

I understand that I have the right to rescind this request at any time. _____ (Patient Initials)

I understand the full import of this request, and I expect to die if I self-administer the medical aid in dying medication prescribed. I further understand that although most deaths occur within three hours, my death may take longer. My healthcare provider has counseled me about this possibility. _____ (Patient Initials)

I make this request voluntarily and without reservation.

Signed: _____ Date: _____ Time: _____

DECLARATION OF WITNESSES:

We declare that the person signing this request:

1. is personally known to us or has provided proof of identity;
2. signed this request in our presence;
3. appears to be of sound mind and not under duress, fraud or undue influence; and
4. is not a patient for whom either of us is a health care provider.

Witness 1:

Witness 2:

Signature: _____

Printed Name: _____

Relationship to Patient: _____

Date: _____

NOTE: No more than one witness shall be a relative by blood, marriage or adoption of the person signing this request. No more than one witness shall own, operate or be employed at a health care facility where the person signing that request is a patient or resident.

Provider Attestation (optional):

Signature of the Prescribing Provider: _____

Date Prescription Written: _____

NOTE: The Provider Attestation is not mandatory nor necessary to be included on this Request form. However, the Office of Medical Investigator may require proof that the individual is a Medical Aid-in-Dying patient. Having a copy of both the Request form and such Attestation of Prescription readily available in the medical record and on hand with the individual is strongly advised.

Learn more:

Find forms, videos and resources for patients and clinicians at:

CompassionandChoices.org/NewMexico

And please visit our local partner End of Life Options New Mexico at:

endoflifeoptionsnm.org

800 247 7421 phone

503 360 9643 fax

CompassionAndChoices.org/plan

eolc@CompassionAndChoices.org

Compassion & Choices' End-of-Life Consultation program (EOLC) provides information on the full range of options at the end of life. EOLC, and representatives of EOLC, do not provide medical or legal advice. We simply inform individuals of the available options.