

## **Medical Aid in Dying Provider Fact Sheet**

### **Elizabeth Whitefield End-of-Life Options Act**

On June 18, 2021 Elizabeth Whitefield End-of-Life-Options Act became law. This law allows a patient who has a terminal disease with a prognosis of 6 months or less to request a prescription which the patient self-administers in order to obtain a peaceful death. The process involves an individual submitting a written request, witnessed by two individuals, to a qualified health care provider. Two qualified healthcare providers must complete an appropriate examination, review the medical record and document that the individual meets the requirements listed below. At that point, one of those providers may write a prescription for medications that the individual may choose to self-administer in order to obtain a peaceful death. Individuals who are already enrolled in hospice care at the time they make the request require documentation from a single qualified healthcare provider (physician), rather than two. There is a 48-hour waiting period from the time that an individual obtains a prescription and a pharmacist fills it.

### **Qualified Health Care Providers**

In New Mexico, physicians, osteopathic physicians, nurse practitioners and physician assistants may prescribe under the Elizabeth Whitefield End-of-Life Options Act, although at least one of the providers documenting that the patient meets the requirements for medical aid in dying must be a physician or osteopathic physician. And it is the physician who must document that the individual requesting medical aid in dying has a terminal illness with a prognosis of less than six month, has decisional capacity and can self-administer the medication. Qualified health care providers are not required to participate in providing prescriptions for medical aid in dying and may choose to refer patients to another provider who is willing to work with a patient on a medical aid in dying request. Mental health professional means a state-licensed psychiatrist, psychologist, master social worker, psychiatric nurse practitioner or professional clinical mental health counselor.

### **Requirements for Individuals Seeking Medical Aid in Dying**

Any individual seeking medical aid in dying in New Mexico must meet the following criteria:

- Adult. Only persons 18 or older are eligible for medical aid in dying.
- Capacity. Only individuals who have the ability to understand and appreciate health care options available to that individual, including significant benefits and risks, and to make and communicate an informed health care decision are eligible for medical aid in dying. Capacity for purposes of eligibility must be determined by a qualified health care provider based on professional standards. And if there are concerns that a mental health condition or intellectual disability is affecting that capacity, an individual must be referred to a mental health professional for an assessment before Medical Aid in Dying can be prescribed.

- Diagnosis of a terminal illness. Defined as a disease or condition that is incurable and irreversible and that, in accordance with reasonable medical judgment, will result in death within six months
- Ability to self-administer medication. Only individuals who have the ability to take an affirmative, conscious, voluntary action to ingest a pharmaceutical substance are eligible for medical aid in dying.

### **Understanding Options**

It is important that anyone being treated for an illness with a terminal prognosis understand all of their options for care. These include:

- Disease Treatment Options
- Palliative Care: focused on reducing the symptoms and suffering from a serious illness, available at all stages of that illness
- Hospice Care: caring for someone with a terminal disease and a prognosis of six months or less.
- Treatment for symptoms such as pain or anxiety
- Do Not Resuscitate Orders (may be part of other care decisions or advance directives)
- Voluntarily stopping medical treatments that are no longer effective or wanted
- Voluntarily stopping eating and drinking
- Medical Aid in Dying

A patient's request for information on medical aid in dying or a written request for a prescription should first prompt an inquiry into the nature of the request (i.e. is the patient seeking general information about the law, wanting to understand if it could be an option for them in the future, or having symptoms or a declining quality of life right now that could be addressed). This will allow for discussing the options listed above. Exploring all end of life options is a requirement before any prescription can be given. Reports from other regions of the country where this practice has been in place for some time indicate that pain and other physical symptoms are not usually the main drivers in requests. More commonly, it is the fear of being a burden or the limits placed on an individual's quality of life by worsening debility that drive requests.

([Place Link to: Approach to Conversation on MAID](#))

### **Providers Who Wish to Prescribe MAID Drugs**

Prior to prescribing a medication to be used for Medical Aid in Dying, a provider must meet with the patient, review medical records, perform any necessary exam and document that:

- The patient has submitted a written request witnessed by two individuals, only one of which can be related to the individual by "blood, marriage or adoption" and only one of which can be employed by the healthcare facility where the individual is a patient.

- Determined in good faith that the person has voluntarily made the request for medical aid in dying and the individual's request does not arise from coercion or undue influence by another person.
- The patient is:
  - An Adult (age 18 or older)
  - Has decisional capacity
  - Has the ability to self-administer the medication
  - That these requirements have been verified and documented by another qualified health care provider before the prescription is written, unless the patient is enrolled in hospice, at which point only one provider is sufficient for that documentation.
- That the patient is making an informed decision after discussing with the individual
  - the individual's medical diagnosis and prognosis
  - potential risks associated with self-administering the medical aid in dying medication
  - the probable result of self-administering the medical aid in dying medication
  - the individual's option of choosing to obtain the medical aid in dying medication and then deciding not to use it
  - feasible alternatives, concurrent or additional treatment opportunities, including hospice care and palliative care focused on relieving symptoms and reducing suffering

If an individual has a recent history of a mental health disorder or an intellectual disability that could cause impaired judgment with regard to end-of-life medical decision making, or if, in the opinion of either of the providers documenting decisional capacity, the patient has a mental health disorder or an intellectual disability that may cause impaired judgment with regard to end-of-life medical decision making,

- the patient should be referred to a mental health professional with the training and expertise to assess a person with such a disorder or disability
- the mental health professional determines whether the individual has the capacity to make end-of-life decisions after evaluating the individual during one or more visits with the individual.

### **Prescribing Medications for Medical Aid in Dying**

In the decades since Medical Aid in Dying was first instituted in Oregon in 1997, the medications chosen by prescribers have evolved, in response to availability (the original medications used became unavailable or prohibitively expensive) and clinical effectiveness. The protocols are still in evolution.

This website contains information on pharmacology and prescribing: [American Clinicians Academy on Medical Aid in Dying](#)

Regardless of the medication used, there are a few standards that always apply:

- Crushing large volumes of tablets or compounding medications has been required to allow patients to take the medications. This limits the pharmacies that will be able to fill prescriptions; they must be compounding pharmacies who agree to participate in Medical Aid in Dying.
- An anti-emetic should always be taken prior to any other medication, to avoid the possibility of vomiting the medication.

The law states that the prescription will not be filled by the pharmacy until 48 hours after it is written; the prescriber is responsible for putting the date and time which the medication can be dispensed on the prescription. This 48-hour limit can be waived by the provider due to concerns that the patient may die prior to the 48 hours ending.

Under the most common medical protocols, patients will receive anti-emetic tablets and two bottles of powdered medications that will be reconstituted with liquids on the day that patients choose to take them. Patients may work with friends, family or community volunteers to assist them with preparations, though they are required to self-administer the medications.

### **Death Certificates**

The Elizabeth Whitefield End-of-Life-Options Act provides that choosing to make use of medical aid in dying is not suicide. As such, the death certificate should list the terminal illness as the cause of death.