

Our Care, Our Choice Act: Information for Residents

Hawai'i is now the eighth jurisdiction in the U.S. to authorize medical aid in dying. The Our Care, Our Choice Act allows a mentally capable, terminally ill adult with six months or less to live to request medical aid-in-dying medication from their doctor which they choose to self-administer, if their suffering becomes unbearable, to bring about a peaceful death. The law was signed by Governor David Ige on April 5, 2018 and will go into effect on January 1, 2019.

Who is Eligible for Medical Aid in Dying

To be eligible for medical aid in dying under the Our Care, Our Choice Act, a person must be:

1. An adult
2. Terminally ill
3. Given a prognosis of six months or less to live
4. Mentally capable of making their own healthcare decisions.

In addition, a person must meet the following requirements:

- A resident of Hawai'i
- Acting voluntarily
- Capable of self-administering the medical aid-in-dying drug.

Steps for Using the Law to Access Medical Aid in Dying

In addition to meeting the requirements, there is a process that must be followed in order to qualify for a prescription for medical aid-in-dying medication.

- A person must make a total of three (3) voluntary requests —two oral requests at least 20 days apart directly to their doctor and one written request using the statutory form and signed by two witnesses. These requests cannot be made by a designee or third party (including relatives or anyone with power of attorney), and the requests cannot be made via an advance healthcare directive.
- Two Hawai'i physicians must agree that the requestor is eligible to use the Our Care, Our Choice Act. One physician prescribes the medication, and the other provides a consulting opinion.
- A patient's mental capacity must also be confirmed by a psychiatrist, psychologist or licensed clinical social worker. This evaluation may be provided through telehealth (by phone or video).
- A person must prove residency in the state of Hawai'i by one of the following means:
 - ◆ Possession of a driver's license or other identification issued by the state of Hawai'i
 - ◆ Registration to vote in Hawai'i
 - ◆ Evidence of ownership or leasing of property in Hawai'i, or
 - ◆ Filing of a Hawai'i tax return for the most recent tax year.

- A person must give fully informed consent after being given information by their doctor about all other end-of-life options.
- Qualified patients must also complete the statutory Final Attestation form within 48 hours prior to ingesting the aid-in-dying medication, reiterating the intent to take the medication.

Note: A person may at any time withdraw the request for the aid-in-dying drug or decide not to ingest the drug.

Rules Regarding Witnesses to Medical Aid-in-Dying Requests

Two witnesses must sign the statutory written request form in the presence of the person requesting medical aid-in-dying medication. This form will be available on the State Department of Health website, or you can find it at www.CompassionandChoices.org/Hawaii.

The law requires that:

- The two adult witnesses attest that, to the best of their knowledge and belief, the person requesting the medication:
 - ◆ Appears to be of sound mind and not under duress, fraud or undue influence.
 - ◆ Voluntarily signed the request in their presence
- Only one of the two witnesses may be related by blood, marriage or adoption; or be a person entitled to a portion of the person's estate upon death.
- Only one of the two witnesses may own, operate or be employed at a healthcare facility where the qualified individual is receiving medical treatment or resides.
- The attending physician, consulting physician or mental health specialist may NOT be one of the witnesses.

No Adverse Effect on a Person's Will or Insurance

The law specifically mandates that wills, insurance, contracts and annuities are not affected if a qualified individual requests or ingests medical aid-in-dying medication. The underlying illness is listed as the cause of death on the death certificate. The law specifies that a death resulting from self-administering medical aid-in-dying medication is not suicide.

Talking to Your Doctor About Medical Aid in Dying

Ask your doctors now whether they will support your end-of-life choices, including medical aid in dying. This will encourage them to listen to your priorities and become prepared to provide you with the care you may want in the future. If your medical providers are unable or unwilling to support your end-of-life choices, you have the option to change your care to a healthcare team that puts your wishes first.

Doctors can call Compassion & Choices Doc2Doc consultation line at 800-247-7421 for a free, confidential consultation and information on end-of-life care with medical directors who have extensive medical aid-in-dying experience.

Learn More

You can find forms, videos and resources for patients and doctors at CompassionAndChoices.org/hawaii or you can email Hawaii@compassionandchoices.org.