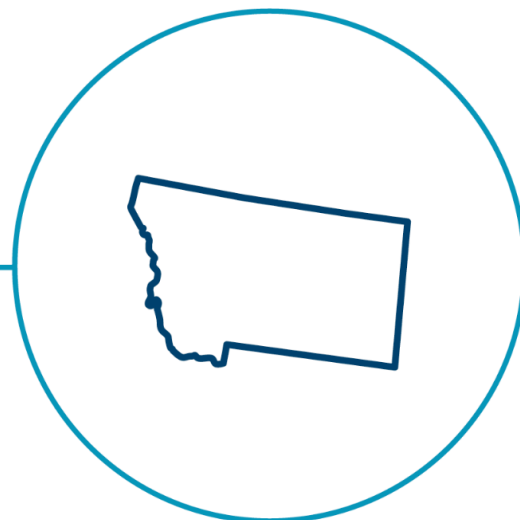


An Introduction to Medical Aid in Dying



MONTANA



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Montana's Aid-in-Dying Judgment

Medical aid in dying is the practice in which a terminally ill, mentally competent adult patient voluntarily requests and receives a prescription medication from a physician that they can self-administer to die peacefully. This allows patients to end their lives on their own terms. Medical aid in dying is authorized in 11 jurisdictions with regulations varying by jurisdiction to ensure that the process is carried out ethically and safely.

Medical aid in dying was authorized in Montana when the state Supreme Court found in 2009 that “[The] Rights of the Terminally Ill Act clearly provides that terminally ill patients are entitled to autonomous end-of-life decisions.”

Eligibility

To be eligible to use the law, the individual must:

- > Be 18 years or older
- > Have been diagnosed with a terminal illness
- > Have a prognosis of six months or less to live
- > Be mentally capable of making their own healthcare decisions

The patient must also be:

- > Capable of self-ingesting the aid-in-dying medication
- > Making an informed decision and voluntary request

Making A Request

The patient must make at least one request to their attending physician. If needed, additional requests may be required. Only the patient can make these requests; they cannot be made through an advance directive or by a family member or friend. The requests must be made to a physician, not office staff. Please see the “Steps” section of this document for details.

Medication

The type and dosage of aid-in-dying medication doctors prescribe, including medications to prevent nausea and vomiting, varies with each individual. The medication cannot be injected. The patient must be able to ingest the medication without assistance, usually by swallowing

or through a feeding tube. **The prescribing physician must send the prescription directly to the pharmacy. The pharmacy will NOT accept a prescription directly from a patient.** A designated family member or friend may pick up the medications.

If the prescribing doctor has any questions about medications or participating pharmacies, the doctor can call Compassion & Choices' free and confidential Doc2Doc consultation line at 800.247.7421.

The patient may ask their provider or pharmacy about the cost of these medications. Some insurance policies cover the cost of the medication and/or the physician visits. Please contact the insurance provider to find out what the policy covers.

Unused Medication

There is no obligation to take the medication, even after the prescription has been filled. If the person who was prescribed the medication does not use it, it should be disposed of in accordance with state and federal law. **Please note it is illegal to use another person's medication.**

To safely discard unused medication:

- > Do NOT flush down the toilet, sink or other drain
- > Remove all personal information on bottle labels and medicine packaging
- > Use the following website to search for other authorized drug collection/disposal locations near you:
<https://www.fda.gov/drugs/disposal-unused-medicines-what-you-should-know/drug-disposal-drug-take-back-locations>
- > Contact the pharmacist who filled the prescription for more assistance.

Steps for Accessing Medical Aid in Dying in Montana

The first step is to speak with your doctor to discuss your interest in medical aid in dying. Be sure to be explicit in your discussion, and ask if they will support this option by writing a prescription. Review the “Talking With Your Physician” section of this packet for prompts you can use to begin your discussion.

If you are considering medical aid in dying, it is also a good time to think about any additional planning that you may need to begin, including consideration of hospice enrollment.

Note: Hospice is a specialized service (covered by insurance and Medicare), providing wonderful individualized support to people at the end of their lives. Those eligible for medical aid in dying are also eligible to receive hospice services. **Many hospice organizations have a policy regarding medical aid in dying, so it is important to review and discuss that policy if enrolled in hospice and pursuing this option.**

If your healthcare provider says “no” to supporting this option:

If your physician decides not to participate, or is unable to, you should ask for a referral to another clinician who has chosen to participate. If additional assistance is needed, some health systems offer the support of a care navigator or social worker to assist with resources and referrals. If your doctor does not provide a referral, or your health system does not allow medical aid in dying, you may consider establishing care with a system or facility that will support you in medical aid in dying.

Don't be afraid to advocate for the end-of-life experience you want. For more information and resources, visit candc.link/personal-advocacy.

Compassion & Choices' End-of-Life Consultants are available to offer personalized support, resources and information at no cost. You can reach out to them via email at eolc@CompassionAndChoices.org or leave a voicemail at 800.247.7421; in both instances, consultants will respond to you in 1-2 business days. Language interpreter services are available.

If your healthcare provider says yes:

- 1. Make a verbal request for the prescription for aid-in-dying medication directly to your attending doctor. Ask your doctor to write the verbal request down in your medical record.** Your first verbal request is when you state that you would like to pursue medical aid in dying, asking your doctor to write a prescription, or stating that you would like to begin the process of requesting medical aid in dying.
- 2. In all jurisdictions, you must make at least one oral request to your healthcare provider. In Montana, most providers follow the Oregon law which requires making two oral requests.** The second time you ask has to be a minimum of 15 days after the first time you ask. So, make an appointment for a second consultation with your healthcare provider so you can ask a second time.
- 3. Give your healthcare provider a written request for medical aid in dying that is signed by you and two witnesses*** (see p. # 18 for copy of written request) The form is modeled after Oregon's law, but verify with your healthcare provider if a written request is required and how many witnesses are needed.
- 4. *At least one witness cannot be a relative or someone who stands to benefit from the person's estate, be the person's attending healthcare provider, or be an owner, operator or employee of a healthcare facility in which the person is a resident or receiving medical care.**
- 5. Your healthcare provider may prescribe you aid in dying medication after you turn in the written request. It usually takes several days to fill a prescription.**
- 6. Pick up your prescription OR have a designated person pick it up for you.**
- 7. Planning for the day of ingestion is also important to do during this time, and allows your healthcare team and loved ones to support you as you wish.** This could include discussing who you want to present, what kind of sounds or smells you would like to experience, managing symptoms prior to ingestion, and what you would like the day to feel like. This is also a good time to review or discuss final arrangements.
- 8. When the time has come, you can take the medication if you still feel it is necessary*.**

*You can always decide not to take the medication.

Talking With Your Healthcare Provider

The process to access medical aid in dying can take weeks and sometimes months. We encourage people to start the discussion early. You don't have to wait until you're sick to ask your doctor if they would support you in accessing medical aid in dying if you should become eligible for it. Your provider may not be familiar with Montana's Aid-in-Dying judgement itself, and may have some questions; see information about our Doc2Doc line at the end of this section for a resource you can share.

Some people feel anxious about discussing end-of-life issues with their physicians, but doing so will enable you to have an end-of-life care experience consistent with your values. If you are uncomfortable with talking to your doctor about this, you can bring a friend to help you or start the conversation in writing. It is important to make sure you are able to access the end of life option you want.

Both doctors and health systems are allowed to opt out of providing medical aid in dying, so it's important to make sure that you are able to access it.

No one but you can make this request. It is important to speak directly with the clinician; do not ask the office staff, nurse or physician's assistant, or leave a request on voicemail. Below are some examples of ways to ask your clinician about their ability to support you in a way that aligns with your values.

Discussing Aid in Dying with Your Healthcare Providers

Language for someone who DOES NOT have a terminal illness:

- > *Though I am not currently facing a terminal illness, access to the option of medical aid in dying, if I were to qualify, is important to me. I would like to know if you/this hospital system would support that decision to access the Montana Aid-in-Dying judgment.*
- > *I want to live with as much quality as possible for as long as I can, and I've thought long and hard about what I want my end-of-life experience to look like. If I ever meet the legal requirements, I would like to have the option of using the Montana*

Aid-in-Dying judgment. Is that something you would be able to support me in seeking?

- > I hope you will honor my decisions and respect my values, as I respect yours. Will you write a prescription for aid-in-dying medication in accordance with the Montana Aid-in-Dying judgment when I am eligible? If you are not able to honor that request, I would like to find out now.

Language for someone who DOES have a terminal illness:

- > I have thought about this for quite some time, and am interested in accessing the Montana Aid-in-Dying judgment. Is this a decision that you would support me in?
- > I want to die the way I've lived: on my own terms. That's why I'm interested in the Montana Aid-in-Dying judgment. Am I eligible? If yes, will you write a prescription for aid-in-dying medication in accordance with the Montana Aid-in-Dying judgment? 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 healthcare provider who is able and willing to honor my request?

Whether your doctor elects to participate in your medical aid in dying process or not, it is important to ask that your request be recorded in your medical record.

Compassion & Choices Doc2Doc Consultation Program provides free and confidential consultation to providers who have questions about end-of-life care options, including medical aid in dying. If your clinician is willing to participate but needs support please refer them to the Doc2Doc phone line at 800.247.7421. Tell them that a physician who has prescribed medical aid in dying will respond to their call.

End-of-Life Care Planning Checklist

Please visit the Compassion & Choices website for more resources at CompassionAndChoices.org/plan.

Many people postpone making arrangements for healthcare at 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:

- Discuss your wishes with family and loved ones
- Discuss your wishes with your provider(s) and healthcare team
- Provide a copy of your current Advance Directive to
 - Healthcare Provider(s)
 - Healthcare entity
 - Agent named as surrogate decision maker
 - Hospice team (if applicable)
- Create and/or locate important documents
 - Advance Directive or Living Will
 - Durable Power of Attorney for Healthcare
 - Durable Power of Attorney for Finances
 - Last Will and Testament
 - > Compassion & Choices has partnered with Free Will to offer this documentation at no cost, available at CompassionAndChoices.org/ways-to-give/free-will
 - Living Trust
 - Life Insurance policies (with beneficiary information)
 - Information for financial accounts, assets property
 - Information for final arrangements, funeral plans, pre-paid services
- Ensure important documents are up to date and reflect your current wishes
- Name a guardian for children, pets

Glossary

advance care planning

Includes a person's living will, medical durable power of attorney (or health care proxy - see below), do not resuscitate, and portable medical orders. Called "advance" because it is ideally prepared prior to a health crisis in which it would guide medical care. Advance care planning documents vary by state and can include other documents, such as a dementia provision. See also "living will" below. Find state specific advance directives on Compassion & Choices' website at:

CompassionAndChoices.org/our-issues/advance-care-planning

advance directive

a general term for any document that contains instructions pertaining to a person's wishes related to medical treatment if they can not make care decisions on their own. More information can be found here: CompassionAndChoices.org/resource/putting-priorities-paper-advance-directive

attending physician

An attending physician is defined as a physician who has primary responsibility for care of the individual and the treatment of their disease. In the medical aid in dying process, the attending physician is the doctor who writes the prescription for aid-in-dying medication.

medical aid in dying

A safe, time tested, and trusted medical practice in which a terminally ill, mentally capable adult with a prognosis of six months or less to live may request from their doctor a prescription for medication that they can choose to self-ingest to bring about a peaceful death. Where medical aid in dying is currently authorized, providers are required to confirm that a patient is fully informed and provide the patient with information about additional end-of-life options, including comfort care, hospice and pain control, before providing a prescription.

Medical aid in dying is the preferred terminology of several healthcare organizations.

DNR

Stands for “do not resuscitate,” a medical order making clear an individual’s request that no measures be taken to resuscitate them if their heart or breathing stops. The order is made while the individual is mentally capable and conscious, or by that individual’s health care proxy (see below) if they are not.

health care proxy

A health care proxy — also known as a representative, surrogate, agent or durable power of attorney for health care — is a person authorized to make health care decisions if someone is unable to make their own. They work closely with your health care team to ensure your care and treatment preferences are followed. Selecting a health care proxy is an important part of advance care planning (see “advance care planning ” above).

hospice

A program in which an interdisciplinary team of caregivers provides comfort and support to terminally ill people when medical treatment is no longer desired, expected to cure or prolong life. Hospice is provided wherever the person resides, most often at home. It is voluntary and also involves and supports the individual’s family and/or loved ones. According to state reports, the majority of people who access medical aid in dying are also enrolled in hospice.

living will

A document that expresses a person’s end-of-life preferences if they become unable to speak for themselves. A living will is just one component of advance care planning (see “advance care planning ” above).

POLST

Stands for Provider Orders for Life-Sustaining Treatment. An important form to provide detailed guidance about an individual’s wishes for end-of-life medical care. The order is part of advance care planning and is prepared by a medical professional. It is often printed on brightly colored green paper and placed on a refrigerator so it can easily be found during an emergency.

palliative sedation

Palliative sedation - also referred to as terminal sedation - is the continuous administration of medication to relieve severe, intractable symptoms that cannot be controlled while keeping the person conscious. Must be managed carefully by a medical team.

refusing medical treatment

The legal right to decline medical treatment even if that treatment is necessary to sustain life. These interventions can include dialysis, medications, ventilators, feeding tubes, and pacemakers.

VSED

Stands for “voluntarily stopping eating and drinking,” a legal option for any seriously ill individual with decision-making capacity, who wishes to shorten their dying process, by refusing foods and fluids of any kind, including artificial nutrition and/or hydration.

terminally ill

When a disease or illness cannot be cured and is expected to lead to death, it is considered a terminal illness.

terminal prognosis

Terminal prognosis refers to the estimated time an individual has left to live. Medical aid-in-dying laws and hospice eligibility require a terminal prognosis of six months or less.

Tracking of End-of-Life Plans & Documents

Individual Name: _____ Individual Birthdate: _____

Choosing medical aid in dying is a process that requires conversation, planning and coordination. This document is designed to help organize essential information related to the process and share with others if you choose to do so.

Advance Directive:

- > Location of advance directive documents _____
- > Durable power of attorney for health care (name/relationship/phone):

Hospice (if enrolled):

- > Name of organization: _____
- > Contact Person: _____
- > Contact Email or Phone: _____
- > Is Hospice aware of and able to support end of life plans? Yes _____ No _____
- > If no, what is the plan for making sure end of life plans are honored?

- > Any special arrangements need to be made with Hospice to make sure end of life plans are supported? Yes _____ No _____

- If so, what are they and who is in charge of getting those in place?

> Will you be requesting someone from the Hospice present? Yes _____ No _____

- If so, who?: _____

Final Arrangements:

> Have these arrangements been made? Yes _____ No _____

- If yes, name of Mortuary/Funeral Home: _____

- If yes, what information/details should be shared: _____

Medical Aid in Dying:

> Attending provider: _____ Phone: _____

> Consulting provider: _____ Phone: _____

> Mental capacity evaluation (*only if requested by healthcare provider*):

Yes _____ No _____

> Date of 1st verbal request: _____

Healthcare Provider Name: _____

- > Date of 2nd verbal request: _____
Healthcare Provider Name: _____
- > Date of mental capacity evaluation: _____
Evaluator's Name: _____
- > Date written request submitted: _____
- > Date aid-in-dying medications prescribed: _____
- > Date aid-in-dying medications picked up/received: _____
 - Medications: _____
- > Name of pharmacy: _____
- > Location or contact person for instructions on disposing of unused medication:

Plans for Ingestion:

- > Date of planned ingestion: _____
- > Who knows about your plan: _____
- > Who will be present during ingestion: _____
- > Describe how you you want the day to go (environment, smells, sounds, activities):

> Plan for unexpected event (such as prolonged dying process, vomiting, waking up, etc)

• Date(s) discussed: _____

• Plan details: _____

Date Final Attestation form completed: _____

Person delivering form to prescribing physician: _____

Additional Notes:

