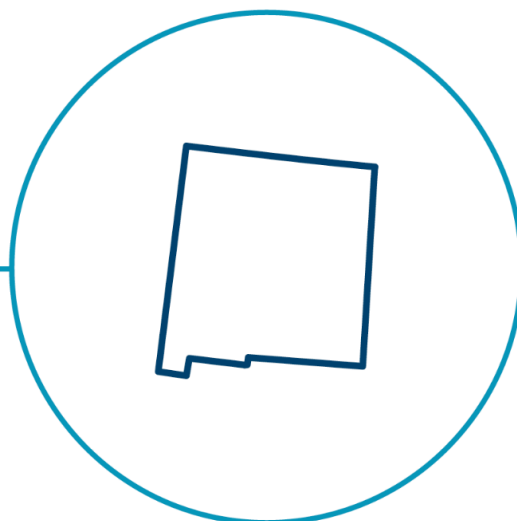


An Introduction to Medical Aid in Dying

NEW MEXICO



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New Mexico Elizabeth Whitefield End-of-Life Options Act

Medical aid in dying is the practice in which a terminally ill, mentally capable 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 14 jurisdictions with regulations varying by jurisdiction to ensure that the process is carried out ethically and safely.

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 from their healthcare provider a prescription for medication that the patient can decide to self-ingest to die peacefully.

The Elizabeth Whitefield End-of-Life Options Act was signed into law in 2021. The efforts to pass medical aid in dying in New Mexico were led by the End of Life Options New Mexico Coalition with support from Compassion & Choices. End of Life Options New Mexico is a 501(c)3 non-profit that provides support and education for advance healthcare planning to ensure people have a clear understanding of their rights and all the options available to them in New Mexico, including medical aid in dying.

Eligibility

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

- > An adult (aged 18 or older)
- > Terminally ill with a prognosis of six months or less to live
- > Mentally capable of making their own healthcare decisions
- > Able to self-administer the medication through an affirmative, conscious, voluntary act to ingest it. Self-administration does not include injection or infusion via a vein or any other parenteral route by any person, including the healthcare provider, family member, or patient themselves

The patient must also be:

- > A resident of New Mexico
- > Capable of making an informed decision and voluntary request
- > 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.

Individuals are not eligible for medical aid in dying because of age or disability.

Summary of process to obtain medical aid in dying

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).

In all cases, if either 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 an individual making the request is capable of making their own medical decisions.

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

Making a request

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.

Medication

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.

If anyone, whether a patient, family member, or healthcare provider, has questions, they can contact Compassion & Choices' free and confidential Call Compassion line at 800.247.7421 for information and support.

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 insurance policies, including New Mexico Medicaid, cover the cost of the medication and/or the healthcare provider visits while others such as Medicare, do not.

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, the medication 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.

Death certificates

Death certificates for medical aid in dying comply with guidelines provided by the Centers for Disease Control and Prevention (CDC). When a terminally ill person dies using medical aid in dying, the underlying terminal disease is listed as the cause of death on the death certificate, (for example, cancer, ALS). In addition, the law states life insurance policies and other post-death benefits are not affected by utilizing the Elizabeth Whitefield End-of-Life Options Act. The sale, procurement, or issuance of a life, health, or accident insurance or annuity policy, or the rate charged for such a policy, may not be conditioned upon or affected by an individual's act of making or rescinding a request for medical aid in dying.

Steps for accessing medical aid in dying in New Mexico

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 (see p. 7) 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.** Visit candc.org/hospice-care for more information.

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

If your provider 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 provider 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' Call Compassion team is available to offer personalized support, resources, and general information at no cost. You can contact Call Compassion at 800.247.7421 , messages are typically returned within 1-2 business days. Language interpreter services are available.

If your Healthcare Provider says “yes” to supporting this option:

- 1. Individuals enrolled in hospice in New Mexico 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 master social worker, psychiatric nurse practitioner, or professional clinical mental health counselor.

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.* (see the last page of this packet)
 - a. *At least two people must witness the written request. Neither witness can be a health care provider to the individual. 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.”
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 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. **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.
9. **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 healthcare provider

The process to access medical aid in dying can take weeks and sometimes months. We encourage people to start the process early. You don't have to wait until you're sick to ask your healthcare provider if they would support you in accessing medical aid in dying if you should become eligible for it.

Some people feel anxious about discussing end-of-life issues with their healthcare providers, 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 healthcare provider 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 healthcare providers 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 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.

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 Elizabeth Whitefield End-of-Life Options Act.*
- > *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 Elizabeth Whitefield End-of-Life Options Act. 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 Elizabeth Whitefield End-of-Life Options Act 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 Elizabeth Whitefield End-of-Life Options Act. 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 Elizabeth Whitefield End-of-Life Options Act. It's my understanding that in order to initiate the process, I need to first make a verbal request. Could you please document my verbal request today and place a referral to hospice?*

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

Compassion & Choices' Call Compassion team is available to offer personalized support, resources, and general information at no cost. You can contact Call Compassion at 800.247.7421 , messages are typically returned within 1-2 business days. Language interpreter services are available.

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 (such as your local hospital system)
 - 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:
CandC.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, prepaid services
- Ensure important documents are up to date and reflect your current wishes
- Name a guardian for children, pets

Glossary

Advance care planning

A continuous process of conversation and documentation to clarify and communicate a person's preferences for future medical care, values, and goals. Ideally, these conversations happen before a health crisis and are revisited as circumstances and needs change over time. Advance care planning can include completing documents such as a living will, health care proxy (or medical durable power of attorney), do not resuscitate order (DNR), portable medical orders, or a dementia directive, which vary by state. But the conversations themselves have value regardless of whether any forms are filled out.

[Advance directive](#)

A general term for any document that contains instructions pertaining to a person's wishes related to medical treatment if they cannot make care decisions on their own. An advance directive can include a living will, a health care proxy (or medical durable power of attorney), and other documents that vary by state. Note: in some states and among some professionals, "advance directive" and "living will" are used interchangeably. See also "living will" below.

Find state specific advance directives on Compassion & Choices' website at:

[CompassionAndChoices.org/our-issues/advance-care-planning](https://www.compassionandchoices.org/our-issues/advance-care-planning)

Attending healthcare provider

A healthcare provider — typically a physician, advanced practice registered nurse, or physicians' associate — who has primary responsibility for a person's care and treatment. In the context of medical aid in dying, the attending healthcare provider is the clinician who writes the prescription for aid-in-dying medication. Some medical aid in dying laws use different terms, such as "prescribing provider" or "treating provider," and eligibility to serve in this role varies by state. Note that "attending" carries different meanings in other care settings, such as hospitals and hospice.

Decision-making capacity

The ability to make informed choices about one's own medical care. To have decision-making capacity, a person must be able to understand the information their medical team provides, reason through their options, and communicate their choice. If a person loses decision-making capacity, their healthcare proxy can make decisions on their behalf based on what they would have wanted or documented in their advance care plan.

DNR

Stands for "do not resuscitate," a medical order instructing healthcare providers not to perform cardiopulmonary resuscitation (CPR) if a person stops breathing or their heart stops beating. A DNR is specific to CPR and does not limit other treatments, such as medication, surgery, or nutrition. Ideally, a DNR order is created before an emergency occurs, while the individual is mentally capable, or by their healthcare proxy if they are not.

Health care proxy

A person authorized to make health care decisions on another person's behalf if that person is unable to make their own. Also known as a representative, surrogate, agent, or medical durable power of attorney for health care, a health care proxy works closely with the health care team to ensure the patient's care and treatment preferences are followed. Choosing a health care proxy — and preparing them to advocate confidently for those wishes — is an important part of advance care planning. This role should be reviewed periodically as circumstances and relationships change.

Hospice

A program in which an interdisciplinary team of healthcare professionals provides comfort and support to people with a terminal illness who have chosen to focus on quality of life rather than curative treatment. Hospice can be provided wherever the person resides, most often at home, and is voluntary. It also involves and supports the individual's family and/or loved ones.

Life-sustaining treatment

Medical treatment intended to keep a person alive. Depending on the illness and the patient, life-sustaining treatment may include medication, surgically inserted assistive devices, respiratory support, and/or artificial nutrition and hydration.

Living will

A document that expresses a person's healthcare preferences if they become unable to speak for themselves. Note: in some states and among some professionals, "advance directive" and "living will" are used interchangeably. A living will can be one component of advance care planning (see "advance care planning" above).

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 healthcare provider 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.

POLST/MOLST

Stands for Physician (or Medical) Orders for Life Sustaining Treatment. A medical order completed with a healthcare provider that provides detailed guidance about the wishes of a person with a serious illness for end-of-life care. Because it is a medical order (not simply a planning document) it carries immediate legal weight and is intended to guide care in an emergency. POLST is part of advance care planning. In many states, the form is printed on brightly colored paper so first responders can easily identify it in an emergency.

Palliative care

A form of medical support available to patients at any stage of illness or age, focused on comfort and quality of life. It can be provided alongside curative treatments or as

the primary focus at end of life when a patient chooses to prioritize comfort over treatment. Rather than replacing other care, palliative care functions as an additional layer of support that helps patients and their families navigate complex medical situations.

[Palliative sedation](#)

Palliative sedation — also referred to as terminal sedation — is the continuous administration of intravenous or subcutaneous medication to relieve severe, intractable symptoms that cannot be otherwise controlled with less invasive interventions. Must be managed carefully by a medical team, often within a hospital setting.

Paramedic

An emergency responder who provides advanced medical care in the field. The specific procedures a paramedic can perform depend on local and state protocols.

Prognosis

Prognosis refers to the likely path of a disease and may include an estimated time an individual has left to live. Medical aid-in-dying laws and hospice eligibility require a prognosis of six months or less.

[Terminally ill](#)

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

[Voluntarily stop eating and drinking \(VSED\)](#)

A legal option for any seriously ill individual with decision-making capacity, who wishes to shorten their dying process, by abstaining from foods and fluids of any kind, including artificial nutrition and/or hydration.

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 physician: _____

- Phone: _____

> Consulting physician: _____

- Phone: _____

> Date of oral request: _____

Healthcare provider Name: _____

> Date video request submitted: _____

- > 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 events (such as prolonged dying process, vomiting, waking up, etc.)
 - Date(s) discussed: _____

- Plan details: _____

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Request for medication form

From the New Mexico Department of Health

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 health care 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.