



HAWAII

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# **Introduction to Medical Aid in Dying**



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[CompassionAndChoices.org/end-of-life-planning](https://CompassionAndChoices.org/end-of-life-planning)

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# Our Care, Our Choice Act

The Our Care, Our Choice 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 doctor a prescription for medication that the patient can decide to self-ingest to die peacefully if their suffering becomes unbearable.

## **To be eligible to use the law, the applying 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 also must be:**

- » A resident of Hawai'i
- » Capable of self-ingesting the aid-in-dying medication
- » Making an informed decision and voluntary request

Eligibility to use the law is not the same as eligibility for hospice.

Two Hawai'i physicians must confirm the patient's eligibility to use the Our Care, Our Choice Act, as well as confirm that the patient is making an informed decision and voluntarily requesting the aid-in-dying medication. The attending physician prescribes the medication, and the consulting physician provides a second opinion. (*An attending physician is described as a physician who has primary responsibility for care of the individual and their disease.*) 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).

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

*The patient must make three requests to their attending/prescribing physician to use the Our Care, Our Choice Act: two verbal requests and one written one. The written request is the Request for Medication to End My Life form provided by the state, which is included in this packet. 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.*

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, usually by swallowing or by using 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.** The physician or healthcare system will give the patient the name of suitable pharmacies. A designated family member or friend may pick up the medications or it can be mailed to the patient.

If the prescribing doctor has any questions about medication 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 healthcare insurance policies cover the cost of the medication and/or the physician visits. Please contact their insurance provider to find out what the healthcare policy covers.

**Life insurance benefits are not affected** by requesting or using the Our Care, Our Choice Act. The underlying terminal illness will be listed as the cause of death. The law specifies that a death resulting from self-administering aid-in-dying medication is not suicide.

### **Unused medication:**

There is no obligation to take the medication. If the person who was prescribed the medication does not use it, it should be disposed of safely and properly. Please note it is illegal to use another person's medication. Below are instructions about what to do with unused medication:

- » Use the following website to search for a controlled substance public disposal location nearby: <https://www.hawaiiopioid.org/drug-take-back>
- » Contact the pharmacist who filled the prescription 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. Make two verbal requests for a prescription for aid-in-dying medication directly to the attending/prescribing physician.** Ask the physician to make sure these requests are documented in the medical record. These two verbal requests must be separated by at least 20 calendar days.
- 2. In addition to a prescribing physician, a consulting physician must certify that the patient is eligible to use the law and that they are making both an informed decision and voluntary request.**
- 3. 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).**
- 4. The patient must fill out the Request for Medication to End My Life form** and give the completed form directly to the attending/prescribing physician. **This form must be witnessed by two people.** Please read the form carefully to determine who may or may not be a witness.
- 5. At least 48 hours after the Request for Medication to End My Life form is signed and dated, the attending/prescribing physician may write the prescription.** The prescription must be sent directly to the pharmacy by the prescribing physician, not by the patient, 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 prescribing doctor adds this instruction to the prescription.
- 6. The minimum amount of time the process can take, from the first request to the written prescription, is 20 days. However, for many people it takes considerably longer.** We encourage people who are interested in using 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, the patient may choose to keep it on file at the pharmacy if and until they decide to use the medication. The patient does not need to pay for the medication until the prescription is filled. The prescription can be mailed to the patient's residence to be signed for and kept in a safe location.
- 7. The attending physician will also provide the patient with a Final Attestation form. The patient must fill out and sign this form within 48 hours before they plan to take the aid-in-dying medication.** The form should be sent or turned in to the attending physician after the patient's death to ensure it is added to the medical record.
- 8. The patient may withdraw their request at any time.** There is no obligation to take the aid-in-dying medication simply because someone has it in their possession. Many people find comfort in simply knowing the medication is available.

The forms required for the Our Care, Our Choice Act will be available on the State Department of Health website or at [CompassionAndChoices.org/Hawaii](https://www.compassionandchoices.org/Hawaii).

# How to Find a Physician to Access the Law

In the event the patient's physician is not able or not willing to provide consultation on medical aid in dying, we offer the following information which may be helpful in identifying one who will.

While Compassion & Choices does not maintain lists of doctors or make referrals, our Find Care Tool ([CompassionAndChoices.org/find-care](https://CompassionAndChoices.org/find-care)) allows people to search by zip code for healthcare systems and hospices that support the full range of end-of-life options.

We encourage everyone to ask their doctors (PCP, oncologists, specialists, hospice medical director, etc.) first if they will prescribe medication for medical aid in dying and/or act as the required consulting doctor.

**The quickest and easiest way for anyone to access medical aid in dying is if their own doctors support them by serving as their prescribing and consulting doctors.**

If the patient's doctors say no (individual doctors can choose whether to participate in the Act), they can ask for a referral to another doctor who has chosen to participate. In some health systems there are established internal referral systems within the network, or the patient can ask for an ethics consultation to elevate their need for support. If the doctors won't refer and/or there is no internal referral system, or an ethics consult is not a possibility, then the patient can re-establish care with a system or facility that supports patient end-of-life choice and has an internal referral system. The Find Care Tool can be utilized for this.

Sample language for requesting medical aid-in-dying support from your doctors:

*"I want the option to advance the time of my death if my suffering becomes unbearable. Do I meet the criteria for medical aid in dying?"*

- » If no: *"What would need to change for me to meet the criteria?"*
- » If yes: *"Will you write me a prescription for aid-in-dying medication?"*
- » If no: *"Will you serve as my consulting doctor for medical aid in dying?"*
- » If no: *"Please explain why you will not serve as either my medical aid-in-dying prescribing or consulting doctor."*
- » If the doctor says they don't know how: *"If you have questions about how to support my medical aid-in-dying request, you can call Compassion & Choices' Doc2Doc free medical consultation service. I'll give you their contact information if you're willing to call or email them."*
- » If still no: *"If you will not help me, please record in my medical chart that I am eligible to use the medical aid-in-dying law and refer me to a doctor who is able and willing to honor my request."*
- » If the doctor says they do not know who to refer you to: *"Is there an internal referral process or a point person in this medical system who can help connect me to a participating doctor?"*
- » If no: *"I would like an ethics consult."*

Regardless of the doctor's response, it is important to confirm that the request for medical aid in dying be recorded in the medical record.

If the patient encounter barriers within their healthcare system, it can be very helpful to send a personal letter about why you want the option of medical aid in dying. Please review our Getting the End-of-Life Care You Want: A Patient's Guide to Personal Advocacy with Doctors, Healthcare Systems & Hospice resource. It has suggestions of how a patient can advocate for the care they want, including sample language for a letter than can be sent to the healthcare system CEO, Board Chair and physicians.

# Talking With Your Physician

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

## SUGGESTIONS ON HOW TO DISCUSS MEDICAL AID IN DYING WITH YOUR PHYSICIANS

### Language for someone who DOES NOT have a terminal illness:

*I want to live with as much quality as I can for as long as I can. 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 Our Care, Our Choice Act.*

*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 Our Care, Our Choice Act when I am 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 Our Care, Our Choice 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 physician who is able and willing to honor my request?*

*If I am not eligible, what will my condition look like when I am eligible?*

**Regardless of your physician'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 physicians who have questions about end-of-life care 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 Physician included in this packet.

# End-of-Life Care Planning Checklist

Please see Compassion & Choices' Plan Your Care Resource Center for more resources at [CompassionAndChoices.org/end-of-life-planning](https://CompassionAndChoices.org/end-of-life-planning).

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:

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

**800 247 7421** phone

**503 943 6504** direct

**503 360 9643** fax

**[CompassionAndChoices.org/end-of-life-planning](https://CompassionAndChoices.org/end-of-life-planning)**

**[eolc@CompassionAndChoices.org](mailto: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.*

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**For Provider/Health Care Organization Use:**

Medical Record #: \_\_\_\_\_

Or Patient Name: \_\_\_\_\_

## **Patient's Written Request for Medication, Declaration of Two Witnesses, and Written Consent for the Attending Physician to Contact the Patient's Choice of Pharmacy Form**

**Instructions:** This form is to be completed by the **qualified patient** and his or her two witnesses. A qualified patient is a capable adult who is a resident of the state of Hawai'i and has satisfied the requirements of the Our Care Our Choice Act. Please complete and provide this form to the attending physician after completion of the counseling provider's evaluation (e.g. mental capacity evaluation or assessment) and consulting physician examination.

**Waiting Period:** Not less than 48 hours shall elapse between the date of the attending physician's receipt of this completed written request and taking of steps to make available a prescription. Additionally, not less than 20 days shall elapse between the date of the initial oral request with the Attending Physician and date of the prescription.

I, \_\_\_\_\_ (print full name), am an adult of sound mind. I am suffering from \_\_\_\_\_, which my attending physician has determined is a terminal disease and that has been medically confirmed by a consulting physician.

I have received counseling to determine that I am capable and not suffering from undertreatment or nontreatment of depression or other conditions which may interfere with my ability to make an informed decision.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, the possibility that I may choose not to obtain or not to use the medication, and the feasible alternatives or additional treatment options, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that I may self-administer to end my life.

### **INITIAL ONE:**

\_\_\_\_\_ I have informed my family of my decision and taken their opinions into consideration.

\_\_\_\_\_ I have decided not to inform my family of my decision.

\_\_\_\_\_ I have no family to inform of my decision.

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## Letter to Your Physician

800 247 7421 [phone](tel:8002477421)  
[CompassionAndChoices.org](http://CompassionAndChoices.org)

Dear Dr. \_\_\_\_\_:

The Our Care, Our Choice Act went into effect on Jan. 1, 2019, authorizing medical aid in dying as an end-of-life option. You may receive patient inquiries about this option and thus might wish to discuss it alongside other end-of-life choices with your patients. Compassion & Choices has over 40 years of combined experience in this evolving field and is here to help you keep your practice safe, effective, patient-centered and legally compliant.

We provide a wide range of free resources to support you and your patients, including:

- » One-on-one consultations with physicians who have years of end-of-life and medical aid-in-dying experience through our free and confidential **Doc2Doc program: 800.247.7421**.
- » Clinical Criteria for Physician Aid in Dying and supplemental clinical information published in the Journal of Palliative Medicine (2015).
- » Information on our website:
  - » [CompassionAndChoices.org/in-your-state/hawaii](http://CompassionAndChoices.org/in-your-state/hawaii) – includes eligibility requirements, information for medical providers and forms needed to comply with the law.
  - » [CompassionAndChoices.org/in-your-state/hawaii/resources-for-doctors](http://CompassionAndChoices.org/in-your-state/hawaii/resources-for-doctors) – provides free informative videos that can help you in your practice.
  - » [CompassionAndChoices.org/end-of-life-planning](http://CompassionAndChoices.org/end-of-life-planning) – features tips, toolkits and forms on end-of-life care and choice for individuals seeking information on the full range of end-of-life options, including a video for terminally ill patients wanting to learn more about medical aid in dying.
  - » [CompassionAndChoices.org/resources](http://CompassionAndChoices.org/resources) – includes fact sheets on medical aid in dying.

**If you have a patient requesting medical aid in dying, please contact our Doc2Doc line at 800.247.7421 so we can provide you with up-to-date information on medication protocols. These protocols are updated and reviewed regularly, and provided free of charge.**

Along with the guidance of a team of local doctors, Compassion & Choices is committed to providing stewardship of the law. As a leader in the medical aid-in-dying movement, we have established a record of authority, integrity and accessibility in this evolving field of medicine and law. We are committed to providing support and clinical information for physicians and other medical providers interested in supporting their patients who are eligible and want the option of medical aid in dying.

Please feel free to contact us at any time with questions or concerns. We look forward to hearing from you.

With kind regards,

A handwritten signature in black ink that reads 'David Grube'.

Dr. David Grube  
National Medical Director, Compassion & Choices

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# Medical Aid-in-Dying Tracking Sheet



Individual Name \_\_\_\_\_ Consultant/Volunteer \_\_\_\_\_

This handout is a tool intended for personal use to help you keep track of important information related to the choice of medical aid in dying. It is neither a requirement of any medical aid-in-dying legislation, nor do you need to submit it to any person or medical professional.

It is important to review and update (if necessary) your advance directive and POLST prior to taking the medical aid-in-dying medication.

**IMPORTANT:** You may wish to contact your doctor if your health status changes or you are concerned about symptoms that may interfere with your ability to ingest aid-in-dying medications (i.e. uncontrolled nausea & vomiting; concerns about swallowing or ability to plunge feeding tube; digestive issues; changes in mental status).

Durable power of attorney for health care (name/relationship/phone) \_\_\_\_\_

\_\_\_\_\_

Hospice \_\_\_\_\_

If not on hospice: Physician designated to sign death certificate? \_\_\_\_\_

Individual designated to contact mortuary? \_\_\_\_\_

Prescribing physician \_\_\_\_\_ Phone \_\_\_\_\_

Consulting physician \_\_\_\_\_ Phone \_\_\_\_\_

Date of 1st verbal request \_\_\_\_\_ Physician Name \_\_\_\_\_

Date of 2nd verbal request \_\_\_\_\_ Physician Name \_\_\_\_\_

Date written request submitted \_\_\_\_\_

Mental health evaluation completed (if required) \_\_\_\_\_

Aid-in-dying medication protocol prescribed \_\_\_\_\_

Physician or pharmacist designated to review medication \_\_\_\_\_

Date aid-in-dying prescription sent to pharmacy \_\_\_\_\_

Date of planned ingestion \_\_\_\_\_

Who knows about plan \_\_\_\_\_  
\_\_\_\_\_

Who will be present during ingestion \_\_\_\_\_  
\_\_\_\_\_

Who will be your medical support on day of ingestion?

Hospice       Doctor

Contact \_\_\_\_\_ Phone Number \_\_\_\_\_

Individual plan for day of ingestion \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan for support person(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plan for unexpected event (such as prolonged dying process or waking up)

Date(s) discussed \_\_\_\_\_

Details \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For California ONLY:**

Date Final Attestation form completed \_\_\_\_\_

Who will deliver form to prescribing physician \_\_\_\_\_

Additional Notes \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_