

NEW JERSEY MEDICAL AID IN DYING FOR THE TERMINALLY ILL ACT FREQUENTLY ASKED QUESTIONS

Updated: April 12, 2021

Q1: What is New Jersey's Medical Aid in Dying for the Terminally Ill Act?

A1: [P.L. 2019, c.59](#) was approved on April 12, 2019, with an effective date of August 1, 2019. Known as the "Medical Aid in Dying for the Terminally Ill Act," this law permits terminally ill, adult patients residing in New Jersey to obtain and self-administer medication to end their lives peacefully and humanely.

Q2: How does a qualified terminally ill patient obtain a prescription under New Jersey's Medical Aid in Dying for the Terminally Ill Act?

A2: The following is a summary of the parameters under the Medical Aid in Dying for the Terminally Ill Act. The full law is available here: [P.L.2019, c.59](#).

The Medical Aid in Dying for the Terminally Ill Act permits an attending physician to write a prescription for medication that would enable a qualified terminally ill patient to end his or her life. The Act defines "terminally ill" as "the terminal stage of an irreversibly fatal illness, disease, or condition with a prognosis, based upon reasonable medical certainty, of a life expectancy of six months or less." The Act defines an "attending physician" as a "physician who has primary responsibility for the care of a patient and treatment of a patient's terminal disease."

A person would not be considered a qualified terminally ill patient until a consulting physician has examined the patient and his or her medical records, confirmed the attending physician's diagnosis of a terminal disease in writing, and verified that the patient is capable, is acting voluntarily and has made an informed decision to request the medication.

The Act requires a qualified terminally ill patient to be a capable adult resident of New Jersey who has been determined to be terminally ill by his or her attending physician and a consulting physician. A patient could obtain a prescription for medication to end his or her life only if he or she has made an informed decision. A request for medication must be made twice orally and once in writing. The oral requests must be separated by at least 15 days. The written request would have to be signed and dated by the patient and witnessed by at least two people who attest that the patient is capable and acting voluntarily. One of these witnesses would have to be a person who is not:

- Related to the patient;
- Entitled to any portion of the patient's estate;
- An owner, operator, employer or resident of a health care facility at which the patient is receiving medical treatment; or
- The patient's attending physician

At the time of the initial oral request, an attending physician would have to recommend that the patient take part in consultations on treatment opportunities. At the time of the second oral request, the attending physician must offer the patient the opportunity to rescind the request. At least 15 days would have to elapse between the initial oral request and the writing of a prescription and 48 hours would have to elapse between a patient signing the written request and the writing of the prescription. The written request may be submitted at the same time as the first oral request or any time after that, but 48 hours

must elapse between the patient's signing of the written request and the physician's writing of the prescription.

Before prescribing medication that would end a patient's life, an attending physician would be required to:

- Determine whether a patient is terminally ill, is capable, and has made the request for medication voluntarily;
- Have the patient demonstrate that he or she is a New Jersey resident by providing the physician a government issued record such as a driver's license or voter registration;
- Inform the patient of his or her diagnosis and prognosis, the risks associated with taking the medication, the probable results of taking the medication, and any alternatives to taking the medication;
- Refer the patient to a consulting physician for confirmation of the diagnosis and that the patient is capable and acting voluntarily;
- If the attending physician or consulting physician determines that the patient may not be capable, refer the patient to a psychiatrist, psychologist, or clinical social worker to determine whether the patient is capable;
- Recommend that the patient receive consultation on treatment options, palliative care, comfort care, hospice care, and pain control options and provide a referral to a health care professional qualified to discuss these options;
- Advise the patient as to the importance of another person being present when the medication is taken and that the medication should not be taken in a public place;
- Inform the patient that the request for medication can be rescinded at any time and offer the patient the opportunity to rescind when the patient makes the second oral request; and
- Fulfill documentation requirements.

The attending physician is required to dispense medications directly to the patient or to contact a pharmacist and transmit the prescription to the pharmacist. A pharmacist may only dispense medications directly to the patient, the attending physician, or an identified agent of the patient. Medications shall not be dispensed to the patient by mail or other form of courier.

If either an attending physician or consulting physician determines that a patient may not be capable, that physician must refer the patient to a psychiatrist, psychologist, or clinical social worker who will determine if the patient is capable. The Act defines "capable" as "having the capacity to make health care decisions and to communicate them to a health care provider, including communication through persons familiar with the patient's manner of communicating if those persons are available." Medication shall not be prescribed until the psychiatrist, psychologist, or clinical social worker notifies the attending physician in writing that the patient is capable.

The Act requires that a qualified terminally ill patient's medical records contain documentation as to:

- The determination that the patient is a qualified terminally ill patient;
- The oral requests and written request;
- The attending physician's and consulting physician's diagnosis, prognosis and determination that the patient is capable, is acting voluntarily, and has made an informed decision;
- If applicable, written notification from a psychiatrist, psychologist, or clinical social worker that the patient is capable;
- The attending physician's recommendation that the patient take part in consultations regarding treatment opportunities;

- The attending physician’s offer to the patient to rescind the request for medication; and
- The attending physician’s confirmation that all the requirements of the Act had been met and the steps taken to meet the patient’s request, including the type of medication prescribed.

Q3. What forms are required and where can I find them?

A3.

In order for a patient to receive a prescription in accordance with Medical Aid in Dying, the patient must sign the following form:

1. Request for Medication to End My Life in a Humane and Dignified Manner

For compliance with the law, the physician or pharmacist who dispensed the medication must submit the following to the Department of Health as soon as possible and no later than 30 days of dispensing medication under the Medical Aid in Dying Act:

1. Medication Dispensing Record

For compliance with the law, the attending physician must submit the following to the Department of Health as soon as possible and no later than 30 days after a Medical Aid in Dying Act patient’s death:

1. Copy of the above Request for Medication to End My Life in a Humane and Dignified Manner
2. Attending Physician Compliance Form
3. Consulting Physician Compliance Form
4. Mental Health Professional Compliance Form (if applicable)

Forms with current filing instructions are available on the Department of Health website.

Q4. What should I do if I am eligible for Medical Aid in Dying for the Terminally Ill Act, but my provider or healthcare facility does not wish to participate?

A4. If a health care professional is unable or unwilling to carry out a patient's request under P.L. 2019, c.59 (C.26:16-1 et al.), the patient may transfer the patient’s care to a new health care professional or health care facility. A healthcare facility that does not wish to engage in the medical aid in dying process must facilitate the transfer of a patient to a new health care professional or health care facility at the patient’s request. The prior health care professional also shall transfer, upon request, a copy of the patient's relevant records to the new health care professional or health care facility.

Q5. Why are forms submitted to the New Jersey Chief State Medical Examiner (OCSME)?

A5. The Act requires an annual report and the reference data to produce that report is being collected by the OCSME. No personally identifying information will be included in that report.

Q6. What happens between the death of a Medical Aid in Dying for the Terminally Ill Act patient and production of that patient’s death certificate?

A6. The required forms must be submitted to the New Jersey Department of Health within 30 days of a patient’s death. At the time of death, pertinent patient information must be conveyed to the New Jersey Office of the Chief State Medical Examiner to be reviewed. To ensure accuracy, the OCSME may provide guidance to the patient’s attending physician in certifying the death certificate.

Q7. What will be listed as the “cause of death” on the death certificate of a qualified terminally ill patient who dies under the Medical Aid in Dying for the Terminally Ill Act?

A7. For qualified terminally ill patients who die following ingestion of medication prescribed under the Medical Aid in Dying for the Terminally Ill Act, the NJDOH Office of Vital Statistics and Registry

recommends that providers record the underlying terminal disease as the cause of death and mark the manner of death as “natural”. Any action taken in accordance with the provisions of P.L.2019, c.59 (C.26:16-1 et al.) shall not constitute suicide or assisted suicide.

Q8. How can I safely dispose of unused medication as a qualified terminally ill patient or as the patient’s designee?

A8. Information is available online from the New Jersey Division of Consumer Affairs at <https://www.njconsumeraffairs.gov/meddrop/Pages/Locations.aspx>.

Q9. Where can I find information about advance directives, Practitioner Orders for Life-Sustaining Treatment (POLST), and other end-of-life care information from the Department of Health?

A9. Information is available online at <https://www.state.nj.us/health/advancedirective/>.

Q10. Where can I address questions or concerns about New Jersey’s Medical Aid in Dying for the Terminally Ill Act?

A10.

- Consumers and providers may contact licensing authorities for further information. Information is available from the [State Board of Medical Examiners](#), the [State Board of Social Workers](#), and the [State Board of Psychological Examiners](#).
- Inquiries about the reporting process: You may contact the New Jersey Office of the Chief State Medical Examiner at (609) 815-2063 or email MAID@doh.nj.gov.
 - To report a death of a patient under the Medical Aid in Dying Act, please call (973) 648-4500 (available 24/7).
- Inquiries from the press: You may contact the Department of Health’s [Office of Communications](#).

Q11: Are participating patients reported to the State of New Jersey by name?

A11: The State does collect the names of patients in order to cross-check and close death certificates. However, the law guarantees the confidentiality of participants. Any information collected under C.26:16-13 that contains material or data that could be used to identify an individual patient or health care professional shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.).

Q12: What medication will my physician prescribe?

A12: It is up to the physician to determine which medication or medications to prescribe.

Q13: What will happen if a provider does not follow the prescribing or reporting requirements of the law?

A13: The New Jersey Office of the Chief State Medical Examiner will review all reported cases. Any discrepancies or reason for additional follow up will be conveyed to the appropriate regulator, including, as relevant, the Board of Medical Examiners, Board of Pharmacy, the Health Systems branch within the New Jersey Department of Health, the Prescription Monitoring Program, or other office.

Q14: How much does participation cost?

A14: There is no fee charged by DOH for the reporting required under this law.

Q15: Can an attending provider writing a medical aid in dying prescription use a patient’s request to another attending provider to start the 15 day waiting period? Can a patient transfer their request from one attending provider to another attending provider without restarting the 15 day waiting period?

A15: Yes. The Medical Aid in Dying for the Terminally Ill Act allows for care to be transferred from one attending provider to another. The countdown for the 15 day waiting period starts from the date the patient makes their initial request to any attending provider as documented in the patient's medical record.