

MaineHealth

“An Act to Enact the Maine Death with Dignity Act”

Public Law Chapter 271

Effective Date: September 19, 2019

The Maine Legislature recently passed, and Governor Mills signed, a bill to allow terminally ill adults in Maine to access medication to be self-administered to end their own life.

Who can access this medication as a terminally ill adult?

A qualified patient must be:

- At least 18 years of age.
- A resident of Maine.
- Medically determined to have an incurable and irreversible disease (terminal disease) that will produce death within 6 months.
- Determined to be competent, with the ability to make and communicate informed decisions, in the opinion of a court or attending physician, consulting physician, psychiatrist or psychologist.
- Determined to not be suffering from a psychiatric or psychological disorder or depression causing impaired judgement.

Are providers required to participate?

A health care provider (either an individual authorized to provide health care services or a health care facility) is **not required to carry out a qualified patient’s request under this Act.**

However, if a health care provider is unwilling to fulfill a patient’s request, **the provider must transfer all relevant records to a new provider upon request.**

Patients also have the right to information regarding all treatment options reasonably available for the care of the patient, including palliative care and related options.

Additionally, a **health care provider may prohibit employees, independent contractors or others from carrying out a qualified patient’s request under this Act** while on their premises or while working for the provider.

What role do participating providers play?

Attending Physician – Physician with the primary responsibility for the care of a patient and the treatment of the patient’s terminal disease.

- Makes the initial determination of whether a patient has a terminal disease, is competent and is making the request voluntarily.
- Informs the patient of their diagnosis and prognosis, the risks and expected result of taking the medication and the alternatives to taking the medication.
- Confirms the request does not arise from coercion or undue influence.
- Refers the patient to a consulting physician for confirmation of the attending physician’s findings.
- If necessary, refers the patient for counseling.
- Fulfills medical record documentation requirements.
- Ensures that all appropriate steps have been completed before writing a prescription.
- Dispenses medication directly or delivers a prescription to a pharmacist, and files a copy of the prescription or the dispensing record with the State.

Consulting Physician – Physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient’s disease.

- Examines the patient and reviews the patient’s medical records.
- Confirms, in writing, the attending physician’s diagnosis and verifies that the patient is competent, is acting voluntarily and is making an informed decision.
- If necessary, refers the patient for counseling.

Psychiatrist, Psychologist, Clinical Social Worker or Clinical Professional Counselor – State-licensed professional who can conduct counseling consultations if either physician determines a patient may be suffering from a psychiatric or psychological disorder or depression.

- Through one or more consultations, determines whether a patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgement.

Pharmacist

- Dispenses the end-of-life medication to the patient, the attending physician or an expressly identified agent of the patient, provided that the pharmacist/pharmacy has opted to be a participating provider under this Act.

Process

The process for a qualified patient to obtain life-ending medication will be:

- Attending physician determines the patient has a terminal disease and is competent.
- Patient is referred to a consulting physician for confirmation of the patient’ diagnosis.
- If necessary, patient is referred for counseling.
- Patient makes an oral request for the medication.
- After at least a 15-day waiting period the patient makes another oral request and a written request in the form substantially the same as prescribed by the statute and with two witnesses who meet certain specific criteria.
- After at least 48 hours, the attending physician writes the prescription for the patient.
- The patient always retains the right to rescind the request for medication.

Several legal and operational questions remain unanswered

- If a patient is unable to write, how will they provide the written request required by the law?
- Clarify what findings by a psychiatrist would disqualify a patient from being qualified. It is unclear whether a psychiatric or psychological disorder alone would disqualify a patient, or if that disorder would have to cause impaired judgement to be disqualifying.
- What is definition of “ingest?” Oral only? Feeding tube?
- What drug(s) and dose would be most appropriate? How will the Maine’s Prescription Monitoring Program handle these prescriptions?
- The Act states that: “Actions taken in accordance with this Act do not, for any purpose constitute suicide, assisted suicide, mercy killing or homicide under the law.” What should be written on the death certificate?
- What is the process if the patient is hospitalized at your facility after receiving the prescription but before self-ingesting the medication?