

# Washington State Death with Dignity Act Fact Sheet for Providers

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**Voter Turnout in 2008: Statewide 84.6%** (3,071,587 ballots / 3,630,118 registered voters)

**Total votes cast for I-1000: 96.6%** (2,966,474 votes / 3,071,587 ballots)

**Yes: 57.8%** (1,715,219 votes)

**No: 42.2%** (1,251,255 votes)

**Effective Start Date: March 5, 2009** (120 days after the measure passed)

## **Patient Eligibility** (Section 2 & 15)

- Washington State resident (driver's license, voter registration card, owns/leases property)
- Competent (able to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available)
- Terminally ill (incurable, irreversible disease expected to cause death within six months, as determined by the attending physician and a consulting physician)
- Age 18 and older
- Able to voluntarily express his or her wish to die
  
- An informed decision is defined in Section 1(7) as "an appreciation of the relevant facts and after being fully informed by the attending physician of:
  - (a) His or her medical diagnosis;
  - (b) His or her prognosis;
  - (c) The potential risks associated with taking the medication to be prescribed;
  - (d) The probable result of taking the medication to be prescribed; and
  - (e) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control."

## **Attending physician duties** (Section 4)

- Have primary responsibility for the care of the patient and treatment of the patient's terminal disease
- Evaluate and determine that the patient has a terminal disease, is competent, is making a voluntary request, over age 18 and a resident of Washington state
- Evaluate request to assess reasons and explore and recommend alternatives (i.e., palliative care, hospice, pain and symptom management, psychosocial counseling)
- Refer to a consulting physician for medical confirmation of the diagnosis, competency and voluntariness of the request
- Refer to a counselor if concerned about patient suffering from a psychiatric or psychological disorder or depression causing impaired judgment
- Recommend informing next-of-kin, having someone attend the event, not doing it in public
- Advise patients of their right to rescind request at any time; reiterate at the time of writing the prescription (Section 10)

## **Consulting physician duties** (Section 5)

- Examine the patient and his or her relevant medical records and confirm, in writing, the patient's prognosis, competency, and that the choice is informed and voluntary

## **Protections** (Section 19)

- No civil or criminal liability or neglect for providers acting in good faith, including being present when patient takes the medication
- No censure, discipline, loss of license, privileges, or membership, or other penalties to members of professional organizations for either participating or not participating

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## Medical records documentation requirements (Section 12)

- All oral requests by a patient for medication
- All written requests by a patient for medication
- The attending physician's diagnosis and prognosis, and determination that the patient is competent, is acting voluntarily, and has made an informed decision;
- The consulting physician's diagnosis and prognosis, and verification that the patient is competent, is acting voluntarily, and has made an informed decision;
- A report of the outcome and determinations made during counseling, if performed;
- The attending physician's offer to the patient to rescind his or her request at the time of the patient's second oral request
- A note by the attending physician indicating that all requirements have been met, including the steps taken to carry out the request and a notation of the medication(s) prescribed

## Reporting requirements:

- File a copy of the dispensing record to DOH within 30 days (Section 15(1b))
- Health care providers that prescribe or dispense lethal medication under the measure would be required to file a report with the Department of Health (forms are on website). Information collected by the Department of Health is not made public except in summary format
- On the death certificate, list the underlying terminal disease as the cause of death (Section 4(2))
- The Department of Health is required to annually produce a public statistical report of collected information

## Opting out (Section 19, subsections 1(d), 2(a))

- Providers may opt out because they are unable or unwilling to participate
- Not required to refer but must transfer relevant medical records at the patient's request, to the new provider of choice
- Can continue to provide other patient services, including evaluating requests, making referrals, and providing information about alternatives, while abstaining from participation in fulfilling the specific requests for medications and related duties
- An institution may prohibit its employees from participating in the act but must provide written notice to the employees and the general public regarding its policy. The policy allows providers to give all other services (as described above) while abstaining from participation in fulfilling the request
  - Providers who are employed by institutions prohibiting participation may contract with a patient and provide services as an independent contractor. It is not clear, however, how they would do they would need to do to establish their independence (i.e., work off hours and off location, use a prescription pad without an institutional affiliation, bill independently (or not at all, etc.)

## Requirements for the Request Process (Sections 3, 9, 11, & 22)

- Make an oral and written request (which follows the form in Section 22)
- Minimum of a 15 day waiting period, then make a second oral request
- Minimum of a 48 hour waiting period between when patient signs the written request and when the prescription can be written
- Written request must be witnessed by 2 people, one of whom cannot be:
  - A relative (by blood, marriage or adoption)
  - Entitled to any part of the patient's estate
  - An employee of the health care facility where the patient is a resident.
  - The patient's attending physician
  - In long-term care setting, one witness shall be designated by the facility who cannot violate any of the above exclusions. This witness may be, but is not limited to, an ombudsman, chaplain, or social worker.

## Recommended Medications

- Secobarbital (Seconal) or Pentobarbital (Nembutal)

## Resources

Washington State Dept. of Health: <http://www.doh.wa.gov/dwda/>

Washington State Hospital Association: <http://www.wsha.org/page.cfm?ID=0302>

OHSU Guidebook for Health Care Providers: <http://www.ohsu.edu/ethics/guidebook.pdf>

Compassion & Choices of Washington: <http://www.candcofwa.org/>

Euthanasia ProCon.org (for detailed arguments and definitions): <http://euthanasia.procon.org/>

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