NEW YORK STATE | Department of Health

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DAL#: DNH 26-11
Public Health Law Section Article 28-F
Medical Aid in Dying

Dear Nursing Home Operator, Administrator and Medical Director:

This letter is to inform you about Medical Aid in Dying under New York State Public Health Law (PHL) Article 28-F, effective August 5, 2026. Medical Aid in Dying allows mentally capable adult residents of New York State with a terminal diagnosis to obtain medication to self-administer for the purpose of ending their life at the time of their choosing, within six (6) months of anticipated death.

Nursing homes should develop policies and procedures in collaboration with your medical director and other physicians on staff or those under contract with the nursing home to address participation in Medical Aid in Dying. Nursing homes should determine their willingness to participate in Medical Aid in Dying.

If your nursing home is unable or unwilling to participate and a resident becomes eligible for and requests Medical Aid in Dying, the nursing home must accommodate the resident's wishes to be promptly transferred to another provider that is reasonably accessible and willing to support the resident's wishes for Medical Aid in Dying. Upon request, a copy of the resident's relevant medical record information must be provided to the receiving facility. Therefore, it is essential that all applicants for admission are fully informed of their rights, responsibilities and facility practices.

Eligibility Criteria for Medical Aid in Dying include that the individual seeking such medication must be:

- A New York State resident;
- An Adult aged 18 years of age or older;
- Diagnosed with a terminal illness or condition, which is defined as an incurable and irreversible illness or condition that has been medically confirmed and will, within reasonable medical judgment of the attending physician, produce death within six months whether or not treatment is provided; and
- Determined to have decision-making capacity to give informed consent as assessed and documented by a mental health professional, with both the attending physician and a consulting physician's concurrence with that determination.

When the use of medication for Medical Aid in Dying is requested by the mentally capable patient, this law requires:

1) a consulting physician to confirm the attending physician's determination that the patient has a qualifying terminal illness or condition;
2) a mental health evaluation by a mental health professional who is a physician or psychologist;

3) an oral and written request witnessed by two individuals who may not benefit from the individual's death or be employed by the facility in which the resident resides;
4) a mandatory waiting period of five days between the date the prescription is written and when it can be filled.
5) A resident who is able to self-administer the prescribed medication.

Physicians are reminded that the cause of death listed on a qualified individual's death certificate for a person who dies after self-administering medication under this article will be the underlying terminal illness or condition as noted here: https://www.nysenate.gov/legislation/laws/PBH/2899-P.

Importantly as a legal matter, under no circumstance should nursing home staff assist with the administration of the prescribed medication to aid a resident in dying.

Those residents seeking Medical Aid in Dying must be given educational material regarding hospice and palliative care and counseling as prescribed under Public Health Law § 2997-c. If the attending physician is not willing or does not feel qualified to provide the patient with information and counseling, the attending physician may arrange for another physician to do so or refer or transfer the nursing home resident to another physician willing to do so. Irrespective of participation in Medical Aid in Dying, nursing homes should have information on end-of-life care and the Medicare Hospice benefit readily available for discussion with residents, families and legal representatives.

For those residents interested in Medical Aid in Dying, the attending physician must:

- Provide the resident with feasible alternatives including but not limited to treatment, palliative care, and hospice care options appropriate for the resident; the prognosis, risks and benefits of the various options; and
- Comply with the resident's legal rights to comprehensive pain and symptom management at the end of life.

The resident's attending physician must also inform their patient of the potential risks associated with taking the medication to be prescribed and the probable result of taking the medication to be prescribed. Such information should be clearly documented in the resident's medical record. Lastly, please be advised that the resident may rescind the request for medication at any time and in any manner.

Please review the Frequently Asked Questions document that can be found at https://health.ny.gov/health_care/medical_aid_in_dying/faqs.htm. Any questions regarding this correspondence should be referred to maidinfo@health.ny.gov.

Thank you for your attention to this important information.

Sincerely,

Valerie A. Deetz, Deputy Director
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