

# Medical Aid-in-Dying: An End-of-Life Option in NM

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## Disclosures

I have no financial disclosures to share.

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## Pharmacy Technician Objectives

- Define medical aid-in-dying (MAID), physician-assisted suicide (PAS), and euthanasia.
- Describe palliative sedation as a modality for uncontrolled suffering in palliative care.
- Describe and discuss the Elizabeth Whitefield End-of-Life Options Act that was effective June 18, 2021, in New Mexico.

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## Pharmacist Objectives

- Distinguish between medical aid in dying (MAID), physician-assisted suicide (PAS), and euthanasia.
- Identify three causes of suffering that prompt requests from patients to hasten death.
- Understand and discuss palliative sedation as a modality for uncontrolled suffering in palliative care.
- Describe and discuss the Elizabeth Whitefield End-of-Life Options Act that was effective June 18, 2021, in New Mexico.

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## Polling Question

What is one of the most common reasons a patient may seek MAID?

- Uncontrolled pain
- Severe depression
- Loss of autonomy
- Lack of medical insurance

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### American Academy of Hospice and Palliative Medicine-2016

- "AAHPM takes a position of studied neutrality on the subject of whether PAD should be legally permitted or prohibited."
- "concerns about a shift to include physician-assisted dying in routine medical practice"
- "Any statutes legalizing PAD and related regulations must include safeguards to appropriately address these concerns, such as limiting eligibility to decisionally capable individuals with a limited life expectancy."

<http://aaahpm.org/positions/pad>

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### American Academy of Family Physicians-2018

- RESOLVED, That the American Academy of Family Physicians adopt a position of engaged neutrality toward medical-aid-in-dying as a personal end-of-life decision in the context of the physician-patient relationship, and be it further
- RESOLVED, That the American Academy of Family Physicians reject the use of the phrase "assisted suicide" or "physician-assisted suicide" in formal statements or documents and direct the AAFP's American Medical Association (AMA) delegation to promote the same in the AMA House of Delegates

<http://www.aafp.org/news/2018/congress-fm2018/10/04pad.html>

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### ASHP Ethics Policy Position

- ASHP takes a position of studied neutrality on whether pharmacists should participate in medical aid-in-dying
- The Code of Ethics for Pharmacists states that "a pharmacist promises to help individuals achieve optimum benefit from their medications [and] to be committed to their welfare" and that "a pharmacist promotes the right of self-determination and recognizes individual self-worth by encouraging patients to participate in decisions about their health."
- Continued advocacy for use of hospice and palliative care and to ensure appropriate care at the end of life, including pain management

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### Reasons patients seek MAID

- Data from Oregon
  - loss of autonomy (93%)
  - decreasing ability to participate in activities that made life enjoyable (94%)
  - loss of dignity (72%)
- "Poor pain control is an indication for better palliation, not death."

<http://www.oregon.gov/DHS/ProviderPartnerResources/EvaluationResearch/DeathwithDignity/2019Index.aspx>

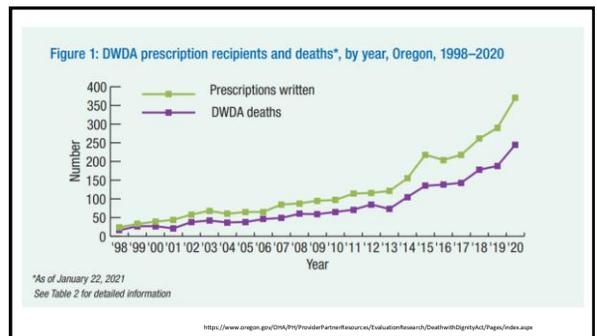
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### Patients who seek MAID

- 75% were 65 years or over, with the median age of 74
- 68% had cancer
- 90% were on hospice at the time of death
- 90% died at home
- 99% had some form of health insurance

<http://www.oregon.gov/DHS/ProviderPartnerResources/EvaluationResearch/DeathwithDignity/2019Index.aspx>

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## Guidance on Responding to Requests for MAID

### **Determine the nature of the request.**

- Is the patient seeking immediate assistance or considering the possibility of hastened death in the future?
- Is the patient airing thoughts about ending life without a specific intent or plan?
- Is the patient frustrated with living with illness, but not seriously contemplating ending life?

<http://ashpm.org/positions/padbrief>

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## Guidance on Responding to Requests for MAID

### **Clarify the cause(s) of intractable suffering**

- Is there a loss of functional autonomy?
- Does the patient feel he or she is a burden or exhausted from prolonged dying?
- Is there severe pain or other unrelieved physical symptoms?
- Is the distress mainly emotional or spiritual?

<http://ashpm.org/positions/padbrief>

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## Guidance on Responding to Requests for MAID

### **Evaluate the patient's decision-making capacity**

- Is there impairment affecting comprehension and judgment?
- Does the patient's request seem rational and proportionate to the clinical situation?
- Is the patient's request consistent with long standing values?

<http://ashpm.org/positions/padbrief>

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## Guidance on Responding to Requests for MAID

### **Explore emotional factors**

- Do feelings of depression, worthlessness, excessive guilt, or fear substantially interfere with the patient's judgment?
- Does the patient have untreated or undertreated depression or other mental illness?

<http://ashpm.org/positions/padbrief>

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## Guidance on Responding to Requests for MAID

### **Explore situational factors**

- Does the patient have a poor social network?
- Are there coercive influences such as looming bankruptcy?
- Is the patient subject to emotional, financial or other forms of exploitation or abuse?

<http://ashpm.org/positions/padbrief>

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## Guidance on Responding to Requests for MAID

- Utilize open-ended questions to understand the concerns that led the patient to request PAD
- Respond empathically and strengthen the therapeutic relationship through respectful and non-judgmental dialogue
- Re-evaluate and modify treatment of pain and all physical symptoms
- Identify and address depression, anxiety, and/or spiritual suffering

<http://ashpm.org/positions/padbrief>

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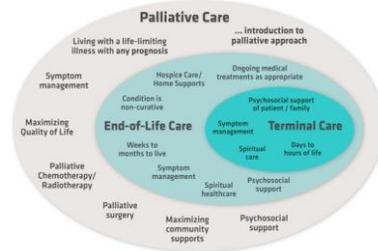
## Guidance on Responding to Requests for MAID

- Consult with experts in spiritual or psychological suffering when appropriate
- Consult with colleagues experienced in palliative care/hospice as needed
- Commit to the patient the intention of working toward a mutually acceptable solution for the patient's suffering

<http://aahpm.org/positions/painrelief>

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## The phases and layers of care



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## Palliative Sedation

- "the intentional lowering of awareness towards, and including, unconsciousness for patients with severe and refractory symptoms"
- Should only be considered for refractory symptoms
- Level of sedation should be proportionate to the patient's level of distress
- Treatment of other symptoms should be continued
- Should not be considered irreversible
- Decreased ability to interact with others, inability to change mind, inability to eat/drink

<http://aahpm.org/positions/palliative-sedation>

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## Palliative Sedation

- **Refractory Symptoms**
  - Aggressive palliative treatments have failed or have produced intolerable side effects
  - Additional treatments are unlikely to provide adequate relief without intolerable side effects
  - Patient is likely to die before conventional treatment could work
- PS most commonly used for pain, dyspnea, delirium, N/V, agitation/restlessness, seizure, myoclonus
- One survey revealed >50% of patients receiving PS have more than one qualifying symptom; 34% received for non-physical symptoms

In Cowan JD, et al. Palliative Medicine, 2013

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## AAHPM Statement on Palliative Sedation

- Primary Objective:
  - Ease suffering via pharmacologic and non-pharmacologic techniques
- Must have a:
  - Specific clinical indication
  - A target outcome
  - Acceptable benefit/risk ratio
- Level of sedation proportionate to level of patient's distress
- When able, patients should participate in decision
- Continue other symptomatic treatments alongside sedation
- No guidance on medication selection – safe, effective, available

<http://aahpm.org/positions/palliative-sedation>

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## AAHPM Statement on Palliative Sedation

- **Hastening Death**
  - Palliative sedation does not alter timing or mechanism of patient's death as refractory symptoms are often associated with advanced terminal illness
  - Clear intent to palliate, not shorten survival
  - Artificial hydration/nutrition generally not expected to benefit the patient

<http://aahpm.org/positions/palliative-sedation>

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## Elizabeth Whitefield End-of-Life Options Act (HB 47)

- New Mexico's End-of-Life Options Act provides for "medical aid-in-dying"
- *The law went into effect June 18, 2021*

<https://compassionandchoices.org/>

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## Polling Question

Historically, what medication was utilized most often for MAID?

- Secobarbital
- Fentanyl
- Midazolam
- Potassium chloride

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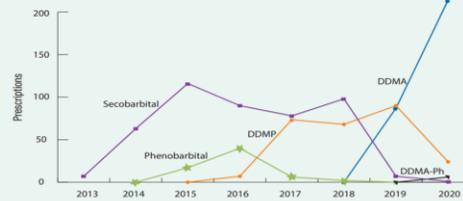
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Figure 3: Medication used in DWDA ingestions, 2013-2020



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## Qualified Individual

The individual must be an **ADULT** at least 18 years old and a **RESIDENT** of NM.

The prescribing provider must determine that the individual has:

1. **CAPACITY** to understand and appreciate health care options available, including significant benefits and risks, and to make and communicate an informed decision.
2. **TERMINAL ILLNESS** which is a disease or condition that is incurable and irreversible and that, in accordance with reasonable medical judgement, will result in death within 6 months.
3. **VOLUNTARILY** makes the request for MAID and is not under duress or undue influence.
4. **ABILITY TO SELF-ADMINISTER** the MAID medication by taking an affirmative, conscious, voluntary action to ingest the medications. (*Injection or IV administration are NOT allowed.*)

<https://compassionandchoices.org/>

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## Healthcare Provider

Any of the following individuals licensed in New Mexico and authorized under NM law to prescribe a medication to be used in MAID:

1. **Medical Physician**
2. **Osteopathic Physician**
3. **Advanced Practice Nurse**
4. **Physician Assistant**

At least one physician (MD/DO) must determine, after conducting an appropriate examination, that the individual is qualified. That can be the "prescribing" provider, a "consulting" provider OR affirmation the individual is enrolled in Hospice. If the individual is not enrolled in hospice, then two providers must affirm qualifications, one of which must be an MD/DO.

<https://compassionandchoices.org/>

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## Capacity

A determination of capacity shall be made only according to professional standards of care and the provisions of the NM Uniform Health Care Decisions Act, which has an underlying presumption that an individual has the capacity to make a healthcare decision.

If the prescribing or a consulting provider believes the individual may lack decisional capacity or if the individual has a current or recent history of mental illness or disability that could impair capacity for end-of-life decision-making, the individual must be referred to a mental health professional and MAID cannot proceed until such professional determines the individual has capacity to make end-of-life decisions.

If capacity must be confirmed by a **Mental Health Professional**, that means a NM-licensed psychiatrist, psychologist, master social worker, psychiatric nurse practitioner or professional clinical mental health counselor.

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## Prescribing MAID

- Prior to prescribing, the provider must inform the individual of all available end-of-life care options, including palliative care and hospice.
- The prescribing provider must document all qualifications. The individual's enrollment in hospice or, if necessary, affirmation of terminal illness by a consulting provider must also be included.
- The form required by law must be completed and signed by the individual requesting MAID and witnessed by two persons, one of which must be a disinterested party. The prescriber will provide the form and then include it in the individual's health record.
- The prescription, once written, has a 48-hour hold before it can be filled UNLESS the prescriber affirms that, within reasonable medical judgement, the individual will not survive the waiting period.
- The prescribing provider will also be responsible for reporting required information to State.

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## Other Provisions

- **"Right to Know"** – Healthcare providers must inform terminally ill patients of all reasonable and legally available options that meet medical standards for end-of-life care.
- By law, **"Medical Aid in Dying"** is NOT to be considered "suicide" for any purpose (*including death certificate*); and, if the law is followed in good faith, it is also not considered "assisted suicide". (*"Assisting Suicide" remains 4<sup>th</sup> degree felony*)
- A **person** shall not be subject to criminal liability, licensing sanctions or any type of professional or employment disciplinary actions for participating or refusing to participate in MAID; or for being present when a qualified patient self-administers the medication.
- A health care entity, provider, professional organization, health insurer or managed care organization shall not subject a person to censure, discipline, suspension, loss/denial of license, credential, privileges, membership or other penalty for participating in MAID or not.

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## Other Provisions

- If a **"health care provider"** is unable or unwilling to participate, he/she must inform the individual, refer to another willing provider OR to an individual or entity who will assist the individual seeking MAID. No health care provider shall be required to participate.
- **"Health Care Entity"** is an entity (not individual) licensed to provide any form of healthcare in NM, including a hospital, clinic, hospice agency, home health agency, pharmacy, group medical practice, medical home or similar entity.
  - A health care entity that prohibits MAID on premises or by employees shall provide appropriate public notice on their website and in relevant materials given to patients.
  - A health care entity shall not forbid or otherwise sanction a provider who participates off premises, off hours or outside scope of employment

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## End-of-Life Options

- Forego or Cease Life-Sustaining Treatment
- Palliative Care, which focuses on relief of symptoms
- Hospice, providing end-of-life comfort care and family support
- Voluntary Stopping Eating and Drinking, which will hasten death
- Medical Aid-in-Dying

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## Hospice and MAID

- Experience in other states – More than 90% of MAID patients are on Hospice
- MAID is the epitome of *Patient Self-Determination*, which is at center of hospice philosophy
- Level of participation can differ from hospice to hospice, including:
  - Provides emotional support in decision-making
  - Participates in logistical planning – coordination with prescriber, pick-up medications, assist patient/family to plan timing, etc.
  - Medical Director serves as consulting provider
  - Present for ingestion
  - Mix medications
  - Hospice Medical Director prescribes MAID

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## Medication Ingestion

- Medication comes in powder form, specifically compounded for MAID
  - Medications to control nausea are administered beforehand
- Medication is mixed in liquid and put in a glass...straw may be used
  - May be ingested through feeding tube or rectal/Macy tube but patient must still be able to physically initiate ingestion in order to still meet **Self-Administration** requirement
- Ingestion should be completed within 2 minutes
- Sleep occurs within 2-10 minutes, then coma; death usually within 2-5 hours
- Cost of medications approx. \$700

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## Aid-in-Dying Pharmacologic Regimen

- DDMAPH
  - Digoxin 100 mg (from powder, not crushed tablets)
  - Diazepam 1 gm (1,000 mg)
  - Morphine 15 gm (15,000 mg)
  - Amitriptyline 8 gm (8,000 mg)
  - Phenobarbital 5 gm (5,000 mg)
- Pre-medicate for nausea/vomiting: Ondansetron 8mg, Metoclopramide 20mg (10mg tabs, #2)
- Sleep in 2-10 minutes, death usually in < 2 hours

<https://www.acamaid.org/sites/default/files/2021/06/Pharmacology-update-8-19-2019.pdf>

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FOR Aid in Dying Patient ADDRESS \_\_\_\_\_ DATE Death Day

**R** Digitalis 100mg; diazepam 1gm; morphine 15gm; amitriptyline 8gm; Phenobarbital 5gm.  
Dispense as powder.

*Sig: Mix to 4 ounces with apple juice or water. Take the liquid suspension by mouth, taking no longer than 2 minutes to swallow it all. If burning occurs, use spoonfuls of sorbet to cool the mouth.*

REFILL \_\_\_\_\_ TIMES M.D. Aid-in-Dying Doctor, MD

DO NOT SUBSTITUTE SUBSTITUTION PERMISSIBLE

DEA NO. \_\_\_\_\_ ADDRESS \_\_\_\_\_

BioRx Labs 1-888-550-5452 FORM NO. PD0000 <https://www.acamaid.org>

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**Red Flag Risk checklist for potentially complicated and/or prolonged AID deaths**

- End Issues**
  - Severe cachexia and/or prolonged time with no oral nutrition—associated with distended viscera, anorexia and/or poor med absorption
  - Gastroparesis (delayed gastric emptying)
    - Body-controlled nausea/vomiting = gastroparesis
    - Anticholinergic medications (Scopolamine, Haldol, Benadryl, hydroxyzine, others)
  - Severe constipation/obstipation
  - Partial or complete bowel obstructions
  - GI disease, including pancreatic cancer, colon cancer, hepatic metastases
  - Ascites that is tense (peritoneal mets, and/or portal hypertension with concomitant bowel edema and compression. (For tense ascites, recommend paracentesis the day before aid in dying.)
- Swallowing concerns**
  - Do **not** actively swallow
  - Oropharyngeal or esophageal obstruction, even if partial
  - Intolerance to swallowing bitter or bad tasting liquids.
- Medication-related concerns**
  - Not well tolerated or severe tolerance. (NOTE: no specific threshold, use judgment)
- General Factors**
  - Debility
  - Extreme exercise history/cardiac fitness, even if remote in time.
  - Young, <65 years, or very healthy other than the primary cause of death
  - ETOH, MTH of liquor or case of beer/day—associated with sedative resistance
- Mental Health Concerns**
  - TV (or other) drug abuse, recent or remote (may have inconsistent/incomplete drug use reporting)
  - Weak and waning mental capacity, and/or ability to follow instructions.

<https://www.acamaid.org>

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## Conclusions

- Medical Aid in Dying (MAID)/Physician-assisted dying/Death with Dignity refer to the physician providing a terminally ill patient with a prescription for a life-ending dose of medication, upon the patient's voluntary, informed request.
- Most cited reasons for MAID are loss of autonomy, decreasing ability to participate in activities that made life enjoyable, and loss of dignity.
- Palliative sedation is a useful tool to treat refractory symptoms and uncontrolled suffering in palliative care.
- Elizabeth Whitefield End-of-Life Options Act was effective June 18, 2021, in New Mexico and allows for Medical Aid in Dying in New Mexico.

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## Resources

**END-OF-LIFE OPTIONS NEW MEXICO** <https://endoflifeoptionsnm.org>.

Non-profit entity formed to serve as MAID information clearinghouse and referral source for providers and patients; and to educate and support individuals, healthcare providers, organizations and communities regarding the full range of end-of-life options for all New Mexicans.

**COMPASSION & CHOICES** <https://compassionandchoices.org>  
or C&C's NM Organizer, Jill VonOsten [jvonosten@compassionandchoices.org](mailto:jvonosten@compassionandchoices.org)

**DEATH WITH DIGNITY** <https://deathwithdignity.org>

**AMERICAN CLINICIANS ACADEMY ON MEDICAL AID IN DYING** <https://www.acamaid.org/>

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