

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.

Before writing a prescription for 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 registration to vote;
- 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 could 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, the physicians must refer the patient to a psychiatrist, psychologist, or clinical social worker who would 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 could 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 indication 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.