THE OREGON DEATH WITH DIGNITY ACT

127.800. Definitions.

The following words and phrases, whenever used in ORS 127.800 to 127.897, have the following meanings:

1. “Adult” means an individual who is 18 years of age or older.

2. “Attending physician” means the physician who has primary responsibility for the care of the patient and treatment of the patient’s terminal disease.

3. “Capable” means that in the opinion of a court or in the opinion of the patient’s attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and communicate health care decisions to health care providers, including communication through persons familiar with the patient’s manner of communicating if those persons are available.

4. “Consulting physician” means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient’s disease.

5. “Counseling” means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is capable and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

6. “Health care provider” means a person licensed, certified or otherwise authorized or permitted by the law of this state to administer health care or dispense medication in the ordinary course of business, or practice of a profession, and includes a health care facility.

7. “Informed decision” means a decision by a qualified patient, to request and obtain a prescription to end his or her life in a humane and dignified manner, that is based on 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.

8. “Medically confirmed” means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient’s relevant medical records.

9. “Patient” means a person who is under the care of a physician.
(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine by the Board of Medical Examiners for the State of Oregon.

(11) "Qualified patient" means a capable adult who is a resident of Oregon and has satisfied the requirements of ORS 127.800 to 127.897 in order to obtain a prescription for medication to end his or her life in a humane and dignified manner.

(12) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

127.805. Who may initiate a written request for medication.

(1) An adult who is capable, is a resident of Oregon, and has been determined by the attending physician and consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication for the purpose of ending his or her life in a humane and dignified manner in accordance with ORS 127.800 to 127.897.

(2) No person shall qualify under the provisions of ORS 127.800 to 127.897 solely because of age or disability.

127.810. Form of the written request.

(1) A valid request for medication under ORS 127.800 to 127.897 shall be in substantially the form described in ORS 127.897, signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is capable, acting voluntarily, and is not being coerced to sign the request.

(2) One of the witnesses shall be a person who is not:

(a) A relative of the patient by blood, marriage or adoption;

(b) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will or by operation of law; or

(c) An owner, operator or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(3) The patient’s attending physician at the time the request is signed shall not be a witness.

(4) If the patient is a patient in a long term care facility at the time the written request is made, one of the witnesses shall be an individual designated by the facility and having the qualifications specified by the Department of Human Services by rule.

127.815. Attending physician responsibilities.

(1) The attending physician shall:

(a) Make the initial determination of whether a patient has a terminal disease, is capable, and has made the request voluntarily;

(b) Request that the patient demonstrate Oregon residency pursuant to ORS 127.860;

(c) To ensure that the patient is making an informed decision, inform the patient 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;
(d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is capable and acting voluntarily;
(e) Refer the patient for counseling if appropriate pursuant to ORS 127.825;
(f) Recommend that the patient notify next of kin;
(g) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed pursuant to ORS 127.800 to 127.897 and of not taking the medication in a public place;
(h) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the 15 day waiting period pursuant to ORS 127.840;
(i) Verify, immediately prior to writing the prescription for medication under ORS 127.800 to 127.897, that the patient is making an informed decision;
(j) Fulfill the medical record documentation requirements of ORS 127.855;
(k) Ensure that all appropriate steps are carried out in accordance with ORS 127.800 to 127.897 prior to writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner; and
(l) (A) Dispense medications directly* * *or [(B) through a pharmacist].

(2) Notwithstanding any other provision of law, the attending physician may sign the patient's death certificate.

**127.820. Consulting physician confirmation.**

Before a patient is qualified under ORS 127.800 to 127.897, a consulting physician shall examine the patient and his or her relevant medical records and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is capable, is acting voluntarily and has made an informed decision.

**127.825. Counseling referral.**

If in the opinion of the attending physician or the consulting physician a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient
for counseling. No medication to end a patient's life in a humane and dignified manner shall be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

127.830. Informed decision.

No person shall receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision as defined in ORS 127.800 (7). Immediately prior to writing a prescription for medication under ORS 127.800 to 127.897, the attending physician shall verify that the patient is making an informed decision.

127.835. Family notification.

The attending physician shall recommend that the patient notify the next of kin of his or her request for medication pursuant to ORS 127.800 to 127.897. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason.

127.840. Written and oral requests.

In order to receive a prescription for medication to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request, and reiterate the oral request to his or her attending physician no less than fifteen (15) days after making the initial oral request. At the time the qualified patient makes his or her second oral request, the attending physician shall offer the patient an opportunity to rescind the request.

127.845. Right to rescind request.

A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under ORS 127.800 to 127.897 may be written without the attending physician offering the qualified patient an opportunity to rescind the request.

127.850. Waiting periods.

No less than fifteen (15) days shall elapse between the patient's initial oral request and the writing of a prescription under ORS 127.800 to 127.897. No less than 48 hours shall elapse between the patient's written request and the writing of a prescription under ORS 127.800 to 127.897.

127.855. Medical record documentation requirements.

The following shall be documented or filed in the patient's medical record:

(1) All oral requests by a patient for medication to end his or her life in a humane and dignified manner;

(2) All written requests by a patient for medication to end his or her life in a humane and dignified manner;

(3) The attending physician's diagnosis and prognosis, determination that the patient is capable, acting voluntarily and has made an informed decision;
(4) The consulting physician's diagnosis and prognosis, and verification
that the patient is capable, acting voluntarily and has made an informed
decision;

(5) A report of the outcome and determinations made during counseling,
if performed;

(6) The attending physician's offer to the patient to rescind his or her
request at the time of the patient's second oral request pursuant to ORS
127.840; and

(7) A note by the attending physician indicating that all requirements
under ORS 127.800 to 127.807 have been met and indicating the steps taken
to carry out the request, including a notation of the medication prescribed.

127.860. Residency requirement.

Only requests made by Oregon residents under ORS 127.800 to 127.807
shall be granted. Factors demonstrating Oregon residency include but are not
limited to [being licensed to drive, registering to vote, owning property, and
paying taxes in Oregon.]

* * *


Nothing in ORS 127.800 to 127.807 shall be construed to authorize a
physician or any other person to end a patient's life by lethal injection, mercy
killing or active euthanasia. Actions taken in accordance with ORS 127.800 to
127.807 shall not, for any purpose, constitute suicide, assisted suicide, mercy
killing or homicide, under the law.

* * *

127.897. Form of the request.

A request for a medication as authorized by ORS 127.800 to 127.807 shall
be in substantially the following form:

REQUEST FOR MEDICATION TO END MY LIFE
IN A HUMANE AND DIGNIFIED MANNER

I, , am an adult of sound mind.

I am suffering from , which my attending physician has determined is
a terminal disease and which has been medically confirmed by a consulting
physician.

I have been fully informed of my diagnosis, prognosis, the nature of medici-
ation to be prescribed and potential associated risks, the expected result; and
the feasible alternatives; including comfort care, hospice care and pain con-
trol.

I request that my attending physician prescribe medication that will end my
life in a humane and dignified manner.

INITIAL ONE:

, I have informed my family of my decision and taken their opinions
into consideration.

, I have decided not to inform my family of my decision.
I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: ______
Dated: ______

DECLARATION OF WITNESSES
We declare that the person signing this request:
(a) Is personally known to us or has provided proof of identity;
(b) Signed this request in our presence;
(c) Appears to be of sound mind and not under duress, fraud or undue influence;
(d) Is not a patient for whom either of us is attending physician.

Witness 1/Date
Witness 2/Date

NOTE: One witness shall not be a relative (by blood, marriage or adoption) of the person signing this request, shall not be entitled to any portion of the person's estate upon death and shall not own, operate or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility.

* * *

Early in 1999 the Oregon Department of Health issued its first annual report, which collected data on those who received lethal prescriptions under the Act during its first year of operation. A year later it issued its second report, which provides a helpful picture of the use of this statute. The full text of the Oregon Department of Health annual reports on the Death With Dignity Act are available on-line at http://www.ohd.hr.state.or.us/chs/pas/pas.htm.