

# Medical Aid in Dying: best practices for physicians and other health care providers supporting or otherwise in contact with non-Oregon residents requesting medical aid in dying

Recently, the Oregon Health Authority, Oregon Medical Board, and the District Attorney of Multnomah County have issued directives to not enforce the residency requirement contained in the Oregon Death with Dignity Act. This decision was made as a result of a settlement agreement reached in *Gideonse v. Brown*, a lawsuit which alleged that the residency requirement was unconstitutional. As a result of this settlement, medical practitioners in Oregon may assist non-Oregon residents in obtaining medical aid in dying services without fear of civil or criminal repercussions from medical authorities. However, many questions likely remain for medical providers.

Note: It is important to recognize the difficulties of travel for terminally ill and dying individuals and the challenges of establishing a qualifying physician/patient relationship as a non-resident.

- Oregon doctors should ensure that all aspects of medical aid-in-dying practice, including, but not limited to intake, consultation, qualifying visits, assistance in financing or accommodations, prescription, and reporting occur entirely in Oregon. Both the patient and the doctor must be physically located in Oregon during these activities, regardless of whether they occur in person or via telehealth. To reduce risk of liability, we recommend doctors limit conversations with out-of-state patients interested in medical aid in dying to answering the question of whether the doctor has provided qualified patients with medical aid in dying in the course of their regular medical care.
- We strongly recommend that Oregon doctors concerned about liability avoid providing medical aid-in-dying services to persons whom they know intend to leave the state and ingest the medication in a jurisdiction where medical aid in dying is not authorized. Patients leaving Oregon, especially those entering a state that has not authorized medical aid in dying, may run afoul of laws prohibiting assisting a suicide.
- In order to avoid this practice, a doctor should either:

1. Screen patients based on where they would intend to ingest the medication if they were to obtain it; or
  2. Notify patients that they will not complete the medical aid-in-dying process and prescribe medication if it becomes known the patient intends to ingest the medication in a state that hasn't authorized medical aid in dying.
- It is not clear whether medical malpractice carriers would cover out-of-state claims related to medical aid in dying. We recommend doctors consult with their malpractice insurance providers to get clarity on the extent of coverage.
  - If a patient resides in a state where medical aid in dying is authorized and still wishes to travel to Oregon and access medical aid in dying, there is likely less risk of civil and criminal liability, but there still may be some associated risk.
  - We strongly recommend that physicians concerned about liability follow the same protocol as with patients who are located in states that have not authorized medical aid in dying outlined above.
  - Health care providers should be aware that the legal protections in Multnomah County are the strongest in the state because the District Attorney of Multnomah County has issued a directive explaining that the residency restriction will not be enforced within the county. We have not yet received these assurances from other district attorneys. Oregon health care providers practicing outside of Multnomah County should feel free to contact [Compassion & Choices](#) for additional information.

## **Additional Resources**

- [Understanding Medical Aid in Dying](#)