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Healthcare Alert

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NY Medical Aid in Dying Law: What providers need to know

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New York healthcare providers should prepare to comply with the state's Medical Aid in Dying Law, including request, review, and reporting rules.



What's the impact?

- New York's Medical Aid in Dying Law takes effect August 5, 2026, authorizing eligible terminally ill adults to request life-ending medication.
- The law imposes safeguards, including requiring written and oral requests, two physician reviews, mental health evaluation, and a 5-day prescription waiting period.
- Healthcare facilities should adopt compliance policies, train providers, and establish reporting processes—or adopt opt-out procedures if applicable.

Since 2016, New York legislators have introduced several versions of a Medical Aid in Dying Law before New York finally enacted a medical aid in dying law in February 2026. The new law takes

effect August 5th and authorizes adult, mentally competent New York residents who have a terminal illness to request physician-prescribed, self-administered, life-ending medication. The law also includes several safeguards governing eligibility and the request process.

Key features

WRITTEN AND ORAL REQUESTS REQUIRED

In general, to request life-ending medication, a patient must voluntarily submit both an oral and written request to an attending physician. The patient's written request must be witnessed by two adults. The law prohibits family members and anyone who may benefit financially from the patient's death, as well as the patient's healthcare providers and other categories of persons, from serving as witnesses or acting as an interpreter for the patient.

IN-PERSON PHYSICIAN EXAMINATION GENERALLY REQUIRED

An attending physician must examine the patient to confirm that the patient has a terminal illness that is expected to cause death within six months, evaluate their decision-making capacity, and provide detailed counseling to the patient consistent with statutory requirements. The attending physician's examination must be performed in person, unless the physician determines that it would present an "extraordinary hardship" for the patient to appear in person, as defined in the statute.

A consulting physician must independently confirm the patient's terminal diagnosis and determine that the patient has the capacity to make a voluntary and informed decision. The statute doesn't prohibit the consulting physician from performing their examination via telehealth.

MANDATORY MENTAL HEALTH EVALUATION

A New York-licensed psychologist or psychiatrist must perform an independent mental health evaluation to determine that the patient has decision-making capacity.

5-DAY WAITING PERIOD FOR FILLING PRESCRIPTIONS

The attending physician cannot write the prescription until after having received the consulting physician's report and the mental health professional's report. In most cases, after the attending physician writes the prescription, a mandatory five-day waiting period must elapse before the prescription can be filled, which the attending physician must specify on the prescription.

OPT-OUT PROVISIONS

Individuals cannot be required to assist a patient with medical aid in dying. Healthcare facilities may prohibit prescribing, dispensing, ordering, or self-administration while the patient is being treated, based on sincere religious beliefs or moral convictions, provided they comply with certain patient notice and transfer obligations.

PROFESSIONAL ACCOUNTABILITY

Violations of the Act can result in civil and criminal liability, as well as professional discipline under the New York Education Law for licensed professionals.

NYSDOH REPORTING

The New York State Department of Health (NYSDOH) has released draft regulations that will require attending physicians that prescribe life-ending medication to report certain information to NYSDOH within five (5) days of having written a prescription for life-ending medication.

Preparing for compliance

PARTICIPATING FACILITIES

Facilities that will offer medical aid in dying should train providers and staff to understand their compliance obligations. These include limitations on patient eligibility, the elements of mandatory patient evaluations, limitations on virtual evaluations, documentation requirements for written and oral requests for medication, documentation of mandatory patient counseling, the mandatory 5-day waiting period before filling a medication prescription and the requirement for writing prescriptions, and NYSDOH reporting requirements.

FACILITIES "OPTING OUT"

Healthcare facilities that choose to opt out based on sincere religious beliefs or moral convictions will need to adopt compliant policies reflecting those beliefs, develop patient notices regarding such policies, establish transfer arrangements with facilities willing to assist patients seeking life-ending medication, and educate staff and providers on the new policies, including the obligation to assist with patient transfer.

Nixon Peabody's Healthcare Team can help providers and facilities assess their obligations under New York's Medical Aid in Dying Law, develop compliant policies and notices, and prepare staff for implementation.

For guidance on compliance planning, opt-out considerations, reporting obligations, and provider training, please contact your Nixon Peabody Healthcare attorney or:

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