



Death with Dignity

League of Women Voters – Maryland – 2018 Study Group

Proposed Concurrence with LWV Utah's position on Death with Dignity

What is Death with Dignity?

- Death with Dignity refers to laws that allow a terminally ill, mentally competent adult with a prognosis of six months or less to live to request a prescription for a lethal medication which can be self-ingested at the time of their own choosing to bring about a peaceful death.
- Two doctors must confirm the terminal diagnosis, prognosis, and that the person requesting the prescription is mentally competent, fully informed, and making the choice of their own volition. The doctors must also provide the requesting person with information about additional end-of-life options, including palliative and hospice care.
- Participation in Death with Dignity is 100% optional and completely voluntary for patients, doctors, and pharmacists. No person is required to use it and no doctor or pharmacist is mandated to provide it. Forcing someone to use DWD is illegal and subject to criminal prosecution.

What Death With Dignity Is Not

- **Death with Dignity is not suicide.** The people who opt to use DWD laws want desperately to continue to live, but do not have that option available. Death is unquestionably imminent for them, potentially with a lot of pain, discomfort, lack of dignity, and loss of quality of life.
- **Death with Dignity is not euthanasia.** Euthanasia is defined as “the painless killing of a patient suffering from an incurable and painful disease or an irreversible coma.” It is an intentional act by which another person chooses and acts to cause death and is illegal throughout the United States. Individuals qualifying and opting for DWD must self-ingest the requested medication; no one can administer the medication to him or her. Forcing someone to use DWD by administering the drug is illegal and subject to criminal prosecution. All DWD laws expressly prohibit euthanasia.

Other Non-Violent End-of-Life Options

- **Palliative care** (usually in Hospice) utilizes medication and other modalities to control symptoms while keeping patients conscious and comfortable during the progression of their disease.
- **Palliative sedation** utilizes medication to keep terminally ill patients comfortable via unconscious sedation during the progression of their disease.
- **Voluntarily Stopping Eating and Drinking (VSED)**. By intentionally refusing to eat or drink, death will take place between 7 and 21 days. Patients opting for VSED often also utilize palliative care in an attempt to keep them comfortable during this very difficult and drawn-out process.
- Patients always have the right to **refuse medical treatment**, including those that sustain life (i.e. ventilators, feeding tubes, pacemakers).

Brief History of DWD- US

1980 - Hemlock Society founded by Derek Humphrey, who had helped his wife dying from breast cancer take her own life

1994 - Oregon became the first State in the Union to legalize medical aid in dying

1997 - The U.S. Supreme Court unanimously held that a right to assisted suicide in the United States was not protected by the Due Process Clause (*Washington v. Glucksberg*)

2006 - U.S. Supreme Court upholds Oregon law by 6 to 3 margin

2018 - As of April 2018, six states and the District of Columbia have adopted Death with Dignity-like statutes: California (2015), Colorado (2015), District of Columbia (2016), Hawaii (2018), Oregon (1997), Vermont (2013), and Washington State (2008). In Montana, DWD is legal by State Supreme Court ruling (2009).

Brief History of DWD - MD

1987 - Lawmakers considered HB 948 (introduced by Delegate Judy Toth) to outlaw assisting suicide, but the bill was defeated.

1995 - The *Terminal Illness-Physician Aid In Dying* Bill (HB 933) was introduced in the General Assembly by Delegate Dana Dembrow. A hearing was held, but the bill ultimately was rejected in committee.

1999 - Two Assisted Suicide Prohibition Bills were considered (HB 496 / SB 319). HB 496 passed the House by a vote of 78-54 and the Senate by a vote of 27-20. It was signed into law by Governor Parris N. Glendening (D).

2015 - The *Richard E. Israel and Roger "Pip" Moyer Death with Dignity Act* first introduced in the Senate (SB 676) and House of Delegates (HB 1021). Hearings were held, bill was withdrawn by sponsors.

2016 - Bill was introduced (HB 404 / SB 418) and withdrawn by sponsors after hearings.

2017 - Bill was introduced (HB 370 / SB 354) and withdrawn by sponsors after the House hearing.

Summary of Maryland's 2017 Proposed End of Life Option Act

The most recently proposed Maryland END OF LIFE OPTION ACT (as well as all preceding proposed bills) was based on the Oregon Death with Dignity Act and specifies:

- Only the individual may request medicine to end his/her life.
- An individual must prove he/she is a Maryland resident.
- The attending physician and consulting physician must certify:
 - That the individual has the capacity to make a medical decision.
 - That the prognosis for the individual is that death is likely within 6 months.
- The individual must request a life ending prescription three times:
 - Request 1 is oral;
 - Request 2 is in writing, and signed by the individual and two qualified witnesses;
 - Request 3 is oral, at least 15 days after the initial oral request; and 48 hours after making the written request.
 - One of the witnesses to the written request may not be a relative of the individual and may not benefit from the individual's death.
 - At least once, the individual must be alone with the doctor when the request for medicine to end his/her life is made.

Summary of Maryland's 2017 Proposed End of Life Option Act – continued

- The prescription must be self-administered by the individual.
- The individual may withdraw the request at any time and does not have to use the prescribed medicine.
- Aid in dying by a health care provider is voluntary, but if not participating, the provider shall expeditiously transfer medical records on request.
- A health care facility may prohibit an associated health care provider from participation in this process under certain circumstances.
- Death from the prescribed self-administered medication shall be deemed as death from the underlying illness and recorded as such on the Death Certificate.
- There are criminal penalties for individuals who falsify a written request or coerce an individual with the intent of ending the individual's life.
- The Department of Health and Mental Hygiene must adopt regulations to facilitate the collection of certain information and to produce and make available to the public a yearly report.

View of Medical Community

- American Medical Association has historically been opposed, but is reevaluating their position.
- In September 2016, the Maryland State Medical Society (MedChi) changed its policy from opposed to neutral.
- In 2017, the Massachusetts and Vermont Medical Societies joined medical societies in California, Colorado, Maryland, Maine, Minnesota, Nevada, New York, Oregon, and DC in dropping opposition.
- American Medical Student Association, American Medical Women's Association, American Public Health Association, American College of Legal Medicine, Gay and Lesbian Medical Association are supportive.
- American Academy of Hospice and Palliative Medicine has taken a neutral stance.
- American College of Physicians is opposed.
- In 2018, the American Academy of Neurology decided to retire its 1998 position on "Assisted suicide, euthanasia, and the neurologist" and to leave the decision to the conscientious judgment of its members acting on behalf of their patients.

Opposition to Death with Dignity

- Insurance interference with end of life choices; lethal prescription cheaper than care
- Miracles are possible
- Death by drugs inexact science
- Coercion by family or others, elder or disabled person abuse
- Eliminating the disabled or disadvantaged
- Other end of life alternatives such as hospice or palliative care
- Physicians as gatekeepers
- Slippery slope, guidelines will loosen over time
- Religious opposition

Positive Aspects of DWD

- Patient dignity and autonomy, control over remaining life
- Relief from suffering
- DWD laws have many safeguards
- Overall healthcare financial burden on family reduced
- Patients may arrange goodbyes
- If planned, organs may be harvested and donated
- Improved care at the end of life resulting from discussion of all options
- Reduces stress on dying patients
- Helps family and caregivers prepare for a terminally ill person's death
- Improved physician palliative care training

The most important, but not obvious, positive aspect of DWD is that overall it improves care at the end of life.

DWD laws have more safeguards than other laws/practices designed to ease suffering

	Withdrawal of Life Support (Health Care Decisions Act 1993)	Palliative Sedation 1999	Aid in Dying (Proposed End-of-Life Option Act 2017)	“A Wink & A Nod”
Physician meets alone with patient	No	No	Yes	No
“Cooling Off” period	No	No	15 days	No
Consultation with a second physician	No	No	Yes	No
Two witnesses, one of whom cannot be:				
-an heir	Yes	No	Yes	No
-a relative	No	No	Yes	No
Obtain mental health evaluation if concern about patient’s capacity	No	No	Yes	No
Interpreter	No	No	Yes	No

Concurrence

- The LWVMD DWD Study Group proposes concurrence with the League of Women Voters of Utah who completed an in-depth study and formed a position on this important topic in 2016.
- In 2017, the League of Women Voters of New York State concurred with the LWWUT position.
- Having a position on DWD would enable the League of Women Voters of Maryland to speak on the topic when a bill is introduced in the 2019 Maryland General Assembly legislative session.

Concurrence Question

Should the League of Women Voters of Maryland concur with the Death with Dignity consensus position as written?

League of Women Voters of Utah (LWVUT) position states:

1. The League of Women Voters of Utah believes state laws should grant the option for a terminally ill person to request medical assistance from a relevant, licensed physician to end one's life.
2. The League of Women Voters of Utah believes such legislation should include safeguards against abuse for the dying and/or medical personnel.

Resources and Committee

- The complete LWVUT Death with Dignity study can be found at:
http://lwvutah.org/studies/DeathwithDignity_Final%201-19-16.pdf
- Supporting documents, background materials, and resources for the LWVMD DWD Study Group are available online at: https://www.lwvmd.org/fact_sheets

The LWVMD committee that prepared this study were Erin Brandt, Elizabeth Demulling, Marti Hawkins, Dick Hawkins, Carolyn Hetterick, Sally Hunt, Cathy Keech, Sharalyn Luciani, Peggy Markman, Elaine Naper, Linda Silversmith, and chair, Sandra Bjork