

## Aid in Dying Legislation in Connecticut

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September 12, 2019 | 2019-R-0175

### Issue

Summarize Connecticut's recent "aid in dying" legislation and provide an overview of related testimony.

### Summary

"Aid in dying" laws (sometimes referred to as "death with dignity" laws) provide a procedure for a terminally ill patient to request medication to end his or her life. Connecticut's legislature has considered this legislation in recent years (holding five public hearings on such bills since 2013), but none of these bills have been voted out of committee.

Most recently, the Public Health Committee heard such a bill in 2019 ([HB 5898](#)). This bill allows competent, terminally ill adults to obtain and use prescriptions to self-administer lethal medications under specified conditions. Before a patient may receive an aid in dying prescription, the bill requires the patient to make two written requests to his or her physician at least 15 days apart. Each request must be witnessed by at least two other people.

Among other provisions, the bill does the following:

1. requires a consulting physician to examine the patient, confirm the attending physician's diagnosis, and confirm that the patient is competent and acting voluntarily;

### *Other States*

*Eight states have enacted "aid in dying" laws: California, Colorado, Hawaii, Maine, New Jersey, Oregon, Vermont, and Washington.*

*In addition, while Montana does not have an aid in dying statute, the state's Supreme Court ruled in 2009 that doctors have a defense to prosecution for providing aid in dying to a terminally ill, competent adult patient with that person's consent (*Baxter v. Montana*, 354 Mont. 234 (2009)).*

2. allows only patients themselves, and not anyone acting on their behalf (e.g., agents under a living will or conservators), to request aid in dying;
3. requires the attending or consulting physician to refer the patient for counseling upon determining that the patient may be suffering from a condition causing impaired judgment;
4. establishes several procedural and recordkeeping requirements for attending physicians when they receive a written request for aid in dying and when they determine the patient qualifies;
5. allows patients to rescind an aid in dying request at any time and in any manner; and
6. makes certain fraudulent acts in connection with an aid in dying request punishable as murder.

Over 200 individuals or groups submitted testimony on the bill. Proponents argued, among other things, that (1) decisions about end of life care are extremely personal, and thus terminally ill patients should have access to aid in dying without government interference; (2) the legislation contains sufficient procedural safeguards to protect against abuse or coercion; and (3) the experience of other states has not shown evidence of abusive practices.

Among other arguments, opponents stated that aid in dying laws (1) send an inappropriate signal about the value of human life generally; (2) place patients with severe disabilities at risk of explicit or implicit pressure to choose aid in dying to benefit family members or caregivers; and (3) violate the professional obligation of physicians to do no harm to their patients.

Below is a list of recent versions of the bill and more information on the 2019 bill, including (1) a summary of the process for patients to request aid in dying and for physicians to respond to such requests and (2) an overview of the bill’s other provisions.

## Recent Connecticut Legislation

Since 2013, legislative committees have held public hearings on five aid in dying bills, none of which were voted out of committee. The bills are listed in Table 1.

**Table 1: Aid in Dying Bills Receiving Public Hearings, 2013-2019**

<i>Year</i>	<i>Bill</i>	<i>Committee</i>
2013	<a href="#">HB 6645</a>	Public Health
2014	<a href="#">HB 5326</a>	Public Health
2015	<a href="#">HB 7015</a>	Judiciary
2018	<a href="#">HB 5417</a>	Public Health
2019	<a href="#">HB 5898</a>	Public Health

## **2019 Bill (HB 5898)**

### ***Requesting Aid in Dying (§§ 1-5)***

To request a prescription for lethal medication, the bill requires that a patient who is under a physician's care voluntarily express his or her wish to receive aid in dying and be:

1. an adult (i.e., age 18 or older),
2. a Connecticut resident,
3. competent (i.e., able to understand the nature and consequences of health care decisions, make an informed decision, and communicate it), and
4. determined by his or her attending physician to have a terminal illness (i.e., the final stage of an incurable and irreversible condition that, within reasonable medical judgment, will lead to death within six months).

Before receiving a prescription, a patient must make two written requests to his or her physician, separated by at least 15 days. Each request must be signed and dated by the patient and witnessed by at least two people in the patient's presence.

The bill provides a form for the written requests and requires that a request be substantially similar to that form (§ 4).

Under the bill, a witness to an aid in dying request must attest, in writing, to various issues (e.g., that the patient appears to be of sound mind). A witness cannot be (1) the patient's relative; (2) someone entitled to part of the patient's estate; (3) an owner, operator, or employee of the facility where the patient is receiving treatment or is a resident; or (4) the patient's attending physician.

The bill specifies that a patient may rescind his or her request for aid in dying at any time and in any manner without regard to his or her mental state. Additionally, it requires the patient's attending physician to offer the patient an opportunity to rescind the request for aid in dying (1) when the patient submits his or her second written request and (2) prior to dispensing or prescribing medication for aid in dying (§ 5).

### ***Process to Grant a Prescription (§§ 1, 6-10)***

*Initial Steps to Verify Eligibility (§ 6).* Under the bill, when an attending physician receives a patient's first request for aid in dying, the physician must determine that the patient is a competent adult, has a terminal illness, and is voluntarily making the request. The physician cannot make this determination solely based on the patient's age, disability, or any specific illness. The physician

must also require the patient to demonstrate Connecticut residency (e.g., by showing a driver's license or voter registration card).

The physician must also ensure that the patient is making an informed decision by informing the patient of (1) his or her diagnosis and prognosis; (2) the potential risks and probable results of taking the medication; (3) feasible alternatives, including palliative care; and (4) the availability of counseling with a psychologist, psychiatrist, or licensed clinical social worker.

*Consulting Physician (§§ 6 & 7).* The bill also requires the attending physician to refer the patient to a consulting physician. The consulting physician must confirm the diagnosis and prognosis and determine that the patient is competent, has made the request voluntarily, and has made an informed decision. The consulting physician must examine the patient and the patient's medical records.

The consulting physician must be qualified by specialty or experience to make such a diagnosis and prognosis. He or she must not routinely share office space with the patient's attending physician.

*Counseling Referral (§ 8).* Under the bill, if either the attending or consulting physician believes the patient's judgment is impaired by a psychiatric or psychological disorder (including depression), then that physician must refer the patient for counseling to determine the patient's competency to request aid in dying.

*Steps after Second Written Request (§ 9).* Under the bill, after both physicians determine that the patient is qualified to obtain aid in dying, and the patient submits the second written request, the attending physician must take other specified steps, as follows:

1. recommend that the patient notify his or her next-of-kin of the prescription request (but the physician may not require that the patient do so);
2. counsel the patient on the importance of having someone else there when the patient takes the medication and of not taking it in public;
3. tell the patient that he or she may rescind the request at any time and in any manner;
4. verify that the patient is making an informed decision immediately before dispensing or prescribing the medication; and
5. document specified information in the patient's medical record (see § 10).

If all of these requirements are met, the physician may dispense the medication directly, or a pharmacist may dispense it if the patient consents in writing.

The bill requires the person signing the patient's death certificate to list the patient's underlying terminal illness as the cause of death.

### ***Other Provisions (§§ 11-19)***

The bill contains several other provisions concerning aid in dying requests and the legal consequences of specified related actions. For example, the bill provides the following:

1. a qualified patient's act of requesting aid in dying or self-administering such medication does not constitute suicide for any purpose, including criminal laws on assisted suicide (§ 12);
2. health or life insurance policies cannot be conditioned upon or affected by a patient's request for aid in dying or rescinding such a request (§ 12);
3. physicians and other health care providers are not required to participate in providing aid in dying medication to a patient (§ 13);
4. a health care facility cannot require a provider to participate in providing this medication (§ 13);
5. a health care facility may adopt a policy prohibiting providers associated with the facility from participating in providing this medication, and under certain circumstances the facility can impose sanctions on providers who fail to comply with that policy (§ 13);
6. certain fraudulent acts related to aid in dying requests are punishable as murder if committed with the intent or effect of causing the patient's death, such as (a) willfully altering or forging such a request or (b) coercing or exerting undue influence on a patient to complete a request (§ 14);
7. physicians, patients, and others who adhere to the act's requirements are protected from criminal prosecution, civil liability, or professional disciplinary action, but the bill does not limit civil liability for damages resulting from negligence or intentional misconduct (§§ 15 & 16); and
8. attending physicians, consulting physicians, witnesses to aid in dying requests, and other persons who participate in the provision of such medication are prohibited from inheriting from the patient (§ 19).

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