



## **New End Of Life Option: New York Medical Aid in Dying Act (“MAID”)**

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### **1. New York Law Status**

The New York Medical Aid in Dying Act (MAID) was passed as legislation (A136, S138) and officially signed into law on **February 6, 2026**. Implementation to begin on **August 5, 2026**.

### **2. Eligibility Criteria for Use of MAID: Qualifying Patient**

- Applicants must be New Yorkers, 18 years of age or older.
- The patient must have a medically certified illness that is incurable and irreversible, with a prognosis likely to result in death within six months.
- The patient must be mentally capable and able to provide informed consent.
- The patient must be free of outside or undue influence in their decision-making process.
- The patient must be able to self-administer the prescribed medication, specifically using the term “ingest.” No assistance is permitted.

### **3. Initiating a Request for MAID**

- The qualifying patient must make both **an oral and written request** for life-ending medication to **their attending physician** who is required to inform the patient of alternative end-of-life care options, such as hospice and palliative care. No other person or agent is permitted to make this request on their behalf.
- Requests must be witnessed by two disinterested individuals and cannot be family members, people with estate interests, treating healthcare or residential providers, or individuals appointed as Health Care Agents or Powers of Attorney.

### **4. Steps Before MAID Prescription Can Be Filled: Provisions and Protections**

- **Two physicians** must certify that the patient has a terminal illness. One may be the treating physician (**who must see the patient in person**), and the second is a consulting physician who must review the patient’s medical records and provide a written report confirming capacity and voluntary action and certify that the patient is not being coerced and is providing informed consent. The attending physician must make a permanent record of all these actions.
- A mandatory mental health evaluation is required, conducted by a psychologist, neurologist, or psychiatrist, who must provide a written evaluation of capacity.
- Capacity is the ability to understand and appreciate the nature and consequences of health care decisions, including the benefits, risks, and alternatives to any proposed health care, including medical aid in dying, and to reach an informed decision.

- There is a five-day waiting period after the prescription is written before it is filled, unless there is a belief that the patient will die within that period. The patient may rescind or withdraw the request at any time.
- The patient must be able to self-ingest the medication; health care professionals are prohibited from assisting.

### **5. Other Specialized Law Provisions**

- No physician or health care provider is required to participate in MAID; and medical providers who comply with the law are granted civil and criminal immunity.
- Medical and life insurance benefits remain unaffected by the use of MAID. Death certificates must cite the underlying illness as the cause of death.
- Any non-written request for MAID medication must be recorded by audio or video and preserved in the medical record.

### **6. Cautions and Advocacy:**

- It will not apply to individuals who lack full capacity. In applying one may have to prove capacity, raising questions about how to make the ultimate capacity decision.
- Limited available and qualified mental health professionals needed for the required evaluations, particularly in rural upstate areas.
- Consult with your physicians and mental health professionals if they will assist with the MAID process or if they refer out to others.
- Consider incorporating language about MAID in health care directives. As a Health Care Agent (Health Care Proxy), one may be asked to assist in the planning and contacting providers. The Health Care Agent needs to understand the law and their role in arranging for MAID when accepting their appointment as agent.

### **Resources**

- **End of Life Choices New York** (244 5th Avenue #2010, New York, NY 10001) – <https://endoflifechoicesny.org/>.

Contact: (212) 726-2010 / [info@eolcnyc.org](mailto:info@eolcnyc.org)

- **The Conversation Project** – <https://theconversationproject.org/>

Contact: [conversationproject@IHI.org](mailto:conversationproject@IHI.org)

- **Compassion & Choices** – <https://compassionandchoices.org/>

Contact: (800) 247-421