

Model Bill: The Capacity-Based Medical Aid in Dying Act (US)

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Abstract

Note to Legislative Counsel: This model bill is designed to replace or amend existing MAiD statutes (which rely on terminal prognoses) with a strict decisional-capacity standard. It incorporates the “structural accountability mechanism” reporting requirements.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Capacity-Based Medical Aid in Dying Act.”

SECTION 2. LEGISLATIVE INTENT.

The Legislature finds and declares that:

- (a) The right to bodily autonomy includes the right of a competent adult to choose a peaceful death.
- (b) Current statutes restricting Medical Aid in Dying (MAiD) to individuals with a terminal prognosis of six months or less are arbitrary and philosophically inconsistent with the established right to refuse life-sustaining medical treatment.
- (c) Eligibility for MAiD must be based on a rigorous assessment of an individual’s decisional capacity, rather than a subjective assessment of suffering or life expectancy.
- (d) The state has a compelling interest in ensuring that requests for MAiD are not driven by systemic failures to provide adequate healthcare, housing, or disability support. Therefore, mandatory socio-economic data collection is required to hold the state accountable for the conditions that precipitate MAiD requests.

SECTION 3. DEFINITIONS.

As used in this Act:

- **(a) “Attending Physician”** means the physician who has primary responsibility for the care of the patient and treatment of the patient’s condition.
- **(b) “decisional capacity”** means the ability to understand and appreciate the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.
- **(c) “Independent Psychiatric Evaluator”** means a licensed psychiatrist who is not the attending physician and is not related to the patient by blood or marriage.

SECTION 4. ELIGIBILITY.

An adult (18 years of age or older) who is a resident of this state shall be eligible to request and receive Medical Aid in Dying if they meet the following criteria:

1. They have made a voluntary, written request for MAiD.
2. They have undergone the two-stage capacity assessment as defined in Section 5 and have been found to possess durable decisional capacity.

SECTION 5. TWO-STAGE CAPACITY ASSESSMENT.

- **(a) Stage One (Initial Assessment):** The attending physician must determine that the patient possesses decisional capacity and that the request is voluntary and not the result of acute coercion.
- **(b) Waiting Period:** Following the Stage One assessment, there shall be a mandatory waiting period of no less than 90 days for applicants whose natural death is not reasonably foreseeable. For applicants with a terminal prognosis, no mandatory waiting period is required, and provision may occur as soon as is feasibly possible.
- **(c) Stage Two (Independent Psychiatric Review):** Following the waiting period, the patient must be evaluated by an Independent Psychiatric Evaluator.
 - (1) The Evaluator must certify that the patient possesses durable decisional capacity.

- (2) A diagnosis of clinical depression or other mental health disorder shall *not* automatically disqualify a patient. The Evaluator must determine if the disorder actively impairs the patient's ability to make a rational, informed, and durable decision regarding MAiD. If it does not impair capacity, the patient remains eligible.

SECTION 6. THE STRUCTURAL ACCOUNTABILITY MECHANISM (SOCIOECONOMIC REPORTING).

- (a) Prior to the prescription of MAiD medication, the attending physician must conduct a standardized interview regarding the primary drivers of the patient's request.
- (b) The attending physician must report to the State Department of Health the extent to which the following factors influenced the patient's decision:
 - (1) Inability to access or afford necessary medical care, palliative care, or psychiatric care.
 - (2) Inability to access or afford adequate housing.
 - (3) Lack of sufficient disability support services or home-care assistance.
- (c) The State Department of Health shall compile this data into an annual, anonymized public report.
- (d) Under no circumstances shall the presence of socioeconomic drivers invalidate a capacitated patient's eligibility for MAiD. The data is collected solely for the purpose of state accountability and policy reform.

SECTION 7. IMMUNITY.

No physician, pharmacist, or healthcare provider who participates in good faith compliance with this Act shall be subject to civil liability, criminal prosecution, or professional disciplinary action.