Washington State (2009-)

Washington State's *Death With Dignity Act*, based on Oregon's, came into operation on 9 March 2009. It was significantly amended effective from 23 July 2023.

The amended Act allows for one of the two "qualified medical providers" who "medically confirm" that the applicant has a terminal illness which "will, within reasonable medical judgement, produce death within six months" to be a "physician assistant" or "advanced registered nurse practitioner".

The two assessing medical providers must not have "a direct supervisory relationship with each other".

Physician assistants in Washington operate under the provisions of Chapter 18.71A of the Revised Washington Code. It provides for physician assistants "to practice medicine according to a practice agreement with one or more participating physicians, with at least one of the physicians working in a supervisory capacity." There is nothing in the Act to prevent a physician assistant signing off as the second medical provider on an assisted suicide assessment made by one of the participating physicians at the same practice who is not the direct supervisor of the physician assistant.

The provision treating an assessment by a "physician assistant" that person will die within six months as a making that prognosis "medically confirmed" necessarily increases the risk of wrongful deaths from errors in diagnosis and prognosis. The evidence set out below indicates that even where the two assessing medical providers were physicians, between 5% and 17% of applicants for assisted suicide assessed as dying within six months outlived this erroneous prognosis.

The amendments also reduced the required waiting period between an initial request and a final written request from 15 days to 7 days, and also abolished the further 48 hours previously required between a final written request and the writing of the prescription for the lethal substance.

Increase in numbers

Deaths from lethal substances prescribed under the Act increased more than eightfold from 51 in 2010 to 427 in 2023, accounting for 0.64% of all deaths in Washington that year[1]

Lethal substances unaccounted for in the community

Not all of those who are prescribed lethal drugs end up taking them. Some die of natural causes.

There is no tracking of lethal drugs that are not used by those for whom they are prescribed so these lethal drugs are available in the community and could be used accidentally or intentionally to cause death.

Pain control not the issue but being a burden is

59% of those for whom a prescription for lethal substances was provided in 2023 did not cite any concern about pain control as a reason for asking for the prescription.

However, 51% cited concerns about being a burden on family, friends or caregivers and 10% cited concerns about the financial implications of treatment.[2]

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[1] http://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/DeathwithDignityAct/DeathwithDignityData

[2] https://doh.wa.gov/sites/default/files/2025-01/422-109-DeathWithDignityAct2023.pdf

Poor screening for mental health and short term doctor patient relationships

In 2018 just 4% of those given a lethal prescription were referred to a psychiatrist or psychological for evaluation. For 2023 the numbers referred were so low that the data had to be suppressed under the "Department Small Numbers Guidelines"!

The amendments to the Act which came into effect in July 2023 now allow for the referral for a mental health screening to made to a social worker, a mental health counsellor or a psychiatric nurse practitioner. This can only increase the risk of wrongful deaths of those with mental illness.

In 2018 in some cases the prescribing doctor knew the patient for less than a week before writing the prescription, and in half the cases (50%) the doctor knew the patient for less than 25 weeks.[3]

This information is not provided in the annual reports from 2019 onwards.

Faulty prognosis

Although the Act specifies that only persons who have a disease that will "produce death within six months" may request lethal doses of medication from a physician, the data shows that in each year between 5% and 17% of those who die after requesting a lethal dose do so more than 25 weeks later with one person in 2012 dying nearly 3 years (150 weeks) later, one person in 2015 dying nearly two years later (95 weeks); one person in 2016 dying more than two years (112 weeks) later and one person in 2018 dying more than two years (115 weeks) later.[4]

From 2019 this information is not available. The 2023 annual report only states that 6% of those who died after being prescribed a lethal dose died more than 120 days (four months) after first request.[5]

Not a peaceful death

In 2018 one person took one full day and six hours (30 hours) to die after ingesting the lethal dose. In 2017 one person took 6 hours to lose consciousness after ingesting the lethal dose and one person took 35 hours to die after ingesting the lethal dose. In 2016 one person took 11 hours to lose consciousness after ingesting the lethal dose. In 2015 one person took 72 hours (3 days) to die after ingesting the dose. In 2013 one person took 3 hours to lose consciousness after ingesting the lethal dose and one person took 41 hours (1 day and 17 hours) to die after ingesting the dose. In 2009 two people awakened after initially losing consciousness. In 2014 one person suffered seizures after ingesting the lethal medication. At least 18 patients have regurgitated the lethal medication. Seven of these cases occurred in 2016 alone. In 2018 some 8 people (4.25% of those for whom information is available) experienced "Regurgitation, Seizures, Awakening or Other" complications. The report does not specify how many people experienced each of these.[6]

This may be related to the use of new experimental cocktails of lethal drugs being used since the price of the previously used drugs, secobarbital and pentobarbital (Nembutal), escalated.

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[3] Ibid., Table 3 on p.12

[4] Washington State Department of Health, *Death with Dignity Act Reports,* 2009-2018 available at: http://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/DeathwithDignityAct/DeathwithDignityData

[5] https://doh.wa.gov/sites/default/files/2025-01/422-109-DeathWithDignityAct2023.pdf

[6] Washington State Department of Health *2018 Death with Dignity Act Report*, Table 4 on p. 13, https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-109-DeathWithDignityAct2018.pdf

The first of the new cocktails is a mix of phenobarbital, chloral hydrate and morphine sulfate. It was prescribed in 88 cases in 2015 and 106 cases in 2016 but no longer prescribed in 2017 no doubt due to the fact that it was found to be very caustic and to cause a profound burning in the throat.[7]

The second experimental cocktail includes morphine sulfate, propranolol, diazepam, digoxin and a buffer suspension. It was prescribed used in 4 cases in 2015, 53 cases in 2016, 130 cases (66%) in 2017 and 195 (78%) in 2018.[8]

The annual reports from 2019 onwards do not report on complications, on which lethal drugs were used or on the full range of times between ingestion and loss of consciousness or ingestion and death. In 2023, 23 people (6.5%) took between 10 and 20 minutes to lose consciousness, and perhaps 5 more took more than 20 minutes (but how much longer is not reported). 17.75% of people took more than two hours to die, but how much longer than 2 hours is not reported.[9]

If they struggled who would know?

There is no requirement under the Act for a physician or any other person to be present when the lethal dose is ingested. Between 2009 and 2018 there were 240 cases where no health-care provider was present when the lethal dose was ingested and a further 178 cases where it is not known if a health-care provider was present.[10] In other words in some 418 cases people have died ingesting a dose of lethal medication, legally prescribed under Washington law, and nobody knows whether the person freely ingested the lethal dose or they were cajoled, coerced or forced to do so by another person.

Failure to enforce compliance

As of 26 May 2022, for 46 out of 400 applicants who were prescribed a lethal substance in 2021 the most basic document – the Written Request for Medication to End Life Form – had not been received although it is a legal requirement that the attending physician do so within 30 days of writing the prescription. No disciplinary action seems to ever have been taken to address this significant rate (11.5%) of non-compliance with the law.

Conclusion

Washington continues its experiment with prescribing various cocktails of lethal drugs to be taken, often with no witness present, leaving people at risk of distressing complications and at risk of being killed by a family member or someone else interested in their early death.

It has reduced the information contained in its annual reports since 2019, continues to fail to enforce compliance despite a significant rate of basic non-compliance by attending physicians, and

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[7] JoNel Aleccia, "In Colorado, a low-price drug will tamp down cost of death", *USA Today*, 15 Dec 2016, https://www.usatoday.com/story/news/2016/12/15/kaiser-colorado-low-price-drug-cocktail-tamp-down-cost-death-dignity/95490168/

[8] Washington State Department of Health *2016 Death with Dignity Act Report*, p. 9, https://www.doh.wa.gov/Portals/1/Documents/Pubs/422-109-DeathWithDignityAct2016.PDF

[9] Washington State Department of Health *2021 Death with Dignity Act Report*, Table 3 on p.8-9, https://doh.wa.gov/sites/default/files/2022-11/422-109-DeathWithDignityAct2021.pdf

[10] Washington State Department of Health, *Death with Dignity Act Reports,* 2009-2018 available at: http://www.doh.wa.gov/YouandYourFamily/IllnessandDisease/DeathwithDignityAct/DeathwithDignityData

from July 2023 amended the law in a manner likely to increase wrongful deaths from errors in diagnosis and prognosis as well as of those with mental illness.

In 2025 it was announced that due to funding cuts the annual report for 2024 would be the final report.