

Eligibility for Oregon's Law

To be eligible to receive a prescription for medication to hasten death, a patient must be:

- An adult resident of Oregon;
- Capable (able to make and communicate health care decisions); and
- Diagnosed with a terminal illness, likely to result in death within 6 months.

Eligible patients undergo a thorough screening and application process:

- The patient makes three requests, two oral and one written;
- Two individuals witness the written request and one witness may be neither a family member, heir or health care provider;
- The physician explains the patient's diagnosis and prognosis and offers hospice care, pain control and other comfort care;
- A second physician confirms the diagnosis and prognosis and that the request is voluntary, enduring and not prompted by impaired judgment.
- If either physician suspects psychological impairment the patient is referred for evaluation and counseling by a psychologist or psychiatrist;
- Fifteen days separate the first request and the writing of a prescription. Forty-eight hours separate the written request and the writing of the prescription;
- The physician must ask the patient to notify next-of-kin and reinforce that the request may be rescinded at any time;
- Both physicians and the pharmacist who fills the prescription submit detailed reports to the Oregon Department of Human Services.

For more information on Oregon's law:
www.compassionindying.org

Timeline of Legal Aid in Dying

1987, 1989, 1991 Oregon State Senator Frank Roberts sponsors legislation granting individuals options for the end of life. None ever leaves committee.

April 1993 At the peak of the AIDS epidemic, eleven activists establish Compassion in Dying in Seattle, Washington and publicly declare their intention to counsel mentally competent, terminally ill patients on aid in dying. The organization publishes specific eligibility criteria, guidelines, and safeguards and volunteers to attend deaths, so clients who choose aid in dying do not have to die alone. Compassion's medical model of aid in dying begins to evolve with client assessment, professional referrals, an interdisciplinary team of volunteers and self-administered medication.

July 1993 Oregon Right to Die, Political Action Committee (PAC) is founded by Eli Stutsman, Peter Goodwin, Myriam Coppens, Margaret Grosswiler and Elven Sinnard in order to create and achieve passage of Oregon's Death with Dignity Act.

January 1994 Compassion in Dying files a legal challenge to Washington's ban on aid in dying in *Compassion et al v. Washington*. Compassion lawyers represent four physicians and three terminally ill patients in the case that later becomes known as *Washington v. Glucksberg*.

July 1994 Compassion's second constitutional challenge begins when three New York physicians and three terminally patients challenge that state's ban on aid in dying. The case name is *Quill et al v. Roppell* but later becomes known as *Vacco v. Quill*.



November 1994 Oregon voters approve Measure 16, the Oregon Death with Dignity Act, by 51 percent to 49 percent. Elven Sinnard (left), Peter Goodwin, M.D. (right), and Barbara Coombs Lee are chief petitioners.

December 1994 In response to a lawsuit (*Lee v. Oregon*) brought by the National Right to Life Committee, U.S. District Judge Michael Hogan enjoins Oregon's aid in dying law on the grounds that it endangers the plaintiffs, who oppose the new law. The injunction keeps aid in dying illegal in Oregon.

August 1995 Judge Hogan rules the Oregon Death with Dignity Act is unconstitutional because it discriminates against the terminally ill.

February 1996 Compassion in Dying publishes data of its first thirteen months experience in Washington State in an article titled “Observations Concerning Terminally Ill Patients Who Choose Suicide.” The authors report that while many terminally ill patients request information, only a few take medication to hasten death.

March—April 1996 Appellate courts on opposite sides of the country rule in Compassion’s lawsuits that the right of a terminally ill person to receive medication to hasten death is protected by the U.S. Constitution. An eleven-judge panel of the Ninth Circuit rules that absolute criminalization of aid in dying violates liberty and privacy protections. One month later the Second Circuit rules that banning aid in dying violates equal protection principles because people kept alive on machines can stop them to achieve a peaceful death but those with no machines have no recourse. The cases now known as *Washington v. Glucksberg* and *Vacco v. Quill* are on their way to the U.S. Supreme Court.

February 1997 The Ninth Circuit Court of Appeals reverses Judge Hogan’s ruling, orders him to lift his injunction against the Oregon Death with Dignity Act and dismisses the lawsuit. Plaintiffs seek a review at the U.S. Supreme Court and the law remains in limbo.

June 1997 Under enormous pressure from Oregon Right to Life and Oregon Catholic Conference, Oregon’s legislature forces a special election to repeal the Death with Dignity Act. No similar attempt to overturn the will of Oregon voters had occurred since 1908.

June 1997 The U.S. Supreme Court reverses both the Second Circuit and the Ninth Circuit in *Washington v. Glucksberg* and *Vacco v. Quill*. It finds state laws barring aid in dying are not unconstitutional and refers the issue to the political process within states. The Supreme Court concluded, “Throughout the Nation, Americans are engaged in an earnest and profound debate about the morality, legality and practicality of [physician aid in dying]. Our holding permits this debate to continue, as it should in a democratic society.”

October 27, 1997 The U.S. Supreme Court having denied plaintiff’s request for review of *Lee v. Oregon*, the U.S. District Court is forced to lift its injunction and The Death with Dignity Act finally becomes available to Oregonians.

November 1997 On election day voters defeat the repeal initiative by a relative landslide, 60 percent to 40 percent. The next day the Administrator of the

Federal Drug Enforcement Administration, with prodding from Congressman Henry Hyde and Senator Orrin Hatch, issues a letter stating Oregon’s law violates the federal Controlled Substances Act. The administration announces the Department of Justice will determine whether this is a correct interpretation of the law. Ray Frank becomes the first person known to ask to use the law. After deciding he does not need to use his gun because he can use the law, Frank dies peacefully during the fifteen-day waiting period.

March 1998 Compassion’s client “Helen” becomes the first known American to take medication legally to hasten death. After a twenty-two year battle with cancer, she dies peacefully surrounded by family.

June 1998 Attorney General Janet Reno issues her interpretation that the Controlled Substances Act does not authorize the federal government to act against doctors complying with Oregon law. The same day Congressman Henry Hyde introduces the Lethal Drug Abuse Prevention Act (LDAPA) to create a federal crime of intending to cause death with a controlled substance. U.S. Senator Don Nickles introduces an identical bill in the U.S. Senate. Medical and patient advocacy groups see the bill as a threat to pain care for the terminally ill. Despite predictions of easy passage, the bill never reaches a vote in either chamber.

February 1999 *The New England Journal of Medicine* publishes Oregon’s first-year statistics on aid in dying. The data bring international media attention to the successful stewardship of the law. Twenty-four people received prescriptions under the law and sixteen used the medication to hasten death.

October 1999 U.S. House of Representatives passes the Pain Relief Promotion Act (PRPA) by 271 to 156. Like LDAPA, Henry Hyde’s new bill would nullify Oregon law and threaten pain care throughout the nation.

February 2000 Oregon officials report on the second year of aid in dying. Thirty-three people received prescriptions and twenty-seven died after taking the medication.

October 2000 After a courageous and diligent filibuster threat by Oregon Senator Ron Wyden the 106th Congress adjourns with the PRPA defeated and Oregon’s law intact.

November 2000 Maine voters consider a referendum to adopt an Oregon-style aid in dying law and narrowly reject it, 51.5 percent to 48.5 percent.

February 2001 Oregon officials report on the third year of aid in dying. Thirty-nine people received prescriptions and twenty-seven died after taking the medication.

November 2001 On election day, shortly after 9/11, Attorney General John Ashcroft issues a Directive based on his opinion that the federal Controlled Substances Act authorizes him to prosecute doctors who prescribe medications for aid in dying in Oregon and elsewhere. If enforced, the Ashcroft Directive would overturn two statewide elections and nullify the votes of more than 650,000 Oregonians. Within forty-eight hours Compassion joins the state of Oregon in a legal challenge. In order to prevent irreversible harm to terminally ill Oregonians who depend on the choice of aid in dying, U.S. District Court Judge Robert E. Jones issues a restraining order, preventing the Ashcroft Directive from being enforced.

February 2002 Oregon officials issue the fourth-year report on aid in dying. In 2001 forty-four people received prescriptions and twenty-one used the medication to hasten their death.

April 2002 Judge Jones rules that Attorney General Ashcroft has no authority to intervene in the practice of medicine in Oregon. Oregon's Death with Dignity Act remains in place.

September 2002 John Ashcroft's Department of Justice appeals its loss to the U.S. Court of Appeals. Court filings include briefing from both sides and from a host of Amici Curiae (friends of the court) who submit arguments on their view of aid in dying in Oregon and the political process. Medical groups contend the Ashcroft Directive, like the failed congressional bills, would place physicians in an untenable position and deter pain treatment for dying patients.

February 2003 Oregon authorities release five years of data on the state's experience with aid in dying. A total of 198 patients have completed the process to obtain life-ending medication. Of those, 129 took medication to hasten their death. Approximately 150,000 Oregonian residents have died of all causes over this time.

May 2003 A three-judge panel of the Ninth Circuit Court of Appeals hears arguments from the state of Oregon, Compassion, and physicians and pharmacists on one side, and from Department of Justice lawyers on the other in *Oregon v. Ashcroft*. A ruling had not been issued at the time of this writing, August 2003.