

HOUSE BILL 140

ARE MY LEGAL DOCUMENTS AFFECTED BY THIS NEW LAW?



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The **End-of-Life Options Act** was signed into law on May 20, 2025. This law allows terminally ill adults to request medication to end their life with the assistance of medical professionals. The law includes safeguards to ensure the process is voluntary and informed.

To qualify, a Delaware resident must have:

- A terminal diagnosis (6 months or less to live) as confirmed by 2 medical professionals;
- Decision-making capacity; and
- Satisfied the request process for medication to end life (2 oral and 1 written request required).

Key Protections

- Only the patient can request the medication for themselves
- A physician must discuss all other end-of-life options with the patient (pain management, hospice, etc.)
- Two waiting periods are required before medication can be prescribed
- Two medical professionals must agree on the diagnosis, prognosis, and patient's cognition
- Patients can change their mind at any time
- Insurance companies cannot deny benefits or pressure patients based on this option

More information can be found: <https://legis.delaware.gov/BillDetail?LegislationId=141725>

Q: Does this new law affect my Advance Health Care Directive?

A: No. Advance Health Care Directives allow a person to identify their life sustaining treatment preferences, their wishes for organ donation, and to name an Agent(s) to carry out those medical wishes, *if the creator is unable to express their own medical wishes*. This document is reserved for incapacity and The End-of-Life Options Act is only available to patients who still have decision making ability.

Q: If The End-of-Life Options Act interests me do I still need an Advance Health Care Directive?

A: Yes. You should still have an Advance Health Care Directive regardless of your interest in the End-of-Life Options Act. These documents serve different purposes and apply in different situations.

Q: Am I required to update my existing estate plan because of this new law?

A: No. The End-of-Life Options Act doesn't require changes to your existing estate plan. Your Trusts, Wills, Powers of Attorney, and Advance Health Care Directives remain valid and unaffected by this law.

Q: Can my Agent(s) under my Power of Attorney agent make this end-of-life decision for me?

A: No. The law specifically states that no one can request this medication on behalf of another person. Unlike other healthcare decisions that might be made by an Agent, this decision cannot be delegated to anyone else.

Q: If I move to a nursing home or care facility, would that affect my right to use this option?

A: It might. The law allows healthcare institutions to prohibit this practice on their premises. When considering long-term care facilities, you may want to inquire about their policies regarding the End-of-Life Options Act.

Q: Are there any special estate planning considerations if I'm diagnosed with a terminal illness and considering this option?

A: While not directly related to this law, a terminal diagnosis is always a good time to review your estate plan to ensure it reflects your current wishes. We recommend ensuring your documents are updated, beneficiary designations are current, and considering whether accelerating any planned gifts might be appropriate.