

Oregon

[Excerpted from: [Carter v. Canada \(Attorney General\), 2012 BCSC 886 \(CanLII\)](#)]

[392] The *ODDA* [Oregon's *Death With Dignity Act*] permits a physician to prescribe "medication for the purpose of ending [the patient's] life in a humane and dignified manner" (s. 2.01). The patient self-administers the medication. The *ODDA* does not permit euthanasia, expressly stipulating that nothing in the Act "shall be construed to authorize a physician or any other person to end a patient's life by lethal injection, mercy killing or active euthanasia" (s. 3.14).

[393] Section 2.01 specifies the criteria that qualify a patient to make a request for medication. The patient must:

- (a) be over the age of 18;
- (b) be a resident of Oregon;
- (c) be capable (defined as having the ability to make and communicate health care decisions);
- (d) be diagnosed by the attending and consulting physician to be suffering from a terminal disease (a "terminal disease" being defined as an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months) (s. 1.01); and
- (e) have voluntarily expressed in writing his or her wish to die.

[394] The *ODDA* includes the following procedural safeguards to ensure the foregoing criteria are satisfied:

- (a) The patient must make two oral requests and one written request over 15 days (s. 3.06), the latter signed by two witnesses attesting that the patient is capable, acting voluntarily and is not being coerced to sign the request. One of the witnesses must be a person who is not related to the patient and has no material interest in the patient's death (s. 2.02).
- (b) The attending physician must (s. 3.01):
 - (i) confirm that the patient has a terminal disease, is capable and has made the request voluntarily;
 - (ii) inform the patient of: his or her medical diagnosis and prognosis; the potential risks and probable results of taking the medication to be prescribed; and, feasible alternatives, including comfort care, hospice care and pain control (all with the aim of ensuring the patient is making an informed decision);

- (iii) refer the patient to a consulting physician for medical confirmation of the diagnosis and for a determination that the patient is capable and acting voluntarily;
 - (iv) refer the patient to counselling if appropriate;
 - (v) recommend that the patient notify next of kin of his or her request for medication (though a patient who declines will not have his or her request denied for that reason);
 - (vi) counsel the patient about the importance of having another person present when the patient takes the prescribed medication and of not taking the medication in a public place;
 - (vii) inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the 15-day waiting period;
 - (viii) verify, immediately prior to writing the prescription, that the patient is making an informed decision;
 - (ix) document in the patient's medical record the fulfillment of all of the statutory conditions.
- (c) If either the attending or consulting physician is of the view that the patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, he or she must refer the patient for counselling. No medication will be prescribed until the individual prescribing the counselling determines that the patient is not suffering from such impaired judgment (s. 3.03).
- (d) No less than 48 hours must elapse between the patient's written request and the writing of a prescription under the *ODDA*.

[395] The patient may rescind the request at any time and in any manner (s. 3.08).

[396] Death pursuant to the *ODDA* is not considered suicide for other purposes (s. 3.07).

[397] The Oregon Health Division ("OHD") monitors compliance with the Act. All physicians who prescribe under the *ODDA* are required to notify the OHD and provide documentation that legal requirements are met. If the legal requirements are not met, the physician is reported to the state licensing board. Pharmacists are also required to file a dispensing report with the OHD.