STATE OF MAINE

DEATH WITH DIGNITY ACT REPORTING RULE

10-146 CODE OF MAINE RULES
CHAPTER 15

Department of Health and Human Services
Maine Center for Disease Control and Prevention
11 State House Station
Augusta, Maine 04333-0011

Effective Date: September 19, 2019 (Emergency Major Substantive Rule)

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SECTION 1. PURPOSE AND DEFINITIONS

A. **Purpose.** This rule implements 22 MRS chapter 418, the Maine Death with Dignity Act, and specifies the Department's authority to collect and use information related to patient-directed care at the end of life.

B. **Definitions.** As used in this rule, unless the context indicates otherwise, the following terms have the following meanings:

1. **Act** means the Maine Death with Dignity Act, 22 MRS Chapter 418.

2. **Attending physician** means the physician who has primary responsibility for the care of a patient and the treatment of that patient's terminal disease.

3. **Competent** means that, in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating, if those persons are available.

4. **Consulting physician** means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a patient's disease.

5. **Department** means the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

6. **Form** means a form prescribed by the Department that the Department requires to be completed for purposes of compliance with this rule. Forms that are missing required signatures, dates or information will not be considered valid or acceptable.

7. **Life-ending medication** means the medication prescribed or dispensed by a licensed healthcare provider in accordance with the Act to be self-administered by the qualified patient suffering from a terminal disease to end the qualified patient's life in a humane and dignified manner.

8. **Physician** means a doctor of medicine or osteopathy licensed pursuant to 32 MRS chapter 48 or 36.

9. **Qualified patient** means a competent adult who is a resident of this State and who has satisfied the requirements of the Act in order to obtain a prescription for medication that the qualified patient may self-administer to end the qualified patient's life in a humane and dignified manner.

SECTION 2. SCOPE

This rule applies to healthcare providers involved in the decisions pursuant to the Act. This rule establishes reporting requirements related to patient-directed care at the end of life and responsibilities of healthcare providers participating in specific conduct under the Act. This rule does not require a healthcare provider to provide life-ending medication to a qualified patient.

SECTION 3. RESPONSIBILITIES OF HEALTHCARE PROVIDERS

A. **Compliance.** The attending physician must verify that all requirements of the Act have been met before prescribing or dispensing life-ending medication. The attending physician is responsible for ensuring that copies of all required forms are received by the Department. The attending physician must ensure that each original, completed form is retained in the qualified patient's medical record. Copies of required forms must be filed within 30 days after the date the prescription for life-ending medication is written, unless otherwise specified.

B. **Request for Medication to End My Life in a Humane and Dignified Manner.** The Request for Medication to End My Life in a Humane and Dignified Manner Form must be used for all written requests for life-ending medication. This form must be completed by the patient and two witnesses no sooner than 15 days following the patient's first verbal request for life-ending medication, in accordance with 22 MRS §§ 2140(5) and 2140(24). A copy of the completed form must be provided to the qualified patient.

1. **Witnesses.** The qualified patient's signature on this form must be witnessed by at least two individuals who, in the presence of the qualified patient, attest that to the best of their knowledge and belief, the patient is competent, is acting voluntarily, and is not being coerced to sign the request. One witness must be a person who is not a relative of the patient by blood, marriage, or adoption; a person who at the time the form is signed would be entitled to any portion of the estate of the patient upon death, under any will or by operation of any law; or an owner, operator or employee of a health care facility where the patient is receiving medical treatment or is a resident.

    a. **Attending Physician.** The patient's attending physician at the time the written request is signed may not be a witness.

    b. **Patient in a Long-Term Care Facility.** If the patient resides in a long-term care facility at the time of the patient's written request, one witness must be a licensed healthcare provider designated by the facility. The facility's designee may be an owner, operator or employee of the healthcare facility where the patient resides.

C. **Interpreter Attachment.** The Interpreter Attachment Form is only required if an interpreter is used pursuant to 22 MRS § 2140(5)(B), to interpret conversations or consultations between the patient and the patient's attending or consulting physician in a language other than English, regarding the written request for life-ending medication. If an interpreter is used, this form, containing the elements required by 22 MRS § 2140 (25), must accompany the Request for Medication to End My Life in a Humane and Dignified Manner Form.

1. **Interpreter Limitations.** The interpreter must not be a person who is a relative of the patient by blood, marriage, or adoption; a person who at the time the written request is signed would be entitled to any portion of the estate of the patient upon death, under any will or by operation of any law; or an owner, operator, or employee of a health care facility where the patient is receiving medical treatment or is a resident.

D. **Consulting Physician End-of-Life Care Form.** The Consulting Physician End-of-Life Care Form, containing the reporting requirements of 22 MRS §§ 2140 (7) and 2140 (14)(D), must be completed by the consulting physician who has examined the patient, has reviewed the patient's medical record, and who has confirmed the medical opinion of the attending physician that the

patient is suffering from a terminal disease and has verified that the patient is competent, is acting voluntarily, and has made an informed decision.

E. Attending Physician End-of-Life Reporting Form. The Attending Physician End-of-Life-Reporting Form must be completed by the attending physician to certify that all requirements of the Act have been met, including the attending physician's responsibilities at 22 MRS § 2140(6), the documentation requirements at 22 MRS § 2140(14), and the waiting periods set forth at 22 MRS § 2140(13). A copy of the written prescription record must accompany this form.

F. End-of-Life Closure Form. The End-of-Life Closure Form must be completed by the attending physician within 30 days after the qualified patient's death, in accordance with 22 MRS §2140 (17)(B)(1). If six months have passed from the date the attending physician prescribed or dispensed the life-ending medication and the qualified patient's death has not been confirmed, the attending physician must complete this form and provide a copy to the State Registrar within 30 days following the expiration of that six-month period, retaining the original in the patient's medical record.

SECTION 4. REPORTING AND RECORD RETENTION

A. Reporting.

1. Reporting must be in the manner prescribed by the Department, using the forms specified in this rule. Copies of the forms may be accessed at the Department's Data Research and Vital Statistics website at http://www.maine.gov/dhhs/mecdc/public-health-systems/data-research/vital-records/forms/index.shtml, or by request to the State Registrar.

2. Copies of completed forms must be mailed to the attention of the State Registrar, Office of Data, Research, and Vital Statistics, 220 Capitol Street, 11 State House Station, Augusta, Maine 04333-0011.

3. All forms must be completed in accordance with the Act and this rule. Unless otherwise specified, all forms must be submitted to the State Registrar no later than 30 days after the date of the prescription for life-ending medication is written. The Department will contact the qualified patient's attending physician when it appears that any required form has not been filed.

4. The Department will collect information from attending physicians who have prescribed or dispensed life-ending medication to ensure compliance with the Act and this rule, and for use in assembling an annual statistical report as required by the Act. Required information will include any information requested on the forms prescribed by the Department and specified in this rule. Additionally, the Department may request from an attending physician any other information reasonably necessary to determine compliance with the Act and this rule.

B. Record Retention.

1. The attending physician prescribing or dispensing life-ending medication to a qualified patient must retain the original of each required form in the patient's medical record.

2. Paper forms submitted to the State Registrar will be retained by the Department to inform the annual report and may be destroyed only after the Department publishes the yearly report required by the Act.

C. Confidentiality. Information collected by the Department pursuant to this rule is confidential, is not a public record, and may not be made available for inspection by the public.

STATUTORY AUTHORITY AND HISTORY

STATUTORY AUTHORITY:
22 MRS Chapter 418 §2140

EFFECTIVE DATE: Emergency Major Substantive Rule – September 19, 2019