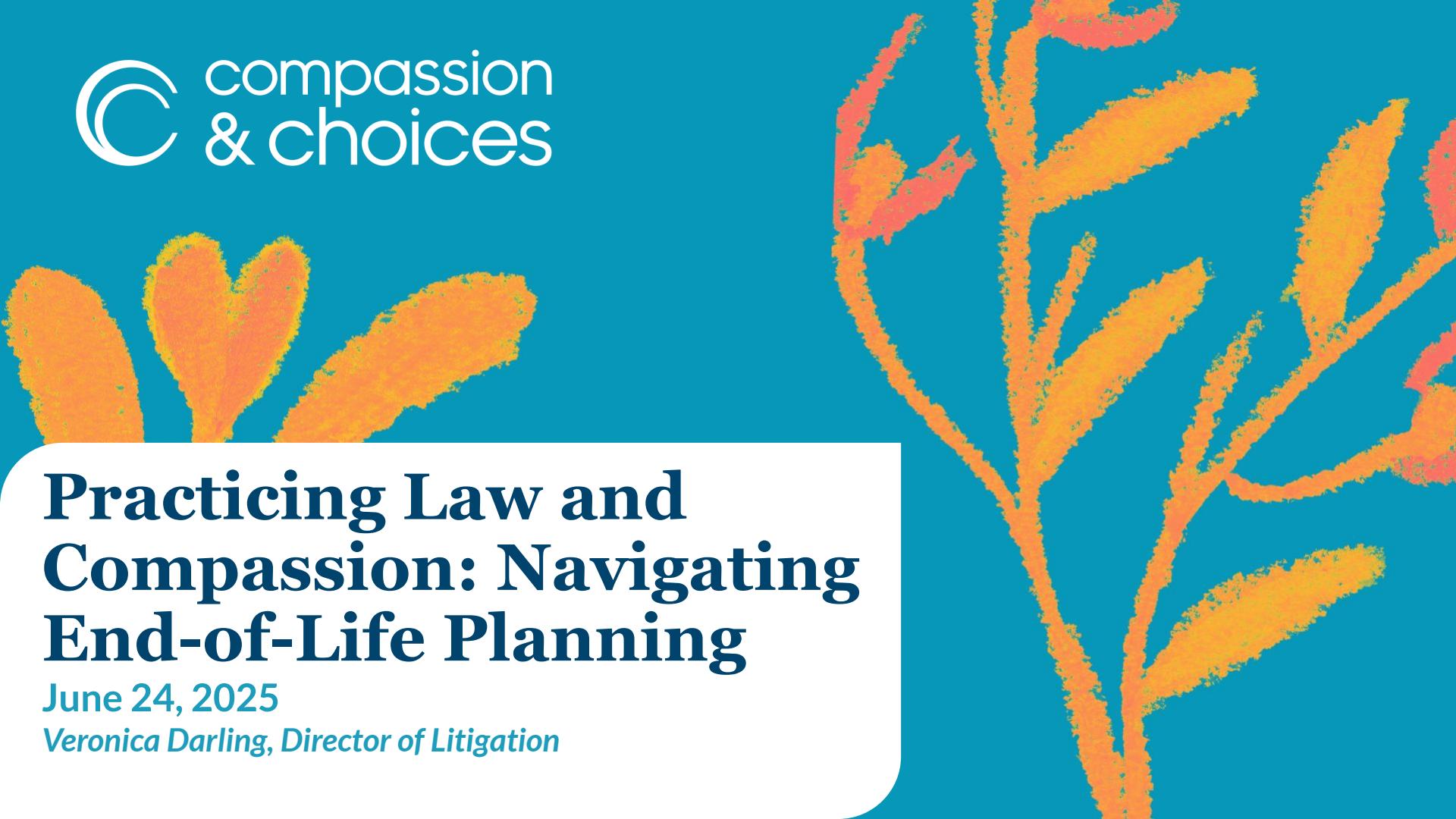




Practicing Law and Compassion: Navigating End-of-Life Planning

June 24, 2025

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COMPASSION & CHOICES
IMPROVES CARE,
EXPANDS OPTIONS,
AND **EMPOWERS**
EVERYONE TO
CHART THEIR
END-OF-LIFE JOURNEY.

What we do:

Our legal advocacy and policy department is actively engaged throughout the United States defending access to end-of-life care and advocating for greater and more equitable access to end-of-life care.

Recently filed and pending litigation:

- Vernon v. Kobach: Challenge to Kansas statute nullifying advance healthcare directives of pregnant people.
- McComas v. Polis: Challenge to Colorado's residency requirement for access to medical aid in dying.
- Medical malpractice suits arising from failures to follow advance healthcare directives in patient charts.

Legal Issues in End of Life Planning

- Living Wills and Advance Healthcare Directives
- Appointment and education of healthcare proxies
- MOLST/POLST
- Dementia planning
- VSED support
- Medical aid in dying
- Avoiding litigation

**Life is meaningful because it is a story ...
and in stories, endings matter.**

-Dr. Atul Gwande, *Being Mortal*

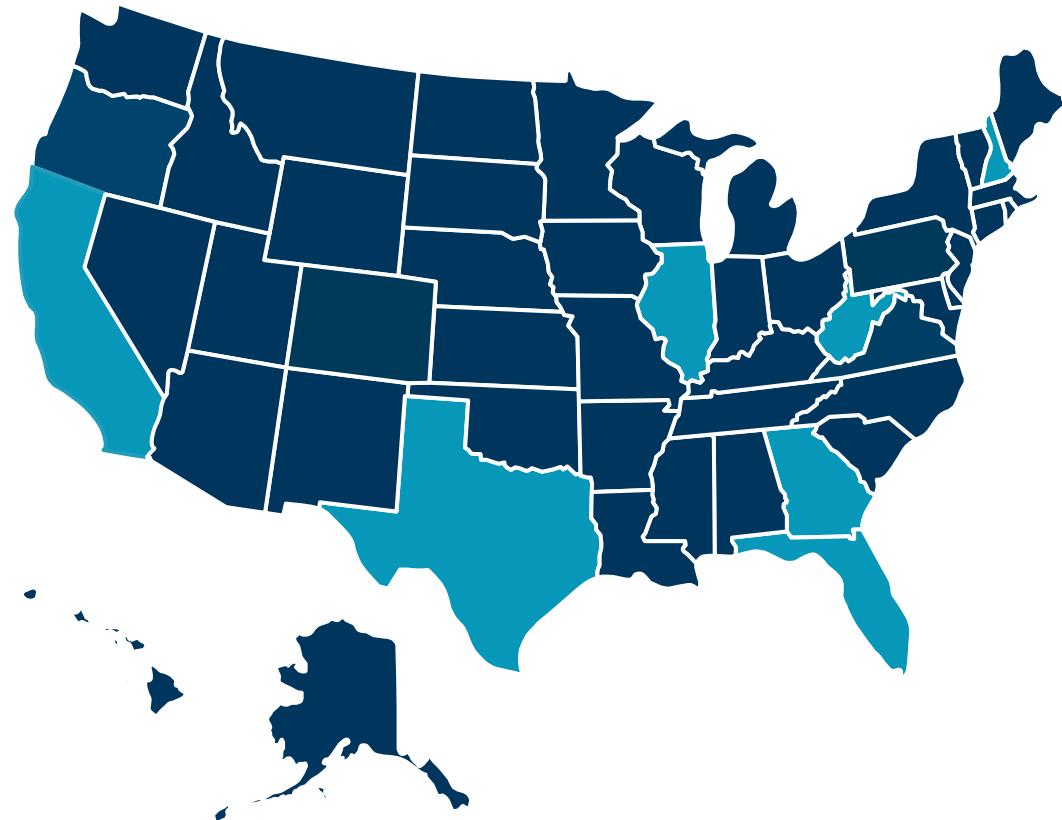
End-of-Life Options

- Pursuing life-sustaining treatment
- Discontinuing or refusing medical treatment
- Hospice
- VSED
- Palliative sedation
- Medical aid in dying

Is having an advance healthcare directive enough?

What do these states have in common?

- West Virginia
- Georgia
- Florida
- Texas
- California
- Illinois
- New Hampshire



What is going on?

1. Hospitals and medical providers are willing to risk suit for saving a life. The headline “Hospital sued for saving woman” is something no attorney wants to go up against.
2. Healthcare proxies are unaware they are often expected to be, and need to be, advocates.
3. Healthcare providers, patients, and families are historically hesitant to talk openly about end of life plans when a patient is healthy.

How to craft a good ending:

1. Document end-of-life choices as clearly and concisely as possible, using state mandated forms if needed.
2. Ask clients if their physician would execute a POLST/MOLST consistent with their advance directive. Involving the client's primary care physician at an early stage increases the likelihood that end-of-life decisions will be respected.
3. Explain the importance of choosing healthcare proxy who will advocate loudly for the client.
4. Encourage open communication between client and their support system about their wishes.
 - a. What does a "good death" mean to the client?
 - b. Is dementia a concern?
 - c. What does quality of life mean to the client?

**Medical aid in dying, VSED,
and cognitive decline.**

Scope of Advance Directives

Advance Directives cannot:

- Authorize healthcare proxy to pursue MAID
- Authorize healthcare proxy to pursue VSED

Why not?

- Capacity

State by State breakdown of MAID:

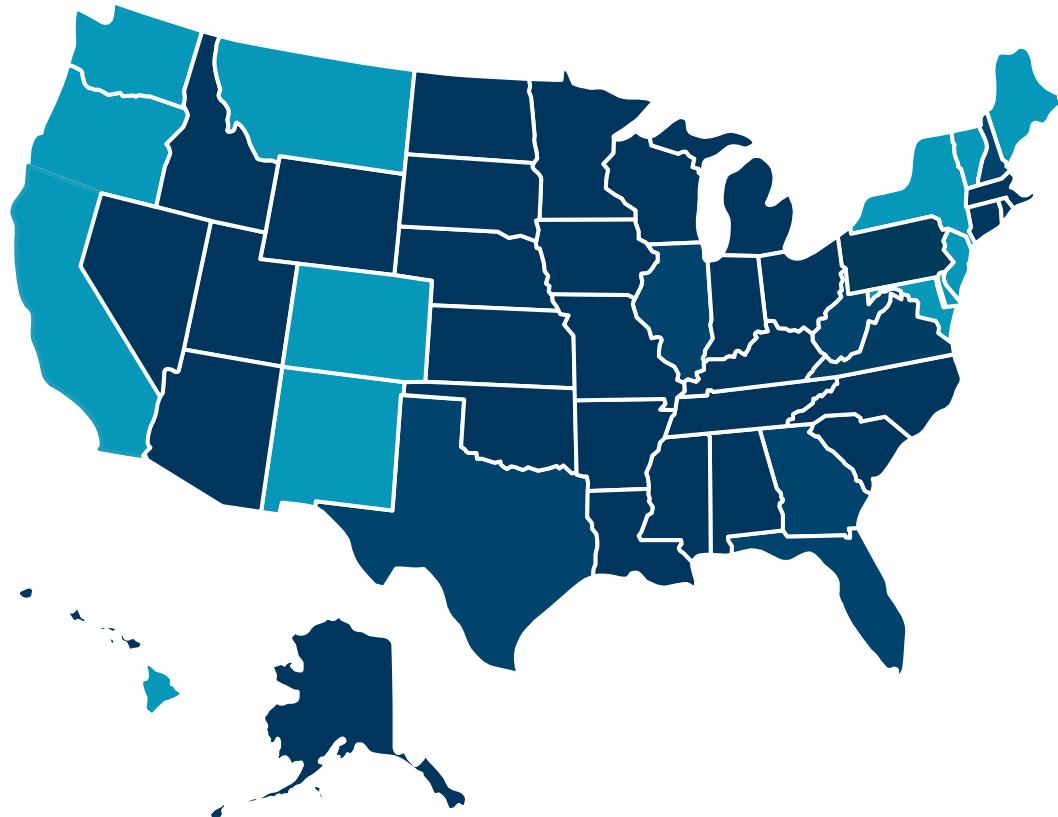
<https://compassionandchoices.org/state-advocacy/>

Authorized Jurisdictions

1. Oregon*
2. Washington
3. Montana*
4. Vermont*
5. California
6. Colorado**
7. Washington, D.C.
8. Hawaii
9. Maine
10. New Jersey**
11. New Mexico
12. Delaware (2026)
13. New York (TBD)

*No residency requirement

**Pending litigation to remove residency



MAID Planning Considerations

1. Life insurance
2. Estate documents
3. Family discussions
4. Physician cooperation and support

Litigation Concerns

1. Life insurance
2. Appropriate health care proxy appointments
3. Open communication with family, friends, and care team
4. Understanding state laws

Resources:

- Advance Planning Guide and Toolkit:
<https://compassionandchoices.org/resource/eoldgt/>
- Dementia Values and Priorities Tool:
<https://compassionandchoices.org/dementia-values-tool/>
- End-of-Life Consultation:
<https://compassionandchoices.org/eolc/>
- National End of Life Doula Alliance:
<https://www.nedalliance.org/>
- MOLST (NY):
<https://molst.org/how-to-complete-a-molst/>
- POLST (State by State Info): <https://polst.org/>

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Care and Choice at the End of Life

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