
Physician's Role in Securing an Absentee Ballot for a Patient

October 27th is the deadline for voters to request absentee ballots from their county election commission for the 2020 general election. Poll workers will be wearing protective gear and workers, along with in-person voters, will follow simple sanitary and social distancing procedures to protect in-person voters from the spread of COVID-19. Because of the uncertainty surrounding the COVID-19 situation, it is conceivable that more of your patients than usual will contact you for assistance in obtaining an absentee ballot. TMA member physicians need to know their role in that process.

Eligibility to vote absentee by mail is set out in state law in T. C. A. § 2-6-201. The eligibility circumstances that require physician involvement are:

1. In order for a person to be placed on a county election commission permanent absentee voting register, a physician must, under penalty of perjury (and licensure discipline), issue a written statement to the voter that he/she is unable to appear at either the commission office or at the person's polling place for the purpose of voting because of sickness, hospitalization or physical disability.
2. Persons who are a full-time resident of any licensed nursing home, home for the aged or similar licensed institution providing relatively permanent domiciliary health care outside of their county of residence are eligible to vote absentee on two bases.
 - a. First, they qualify to be placed on the county election commission permanent absentee voting register described in # 1 above. A physician statement is required.
 - b. Second, they will be outside of their county of residence during all hours the polls are open. A physician statement is not required.
3. The person is a voter with a disability as defined in [the Americans with Disabilities Act¹](#), and the voter's polling place is inaccessible. The county election commission may require proof of the disability.

The law states that a physician must provide any medical statement required if the voter is eligible. The TMA legal department interprets this to mean that a statement from an APRN or PA would not meet legal requirements.

¹ The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. [42 U.S.C.A. § 12131]



There are eligibility criteria that do not require physician involvement. Physicians should be aware that anyone who is 60 years of age or older is eligible to vote absentee. Advising a patient of that fact might obviate the need for physician involvement in securing an absentee ballot for those individuals. In addition, caretakers of persons who are in the hospital, ill, or disabled are also eligible to vote absentee.

Finally, on August 5, 2020, the Tennessee Supreme Court ruled that *fear* of contracting COVID-19 at the polling place by a person who does not have a “special vulnerability to COVID-19” does not in and of itself make one eligible for an absentee ballot for the November elections. Such person may qualify for an absentee ballot on other grounds such as being 60 years or older or disabled. However, persons with special vulnerability to COVID-19 might be able to vote absentee. Based on the Court’s decision in August, the Tennessee Secretary of State has issued guidance.

According to the Secretary of State, people with an “underlying illness, physical disability, or other health condition and who cannot appear at the polling place on Election Day” can obtain an absentee ballot. That also applies to people who care for someone who does. The Secretary urges voters to “consult trusted guidance from medical experts and use common sense in determining whether they have a special vulnerability,” and references the CDC website for more information. **A physician’s statement is not required in order for voters with “special vulnerability to COVID-19.”**

According to the CDC website, the list of people with increased risk of severe illness from COVID-19 includes:

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease)
- Immunocompromised state (weakened immune system) from solid organ transplant
- Obesity (body mass index [BMI] of 30 or higher)
- Serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies
- Sickle cell disease
- Type 2 diabetes mellitus

The CDC says other conditions that might leave people at an increased risk are:

- Asthma (moderate-to-severe)
- Cerebrovascular disease (affects blood vessels and blood supply to the brain)
- Cystic fibrosis
- Hypertension or high blood pressure
- Immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines
- Neurologic conditions, such as dementia
- Liver disease
- Pregnancy
- Pulmonary fibrosis (having damaged or scarred lung tissues)



- Smoking
- Thalassemia (a type of blood disorder)
- Type 1 diabetes mellitus

Voters can receive assistance or information about absentee ballots by calling 1(877) 850-4959, emailing tennessee.elections@tn.gov, by visiting www.govotetn.com/absentee-ballots.html or contacting their [county election commission](#).

