Academy of Aid-in-Dying Medicine
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Ethics Consultation Service

Hospice policy mandating two-week enrollment prior to ingesting aid-in-dying medication

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I. Case Summary:

An aid-in-dying-prescribing physician is concerned about a policy that several local hospices have implemented prohibiting patients from ingesting their aid-in-dying medication during the first two weeks of enrollment. The requesting provider is concerned that this policy requires patients who have made aid-in-dying requests to wait well beyond the 48 hours mandated by law. This potentially results in undue added suffering for the patient. It is also a potentially discriminatory practice, as it leads to unequal access to care.

II. Discussion and Analysis:

This is a policy question, not a consult regarding a specific patient. Requestor practices in a state where the legal waiting period between qualifying for aid in dying and ingesting the medication is 48 hours. Some of the local hospices have created a policy requiring that patients must wait two weeks after enrolling in hospice to ingest their aid-in-dying medication. The rationale for such policies is unclear, but possible reasons might include:

1. Short stay patients are likely a financial liability for the hospice.

2. The team may experience distress if they don't feel they have had sufficient time to provide optimal care to the patient and make every effort to alleviate their suffering which may be driving their desire to hasten death.
3. The prescribing hospices will not prescribe aid-in-dying medication for the initial two weeks. However, the patient may have previously obtained a prescription from another provider, yet the two-week waiting period is still enforced.
4. It is unknown what the hospice would do if a patient enrolls in hospice and then decides to ingest their aid-in-dying medication sooner than the two-week waiting period.

One ethical issue with this policy is a question of justice. This policy seems inequitable as these patients are treated differently than other patients who can find providers who will honor the 48-hour waiting period. Asking a patient to wait beyond 48 hours, especially if a patient is experiencing disproportionate suffering and is ready after the 48-hour period to take the medication, appears to be a failure to respect the patient's autonomous decision making. Moreover, it could be considered a breach of an obligation to prevent acts of harm (non-maleficence) created by this extended waiting period.

This policy could be viewed as prioritizing the distress of the staff over the patient's right to self-determination. The hospices' mandated waiting period does not seem to be patient focused. If the intent is to allow the hospice team to establish a relationship with the patient and family and thus presumably ensure optimal palliative care, these priorities should be discussed with the patient and family at the time of enrollment. The time needed to accomplish that should be more flexible, and be incorporated into shared decision making with the patient and family.

The requesting provider also reported that in more rural regions of their state, there may be only one hospice serving that region, so patients may not have other hospice options to choose from. Patients who do not want to wait the mandated two weeks may not be able to enroll in hospice; instead opting to ingest their aid-in-dying medication on their own without the support of hospice. This would result in inequitable access to care.

Nonetheless, there is not enough information about the reasons for enacting this policy. For instance, perhaps these decisions are made due to staffing shortages, or because not enough staff are willing to participate in medical aid in dying. There may be unforeseen consequences to a high volume of short hospice stays we cannot account for. Without having the opportunity to interview representatives from the hospices, we can only speculate on their reasons for the restrictions of this policy.

A policy-dictated waiting time longer than the legally required one should also be made public on the hospices' websites, and where possible, such a policy should also be made known to physicians who frequently refer their patients to particular hospice programs.

While we do not provide legal advice, we do recognize that given the fact that organizations can legally opt out of participating in medical aid in dying, there is nothing in the U.S. laws that would prohibit them from setting additional restrictions on prescribing or access within their organization.

III. Ethics Consultation Team Opinion:

Mandating that patients wait two weeks once enrolled in hospice care before allowing aid-in-dying medications to be ingested and providing no flexibility is not ethically supportable.

IV. Ethically Supportable Recommendations:

A. We support respecting the patient’s autonomous choice of when to end their own life. A mandated additional waiting period can potentially result in added suffering for the patient, which violates the values of beneficence and non-maleficence. It also potentially results in inequitable access to medical aid in dying, violating the values of justice and equity.

B. Patients should be informed about this policy at the time of enrollment, or, preferably, well before enrollment, including by statements of the policy on hospice websites. Hospices have an obligation to be transparent.

V. Confidentiality

All consultations are confidential. Complete documentation is recorded and protected internally by the Academy’s Ethics Consultation Service. Opinions and options presented are by consensus of consultation service members and do not represent their associated institutions.

VI. Disclaimers

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