



Vermont Hospice Legal and Policy FAQ

Frequently asked questions on medical aid in dying and hospice compliance

1. May hospice attending physicians serve as a prescriber for medical aid in dying in compliance with federal and state law?

YES. In Vermont, a physician can prescribe medication to hasten the patient's death under the requirements of 18 V.S.A. § 5283. Given hospice attending physicians are physicians, they can serve as prescribers.

2. May a hospice attending physician serve as the consulting physician in medical aid in dying?

YES. A hospice attending physician may serve as a consulting physician in medical aid in dying under Vermont law, provided they meet the requirements of a consulting physician. A physician is an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33. 18 V.S.A. § 5281(9). Vermont outlines the required steps a consulting physician must take to help a patient attain medical aid in dying. 18 V.S.A. § 5283.

3. May a hospice attending physician take custody of aid in dying medication from the pharmacy on behalf of the patient?

No. Pursuant to chain of custody requirements for controlled substances under the Federal Drug Enforcement Administration (DEA), prescribers may not take custody of the aid in dying medication at any time and doing so may expose them to severe civil and even criminal penalties. Although certain state laws may reference prescribing physicians taking custody of the aid in dying medications from the pharmacy, federal DEA regulations preempt any contrary state laws. The DEA has a strict system for tracking the chain of custody of controlled substances between registered entities, and generally prohibits the distribution of controlled substances from one Practitioner to another outside of a few specific circumstances. The DEA's tracking system does not track controlled substances once dispensed to a patient or patient representative. Also, note that the Controlled Substances Act and regulations are clear that Practitioners may not dispose of controlled substances without a specific registration to expressly allow it so neither the pharmacy nor any of the Prescribers should ever be in the chain of custody for unused medications.



4. May a hospice involuntarily discharge a patient for seeking information about medical aid in dying or seeking a prescription for medical aid in dying?

No. A hospice may discharge a patient only under specific circumstances, such as the patient moving out of the service area, choosing another provider, or failing to pay for services (Vt. Admin. Code 12-4-205:XVI). Vermont law explicitly protects the rights of patients to make informed decisions about their care, including end-of-life options. 18 V.S.A. § 1852.

5. Must a hospice prohibit its clinical staff from pronouncing death, certifying the cause of death, or signing a death certificate for a participant who utilizes medical aid in dying?

No. Nothing in Medicare hospice regulations or the Assisted Suicide Funding Restriction Act requires hospices to prohibit clinical staff from pronouncing death, certifying the cause of death, or signing a death certificate for a participant who utilizes medical aid in dying. Further, doing so may be required under applicable state hospice regulations.

6. May hospice employees be physically present in the patient's room at the point of ingestion in compliance with federal and state law?

YES. Vermont does not require hospice programs to prohibit hospice employees from being present at time of ingestion of medical aid in dying medication. 18 V.S.A. § 5281.

7. May hospice employees assist in preparing the aid in dying medication in compliance with federal and state law?

Yes. Pursuant to Section 5285, health care facilities and providers may not discipline or penalize medical professionals for acting or refusing to act in good faith under the Patient Choice at End of Life Act, and such professionals are protected from civil, criminal, or disciplinary liability when complying in good faith. 18 V.S.A. § 5285(b)–(c).

8. Are hospice programs required to report medical aid in dying as suicide under elder abuse statutes?

No. Nothing in this chapter 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. Action taken in accordance with this chapter shall not be construed for any purpose to constitute suicide, assisted suicide, mercy killing, or homicide under the law. 18 V.S.A. § 5292.



9. Are hospice programs required to refer patients who ask about medical aid in dying for a psychiatric evaluation?

No. “The physician either verified that the patient did not have impaired judgment or referred the patient for an evaluation by a psychiatrist, psychologist, or clinical social worker licensed in Vermont for confirmation that the patient was capable and did not have impaired judgment.” 18 V.S.A. § 5283(a)(8).

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