



District of Columbia 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. A hospice attending physician in the District of Columbia can serve as a prescriber in medical aid in dying when they satisfy the criteria for an attending physician. An attending physician is “the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.” D.C. Code § 7–621(1). D.C. code specifies that the attending physician’s practice shall not be primarily or solely composed of patients requesting a covered medication. D.C. Code § 7-661.01(1).

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 the District of Columbia’s Death with Dignity Act, provided they meet the requirements of a consulting physician. The Death with Dignity Act defines a consulting physician as “a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient’s disease and who is willing to participate in the provision of a covered medication to a qualified patient in accordance with this chapter.” D.C. Code § 7-661.01(3).



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?

Adult hospice services under the District of Columbia Medicaid Program follow the rules enumerated in 29 DCMR § 939. The rule provides directives on the appropriateness of discharge.

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. The District of Columbia’s Death with Dignity laws do not require hospice programs to prohibit hospice employees from being present at time of ingestion of medical aid in dying medication. That said, the statute requires attending providers to educate the individual about the importance of having another person present when the individual self-administers the medical aid-in-dying medication. DC ST § 7-661.03(a)(7).

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

Yes. Pursuant to Section 12, individuals are protected from civil, criminal, and/or professional liability for acting in good faith under the law, including participating in, refusing to participate in, or being present during the administration of aid-in-dying medication. D.C. Law 21-182 § 12(a).

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

No. Actions taken in accordance with this act do not constitute suicide, assisted suicide, mercy killing, or homicide. D.C. Law 21-182 § 16(b).

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

No. D.C. Code § 7-661.03(a)(4) – “Upon receiving a written request for a covered medication pursuant to 7-661.02(a)(2), the attending physician shall refer the patient to counseling if appropriate, pursuant to Sec. 7-661.04.”

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