



Washington 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. Under the Washington Death with Dignity Act, a “qualified medical provider” includes physicians licensed under RCW 18.57 or 18.71, physician assistants licensed under RCW 18.71A, and advanced registered nurse practitioners licensed under RCW 18.79. Hospice attending physicians who are licensed under these chapters may be prescribers. RCW § 70.245.010.

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 Washington law, provided they meet the requirements of a consulting physician. RCW § 70.245.010.

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. Health care providers are explicitly protected under RCW 70.03.020 from discrimination or adverse actions for providing medically accurate and comprehensive information about Washington’s Death with Dignity Act, including information about relevant resources and how to access them. RCW § 70.03.020.

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 Washington Death with Dignity Act does not require hospice programs to prohibit hospice employees from being present at time of ingestion of medical aid in dying medication. RCWA 70.245.040(1)(g). In fact, the statute provides immunity from civil or criminal liability or professional disciplinary action for individuals who elect to be present when a qualified patient takes the prescribed medication to end their life. RCW § 70.245.190(1)(a).

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

Yes. Pursuant to Section 70.245.190, a person who participates in good faith compliance with the Death with Dignity Act, including being present when a qualified patient takes prescribed medication to end their life in a humane and dignified manner, shall not be subject to civil or criminal liability or professional disciplinary action, and no professional organization, association, or health care provider may impose penalties for either participating in or refusing to participate in such compliance. RCWA § 70.245.190(1)(a)–(b).

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

No. Nothing in this chapter authorizes an attending qualified medical provider, consulting qualified medical provider, or any other person to end a patient’s life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law. RCWA § 70.245.180(1).

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

No. “If, in the opinion of either the attending qualified medical provider or the consulting qualified medical provider, a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, the qualified medical provider shall refer the patient for counseling. Medication to end a patient’s life in a humane and dignified manner shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.” RCW § 70.245.060.

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