

## **Patient Choice at End of Life Frequently Asked Questions**

*We recommend reading all the questions and answers.*

*This information is provided as a courtesy and not intended as legal advice. Consult your physician and attorney.*

### **What is Patient Choice at End of Life?**

The Patient Choice at End of Life law, provides eligible patients with terminal diseases the option to be prescribed a dose of medication that, if taken, will hasten the end of their life. This option requires the participation of a Vermont-licensed physician.

### **Who is eligible to participate?**

Patients who are suffering from an incurable and irreversible disease that would, within reasonable medical judgment, result in death within six months. The patient must be capable of making a voluntary, informed health care decision, and can self-administer the prescribed dose. [See the text of the law for more details.](#) (While the Vermont Statutes Online is being updated to reflect the most recent changes to the law, see [Act 10 \(2023\)](#)).

### **How does the law work?**

The statute lays out a step-by-step process for a patient and doctor to follow. It begins with a diagnoses and prognosis of a terminal and incurable illness that will, within medical judgment, take place within six months. Once that determination has been made, a patient may make an oral request of their physician to be prescribed a dose of medication that, if taken, would hasten death. The process requires, among other things, both oral and written requests, witnesses, and the second opinion of a physician. Every step must be voluntary by both the patient and the physician. [See the text of the law for more details.](#)

**Is there a standard form for the written request?**

The law does not mandate any particular form for the written request, though reporting by the physician is mandatory. The Vermont Department of Health website maintains forms that may be used for this provision of the law which both providers and patients may find helpful.

<http://www.healthvermont.gov/systems/patient-choice-and-control-end-life/forms-patients-and-physicians>

**What does a patient do if they choose not to use the prescribed dose?**

Those persons who choose not to ingest a prescribed dose, or those in possession of any portion of the unused dose, must dispose of the dose in a legal manner as determined by the Drug Enforcement Agency. See the website below and consult your pharmacist for more information.

<http://www.fda.gov/forconsumers/consumerupdates/ucm101653.htm>

**Are all doctors, nurses and pharmacists required to participate in the Patient Choice law?**

No. Participation by any health care professional is completely voluntary.

**Are doctors required to tell patients about this medical aid in dying?**

Patients have a right to receive relevant information about all their health care options, including medical aid in dying under the Patient Choice law. A doctor may choose not to participate in the Patient Choice process for reasons including a religious or philosophical objection or based on the doctor's professional judgment. If a patient asks about receiving aid in dying, the doctor must either inform the patient about the Patient Choice option directly, or make a referral or otherwise ensure that the patient is able to obtain and understand relevant and accurate information about the aid-in-dying process under the law.

**How do you know if your doctor will participate in Patient Choice at the End of Life?**

Make an appointment to talk to your doctor about your end-of-life goals and concerns, including the Patient Choice option available under the law.

**Who will be providing accountability and oversight for implementation of Patient Choice?**

The legislature did not vest any government Agency with oversight of the law. The Department of Health is charged with collecting forms provided by participating physicians. Alleged abuses under the law would be investigated by the relevant licensing board, the State's Attorneys Office, and/or the Vermont Attorney General's Office.

### **How will this impact life insurance policies?**

The law prohibits a life insurance company from denying benefits to individuals who act in accordance with the Patient Choice law.

### **Are there immunity and liability protections for a health care provider who participates?**

Yes. Section 5285(c) of Title 18 states the following:

No physician, nurse, pharmacist, or other person licensed, certified, or otherwise authorized by law to deliver health care services in this State shall be subject to civil or criminal liability or professional disciplinary action for acting in good faith compliance with the provisions of this chapter. [See the text of the law for more details.](#)

**One of the requirements of section 5283 is that the treating physician refer the patient “to a second physician for medical confirmation of the diagnosis, prognosis, and a determination that the patient was capable, was acting voluntarily, and had made an informed decision.”**

**May a physician provide this second opinion to a patient, knowing that the patient seeks medication for the purpose of hastening the patient’s death?**

In response to inquiries about the role of a physician providing a second opinion as called for by section 5283, the Vermont Attorney General’s Office provides the following statement:

The Legislature intended that, where all statutory requirements are met, terminally ill patients have the option to obtain medication that they may choose to self-administer for the purpose of hastening death. The statute expressly contemplates that the treating physician refer a patient to a second physician to confirm the patient’s diagnosis and prognosis, and to determine that the patient was capable, acting voluntarily, and had made an informed decision. In plain English, the Legislature intended for the treating physician to refer the patient for a second opinion. Given the Legislature’s intent, a physician does not violate the law and does not face liability for providing the second opinion called for by Title 18, section 5283(a)(7), even though the physician knows that the patient seeks medication for the purpose of hastening death. Of course, the physician has the same obligation, as for any patient, to provide the requested opinion in a manner that satisfies the standard of care. The same reasoning applies to a psychiatrist, psychologist, or social worker consulted pursuant to section 5283(8), and to a primary care doctor consulted pursuant to section 5283(9).

### **What are the reporting requirements and what will be done with the information?**

The law requires only that the prescribing physician provide a written report to the Health Department documenting that all the required steps have been taken. This information will be protected under state and federal privacy laws.

**Who can prescribe this medication?**

Any physician who is licensed to practice medicine in Vermont under [26 V.S.A. chapter 23](#) or 33. That includes physicians with MD and DO degrees. The law does not extend to other prescribers such as advanced-practice registered nurses and physician assistants.

**Where do I go if I want more information?**

The Vermont Ethics Network: <http://www.vtethicsnetwork.org/pad.html> or (802)828-2909.

