



June 1, 2026

Dr. Mehmet Oz  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

**Sustaining Supporters**

Alliance of Catholic Health Care  
Cedars-Sinai Medical Center  
Sharp HealthCare  
Blue Shield of California  
Emanate Health  
YoloCares

**RE: Comments on the FY 2027 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements Proposed Rule [CMS-1835-P]; Request for Information related to Medical Aid in Dying**

Dear Administrator Oz,

Thank you for this opportunity to provide information and counsel related to payment for medical aid in dying, as prohibited by The Assisted Suicide Funding Restriction Act [ASFRA] of 1997 (Pub. L. 105-12, April 30, 1997).

The Coalition for Compassionate Care of California is a cross-sector membership organization focused on improving the experience of serious illness across the continuum of care. Our members are clinicians; health system, health plan, and facility leaders; patient advocates and community members. As an organization, we have maintained a neutral stance on the practice of medical aid in dying (MAID): Since its legalization in California in 2016, we have strived to provide accurate information to providers and consumers about the provisions of the End of Life Option Act, the process prescribed by law, and appropriate provision of high-quality care for all patients facing terminal illness and those who love them. The responses to your questions below reflect input from our Board of Directors and Public Policy Advisory Council.

**What information do hospice providers give to these patients and how often is there overlap when a patient pursues MAID? In other words, do hospices generally continue to provide clinical care while a patient seeks qualification for MAID and do patients generally remain on service until death? Conversely, do hospices encourage patients to revoke their election if they choose to utilize MAID?**

Qualification for MAID and enrollment in hospice care share two essential criteria: The person must be diagnosed with a terminal illness and must have a prognosis of 6 months or less. Thus, there is an inevitable “overlap” between persons seeking hospice care and those considering or pursuing MAID. In California, since the effective date of the End of Life Option Act in June of 2016 through 2024, 91.9

percent of the patients who have died from ingestion of legally prescribed MAID drugs were enrolled in hospice care at the time of their death.<sup>1</sup> This is consistent with all other states and jurisdictions where MAID is legal and utilization statistics reported.

This overlap is not only inevitable, but in our view it is entirely appropriate – any person facing terminal illness *should* receive the high-quality, whole person end-of-life care that only hospice can provide regardless of the ultimate mechanism of their death. Hospices in California do and should continue to provide clinical and psychosocial-spiritual care to all patients throughout their end-of-life journey and support to families during and after the demise of the patient, consistent with applicable state law and federal requirements, regardless of the patients’ utilization of MAID. Following the CMS Conditions of Participation for hospice care, a patient’s desire to seek MAID outside of hospice is not a legitimate reason for discharge.<sup>2</sup>

California’s End of Life Option Act provides helpful guidance and specific definitions as to which actions constitute “participation” in MAID:

(2) “Participating, or entering into an agreement to participate, in activities under this part” means doing or entering into an agreement to do any one or more of the following:

- (A) Performing the duties of an attending physician as specified in Section 443.5.
- (B) Performing the duties of a consulting physician as specified in Section 443.6.
- (C) Performing the duties of a mental health specialist, in the circumstance that a referral to one is made.
- (D) Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drug pursuant to paragraph (2) of subdivision (b) of, and subdivision (c) of, Section 443.5.
- (E) Being present when the qualified individual takes the aid-in-dying drug prescribed pursuant to this part.<sup>3</sup>

Providing information to patients about all their options for treatment and care of pain, symptoms, and aspects of suffering during a terminal illness is not, by this definition considered “participation” in the act. Hospices thus can, and many do, provide information about MAID, usually only on request of the patient and/or family members.

### **Is there confusion amongst hospices regarding visits or other comfort measures that can be provided during this process, especially on the day of death?**

With the guidance provided by the California End of Life Option Act, hospices in California are **not** confused regarding visits or other comfort measures that can be provided during this process. If any hospice medical directors and physicians perform the duties of attending or consulting physicians for the

---

<sup>1</sup> California Department of Public Health. (2025). California End of Life Option Act 2024 data report. [https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH\\_End\\_of\\_Life\\_Option\\_Act\\_Report\\_2024.pdf](https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH_End_of_Life_Option_Act_Report_2024.pdf)

<sup>2</sup> Code of Federal Regulations, Title 42, Chapter IV, Subchapter B, [§418.26 Discharge from hospice care](#)

<sup>3</sup> California Health & Safety Code, [§443.15\(f\)](#)

purpose of MAID, they do so apart from and outside of their hospice employment or contract. Hospice nursing and psychosocial-spiritual staff provide all comfort measures that are needed, requested, and appropriate for patients within the hospice plan of care – indeed they are ethically obligated to continue care – up to and including on the day of death from any cause, and hospice staff provide after-death support to families. Typically this does not include, consistent with California law, prescription or provision of the MAID drugs or presence at the moment of ingestion.

**Do hospices have written policies regarding caring for patients using MAID? We are especially interested in understanding what hospices do with any unused lethal medications prescribed for MAID.**

Yes, California hospices have written policies regarding MAID: California’s End of Life Option Act *requires* health care entities of all types to have and “post on the entity’s public internet website the entity’s current policy governing medical aid in dying” and provide written policies with respect to MAID to their employees, contracted staff, and other contracted entities.<sup>4</sup> Such policies can prohibit employees, independent contractors, or other persons or entities from participating, as defined, in MAID while on premises owned or under the management or direct control of that health care entity or while acting within the course and scope of any employment by, or contract with, the entity – on the condition that the policy is provided in advance and in writing.

Regarding unused MAID drugs, medications of any kind prescribed for patients belong to the patients, and they are not required to disclose that they have them. Any drugs left unused by a deceased hospice patient are not the responsibility of the hospice and must be responsibly disposed of by the patient’s family members. We note, however, that California’s End of Life Option Act does require safe disposal of the drugs at a qualified facility or within guidelines provided by the California State Board of Pharmacy or a federal Drug Enforcement Administration approved take-back program.<sup>5</sup>

As a final note, we appreciate the concern shown by CMS regarding the proper spending of federal funds and the importance of adhering to the prohibitions stated by ASFra. However, from 2016 through 2024 in California, only 2,661 patients total have utilized MAID, 2,445 of them while in hospice care,<sup>6</sup> compared to the estimated 150,000 to 164,000 patients receiving hospice care annually in the state.<sup>7</sup> Taking 2023 as an example, CMS data (Medicare hospice utilization by state) indicates Medicare spending on hospice was \$3,270,790,494 for 164,709 patients.<sup>8</sup> In that year, only **908** patients utilized MAID while enrolled in hospice care – which equates to **0.05 percent** of all Medicare hospice patients in

---

<sup>4</sup> California Health & Safety Code, [§443.15\(i\)](#); [§443.15\(a,b\)](#)

<sup>5</sup> California Health & Safety code [§443.20](#)

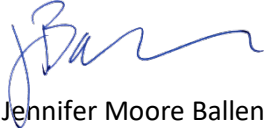
<sup>6</sup> California Department of Public Health. (2025). California End of Life Option Act 2024 data report. [https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH\\_End\\_of\\_Life\\_Option\\_Act\\_Report\\_2024.pdf](https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH_End_of_Life_Option_Act_Report_2024.pdf)

<sup>7</sup> Based on Medicare Hospice Utilization by State report, downloaded 5/26/26 from <https://share.google/zl3pBuBslbdN09YMJ>

<sup>8</sup> Based on Medicare Hospice Utilization by State report, downloaded 5/26/26 from <https://share.google/zl3pBuBslbdN09YMJ>

the state. In order to best address fraud within hospice services, higher yield actions may include investigation into agencies that register multiple hospices at a single address, are run by owners with a history cycling through hospices, have high live discharge rates, have a large volume of long stay patients without proper documentation, and/or agencies that receive a high volume of referrals from companies owned by family members.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Ballentine', is positioned above the typed name.

Jennifer Moore Ballentine, MA  
CEO, Coalition for Compassionate Care of California

On behalf of the [CCCC Board of Directors](#)