

Act 39 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 Act 39?

The Patient Choice and Control at End of Life Act (Act 39), provides eligible Vermont residents 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?

Vermont residents 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.](#)

How does the law work?

The Act lays out a step-by-step process for a patient and doctor to follow. It begins with a diagnosis 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 his or her 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.](#)

What makes someone a Vermont resident?

The Act does not specify what qualifies a person as a resident: it is up to the patient's physician to make that determination. Factors demonstrating residency include, but are not limited to 1) Possession of a Vermont driver's license; 2) Registration to vote in Vermont; 3) Evidence that a person leases/owns property in Vermont; or 4) Filing of a Vermont tax return for the most recent tax year.

Is there a standard form for the written request?

Act 39 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 he or she chooses 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 Act 39?

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 Act 39. A doctor may choose not to participate in the Act 39 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 Act 39 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 Act.

How do you know if your doctor will participate in the Act 39?

Make an appointment to talk to your doctor about your end-of-life goals and concerns, including the option available under Act 39.

Who will be providing accountability and oversight for implementation of Act 39?

The legislature did not vest any government Agency with oversight of the Act. 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?

Act 39 prohibits a life insurance company from denying benefits to individuals who act in accordance with Act 39.

Are there immunity and liability protections for physicians who participate?

Yes. A prescribing physician who follows all of the steps required by Act 39 – including documenting them and filing that documentation with the Department of Health – is immune from civil and criminal liability or professional disciplinary action. [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 Act 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. Act 39 does not extend to other prescribers such as advanced-practice registered nurses and physician assistants.

Section 5283 of Title 18 describes the obligations and immunity of a physician. May a pharmacist fill a prescription under the statute, knowing that the patient intends to self-administer the medication for the purpose of hastening the patient's death?

In response to inquiries about the pharmacist's role under this law, 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 a role for a pharmacist in filling a prescription for this purpose (although a pharmacist is not required to do so). Given the Legislature's intent, a pharmacist does not violate the law and does not face liability for filling a prescription consistent with the terms of the statute, even though the pharmacist knows that the patient intends to self-administer the medication for the purpose of hastening death.

Where do I go if I want more information?

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