

Answers to Hospice Providers' Frequently Asked Questions Regarding Opioids in Georgia



Although we are seeing a wide range of new state laws that impact the prescribing of opioids to hospice patients, this year's legislative session in Georgia has not produced any such laws. Because of the nation's opioid crisis, laws in this area highly fluid and providers should monitor state laws for changes. Below is a list of questions that are frequently asked by hospice providers along with answers based on current Georgia law.

1 Are practitioners required to e-prescribe opioids to hospice patients?

No. Georgia law allows providers to issue written prescriptions for opioids as well.

2 Are practitioners required to view a hospice patient's record in the state prescription drug monitoring program ("PDMP") before writing or renewing an opioid prescription?

No. State law generally requires providers to query the PDMP prior to writing an initial prescription for schedule II controlled substances or benzodiazepines and at least once every 90 days as long the provider refills the prescription. However, these requirements do not apply when the patient is in a hospital or other health care facility (including a hospice), the patient is terminally ill or under the supervision of an outpatient hospice program, or the patient is receiving treatment for cancer.

3 Does state law limit opioid prescriptions written to hospice patients?

Yes. When initially prescribing a controlled substance for the treatment of pain or chronic pain, state law requires a physician to obtain a medical history, conduct a physical examination, and obtain informed consent. In a documented emergency, a physician may prescribe not more than a 72-hour supply of a controlled substance without conducting a physical exam.

4 Does state law require a practitioner who prescribes opioids to meet special continuing education requirements?

Yes. Physicians who do not hold a certification in pain management or palliative medicine, and whose opioid pain management patients comprise 50% or more of the patient population, must obtain 20 hours of CME pertaining to pain management or palliative medicine, every other year.

Every other physician who maintains an active DEA certificate and prescribes controlled substances, except residents, must complete at least one time 3 or more hours of CME that is designed specifically to address controlled substance prescribing practices. This CME must include instruction on controlled substance prescribing guidelines, recognizing signs of the abuse or misuse of controlled substances, and controlled substance prescribing for chronic pain management. The certification of such completion must have occurred at the first renewal following January 1, 2018 or at the first renewal following the physician's licensure. Completion of this requirement counts as 3 hours toward the overall CME requirement for license renewal.

There are currently no special continuing education requirements for advanced practice nurses or physician assistants who prescribe opioids.

5 Does Georgia law require that hospice providers dispose of a deceased or discharged patient's opioid medications?

No. There is no Georgia law requiring a hospice provider to dispose of a patient's opioid medications. However, under federal law, certain employees of qualified hospice programs are permitted to handle any controlled substance, that was lawfully dispensed to a hospice patient, for the purpose of disposal. Such disposal by the hospice is allowed after the hospice patient's death, once the controlled substance has expired, or, if the hospice employee is a physician who is registered under the Controlled Substances Act, once the hospice patient no longer needs the medication due to a change in the plan of care. If the hospice program elects to dispose of the patient's controlled substances, the disposal must (i) be performed by an employee who is acting within the scope of his or her employment, (ii) occur at the site of care, and (iii) be performed in compliance with all relevant laws.

6 Are hospice providers required to prescribe an opioid antagonist to hospice patients who are prescribed opioids?

No. Currently, there is no Georgia law requiring a hospice provider to prescribe or offer a prescription of an opioid antagonist such as naloxone to a hospice patient when prescribing an opioid.

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About Arnall Golden Gregory

The Arnall Golden Gregory (AGG) Healthcare Team represents publicly traded, privately held and tax-exempt home health and hospice companies throughout the United States. We also provide advice to lenders and investors in the home health/hospice sector. Our clients span the broad range of home and community based services providers, for whom we provide counsel in corporate/transactional, compliance, enrollment, survey and enforcement, reimbursement, fraud and abuse, privacy, litigation, real estate and labor and employment matters.

AGG attorneys have provided thought leadership in the home health and hospice sector and have presented at Homecare 100, at the annual meetings of National Association of Home Care & Hospice (NAHC) and the National Hospice and Palliative Care Organization (NHPCO), and at the American Health Lawyers Association (AHLA) Long Term Care and the Law conferences. Our attorneys include a former General Counsel to a national home health provider and former member of the Board of Directors of Community Health Accreditation Partner (CHAP); a member of the Board of Directors for the Georgia Hospice Palliative Care Organization, the Legislative Affairs Committee of the NHPCO, and the Strategic Advisory Committee of the NAHC; as well as a former Assistant Regional Counsel at the U.S. Department of Health and Human Services (HHS), Office of General Counsel.

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