

PURPOSE

To outline the policy and procedure of Reliance Hospice & Palliative Care when a patient requests to enact the California end-of-life options act, also known as death with dignity.

BACKGROUND

The California End of Life Options Act became effective June 9, 2016 and will remain in effect until January 1, 2026. The Act gives a mentally competent, adult California resident who has been diagnosed with a terminal disease the legal right to ask for and receive a prescription from his or her physician to hasten death, as long as specific criteria are met.

The Act establishes specific requirements which must be satisfied and procedures which the terminally ill individual must follow in making such a request. The Act also sets forth the attending physician and consulting physician's responsibility to independently determine that the individual has a terminal disease with a prognosis of six months and is qualified to and possesses the capacity to independently make an informed decision. The Act also prescribes specified forms to request an aid-in-dying drug and to comply with the requirements set forth in the Act.

On January 1, 2022, SB 380, a bill that was signed into law to revise the original End of Life Options Act. Summary of changes include all healthcare systems and hospices must provide their End of Life Option Act policy on their website, the minimum waiting period between the first and second oral request has been reduced from 15 days to 48 hours and the final attestation form has been removed.

Death with Dignity is also referred to as Physician-assisted death (PAD), physician-assisted dying, physician-hastened death/dying, aid-in-dying, physician aid-in-dying and medical aid-in-dying.

POLICY

Reliance Hospice & Palliative Care reaffirms a basic element of the hospice philosophy that states that because dying is a natural process, hospice neither seeks to hasten nor postpone death. Reliance Hospice & Palliative Care acknowledges that there may be hospice patients who will wish to avail themselves of their legal right to pursue medical aid-in-dying as their end-of-life option and will not abandon these patients or their families.

It is the mission of Reliance Hospice & Palliative Care to meet the needs of patients and families in a way that honors how people want to live their final months or days. Reliance Hospice & Palliative Care is ready to discuss and support end-of-life decisions with our patients while being sensitive to individual values and/or belief systems.

Patients requesting medication for medical aid in dying must satisfy all of the requirements of the Act in order to obtain a prescription for the medication. Reliance Hospice & Palliative Care, acknowledging the legal right of qualified patients to exercise this choice, supports patients in completing the requirements of the Act so that the patient may self-administer the medication and end his or her life as the law intends, “in a humane and dignified manner.”

Patients who inquire about the option of securing the medical aid-in-dying drug will be asked to contact their attending physician or will be referred to the consulting physician. Reliance Hospice & Palliative Care will continue to provide standard hospice services to patients, regardless of their stated interest or intent in pursuing their legal right.

Reliance Hospice & Palliative Care permits hospice physicians and pharmacists (and other staff and volunteers) to participate in the Act if they so choose and permits other Reliance Hospice & Palliative Care staff and volunteers to treat patients in the same manner as all other patients.

Staff and volunteers who are morally or ethically opposed to medical aid-in-dying will have the option of transferring care responsibilities to other staff if their patient states an intent to pursue medical aid-in-dying.

Reliance Hospice & Palliative Care shall honor California state law and shall honor our hospice patients’ wishes regarding end-of-life. No patient will be denied medical care or treatment because of the patient’s participation under the Act. We will continue to provide quality end-of-life care, symptom management and services to patients and families with the goal of providing excellent patient care, safe and comfortable dying and positive life closure.

Reliance Hospice & Palliative Care provides procedures for staff involvement in discussions around requesting medical aid-in-dying medication under the Act;

- hospice support for patients who choose to pursue the Act;
- staff presence when patients ingest medication;
- hospice responsibilities following death;
- documentation standards around discussions and patient requests for medical aid-in-dying medication;
- staff conscientious objections.

While recognizing that the request for medical aid-in-dying medication is a discussion between a patient and their attending physician, hospice staff will provide information, resources and support to patients who are exploring this option.

PROCEDURE

1. If patient or family members make an inquiry about seeking medication for medical aid-in-dying, Reliance Hospice & Palliative Care will respond to inquiries or requests for information and refer them to their attending physician or the medical director, who may act as an Attending or Consulting Physician.
2. Staff or volunteers who are aware that a patient is considering procuring medication for medical aid-in-dying will notify the appropriate designated staff (e.g.-Registered Nurse Case Manager and the Director of Hospice Care Services).
3. Patients who verbalize this intent will be informed that this information will be shared with the hospice team for appropriate support.
4. Staff and volunteers working with a patient/family who has verbalized an interest in this end-of-life option will document all discussions with patient, family, other team members, and any other person who may be involved with the patient. This documentation will become part of the patient's permanent medical record.
5. During Case Conference, or as needed, the interdisciplinary group including the person's physician and/or Medical Director will examine the patient's reasons for considering medical aid-in-dying and discuss how to address these issues with the patient without attempting to interfere with the patient's decisions.
6. Staff having contact with such patients will consult with and be supported on an ongoing basis.
7. If the patient chooses to pursue medical aid-in-dying as an option, the patient/family will be informed of the role of Reliance Hospice & Palliative Care regarding participation in the law, that is, Reliance Hospice & Palliative Care will continue to serve the patient and family; will offer customary hospice services, and seek to meet not only the physical needs of the patient/family, but the emotional, social, and spiritual needs as well.
8. The Medical Director may serve, if he or she chooses, as the attending or consulting physician as defined in the Act to determine patient's eligibility.
9. Bereavement support will be available to all families.
10. Reliance Hospice & Palliative Care Ethics Committee will meet, as needed, to review cases involving medical aid-in-dying and to review our Patient End-of-Life policies and procedures. The Committee will also meet at the request of staff to discuss any concerns, to review an individual case, or to review any and/or all of our End-of-life Choice policies.
11. Reliance Hospice & Palliative Care staff will not administer the medication for medical aid-in-dying.
12. Reliance Hospice & Palliative Care staff can respectfully ask their supervisor to transfer patients who are considering or have obtained medical aid-in-dying medication to another staff person without any fear of discipline or retaliation.

13. If upon arriving at a patient's home, an employee discovers that a patient who had not divulged their intention to utilize the Act is in the process of or has taken the medical aid-in-dying prescription, the employee may leave the premises but must notify their supervisor immediately. If employees arrive at a patient's home and find that the person has taken the medication and has died, employees are to provide your professional services as in any other case and initiate the usual bereavement follow-up with the family/significant other(s).

PATIENT PROCEDURE FOR REQUEST

Qualifications

A terminally ill adult with the capacity to make medical decisions may make a request to receive a prescription for an aid-in-dying drug under the following circumstances:

1. The individual's Attending Physician, defined below, diagnosed the individual with a terminal disease.
2. The individual voluntarily expressed the wish to receive a prescription for an aid-in-dying drug.
3. The individual is a resident of California and is able to establish residency through one of the following:
 - a. Possession of a California driver's license or other identification issued by the State of California.
 - b. Registration to vote in California.
 - c. Evidence that the person owns or leases property in California.
 - d. Filing of a California tax return for the most recent tax year.
4. The individual documents his or her request in a specified form.
5. The individual has the physical and mental ability to ingest the aid-in-dying drug without assistance.

Procedure

An individual seeking to obtain a prescription for an aid-in-dying drug must make two oral requests, a minimum of 48 hours apart, and a written request in a specified form directly to his or her Attending Physician. The request must be signed and dated, in the presence of two witnesses, by the individual seeking the aid-in-dying drug. The two witnesses also sign the form, attesting that:

1. The individual is personally known to them or has provided proof of identity.
2. The individual voluntarily signed the request in their presence.

3. The individual is of sound mind and not under duress, fraud or undue influence.
4. The witnesses are not the individual's Attending Physician, Consulting Physician or mental health specialist.

Only one witness may be related to the qualified individual by blood, marriage, registered domestic partnership or adoption or be entitled to a portion of the individual's estate and only one may own, operate or be employed at the health care facility where the individual is receiving medical treatment or resides. As described in the attestation, the witnesses cannot be the physician or mental health specialist for the individual.

INTERNAL PROCEDURE

- After 2nd verbal and the consulting physician visit has been made, then the attending physician will send in prescription to pharmacy. Ordering medication can take 3 - 5 days depending on availability and due to COVID-19.
- The attending physician will be available Monday through Friday. Telehealth verbal can be done with the attending physician with a nurse present in person as long as they can see and hear the patient. Overall process may take up to 7 days or longer.
- A visit by a MSW and Chaplain is offered and if requested visit to be made within the first 3 days.
- 2 nursing visits must be made prior to ingesting medication.

PHYSICIANS PROCEDURE

Qualifications

Two physicians must respond to each request. The Attending Physician is defined by the Act as "the physician who has primary responsibility for the health care of the individual and treatment of the individual's terminal disease."

The Consulting Physician is defined by the Act as "a physician who is independent from the Attending Physician and who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's terminal disease."

The Attending and Consulting Physicians cannot be related to the requesting patient by blood, marriage, registered domestic partnership or adoption or be entitled to a portion of the individual's estate.

Physician Procedure

Step 1: Patient Qualifications

Before prescribing an aid-in-dying drug, the Attending Physician must determine whether the patient has the capacity to make medical decisions, has a terminal disease, has voluntarily made the request and is a Qualified Patient.

If there are indications of a mental disorder, the Physician must refer the individual to a mental health specialist for an assessment. If such a referral is made, no aid-in-dying drug can be prescribed until the mental health specialist determines that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

Step 2: Inform the Patient

Before prescribing an aid-in-dying drug, the Attending Physician must inform the patient of his or her medical diagnosis and prognosis, the potential risks associated with ingesting the aid-in-dying drug, the probable result of ingesting the drug, the possibility that the patient may choose to obtain the drug but not take it and the feasible alternatives or additional treatment options, including, but not limited to, comfort care, hospice care, palliative care and pain control.

Step 3: Referral to the Consulting Physician

The Attending Physician must then refer the patient to a Consulting Physician. The Consulting Physician must examine the patient and his or her relevant medical records and confirm in writing the diagnosis and prognosis and that the patient has the capacity to make informed medical decisions and is acting voluntarily. If there are indications of a mental disorder, the Consulting Physician must also refer the individual for a mental health specialist assessment. The Consulting Physician must document these findings and submit them, along with a Consulting Physician Compliance Form, to the Attending Physician.

Step 4: Patient Requests; Patient Counseling

After the patient visits the Consulting Physician, he or she must return to the Attending Physician for counseling. The patient must make two oral requests for the aid-in-dying drug a minimum of 48 hours apart and schedule this visit accordingly. The patient must also submit a written request in a specified form directly to his or her Attending Physician. The Attending Physician must confirm that the patient's request does not arise from coercion or undue influence by another person by discussing with the patient, outside of the presence of any other persons except for an interpreter as necessary, whether or not the patient is feeling pressured by another person.

The Attending Physician must counsel the patient about the importance of all of the following:

1. Having another person present when he or she ingests the aid-in-dying drug prescribed pursuant to this part.
2. Not ingesting the aid-in-dying drug in a public place.
3. Notifying the next of kin of his or her request for an aid-in-dying drug. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason.
4. Participating in a hospice program.
5. Maintaining the aid-in-dying drug in a safe and secure location until the time that the qualified individual will ingest it.

The Attending Physician must inform the patient that he or she may withdraw or rescind the request for the aid-in-dying drug at any time and in any manner and offer the individual an opportunity to withdraw or rescind the request for an aid-in-dying drug before prescribing the aid-in-dying drug. The Attending Physician must verify, immediately before writing the prescription for an aid-in-dying drug, that the patient is making an informed decision.

Patients can always change their minds, having the form and prescription in no way creates an obligation to ingest the aid-in-dying drug. The Attending Physician can then prescribe the aid-in-dying drug. The physician will not administer the medication for medical aid-in-dying.

Step 6: Complete the Attending Physician Follow-Up Form

Within 30 calendar days following the patient’s death from ingesting the aid-in-dying drug or any other cause, the Attending Physician must submit the Attending Physician Follow-Up Form.

Step 7: Document and Report

The patient’s medical record must document:

1. All oral and written requests for aid-in-dying drugs.
2. The Attending Physician’s diagnosis and prognosis and the determination that the patient has the capacity to make medical decisions, is acting voluntarily and has made an informed decision, or that the Attending Physician has determined that the patient is not qualified.
3. The Consulting Physician’s diagnosis and prognosis and verification that the patient has the capacity to make medical decisions, is acting voluntarily and has made an informed decision, or that the Consulting Physician has determined that the patient is not qualified.
4. A report of the outcome and determinations made during a mental health specialist’s assessment, if performed.
5. The Attending Physician’s offer to the patient to withdraw or rescind his or her request at the time of the patient’s second oral request.
6. A note by the Attending Physician indicating that all requirements listed here for both the Attending Physician and Consulting Physician have been met and indicating the steps taken to carry out the request, including a notation of the aid-in-dying drug prescribed.

Forms

The patient’s written request must be in the same language as any conversations, consultations or interpreted conversations or consultations between the patient and his or her Attending or Consulting Physicians. Otherwise, an interpreter’s declaration must be attached.

Within 30 calendar days of writing a prescription for medication under this Act, the attending physician must submit the following completed, signed, and dated forms to CDPH:

- A copy of the qualifying individual’s written request

- Attending Physician’s Checklist and Compliance form
- Consulting Physician’s Compliance form.

Within 30 calendar days of a qualified individuals’ ingestion of the aid-in-dying medication obtained under the terms of the Act, or death from any other cause, whichever comes first, the attending physician shall submit:

- Attending Physician Follow-Up form.

The forms can be sent to CDPH at the following address:

California Department of Public Health
Public Health Policy and Research Branch
Attention: End of Life Option Act
MS 5205
P.O. Box 997377
Sacramento, CA 95899-7377

The forms can also be faxed to (916) 440-5209 or e-mailed EndOfLife@mbc.ca.gov.

The Medical Board has the option to update the forms and the Department of Public Health will publish updated forms online.

Physician and patient forms attached with this policy and procedure.

Opting Out

Providers and employees may opt out of participating without risk of liability or other penalties. The new law specifies that providers can refuse to participate in activities authorized under the law, to inform a patient regarding his or her rights under the law and to refer an individual to a physician who participates in activities authorized under the law.

References

California End of Life Option Act - https://pab.ca.gov/forms_pubs/end_of_life.pdf
SB 380 bill - <https://legiscan.com/CA/text/SB380/id/2435923>