

An Introduction to Medical Aid in Dying

CALIFORNIA



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California's End of Life Option Act

Medical aid in dying is the practice in which a terminally ill, mentally capable adult patient voluntarily requests and receives a prescription medication from a physician that they can self-administer to die peacefully. This allows patients to end their lives on their own terms. Medical aid in dying is authorized in 12 jurisdictions with regulations varying by jurisdiction to ensure that the process is carried out ethically and safely.

California's End of Life Option Act authorizes the practice of medical aid in dying, allowing a terminally ill, mentally capable adult with six months or less to live to request from their physician a prescription for medication that the patient can decide to self-ingest to die peacefully.

Eligibility

To be eligible to use the law, the individual must:

- > Be 18 years or older
- > Have been diagnosed with a terminal illness
- > Have a prognosis of six months or less to live
- > Be mentally capable of making their own healthcare decisions

The patient must also be:

- > A resident of California
- > Capable of self-ingesting the aid-in-dying medication
- > Making an informed decision and voluntary request

A person is not eligible for medical aid in dying solely because of age or disability.

Summary of Process to Obtain Medical Aid in Dying

Two California physicians must confirm the patient's eligibility to use the California End of Life Option Act, as well as confirm that the patient is making an informed decision and voluntarily requesting the aid-in-dying medication. The attending physician prescribes the medication, and the consulting physician confirms eligibility, capacity, and voluntariness. (An attending

physician is a physician who has primary responsibility for care of the individual and treatment of their terminal illness.)

If either physician questions the patient's mental capacity in making the request, a mental health professional (psychiatrist or psychologist) must evaluate the patient to ensure that they are capable of making their own healthcare decisions before a prescription can be written.

The patient may change their mind at any time and withdraw their request, or choose not to take the medication.

Making A Request

The patient must make three requests to their attending physician to use the California End of Life Option Act: two oral requests and one written one. The written request is made via the Patient Request form, which is included in this packet (see p. 18). Only the patient can make these requests; they cannot be made through an advance directive or by a family member or friend. The requests must be made to a physician, not office staff. Please see the "Steps" section of this document (on p. 5) for details.

Medication

The type and dosage of aid-in-dying medication doctors prescribe, including medications to prevent nausea and vomiting, varies with each individual. The medication cannot be injected. The patient must be able to ingest the medication without assistance, usually by swallowing or by using a feeding tube. **The prescribing physician must send the prescription directly to the pharmacy. The pharmacy will NOT accept a prescription directly from a patient.** A designated family member or friend may pick up the medications.

If the prescribing doctor has any questions, the doctor can call Compassion & Choices' free and confidential Doc2Doc consultation line at 800.247.7421.

The patient may ask their provider or pharmacy about the cost of these medications. Some insurance policies, including Medi-Cal, cover the cost of the medication and/or the physician visits. Please contact the insurance provider to find out what the policy covers. It should also be noted that many compounding pharmacies do not work with insurance and instead offer medications at a cash-only rate.

Unused Medication

There is no obligation to take the medication, even after the prescription has been filled. If the person who was prescribed the medication does not use it, it should be disposed of by lawful means in accordance with guidelines promulgated by the California State Board of Pharmacy or a federal Drug Enforcement Administration approved take-back program.

Please note it is illegal to use another person's medication.

To safely discard unused medication:

- > Do NOT flush down the toilet, sink or other drain
- > Remove all personal information on bottle labels and medicine packaging
- > Use the following website to search for other authorized drug collection/disposal locations near you:
<https://www.fda.gov/drugs/disposal-unused-medicines-what-you-should-know/drug-disposal-drug-take-back-locations>
- > Contact the pharmacist who filled the prescription for more assistance.

Death Certificates

Death certificates for medical aid in dying comply with guidelines provided by the Centers for Disease Control and Prevention (CDC). When a terminally ill person dies using medical aid in dying, the underlying terminal disease is listed as the cause of death on the death certificate, (for example, cancer, ALS). In addition, the law states life insurance policies and other post-death benefits are not affected by utilizing the California End of Life Option Act. The sale, procurement, or issuance of a life, health, or accident insurance or annuity policy, or the rate charged for such a policy, may not be conditioned upon or affected by an individual's act of making or rescinding a request for medical aid in dying.

Steps for Accessing Medical Aid in Dying in California

The first step is to speak with your doctor to discuss your interest in medical aid in dying. Be sure to be explicit in your discussion, and ask if they will support this option by writing a prescription. Review the “Talking With Your Physician” section of this packet (see p. 7) for prompts you can use to begin your discussion.

If you are considering medical aid in dying, it is also a good time to think about any additional planning that you may need to begin, including consideration of hospice enrollment.

Note: Hospice is a specialized service (covered by insurance and Medicare), providing wonderful individualized support to people at the end of their lives. Those eligible for medical aid in dying are also eligible to receive hospice services. **Many hospice organizations have a policy regarding medical aid in dying, so it is important to review and discuss that policy if enrolled in hospice and pursuing this option.**

If your doctor says “no” to supporting this option:

If your physician decides not to participate, or is unable to, you should ask for a referral to another clinician who has chosen to participate. If additional assistance is needed, some health systems offer the support of a care navigator or social worker to assist with resources and referrals. If your doctor does not provide a referral, or your health system does not allow medical aid in dying, you may consider establishing care with a system or facility that will support you in medical aid in dying.

Don’t be afraid to advocate for the end-of-life experience you want. For more information and resources, visit candc.link/personal-advocacy.

Compassion & Choices’ End-of-Life Consultants are available to offer personalized support, resources and information at no cost. You can reach out to them via email at eolc@CompassionAndChoices.org or leave a voicemail at 800.247.7421; in both instances, consultants will respond to you in 1-2 business days. Language interpreter services are available.

If your doctor says “yes” to supporting this option:

- 1. Make a verbal request for the prescription for aid-in-dying medication directly to your attending doctor. Ask your doctor to write the verbal request down in your medical record.** Your first verbal request is when you state that you would like to pursue medical aid in dying, asking your doctor to write a prescription, or stating that you would like to begin the process of requesting medical aid in dying.
- 2. In addition to a prescribing healthcare provider, a consulting physician must confirm that the patient is eligible to use the law and that they are making both an informed decision and voluntary request.**
- 3. Give your doctor a written request for medical aid in dying that is signed by you and two witnesses** (see p. 18 for a copy of the written request form). One witness cannot be a relative or someone who stands to benefit from the person’s estate, be the person’s attending healthcare provider, or be an owner, operator or employee of a healthcare facility in which the person is a resident or receiving medical care.
- 4. Pick up your prescription OR have it mailed to you OR have a designated person pick it up for you.** The pharmacist will go over the medication details with you and let you know what to do with it if you do not end up taking it. You may also choose to keep it on file at the pharmacy if and until you decide to use it.
- 5. Planning for the day of ingestion is also important to do during this time, and allows your healthcare team and loved ones to support you as you wish.** This could include discussing who you want to present, what kind of sounds or smells you would like to experience, managing symptoms prior to ingestion, and what you would like the day to feel like. This is also a good time to review or discuss final arrangements.
- 6. When the time has come, you can take the medication if you still feel it is necessary. You may always decline to take the medication, at any time.**

Talking With Your Physician

The process to access medical aid in dying can take weeks and sometimes months. We encourage people to start the discussion early. You don't have to wait until you're sick to ask your doctor if they would support you in accessing medical aid in dying if you should become eligible for it. Your provider may not be familiar with California's End of Life Option Act itself, and may have some questions; see information about our Doc2Doc line at the end of this section for a resource you can share.

Some people feel anxious about discussing end-of-life issues with their physicians, but doing so will enable you to have an end-of-life care experience consistent with your values. If you are uncomfortable with talking to your doctor about this, you can bring a friend to help you or start the conversation in writing. It is important to make sure you are able to access the end of life option you want.

Both doctors and health systems are allowed to opt out of providing medical aid in dying, so it's important to make sure that you are able to access it.

No one but you can make this request. It is important to speak directly with the clinician; do not ask the office staff, nurse or physician's assistant, or leave a request on voicemail. Below are some examples of ways to ask your clinician about their ability to support you in a way that aligns with your values.

Language for someone who DOES have a terminal illness:

- > *Though I am not currently facing a terminal illness, access to the option of medical aid in dying, if I were to qualify, is important to me. I would like to know if you/this hospital system would support that decision to access the California End of Life Option Act.*
- > *I want to live with as much quality as possible for as long as I can, and I've thought long and hard about what I want my end-of-life experience to look like. If I ever meet the legal requirements, I would like to have the option of using the California End of Life Option Act. Is that something you would be able to support me in seeking?*

- > *I hope you will honor my decisions and respect my values, as I respect yours. Will you write a prescription for aid-in-dying medication in accordance with the California End of Life Option Act when I am eligible? If you are not able to honor that request, I would like to find out now.*

Language for someone who DOES have a terminal illness:

- > *I have thought about this for quite some time, and am interested in accessing the California End of Life Option Act. Is this a decision that you would support me in?*
- > *I want to die the way I've lived: on my own terms. That's why I'm interested in the California End of Life Option Act. Am I eligible? If yes, will you write a prescription for aid-in-dying medication in accordance with the California End of Life Option Act? If you will not write the prescription, will you record in my chart that I am eligible to use the law and refer me to a physician who is able and willing to honor my request?*

Whether your doctor elects to participate in your medical aid in dying process or not, it is important to ask that your request be recorded in your medical record.

Compassion & Choices End-of-Life Consultation Service provides free and confidential consultation to providers who have questions about end-of-life care options, including medical aid in dying. If your clinician is willing to participate but needs support, please refer them to the End-of-Life Consultation Service phone line at 800.247.7421. Tell them that a trained professional will return their call.

End-of-Life Care Planning Checklist

Please visit the Compassion & Choices website for more resources at CompassionAndChoices.org/plan.

Many people postpone making arrangements for healthcare at the end of life. Planning ahead allows individuals to spend their final days with friends and family while focusing on the present. Informing loved ones of wishes ahead of time relieves them of the possible burden of making decisions about your final arrangements.

Please consider whether any of the following are appropriate for your situation:

- ☐ Discuss your wishes with family and loved ones
- ☐ Discuss your wishes with your provider(s) and healthcare team
- ☐ Provide a copy of your current Advance Directive to
 - ☐ Healthcare Provider(s)
 - ☐ Healthcare entity (such as your local hospital system)
 - ☐ Agent named as surrogate decision maker
 - ☐ Hospice team (if applicable)
- ☐ Create and/or locate important documents
 - ☐ Advance Directive or Living Will
 - ☐ Durable Power of Attorney for Healthcare
 - ☐ Durable Power of Attorney for Finances
 - ☐ Last Will and Testament
 - Compassion & Choices has partnered with Free Will to offer this documentation at no cost, available at:
CompassionAndChoices.org/ways-to-give/free-will
 - ☐ Living Trust
 - ☐ Life Insurance policies (with beneficiary information)
 - ☐ Information for financial accounts, assets property
 - ☐ Information for final arrangements, funeral plans, prepaid services
- ☐ Ensure important documents are up to date and reflect your current wishes
- ☐ Name a guardian for children, pets

Glossary

advance care planning

Includes a person's living will, medical durable power of attorney (or health care proxy – see below), do not resuscitate, and portable medical orders. Called "advance" because it is ideally prepared prior to a health crisis in which it would guide medical care. Advance care planning documents vary by state and can include other documents, such as a dementia provision. See also "living will" below. Find state specific advance directives on Compassion & Choices' website at: CompassionAndChoices.org/our-issues/advance-care-planning

advance directive

A general term for any document that contains instructions pertaining to a person's wishes related to medical treatment if they can not make care decisions on their own. More information can be found here:

CompassionAndChoices.org/resource/putting-priorities-paper-advance-directive

attending physician

An attending physician is defined as a physician who has primary responsibility for care of the individual and the treatment of their disease. In the medical aid in dying process, the attending physician is the doctor who writes the prescription for aid-in-dying medication.

medical aid in dying

A safe, time tested, and trusted medical practice in which a terminally ill, mentally capable adult with a prognosis of six months or less to live may request from their doctor a prescription for medication that they can choose to self-ingest to bring about a peaceful death. Where medical aid in dying is currently authorized, providers are required to confirm that a patient is fully informed and provide the patient with information about additional end-of-life options, including comfort care, hospice and pain control, before providing a prescription.

DNR

Stands for “do not resuscitate,” a medical order making clear an individual’s request that no measures be taken to resuscitate them if their heart or breathing stops. The order is made while the individual is mentally capable and conscious, or by that individual’s health care proxy (see below) if they are not.

health care proxy

A health care proxy — also known as a representative, surrogate, agent or durable power of attorney for health care — is a person authorized to make health care decisions if someone is unable to make their own. They work closely with your health care team to ensure your care and treatment preferences are followed. Selecting a health care proxy is an important part of advance care planning (see “advance care planning ” above).

hospice

A program in which an interdisciplinary team of caregivers provides comfort and support to terminally ill people when medical treatment is no longer desired, expected to cure or prolong life. Hospice is provided wherever the person resides, most often at home. It is voluntary and also involves and supports the individual’s family and/or loved ones. According to state reports, the majority of people who access medical aid in dying are also enrolled in hospice.

living will

A document that expresses a person’s end-of-life preferences if they become unable to speak for themselves. A living will is just one component of advance care planning (see “advance care planning ” above).

MOLST/POLST

Stands for Medical (or Physician) Orders for Life Sustaining Treatment. An important form to provide detailed guidance about an individual’s wishes for end-of-life medical care. The order is part of advance care planning and is prepared by a medical professional. It is often printed

on brightly colored pink paper and placed on a refrigerator so it can easily be found during an emergency.

palliative sedation

Palliative sedation — also referred to as terminal sedation — is the continuous administration of intravenous or subcutaneous medication to relieve severe, intractable symptoms that cannot be otherwise controlled with less invasive interventions. Must be managed carefully by a medical team.

prognosis

Prognosis refers to the likely outcome of a disease and may include an estimated time an individual has left to live. Medical aid-in-dying laws and hospice eligibility require a prognosis of six months or less.

refusing medical treatment

The legal right to decline medical treatment even if that treatment is necessary to sustain life. These interventions can include dialysis, medications, ventilators, feeding tubes, and pacemakers.

terminally ill

When a disease or illness cannot be cured and is likely to lead to death, it is considered a terminal illness.

VSED

Stands for “voluntarily stopping eating and drinking,” a legal option for any seriously ill individual with decision-making capacity, who wishes to shorten their dying process, by foods and fluids of any kind, including artificial nutrition and/or hydration.

Tracking of End-of-Life Plans & Documents

Individual Name: _____ Individual Birthdate: _____

Choosing medical aid in dying is a process that requires conversation, planning and coordination. This document is designed to help organize essential information related to the process and share with others if you choose to do so.

Advance Directive:

> Location of advance directive documents _____

> Durable power of attorney for health care (name/relationship/phone):

Hospice (if enrolled):

> Name of organization: _____

> Contact Person: _____

> Contact Email or Phone: _____

> Is Hospice aware of and able to support end of life plans? Yes _____ No _____

> If no, what is the plan for making sure end of life plans are honored?

> Any special arrangements need to be made with Hospice to make sure end of life plans are supported? Yes _____ No _____

- If so, what are they and who is in charge of getting those in place?

> Will you be requesting someone from the Hospice present? Yes _____ No _____

- If so, who?: _____

Final Arrangements:

> Have these arrangements been made? Yes _____ No _____

- If yes, name of Mortuary/Funeral Home: _____

- If yes, what information/details should be shared: _____

Medical Aid in Dying:

> Attending provider: _____ Phone: _____

> Consulting provider: _____ Phone: _____

> Mental capacity evaluation (*only if requested by healthcare provider*):

Yes _____ No _____

> Date of 1st verbal request: _____

Healthcare Provider Name: _____

- > Date of 2nd verbal request: _____
Healthcare Provider Name: _____
- > Date of mental capacity evaluation: _____
Evaluator's Name: _____
- > Date written request submitted: _____
- > Date aid-in-dying medications prescribed: _____
- > Date aid-in-dying medications picked up/received: _____
 - Medications: _____
- > Name of pharmacy: _____
- > Location or contact person for instructions on disposing of unused medication: _____

Plans for Ingestion:

- > Date of planned ingestion: _____
- > Who knows about your plan: _____
- > Who will be present during ingestion: _____
- > Describe how you want the day to go (environment, smells, sounds, activities):

> Plan for unexpected event (such as prolonged dying process, vomiting, waking up, etc)

- Date(s) discussed: _____

- Plan details: _____

Date Final Attestation form completed: _____

Person delivering form to prescribing physician: _____

Additional Notes:

Request for Medication Form

The following Request for Medication form is provided by the State of California.

REQUEST FOR AN AID-IN-DYING DRUG TO END MY LIFE IN A HUMANE AND DIGNIFIED MANNER

I, _____,
am an adult of sound mind and a resident of the State of California.

I am suffering from _____
which my attending physician has determined is in its terminal phase and which has been medically confirmed.

I have been fully informed of my diagnosis and prognosis, the nature of the aid-in-dying drug to be prescribed and potential associated risks, the expected result, and the feasible alternatives or additional treatment options, including comfort care, hospice care, palliative care, and pain control.

I request that my attending physician prescribe an aid-in-dying drug that will end my life in a humane and dignified manner if I choose to take it, and I authorize my attending physician to contact any pharmacist about my request.

INITIAL ONE:

_____ I have informed one or more members of my family of my decision and taken their opinions into consideration.

_____ I have decided not to inform my family of my decision.

_____ I have no family to inform of my decision.

I understand that I have the right to withdraw or rescind this request at any time.

I understand the full import of this request and I expect to die if I take the aid-in-dying drug to be prescribed. My attending physician has counseled me about the possibility that my death may not be immediately upon the consumption of the drug.

I make this request voluntarily, without reservation, and without being coerced.

Signed: _____ Dated: _____

DECLARATION OF WITNESSES

We declare that the person signing this request:

- (a) is personally known to us or has provided proof of identity;
- (b) voluntarily signed this request in our presence;
- (c) is an individual whom we believe to be of sound mind and not under duress, fraud, or undue influence; and
- (d) is not an individual for whom either of us is the attending physician, consulting physician, or mental health specialist.

Witness 1: _____ Date: _____

Witness 2: _____ Date: _____

NOTE: Only one of the two witnesses may be a relative (by blood, marriage, registered domestic partnership, or adoption) of the person signing this request or be entitled to a portion of the person's estate upon death. Only one of the two witnesses may own, operate, or be employed at a health care facility where the person is a patient or resident.