

LOGO

**The Colorado
End-of-Life Options Act
(Patient's Request for
Medical Aid-in-Dying)**

Adoption DATE:

APPROVED BY:

LAST DATE REVISED:

LAST DATE REVIEWED:

Office of Origin: _____

I. PURPOSE

- A. The Colorado End-of-Life Options Act authorizes medical aid in dying and allows an adult patient with capacity, who has been diagnosed with a terminal disease with a life expectancy of six months or less, and who meets other requirements, to request a prescription for a medication (aid-in-dying medication) for the purpose of shortening a prolonged dying process through self-administration of the aid-in-dying medication.
- B. The purpose of this policy is to describe the requirements and procedures for compliance with The Colorado End-of-Life Options Act and to provide guidelines for responding to patient requests for information about aid-in-dying medications in accordance with federal and state laws and regulations and The Joint Commission accreditation standards.
- C. The requirements outlined in this policy do not preclude or replace other existing policies, including but not limited to Withdrawing or Foregoing Life Sustaining Treatment, Pain Management, Advance Directives /POLST, Resuscitation Status (DNR) or End-of-Life Care, referenced herein.

II. REFERENCES

- A. Colorado End-of-Life Options Act []
- B. Colorado Probate Code section []
- C. HOSPITAL Administrative Policies:
 - 1. Advance Health Care Directives/POLST
 - 2. Patient Rights and Responsibilities
 - 3. Ethics Consultation
 - 4. Withdrawing or Foregoing of Life Sustaining Treatment
 - 5. End-of-Life Care
 - 6. Resuscitation Status (DNR)
 - 7. Pain Management
 - 8. Interpreting and Translation Services
 - 9. Employee Requests to be Excluded from Patient Care _____

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III. DEFINITIONS (for purposes of this policy)

- A. **Attending Physician:** A physician, authorized to practice medicine or osteopathic medicine, who has primary responsibility for the health care of the patient and treatment of the patient's terminal disease in the normal course of their medical practice. An attending physician does not include a physician assistant or nurse practitioner. The attending physician may not serve as a witness to the patient's written request for aid-in-dying medication.
- B. **Consulting Physician:** A physician who is qualified by specialty or experience to make a professional diagnosis regarding a patient's terminal illness. A consulting physician does not include a physician assistant or nurse practitioner.
- C. **Informed decision:** A decision by a patient to obtain a prescription for aid-in-dying medication that the qualified individual may decide to self-administer to end his or her life in a peaceful manner, that is based on an understanding and acknowledgement of the relevant facts, and that is made after being fully informed by the attending physician of all of the following to demonstrate the patient is exercising self-determination and intent:
1. The patient's medical diagnosis and prognosis;
 2. The potential risks associated with taking the medication to be prescribed;
 3. The probable result of taking the medication to be prescribed; and
 4. The choices and feasible alternative treatment opportunities available to an individual, including, but not limited to hospice care, comfort care, other palliative care and pain control.
- D. **Medical aid-in-dying medication or aid-in-dying medication:** Medication prescribed by a physician pursuant to the Colorado End-of-Life Options Act to provide medical aid in dying to a qualified individual.
- E. **Mental Capacity or Capability to Make Health Care Decisions:** A patient who, in the opinion of the patient's attending physician, consulting physician or psychologist/psychiatrist, has the ability to make and communicate an "informed decision" (defined herein) to health care providers.
- F. **Mental Health Professional:** A licensed psychiatrist or licensed psychologist. It does not include a physician assistant or nurse practitioner.
- G. **Prognosis of Six Months or Less:** A prognosis resulting from a terminal illness that the illness will, within reasonable medical judgment, result in death within six months.

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- H. **Self-Administer:** A qualified patient’s affirmative, conscious, and physical act of administering the aid-in-dying medication to shorten a prolonged dying process and bring about his or her own death.
- I. **Surrogate:** A surrogate decision maker can be an agent appointed in an advance health care directive or a durable power of attorney for health care, or a court appointed conservator of the person. When patients without such an agent or conservator lose capacity to make health care decisions, a family member, domestic partner or persons with whom the patient is closely associated may be considered to act as surrogates for health care decisions. Surrogates may not make a request, provide an informed decision or satisfy any of the requirements of the Colorado End-of-Life Options Act on behalf of a patient, for the purpose of obtaining a prescription for medical aid in dying.
- J. **Terminal Disease:** An incurable and irreversible disease that will, within reasonable medical judgment, result in death.
- K. **Qualified Individual:** A terminally ill adult with a prognosis of six months or less, who has mental capacity, has made an informed decision, is a resident of the state, and has satisfied the requirements of the Colorado End-of-Life Options Act in order to obtain a prescription for medical aid-in-dying medication to end his or her life in a peaceful manner.

IV. POLICY

- A. The Colorado End-of-Life Options Act (herein after the “Act”) allows adult (18 years or older) terminally ill patients, with capacity to make health care decisions, seeking to mitigate suffering and shorten a prolonged dying process, to request aid-in-dying medications from an attending physician. These terminally ill patients must be Colorado residents (as defined herein) who will, within reasonable medical judgment, die within 6 months. Patients requesting an aid-in-dying medication must satisfy all requirements of the Act in order to obtain the prescription for that medication. Such a request must be initiated by the patient and cannot be made through utilization of an Advance Health Care Directive, POLST or other document. It cannot be requested by the patient’s surrogate.
- B. [] Hospital (“HOSPITAL”) allows its physicians and other health care providers who are permitted under the Act to participate in activities authorized by the Act, if they so choose. HOSPITAL physicians and other health care providers may, as applicable and as defined in the Act and herein:
1. Perform the duties of an attending physician.
 2. Perform the duties of a consulting physician.

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3. Perform the duties of a mental health specialist.
 4. Prescribe medications under this Act.
 5. Fill a prescription under this Act.
 6. Be present when the qualified patient self-administers the aid-in-dying medication [provided that the physician does not assist the patient in self-administering the life-ending medications].
 7. Participate in patient or provider support related to the Act.
- C. When a patient makes an inquiry about or requests access to activities under the Act, the patient will initially be referred to HOSPITAL [Social Services Department or Patient Navigator Program]. [Social workers or Patient Navigators] who are well versed in the requirements of the Act will assist patient understanding of the Act, inform them about the process and provide educational material related to the patient's end-of-life options. This activity will augment, but not substitute for, the obligations of the attending and consulting physicians' roles described herein. If the patient's HOSPITAL physician chooses not to participate in the Act, which is his or her right under the law, a social worker will assist in the identification of a HOSPITAL physician who will participate.
- D. HOSPITAL neither encourages nor discourages participation in the Act; participation is entirely voluntary. Only those providers who are willing and desire to participate should do so. Those persons who do choose to participate are reminded that the overall goal is to provide patient-centered care and support the patient's end-of-life wishes, and that participation may not necessarily result in aid-in-dying medications being prescribed if the patient's needs can be met in other ways (e.g. pain management, hospice or palliative care).
- E. Participation in activities authorized under the Act is completely voluntary. [A HOSPITAL physician, staff or employee that elects not to engage in activities authorized by the Act is not required to take any action in support of a patient's request for a prescription for an aid-in-dying medication, including but not limited to, referral to another provider who participates in such activities.]
- F. [HOSPITAL does not permit the ingestion or self-administration of an aid-in-dying medication in its hospitals, clinics or elsewhere on its premises. However, inquiry and discussion of such a request is permitted during a patient's hospitalization. An attending physician may prescribe the aid-in-dying medication after discharge so long as all the requirements of the Act are fulfilled (see section V for requirements).]
- G. Under the Act, if the attending or consulting physician believes that an individual may have impaired judgment that renders the individual incapable of making an informed

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decision, the individual shall be referred to a licensed mental health professional for a determination that the individual is mentally capable before a prescription for aid-in-dying medication may be written.

- H. HOSPITAL may provide oversight and may review records to the extent necessary to ensure all requirements of the law have been followed and the correct documentation completed and submitted to the Colorado Department of Public Health and Environment (CDPHE).

V. PROCEDURES

A. Requirements of the Colorado End-of-Life Options Act

1. Patients eligible to request aid-in-dying medications from their physician: HOSPITAL adult patients who have capacity to make health care decisions and who have a terminal disease with a prognosis of six months or less.
2. Patients are qualified to receive a prescription for an aid-in-dying medication if all of the following conditions are met:
 - a. The patient meets the eligibility requirements.
 - b. The patient has voluntarily requested an aid-in-dying medication on three separate occasions as described herein;
 - c. The attending physician determines that the patient is making an informed decision and has fully informed the patient of all their available end-of-life options;
 - d. A consulting physician has provided a confirming opinion on the eligibility of the patient for a prescription for an aid-in-dying medication, and has confirmed that the person is acting voluntarily and making an informed decision.
 - e. The patient has the physical and mental capacity to self-administer the aid-in-dying medications;
 - f. The patient is a Colorado resident and is able to establish residency through at least one of the following:
 - i. Possession of a Colorado Driver license or ID card issued by the State of Colorado
 - ii. Registration to vote in Colorado
 - iii. Evidence that the patient owns, rents or leases property in Colorado

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- iv. The filing of a Colorado tax return for the most recent tax year
 - g. A patient must not be considered an “eligible individual” under the Act solely because of age or disability.
 - h. The attending physician has fulfilled all the requirements of the law as set forth in the Attending Physician Checklist & Compliance form (HOSPITAL Form X).
3. Method of request for aid-in-dying medication and documentation requirements: Requests for aid-in-dying medications must come directly and solely from the patient who will self-administer the medications. Such requests cannot be made by a patient’s surrogate or by the patient’s health care provider.

To make a request for a prescription for an aid-in-dying medication, the patient must make:

- a. Two oral requests (made in person) that are made a minimum of 15 days apart. Patients who are unable to speak because of their medical condition shall communicate their request in a manner consistent with their inability to speak, such as through sign language. These requests must be documented in the medical record (the Act does not specify any particular language); AND
- b. One written request using the form required by the State of Colorado “Request for Medication to End My Life in a Peaceful Manner” (HOSPITAL Form X. This form must be placed in the patient’s medical record. Form X sets forth the following conditions:
 - i. The written request form (Form X) must be signed and dated, in the presence of two witnesses, by the patient seeking the aid-in-dying medication.
 - ii. The witnesses must also sign the form and by so doing attest that to the best of their knowledge and belief the patient is all of the following:
 - (a) An individual who is personally known to them or has provided proof of identity.
 - (b) An individual who voluntarily signed the request in their presence.
 - (c) An individual whom they believe to be of sound mind and not under duress, fraud or undue influence.

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- c. The patient's attending physician, consulting physician and mental health specialist cannot serve as witnesses. Additionally, only one witness may be related to the requesting patient by blood, marriage, registered domestic partnership or adoption or be entitled to a portion of the requesting patient's estate upon death or own, operate or be employed by a health care facility where the patient is receiving medical care or resides.
 - d. The request may not be made through a nurse, social worker, nurse practitioner or physician assistant. Any HOSPITAL employee or contractor must notify the attending physician about any patient request for aid-in-dying medication.
4. Responsibility of the attending physician: The responsibilities of an attending physician are non-delegable. Before prescribing the aid-in-dying medication, the attending physician must do all of the following:
- a. Make the initial determination about whether the patient is eligible under the Act as described in section A 1 above, including determination that:
 - i. The adult patient has capacity to make health care decisions
 - ii. The patient has a terminal disease with a prognosis of six months or less, medically confirmed by a consulting physician
 - b. Make additional determinations that:
 - i. The patient has made a voluntary request for an aid-in-dying medication, including completion of witness attestations that the patient is of sound mind and not under fraud, duress or undue influence
 - ii. The patient's request does not arise from coercion or undue influence. The physician must do this by discussing with the patient, outside the presence of any other person (except for a HOSPITAL-provided interpreter as described in Section 7 below) whether or not the patient is feeling coerced or unduly influenced by another person. Family members or friends of the patient cannot act as interpreters.
 - iii. The patient has met the residency requirements of the Act
 - iv. The patient is making an informed decision as defined herein.
 - c. Refer the patient to a consulting physician.

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- d. Before a prescription for aid-in-dying medication can be written, if the attending or consulting physician determines that the patient has indications of impaired judgment that affects decision-making, the patient must be referred for a mental health assessment and a licensed psychologist or psychiatrist must determine the patient is capable. If this additional assessment is conducted, it must be documented in the patient's medical record. Patients with depression are not automatically excluded and it must be determined that a mental illness is interfering with decision-making capacity.
- e. Counsel the patient about the importance of:
- i. Having another person present when he or she ingests the aid-in-dying medication.
 - ii. Not ingesting the aid-in-dying medication in a public place. "Public place" means any street, alley, park, public building, or any place of business or assembly open to or frequented by the public, and any other place that is open to the public view, or to which the public has access.
 - iii. Notifying the next of kin of his or her request for an aid-in-dying medication. A patient who declines or is unable to notify next of kin must not have his or her request denied for that reason.
 - iv. Participating in a hospice program.
 - v. Maintaining the aid-in-dying medication in a safe and secure location until the patient takes it.
- f. Inform the patient that he or she may withdraw or rescind the request for an aid-in-dying medication at any time and in any manner. The patient has the right to change his or her mind without regard to his or her mental state. Therefore, if a patient makes a request for an aid-in-dying medication while having capacity to make health care decisions, then loses his or her capacity, the patient can still decide not to take the aid-in-dying medication.
- g. Offer the patient an opportunity to withdraw or rescind the request for an aid-in-dying medication before prescribing the medication.
- h. Verify, for a second time, immediately before writing the prescription for an aid-in-dying medication, that the patient is making an informed decision.

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- i. Confirm that all requirements are met and all appropriate steps are carried out in accordance with the law (as outlined in this policy) before writing a prescription for an aid-in-dying medication.
 - j. Fulfill all the documentation requirements (see Section 6 below).
 - k. Complete the Attending Physician Checklist & Compliance form (HOSPITAL Form X) and place it as well as the completed Consulting Physician Compliance form (HOSPITAL Form X) in the patient's medical record. [Arrange for the forms submittal to CDPHE by the _____ Office].
 - l. Complete the Attending Physician Follow-up form (HOSPITAL Form X) [and submit it to CDPHE through the _____ Office].
5. Responsibility of consulting physician: A physician who chooses to act as a consulting physician must not be involved in the patient's health care and must do all the following:
- a. Examine the patient and his or her relevant medical records.
 - b. Confirm in writing the attending physician's diagnosis and prognosis.
 - c. Determine that the individual has the capacity to make medical decisions, is acting voluntarily and has made an informed decision.
 - d. Before a prescription for aid-in-dying medication can be written, if the attending or consulting physician determines that the patient has indications of impaired judgment that affects decision-making, the patient must be referred for a mental health assessment and a licensed medical professional must determine the patient is capable. This assessment must be documented in the patient's medical record. Patients with depression are not automatically excluded and it must be determined that mental illness is interfering with decision-making capacity.
 - e. Fulfill the documentation requirements (see section 6 below).
 - f. Complete the "End-of-Life Options Act Consulting Physician Compliance form (HOSPITAL Form X).
6. Responsibility of mental health specialist: Make a determination whether referred patients have the mental capacity to make informed decisions, and to ensure a vigilant and systematic examination for physical or mental health conditions that could be interfering with informed decision-making.

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A psychiatrist or psychologist who chooses to act as a mental health professional must conduct one or more consultations with the patient and do all of the following:

- a. Examine the patient and his or her relevant medical records.
 - b. Determine that the patient has the mental capacity to make informed medical decisions.
 - c. Determine that the patient is not suffering from impaired judgment. Patients with depression are not automatically excluded and it must be determined that a mental illness is interfering with decision making capacity.
 - d. Document in the patient's medical record a report of the outcome and determinations made during the mental health professional's assessment.
 - e. Fulfill the documentation requirements (see Section 6 below).
7. Documentation requirements: All of the following must be documented in the patient's medical record:
- a. All oral requests for aid-in-dying medications.
 - b. All written requests for aid-in-dying medications.
 - c. The attending physician's diagnosis and prognosis, and the determination that the qualified patient has the capacity to make healthcare decisions, is acting voluntarily, and has made an informed decision, or that the attending physician has determined that the individual is not a qualified patient.
 - d. The consulting physician's diagnosis and prognosis and verification that the patient has the capacity to make health care decisions, is acting voluntarily and has made an informed decision, or that the consulting physician has determined that the individual is not a qualified patient.
 - e. A report of the outcome and determination made during a mental health professional's assessment, if conducted.
 - f. The attending physician's offer to the patient to withdraw or rescind his or her request at the time of second oral request.
 - g. A note by the attending physician indicating that all requirements of the Act have been met and indicating the steps taken to carry out the request, including a notation of the aid-in-dying medication prescribed.

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to the pharmacist. It is not permissible to give the patient a written prescription to take to a pharmacy. The pharmacist may dispense the medication to the patient, the attending physician, or a person expressly designated by the patient. This designation may be delivered to the pharmacist in writing or verbally.

- c. Delivery of the dispensed medication to the patient, the attending physician, or a person expressly designated by the patient may be made by personal delivery, or [with a signature required on delivery,] by UPS, US Postal Service, Federal Express or by messenger service.
 - d. Physicians should counsel patients that unused or leftover aid-in-dying medications should be properly disposed by returning to a facility authorized to dispose or as provided by the Board of Pharmacy.
10. [CDPHE reporting requirements: Within [] calendar days of writing a prescription for an aid-in-dying medication, the attending physician (through HOSPITAL's _____ Office) must submit the documents listed below to CDPHE either by mail or by fax, []. If mailed, the completed forms should be sent in envelopes marked "confidential" to:

[]

[To protect confidentiality, CDPHE has not established an email address for forms submission.]

- a. A copy of the qualifying patient's written request: Request for an Aid-in-Dying medication to End My Life in a Humane and Dignified Manner (HOSPITAL Form X);
- b. [The End-of-Life Options Act Attending Physician Checklist & Compliance form (HOSPITAL Form X);
- c. The End-of-Life Options Act Consulting Physician Compliance form (HOSPITAL Form X);]
- d. Within [] calendar days following the qualified patient's death from ingesting the aid-in-dying medication, or any other cause, the attending physician (through the _____ Office) must submit to CDPHE the [End-of-Life Options Act Attending Physician Follow-Up form (HOSPITAL Form X).]