

END OF LIFE OPTION ACT

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PUBLICATIONS

Several helpful publications are available through CHA including:

California Health Information Privacy Manual
California Hospital Compliance Manual
California Hospital Survey Manual — A Guide to the Licensing & Certification Survey Process
Consent Manual
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Guide to Release of Patient Information
Hospital Financial Assistance Policies and Community Benefit Laws
Mental Health Law
Minors & Health Care Law
Model Medical Staff Bylaws & Rules
Population Health Management
Principles of Consent and Advance Directives
Record and Data Retention Schedule
The Cal/OSHA Safe Patient Handling Regulation
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CALIFORNIA
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END OF LIFE OPTION ACT

I. END OF LIFE OPTION ACT

A. INTRODUCTION

On Oct. 5, 2015, Governor Brown signed AB X2-15, the End of Life Option Act, which permits an adult with a terminal disease and the capacity to make health care decisions to request and be prescribed an aid-in-dying drug if specified conditions are met [Health and Safety Code Section 443 *et seq.*]. This document describes the requirements and options under the law. The law takes effect on June 9, 2016.

FIRST STEPS FOR HOSPITALS

The End of Life Option Act is not a hospital-focused law; rather, it is focused on the individual who is making the request and the physicians involved in the process. It is anticipated that most of the activities authorized under this law will happen in the doctor's office and at home — not in the hospital. However, hospitals should be aware of the law, understand how it may impact them, and develop appropriate policies.

A hospital should first decide whether it wishes to permit its employees, medical staff and others to participate in the activities authorized by the End of Life Option Act, such as writing a prescription for an aid-in-dying drug, filling such a prescription, allowing a patient to self-administer the drug in on its premises, or allowing a home health or hospice employee to prepare the drug. This likely will entail consulting with the governing body of the hospital, medical staff leadership, and executive management of the hospital.

If a hospital chooses to prohibit participation in such activities, it may do so. The hospital will have to adopt appropriate policies and notify employees, medical staff and contractors of such policies. The requirements for a hospital that chooses to prohibit participation are described under L. "Voluntary Participation," page 9. The hospital also may wish to address how to inform patients who inquire about the hospital's policy on this issue.

If a hospital chooses to allow participation in some or all of the activities authorized by the Act, the hospital should adopt policies addressing the various steps outlined in the End of Life Option Act. The hospital may wish to include a requirement that administration be notified if a patient plans to take an aid-in-dying drug in the facility.

DEFINITIONS

The following definitions apply to the End of Life Option Act.

"Adult" means an individual 18 years of age or older.

"Aid-in-dying drug" means a drug determined and prescribed by a physician for a qualified individual, which the qualified individual may choose to self-administer to bring about his or her death due to a terminal disease.

"Attending physician" means the physician who has primary responsibility for the health care of an individual and treatment of the individual's terminal disease.

"Attending physician checklist and compliance form" means a specific form created by the End of Life Option Act that identifies each and every requirement that must be fulfilled by an attending physician to be in good faith compliance with this law should the attending physician choose to participate. This form may be found at the end of this chapter as CHA Form 5-7.

"Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, pursuant to Probate Code Section 4609, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand its significant benefits, risks, and alternatives, and the ability to make and communicate an "informed decision" (defined below) to health care providers. (Probate Code Section 4609 defines **"capacity"** as a person's ability to understand the nature and consequences of a decision and to make and communicate a decision, and includes in the case of proposed health care, the ability to understand its significant benefits, risks, and alternatives.)

"Consulting physician" means 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.

"Health care provider" or "provider of health care" means:

1. Any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code. This includes physicians, nurses, psychologists, physician assistants, pharmacists, and other professionals;
2. Any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act;

3. Any person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code. This includes emergency medical technicians and paramedics; and
4. Any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. This includes general acute care hospitals, acute psychiatric hospitals, special hospitals, skilled nursing facilities, intermediate care facilities, and other facilities.

“Informed decision” means a decision by an individual with a terminal disease to request and obtain a prescription for a drug that the individual may self-administer to end the individual’s life, that is based on an understanding and acknowledgment of the relevant facts, and that is made after being fully informed by the attending physician of all of the following:

1. The individual’s medical diagnosis and prognosis.
2. The potential risks associated with taking the drug to be prescribed.
3. The probable result of taking the drug to be prescribed.
4. The possibility that the individual may choose not to obtain the drug or may obtain the drug but may decide not to ingest it.
5. The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

“Medically confirmed” means the medical diagnosis and prognosis of the attending physician has been confirmed by a consulting physician who has examined the individual and the individual’s relevant medical records.

“Mental health specialist assessment” means one or more consultations between an individual and a mental health specialist for the purpose of determining that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.

“Mental health specialist” means a psychiatrist or a licensed psychologist.

“Physician” means a doctor of medicine or osteopathy currently licensed to practice medicine in California.

“Public place” means any street, alley, park, public building, 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.

“Qualified individual” means an adult who has the capacity to make medical decisions, is a resident of California, and has satisfied the requirements of this law in order to obtain a prescription for a drug to end his or her life.

“Self-administer” means a qualified individual’s affirmative, conscious, and physical act of administering and ingesting the aid-in-dying drug to bring about his or her own death.

“Terminal disease” means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months.

FORMS

The End of Life Option Act creates five new forms which can be found on the included CD:

1. “Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” (CHA Form 5-5);
2. “Final Attestation for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” (CHA Form 5-6);
3. “End of Life Option Act Attending Physician Checklist & Compliance Form” (CHA Form 5-7);
4. “End of Life Option Act Consulting Physician Compliance Form” (CHA Form 5-8); and
5. “End of Life Option Act Attending Physician Follow-Up Form” (CHA Form 5-9).

The exact language of the forms is specified in statute, so hospitals and physicians should not make up their own forms. The law does allow the Medical Board of California to update the “End of Life Option Act Attending Physician Checklist & Compliance Form,” the “End of Life Option Act Consulting Physician Compliance Form,” and the “End of Life Option Act Attending Physician Follow-Up Form.” The California Department of Public Health (CDPH) is required to publish any updated forms on its website. At the time of publication of this manual, CDPH had not published any forms.

These forms must be used. Hospitals and physicians should not make up their own forms.

RESOURCES

The Death with Dignity National Center has resources for health care providers at www.deathwithdignity.org/learn/healthcare-providers. This website includes links to materials on other states’ laws, such as Oregon, Vermont and Washington. These materials may be useful to California providers; however, it is important to keep in mind that there are important differences between these state laws and California’s End of Life Option Act. See also www.ohsu.edu/xd/education/continuing-education/center-for-ethics/ethics-outreach/resources.cfm for information about the Oregon law and www.wsha.org/our-members/projects/end-of-life-care-manual for information about the Washington law. The latter website includes model hospital

“allow participation” and “do not allow participation” policies that may be used as a starting point for California hospitals to develop their policies. All such policies should be reviewed by legal counsel prior to implementation.

An organization called Compassion & Choices provides physicians with free telephone consultation its physicians who are experienced in end-of-life medical care, including aid-in-dying. For more information about its physician-to-physician service, see www.compassionandchoices.org/what-we-do/doctors-to-doctors.

B. WHO CAN REQUEST AN AID-IN-DYING DRUG?

An adult with the capacity to make medical decisions and with a terminal disease may make a request to receive a prescription for an aid-in-dying drug if all of the following conditions are satisfied:

1. The individual’s attending physician has diagnosed the individual with a terminal disease.
2. The individual has 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 at least one of the following means:
 - a. Possession of a California driver 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. This includes renting an apartment.
 - d. Filing of a California tax return for the most recent tax year.
4. The individual documents his or her request by completing the form, “The Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” (CHA Form 5-5). The patient must also complete the “Final Attestation for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” (CHA Form 5-6) within 48 hours of self-administering the aid-in-dying drug. (See C. “How Does a Patient Request an Aid-in-Dying Drug?,” page 3, and H. “Responsibilities of the Patient,” page 7.)
5. The individual has the physical and mental ability to self-administer the aid-in-dying drug.

A request for a prescription for an aid-in-dying drug must be made solely and directly by the individual diagnosed with the terminal disease. This request cannot be made on behalf of the patient by somebody else, such as an agent under a power of attorney, an advance health care directive,

a conservator, health care agent, surrogate, or any other legally recognized health care decision maker. This is true regardless of a third party’s relationship to the patient — a parent cannot request an aid-in-dying drug for his or her child and a spouse cannot request an aid-in-dying drug for the other spouse. Only the patient who has the terminal disease may request it for himself or herself. There are no exceptions to this requirement.

A person must not be considered a “qualified individual” under this law solely because of age or disability.

C. HOW DOES A PATIENT REQUEST AN AID-IN-DYING DRUG?

A person who wants a prescription for an aid-in-dying drug must submit to his or her attending physician:

1. Two oral requests that are made a minimum of 15 days apart; and
2. One written request.

The attending physician must directly receive all three requests. The requests may *not* be made through a designee such as an assistant in the attending physician’s office or a hospital nurse. An interpreter is not considered a “designee.” (See “Requirements When an Interpreter Is Used,” page 4.)

ORAL REQUEST

As mentioned above, a person who wants a prescription for an aid-in-dying drug must make two oral requests, a minimum of 15 days apart, to his or her attending physician. The attending physician must document these requests in the patient’s medical record. No special words are required in making these oral requests.

WRITTEN REQUEST

To be valid, the required written request for an aid-in-dying drug must meet all of the following conditions:

1. The patient must use the form required by the state of California. This form is titled “Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” and is found at the end of this chapter as CHA Form 5-5.
2. The request (the form) must be signed and dated, in the presence of two witnesses, by the patient seeking the aid-in-dying drug.
3. The request must be witnessed by at least two other adults who, in the presence of the patient, attest (by signing the form) 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.
- d. Not an individual for whom either of them is the attending physician, consulting physician, or mental health specialist. (In other words, the patient's attending physician, consulting physician, and mental health specialist cannot serve as witnesses.)

In addition, only one of the two witnesses may:

- 1. Be related to the patient by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the patient's estate upon death.
- 2. Own, operate, or be employed at a health care facility where the patient is receiving medical treatment or resides.

These limitations with respect to witnesses are independent. In other words, one witness may be related to the patient as set forth in 1. above, while the other witness owns, operates or is employed at a health facility as set forth in 2. above. But both witnesses may not fall within the same category.

REQUIREMENTS WHEN AN INTERPRETER IS USED

Generally, the written request form signed by the patient (that is, the "Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner" (CHA Form 5-5)) must be written in the same language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians. However, the form may be prepared in English even when the conversations or consultations or interpreted conversations or consultations were conducted in a language other than English if the English language form includes an attached interpreter's declaration, signed under penalty of perjury, that affirms that the interpreter read the "Request for an Aid-In-Dying Drugs to End My Life in a Humane and Dignified Manner" form to the patient in the target language. CHA Form 5-5 includes the required language for the interpreter's declaration.

Restrictions

The interpreter must not be related to the patient by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the patient's estate upon death.

Qualifications

The interpreter must meet the standards promulgated by the California Healthcare Interpreting Association or the

National Council on Interpreting in Health Care or other standards deemed acceptable by CDPH. The California Healthcare Interpreting Association standards are found at <http://chiaonline.org/CHIA-Standards>. The National Council on Interpreting in Health Care standards are found at www.ncihc.org/ethics-and-standards-of-practice. CDPH has not identified any additional standards that it deems acceptable.

D. RESPONSIBILITIES OF THE ATTENDING PHYSICIAN

The "**attending physician**" is the physician who has primary responsibility for the health care of a patient and treatment of the patient's terminal disease. The attending physician may not serve as a witness to a written request and cannot be related to the patient by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the patient's estate upon death.

Before prescribing an aid-in-dying drug, the attending physician must do all of the following:

- 1. Make the initial determination about whether the patient is qualified under the End of Life Option Act to receive an aid-in-dying drug. (*See "Initial Determination," page 5.*)
- 2. Confirm that the patient is making an informed decision. (*See "Confirmation that the Patient Is Making an Informed Decision," page 5.*)
- 3. Refer the patient to a consulting physician. (*See "Referral to a Consulting Physician," page 5.*)
- 4. Confirm that the patient's request does not arise from coercion or undue influence. (*See "No Coercion or Undue Influence," page 6.*)
- 5. Counsel the patient. (*See "Counseling the Patient," page 6.*)
- 6. Inform the patient that he or she may withdraw or rescind the request for an aid-in-dying drug at any time and in any manner.
- 7. Offer the patient an opportunity to withdraw or rescind the request for an aid-in-dying drug before prescribing the drug.
- 8. Verify, immediately before writing the prescription for an aid-in-dying drug, that the patient is making an informed decision.
- 9. Confirm that all requirements are met and all appropriate steps are carried out in accordance with the law before writing a prescription for an aid-in-dying drug.

10. Fulfill the documentation requirements described under I. "Documentation and Reporting," page 8.
11. Complete the "End of Life Option Act Attending Physician Checklist & Compliance Form" (CHA Form 5-7). Put it and the "End of Life Option Act Consulting Physician Compliance Form" (CHA Form 5-8) in the patient's medical record. Submit both forms to CDPH. (See "Physician Reporting Requirements," page 8.)
12. Give the patient the final attestation form, "Final Attestation for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner" (CHA Form 5-6), and instruct the patient about completing it.

Specific requirements of these steps are described in more detail below.

INITIAL DETERMINATION

The attending physician is required to make an initial determination of all of the following:

1. Whether the patient has the capacity to make medical decisions. "**Capacity to make medical decisions**" means that the patient has the ability to:
 - a. Understand the nature and consequences of a health care decision;
 - b. Understand its significant benefits, risks, and alternatives; and
 - c. Make and communicate an informed decision to health care providers.

"**Informed decision**" means a decision by a patient with a terminal disease to request and obtain a prescription for a drug to self-administer to end the patient's life, that is based on an understanding and acknowledgment of the relevant facts, and that is made after being fully informed by the attending physician of all of the following:

- The patient's medical diagnosis and prognosis.
- The potential risks associated with taking the drug to be prescribed.
- The probable result of taking the drug to be prescribed.
- The possibility that the patient may choose not to obtain the drug, or may obtain the drug but decide not to ingest it.
- The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

If there are indications of a mental disorder, the physician must refer the individual for a mental health specialist

assessment. (See F. "Responsibilities of the Mental Health Specialist," page 7.) If a mental health specialist assessment referral is made, no aid-in-dying drugs may 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.

1. Whether the requesting adult has a terminal disease. "**Terminal disease**" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months. Only a patient with a terminal disease may be prescribed an aid-in-dying drug.
2. Whether the patient is a qualified individual as described under B. "Who Can Request an Aid-in-Dying Drug?," page 3.
3. Whether the patient has voluntarily made the request for an aid-in-dying drug under this law (that is, a qualified individual who has made two oral requests at least 15 days apart and a written request using the required form, as described under C. "How Does a Patient Request an Aid-in-Dying Drug?," page 3).

CONFIRMATION THAT THE PATIENT IS MAKING AN INFORMED DECISION

The attending physician is required to confirm that the patient is making an informed decision by discussing with him or her all of the following:

1. His or her medical diagnosis and prognosis.
2. The potential risks associated with ingesting the requested aid-in-dying drug.
3. The probable result of ingesting the aid-in-dying drug.
4. The possibility that he or she may choose to obtain the aid-in-dying drug but not take it.
5. The feasible alternatives or additional treatment options, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

REFERRAL TO A CONSULTING PHYSICIAN

The attending physician must refer the patient to a consulting physician for medical confirmation of the diagnosis and prognosis, and for a determination that the individual has the capacity to make medical decisions and has complied with the provisions of the End of Life Option Act. A "**consulting physician**" means 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 the patient's terminal disease. The law is silent regarding what is meant by "independent." It is not clear whether it is permissible for the consulting physician to be in the same medical group

or on the same hospital medical staff as the attending physician. (See E. “Responsibilities of the Consulting Physician,” page 6.)

NO COERCION OR UNDUE INFLUENCE

The attending physician must confirm that the patient’s request does not arise from coercion or undue influence by another person. The physician must do this by discussing with the patient, outside of the presence of any other persons (except for an interpreter) whether or not the patient is feeling coerced or unduly influenced by another person.

COUNSELING THE PATIENT

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.
2. Not ingesting the aid-in-dying drug in a public place. **“Public place”** means any street, alley, park, public building, 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.
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 must 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 patient takes it.

The attending physician must also:

1. Inform the patient that he or she may withdraw or rescind the request for an aid-in-dying drug at any time and in any manner.
2. Offer the patient an opportunity to withdraw or rescind the request for an aid-in-dying drug before prescribing it. The attending physician himself or herself must give the patient this opportunity directly, not through a designee.
3. Verify, immediately before writing the prescription, that the patient is making an informed decision (*see “Definitions,” page 1, for the definition of an informed decision*).
4. Confirm that all requirements are met and all appropriate steps are carried out in accordance with the End of Life Option Act before writing a prescription for an aid-in-dying drug.

5. Complete all documentation and reporting requirements (*see I. “Documentation and Reporting,” page 8, and “Physician Reporting Requirements,” page 8*).
6. Give the patient the “Final Attestation for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” form (CHA Form 5-6), with the instruction that the form be filled out and executed by the patient within 48 hours prior to self-administering the aid-in-dying drug.

PRESCRIBING OR DELIVERING THE AID-IN-DYING DRUG

After the attending physician has fulfilled his or her responsibilities described above, the attending physician may deliver the aid-in-dying drug in any of the following ways:

1. Dispensing the aid-in-dying drug directly, including ancillary medication intended to minimize the patient’s discomfort, if the attending physician meets all of the following criteria:
 - a. Is authorized to dispense medicine under California law.
 - b. Has a current United States Drug Enforcement Administration (USDEA) certificate.
 - c. Complies with any applicable administrative rule or regulation.
2. With the patient’s *written* consent, contacting a pharmacist, informing the pharmacist of the prescriptions, and delivering the written prescriptions personally, by mail, or electronically to the pharmacist. Note that the patient’s consent must be in writing. The pharmacist may dispense the drug to the patient, the attending physician, or a person expressly designated by the patient. The designation of another person to receive the medication may be delivered to the pharmacist in writing or verbally.

Delivery of the dispensed drug 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 United Parcel Service, United States Postal Service, Federal Express, or by messenger service.

Handing the patient a written prescription to take to a pharmacy is not an authorized method of delivering an aid-in-dying medication and therefore is not permitted.

E. RESPONSIBILITIES OF THE CONSULTING PHYSICIAN

Before a patient obtains an aid-in-dying drug from his or her attending physician, the patient must be examined by a

consulting physician. A **“consulting physician”** means 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 the patient’s terminal disease. The consulting physician may not be a witness to the patient’s written request for an aid-in-dying drug and cannot be related to the patient by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the patient’s estate upon death.

The law is silent regarding what is meant by “independent.” It is not clear whether it is permissible for the consulting physician to be in the same medical group or on the same hospital medical staff as the attending physician. CHA will provide additional guidance when it becomes available. Until then, if a hospital chooses to allow its medical staff to participate in activities under the End of Life Option Act, the hospital should develop a policy regarding the requirements a consulting physician must meet to be considered independent.

A physician who chooses to act as a consulting physician under the End of Life Option Act must do all of the following:

1. Examine the individual and his or her relevant medical records.
2. Confirm in writing the attending physician’s diagnosis and prognosis.
3. Determine that the individual has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision.
4. If there are indications of a mental disorder, refer the individual for a mental health specialist assessment (see F. “Responsibilities of the Mental Health Specialist,” page 7).
5. Fulfill the documentation requirements described under I. “Documentation and Reporting,” page 8.
6. Complete the state-mandated form titled “End of Life Option Act Consulting Physician Compliance Form” (CHA Form 5-8) found at the end of this chapter and submit it to the attending physician.

F. RESPONSIBILITIES OF THE MENTAL HEALTH SPECIALIST

A mental health specialist assessment is required if a patient’s attending or consulting physician determines that the patient has indications of a mental disorder. If there are no indications of a mental disorder, then no mental health specialist assessment is required. For purposes of this law, a **“mental health specialist”** means a psychiatrist or a licensed psychologist. The mental health specialist may not be a witness to the patient’s written request for an aid-in-dying drug and cannot be related to the patient

by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the patient’s estate upon death.

A psychiatrist or psychologist who chooses to act as a mental health specialist under the End of Life Option Act must do all of the following:

1. Examine the qualified individual and his or her relevant medical records.
2. Determine that the individual has the mental capacity to make medical decisions, act voluntarily, and make an informed decision.
3. Determine that the individual is not suffering from impaired judgment due to a mental disorder.
4. Fulfill the documentation requirements described under I. “Documentation and Reporting,” page 8 (that is, write a report of the outcome and determinations made during the mental health specialist’s assessment). (NOTE: A **“mental health specialist assessment”** means one or more consultations between an individual and a mental health specialist for the purpose of determining that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder. The specialist has discretion to determine the number of visits needed for a proper assessment.)

G. OPPORTUNITY FOR PATIENT TO CHANGE HIS OR HER MIND

A patient may withdraw or rescind his or her request for an aid-in-dying drug at any time. A patient may decide not to ingest an aid-in-dying drug at any time — either before or after a drug is obtained. The patient has the right to change his or her mind without regard to his or her mental state. In other words, if a patient makes a request for an aid-in-dying drug while having the capacity to make health care decisions, then loses his or her capacity, the patient can still decide not to take the aid-in-dying drug.

The attending physician also has an affirmative, non-delegable obligation to offer the patient the opportunity to withdraw or rescind the request prior to the writing the prescription for an aid-in-dying drug.

H. RESPONSIBILITIES OF THE PATIENT

FINAL ATTESTATION

Within 48 hours prior to self-administering the aid-in-dying drug, the patient is required to complete the form titled “Final Attestation for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner” (CHA Form 5-6), found at the end of this chapter. The law seems to expect that someone — perhaps the patient or perhaps a family member — will give this form to the attending physician.

It is unclear what the attending physician's obligations are, if any, if the Final Attestation form is not received. Presumably, the attending physician does not have any affirmative obligation to seek out completion or collection of this form, but that is unclear at this time. If the attending physician receives it, he or she is required to put it in the patient's medical record.

NO INGESTION IN PUBLIC PLACES

The law requires that the patient not ingest the aid-in-dying drug in a public place. **"Public place"** means any street, alley, park, public building, 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. Any governmental entity that incurs costs resulting from a qualified individual terminating his or her life under the End of Life Option Act in a public place may sue the estate of the qualified individual to recover those costs and reasonable attorney fees.

I. DOCUMENTATION AND REPORTING

MEDICAL RECORD DOCUMENTATION

All of the following must be documented in the individual's medical record:

1. All oral requests for aid-in-dying drugs.
2. All written requests for aid-in-dying drugs.
3. The attending physician's diagnosis and prognosis, and the determination that a qualified individual 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 individual is not a qualified individual.
4. The consulting physician's diagnosis and prognosis, and verification that the qualified individual 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 individual is not a qualified individual.
5. A report of the outcome and determinations made during a mental health specialist's assessment, if performed.
6. The attending physician's offer to the qualified individual to withdraw or rescind his or her request at the time of the individual's second oral request.
7. A note by the attending physician indicating that all requirements under D. "Responsibilities of the Attending Physician," page 4, and E. "Responsibilities of the Consulting Physician," page 6, have been met and indicating

the steps taken to carry out the request, including a notation of the aid-in-dying drug prescribed.

DEATH CERTIFICATE

The End of Life Option Act is silent regarding the cause of death that should be listed on the death certificate when death results from ingestion of a prescribed aid-in-dying drug. Physicians should list the cause(s) of death that they feel is most accurate, keeping in mind that the Act provides that "[a]ctions taken in accordance with [the End of Life Option Act] shall not, for any purposes, constitute suicide, assisted suicide, homicide, or elder abuse under the law."

PHYSICIAN REPORTING REQUIREMENTS

Within 30 calendar days of writing a prescription for an aid-in-dying drug, the attending physician must submit the following to CDPH:

1. A copy of the qualifying patient's written request - "Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner (CHA Form 5-5);
2. The "End of Life Option Act Attending Physician Checklist & Compliance Form" (CHA Form 5-7); and
3. The "End of Life Option Act Consulting Physician Compliance Form" (CHA Form 5-8).

Within 30 calendar days following the qualified individual's death from ingesting the aid-in-dying drug, or any other cause, the attending physician must submit to CDPH the "End of Life Option Act Attending Physician Follow-Up Form" (CHA Form 5-9).

CDPH has not yet announced the acceptable method(s) and address that physicians should use to submit these documents. CHA will inform its members when CDPH provides this information. Because the law requires the attending physician to submit these documents to CDPH, this disclosure is permitted under state and federal health information privacy laws, including the Confidentiality of Medical Information Act and HIPAA.

CDPH PUBLIC REPORTING

CDPH is required to compile the information submitted by attending physicians and create public reports. However, the reports will not identify any individuals who have participated in activities under the End of Life Option Act. The law specifies that the information is confidential and CDPH must protect the privacy of the patient, the patient's family, and any medical provider or pharmacist involved with the patient. The information must not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding. This provision means that information about activities under the End of Life Option Act should not be disclosed in response to a subpoena.

On or before July 1, 2017, and each year thereafter, based on the information collected in the previous year, CDPH must post a report on its website that includes the following:

1. The number of people for whom an aid-in-dying prescription was written.
2. The number of known individuals who died each year for whom aid-in-dying prescriptions were written, and the cause of death of those individuals.
3. For the period commencing Jan. 1, 2016, to and including the previous year, cumulatively, the total number of aid-in-dying prescriptions written, the number of people who died due to use of aid-in-dying drugs, and the number of those people who died who were enrolled in hospice or other palliative care programs at the time of death.
4. The number of known deaths in California from using aid-in-dying drugs per 10,000 deaths in California.
5. The number of physicians who wrote prescriptions for aid-in-dying drugs.
6. Of people who died due to using an aid-in-dying drug, demographic percentages organized by the following characteristics:
 - a. Age at death.
 - b. Education level.
 - c. Race.
 - d. Sex.
 - e. Type of insurance, including whether or not they had insurance.
 - f. Underlying illness.

J. LEFTOVER AID-IN-DYING DRUGS

A person (such as a family member) who has custody or control of any unused aid-in-dying drugs after the death of the patient is required to personally deliver the unused portion to the nearest qualified facility that properly disposes of controlled substances. If none is available, the person must dispose of it 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. If a hospital permits ingestion in the facility, the hospital should develop a policy regarding disposal of any leftover drug.

K. MEDICAL STAFF PRIVILEGING/CREDENTIALING ISSUES

The End of Life Option Act does not address credentialing/privileging issues for physicians who may choose to participate in the activities authorized by the Act. Issues to be considered by hospitals and their medical staffs

in developing policies and procedures around participation in activities authorized by the End of Life Option Act may include, but are not limited to:

1. Whether specific privileges should be required for physicians who wish to write prescriptions for aid-in-dying drugs.
2. Whether a palliative care consult should be recommended or required before a prescription is written for an aid-in-dying drug for a patient.
3. Whether there should be notification to hospital administration or other procedural requirements if it is anticipated that a patient may take an aid-in-dying drug while on hospital premises.

L. VOLUNTARY PARTICIPATION

Participation in activities authorized by the End of Life Option Act is completely voluntary. A person, hospital, pharmacy or other entity that elects, for reasons of conscience, morality, or ethics, not to engage in some or all of the activities authorized by this law is not required to take any action in support of an individual's decision under this law. In addition, health care providers, including hospitals, can prohibit their employees, medical staff and others from participating in specified circumstances if identified steps are taken. These steps are described below under "Prohibiting Employees and Others from Participating in End of Life Option Act Activities," page 9.

M. DECLINING TO PARTICIPATE

DECLINING TO INFORM A PATIENT ABOUT THIS LAW

A health care provider may decline to inform a patient regarding his or her rights under the End of Life Option Act, and is not required to refer an individual to a physician who participates in activities authorized under the law. However, if a health care provider is unable or unwilling to carry out a qualified individual's request under this law and the qualified individual transfers care to a new health care provider, the individual may request a copy of his or her medical records. Providers are reminded that the Patient Access to Health Records Act requires that a patient be allowed to inspect their medical records within five working days of request and that providers must mail copies of records within 15 days of request [Health and Safety Code Section 123110]. (*See CHA's Consent Manual, page 15.4, regarding a patient's right to access their medical information.*)

PROHIBITING EMPLOYEES AND OTHERS FROM PARTICIPATING IN END OF LIFE OPTION ACT ACTIVITIES

A hospital or other health care provider may prohibit its

employees, independent contractors, or other persons or entities (including other health care providers) from participating in some or all of the activities authorized by this law in the following circumstances:

1. While on premises owned or under the management or direct control of that prohibiting provider (such as clinics, pharmacies, medical office buildings, physician practices, etc.); or
2. While acting within the course and scope of any employment by, or contract with, the prohibiting provider (including home health and hospice workers, residents on rotations to other locations, etc.).

Notice Required

A health care provider that elects to prohibit its employees, independent contractors, or other persons or entities from participating in some or all of the activities authorized by this law must give notice of the policy to those individuals or entities. A health care provider that fails to provide this notice to an individual or entity is not entitled to enforce the policy against that individual or entity.

The notice must be a separate statement in writing advising the recipient of the prohibiting health care provider's policy with respect to participating in activities under the End of Life Option Act.

“Participating, or entering into an agreement to participate, in activities under this law” means doing or entering into an agreement to do any one or more of the following:

1. Performing the duties of an attending physician.
2. Performing the duties of a consulting physician.
3. Performing the duties of a mental health specialist, if such a referral is made.
4. Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drug.
5. Being present when the qualified individual takes the aid-in-dying drug.

However, “participating, or entering into an agreement to participate, in activities under this law” does not include doing, or entering into an agreement to do, any of the following:

1. Diagnosing whether a patient has a terminal disease, informing the patient of the medical prognosis, or determining whether a patient has the capacity to make decisions.
2. Providing information to a patient about the End of Life Option Act.
3. Providing a patient, upon the patient's request, with a referral to another health care provider for the purposes

of participating in the activities authorized by the End of Life Option Act.

In other words, a hospital cannot prohibit employees, contractors, or members of its medical staff from providing information to a patient about the End of Life Option Act or referring the patient to another physician to do so.

Disciplinary Action

If the prohibiting provider gives proper notice as described above, the prohibiting provider may take action including, but not limited to, the following, as applicable, against any individual or entity that violates the policy:

1. Loss of privileges, loss of membership, or other action authorized by the bylaws or rules and regulations of the medical staff.
2. Suspension, loss of employment, or other action authorized by the policies and practices of the prohibiting provider.
3. Termination of any lease or other contract between the prohibiting provider and the individual or entity that violates the policy.
4. Imposition of any other nonmonetary remedy provided for in any lease or contract between the prohibiting provider and the individual or entity in violation of the policy.

However, a prohibiting provider may not:

1. Prohibit any other health care provider, employee, independent contractor, or other person or entity from participating, or entering into an agreement to participate, in activities under the End of Life Option Act while on premises that are not owned or under the management or direct control of the prohibiting provider or while acting outside the course and scope of the participant's duties as an employee of, or an independent contractor for, the prohibiting provider.
2. Prohibit any other health care provider, employee, independent contractor, or other person or entity from participating, or entering into an agreement to participate, in activities under the End of Life Option Act as an attending physician or consulting physician while on premises that are not owned or under the management or direct control of the prohibiting provider.
3. Sanction an individual health care provider for contracting with a patient to engage in activities authorized by this law if the individual health care provider is acting outside of the course and scope of his or her capacity as an employee or independent contractor of the prohibiting provider.

If a prohibiting provider chooses to take disciplinary action

as described above, the provider must comply with all procedures required by law, its own policies or procedures, and any contract with the individual or entity that violated the policy.

Reporting to the Medical Board of California and Other Licensing Bodies

Disciplinary action taken by a prohibiting provider against a health care provider for violating the prohibiting provider's policy against participating in End of Life Option Act activities is not reportable to the Medical Board of California, Board of Psychology, Osteopathic Medical Board of California, Board of Registered Nursing or other professional licensing bodies under Business and Professions Code Sections 800 to 809.9, inclusive. The fact that a health care provider participates in activities under the End of Life Option Act may not be the sole basis for a complaint or report by another health care provider of unprofessional or dishonorable conduct.

N. INSURER AND HEALTH PLAN PROVISIONS

The law states that death resulting from the self-administration of an aid-in-dying drug is not suicide, assisted suicide, homicide or elder abuse under the law. A qualified individual's act of self-administering an aid-in-dying drug does not affect a life, health, or annuity policy other than that of a natural death from the underlying disease.

The sale, procurement, or issuance of a life, health, or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for a policy or plan contract may not be conditioned upon or affected by a person making or rescinding a request for an aid-in-dying drug.

An insurance carrier must not provide any information in communications made to an individual about the availability of an aid-in-dying drug unless there is a request by the individual (or his or her attending physician at the behest of the individual).

An insurance carrier or health plan's communication about a treatment denial may not include information about the availability of aid-in-dying drug coverage.

O. CONTRACT PROVISIONS

A provision in a contract, will, or other agreement executed on or after Jan. 1, 2016 (whether written or oral), to the extent the provision would affect whether a person may make, withdraw, or rescind a request for an aid-in-dying drug is not valid.

In addition, an obligation owing under any contract executed on or after Jan. 1, 2016, may not be conditioned or affected by a qualified individual making, withdrawing, or rescinding a request for an aid-in-dying drug.

P. RELATIONSHIP TO OTHER LAWS

CONSERVATORSHIP

A request by a qualified individual to an attending physician to provide an aid-in-dying drug in good faith compliance with the provisions of the End of Life Option Act does not provide the sole basis for the appointment of a guardian or conservator.

ELDER ABUSE OR NEGLECT

No actions taken in compliance with the provisions of the End of Life Option Act constitute or provide the basis for any claim of neglect or elder abuse for any purpose of law.

Q. CRIMINAL CONDUCT

It is a felony to knowingly:

1. Alter or forge a request for an aid-in-dying drug to end an individual's life without his or her authorization if the act is done with the intent or effect of causing the individual's death.
2. Conceal or destroy a withdrawal or rescission of a request for an aid-in-dying drug if the act is done with the intent or effect of causing the individual's death.
3. Coerce or exert undue influence on an individual to request or ingest an aid-in-dying drug for the purpose of ending his or her life.
4. Destroy a withdrawal or rescission of a request for an aid-in-dying drug.
5. Administer an aid-in-dying drug to an individual without his or her knowledge or consent.

Nothing in this law may be construed to authorize a physician or any other person to end an individual's life by lethal injection, mercy killing, or active euthanasia.

R. IMMUNITY FROM LIABILITY; PROHIBITION ON SANCTIONS

The End of Life Option Act contains several protections from lawsuits/penalties for persons who choose to be involved with a qualified individual who takes an aid-in-dying drug, as well as for persons who choose not to be involved in this process. These immunities are described below. In addition, the law states that actions taken in accordance with this law shall not, for any purposes, constitute suicide, assisted suicide, homicide, or elder abuse under the law.

A person is not subject to civil or criminal liability solely because the person was present when a qualified individual self-administers the prescribed aid-in-dying drug. A person who is present may, without civil or criminal liability, assist the qualified individual by preparing the aid-in-dying drug.

so long as the person does not assist the qualified person in ingesting the aid-in-dying drug.

A health care provider or professional organization or association is not subject to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating in good faith compliance with this law or for refusing to participate in accordance with the following paragraphs.

A health care provider is not subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for participating in activities pursuant to this law, including, but not limited to, determining the diagnosis or prognosis of an individual, determining the capacity of an individual for purposes of qualifying for the aid-in-dying drug, providing information to an individual regarding this law, and providing a referral to a physician who participates in activities pursuant to this law.

A health care provider is not subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for refusing to participate in activities authorized by the End of Life Option Act, including, but not limited to, refusing to inform a patient regarding his or her rights under this law, and not referring an individual to a physician who participates in activities authorized under this law.

A health care provider may not be sanctioned for any of the following:

1. Making an initial determination pursuant to the standard of care that an individual has a terminal disease and informing him or her of the medical prognosis.
2. Providing information about the End of Life Option Act to a patient upon the request of the individual.
3. Providing an individual, upon request, with a referral to another physician.

The immunities and prohibitions on sanctions of a health care provider apply only to actions of a health care provider taken pursuant to the End of Life Option Act. Health care providers may be sanctioned by their licensing board or agency for conduct and actions constituting unprofessional conduct, including failure to comply in good faith with this law.

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.

Sign: _____

Date: _____

(continued)

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 Signature

Date

Witness 2 Signature

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.

INTERPRETER

I, _____ (*insert name of interpreter*),
am fluent in English and _____ (*insert target language*).

On _____ (*insert date*) at approximately _____ (*insert time*), I read the "Request for an Aid-In-Dying Drug to End My Life" to _____
_____ (*insert name of individual/patient*) in _____
_____ (*insert target language*).

Mr./Ms. _____ (*insert name of patient/qualified individual*)
affirmed to me that he/she understood the content of this form and affirmed his/her desire to sign this form under his/her own power and volition and that the request to sign the form followed consultations with an attending and consulting physician.

I declare that I am fluent in English and _____ (*insert target language*)
and further declare under penalty of perjury that the foregoing is true and correct.

Executed at _____ (*insert city, county, and state*)
on this _____ (*insert day of month*) of _____ (*insert month*), _____ (*insert year*).

Interpreter signature

Interpreter printed name

Interpreter address

FINAL ATTESTATION 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 have received the aid-in-dying drug and am fully aware that this aid-in-dying drug will end my life in a humane and dignified manner.

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.

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 decision to ingest the aid-in-dying drug to end my life in a humane and dignified manner. I understand I still may choose not to ingest the drug and by signing this form I am under no obligation to ingest the drug. I understand I may rescind this request at any time.

Sign: _____

Date: _____

Time: _____

(continued)

INTERPRETER

I, _____ (insert name of interpreter),
am fluent in English and _____ (insert target language).

On _____ (insert date) at approximately _____
(insert time), I read the “Final Attestation For An Aid-In-Dying Drug To End My Life In A Humane And
Dignified Manner” to _____ (insert
name of individual/patient) in _____ (insert target language).

Mr./Ms. _____ (insert name of patient/qualified individual)
affirmed to me that he/she understood the content of this form and affirmed his/her desire to sign this form
under his/her own power and volition and that the request to sign the form followed consultations with an
attending and consulting physician.

I declare that I am fluent in English and _____ (insert target language)
and further declare under penalty of perjury that the foregoing is true and correct.

Executed at _____ (insert city, county, and state)
on this . (insert day of month) of _____ (insert month), _____ (insert year).

Interpreter signature

Interpreter printed name

Interpreter address

END-OF-LIFE OPTION ACT ATTENDING PHYSICIAN CHECKLIST & COMPLIANCE FORM

PATIENT INFORMATION

Patient's Name: _____
(last) (first) (M.I.)

Date of Birth: _____

Patient's Address: _____
(street)

(city) (zip code)

ATTENDING PHYSICIAN INFORMATION

Physician's Name: _____
(last) (first) (M.I.)

Telephone Number: _____

Mailing Address: _____
(street)

(city) (zip code)

Physician's License Number: _____

CONSULTING PHYSICIAN INFORMATION

Physician's Name: _____
(last) (first) (M.I.)

Telephone Number: _____

Mailing Address: _____
(street)

(city) (zip code)

Physician's License Number: _____

ELIGIBILITY DETERMINATION

1. Terminal Disease

2. Check boxes for compliance:

- ☐ 1. Determination that the patient has a terminal disease.
- ☐ 2. Determination that the patient is a resident of California.
- ☐ 3. Determination that the patient has the capacity to make medical decisions.¹
- ☐ 4. Determination that patient is acting voluntarily.
- ☐ 5. Determination of capacity by mental health specialist, if necessary.
- ☐ 6. Determination that patient has made his/her decision after being fully informed of:
 - ☐ a. His or her medical diagnosis; and
 - ☐ b. His or her prognosis; and
 - ☐ c. The potential risks associated with ingesting the requested aid-in-dying drug;
 - ☐ d. The probable result of ingesting the aid-in-dying drug;
 - ☐ e. The possibility that he or she may choose to obtain the aid-in-dying drug but not take it.

ADDITIONAL COMPLIANCE REQUIREMENTS

- ☐ 1. Counseled patient about the importance of all of the following:
 - ☐ a. Maintaining the aid-in-dying drug in a safe and secure location until the time the qualified individual will ingest it;
 - ☐ b. Having another person present when he or she ingests the aid-in-dying drug;
 - ☐ c. Not ingesting the aid-in-dying drug in a public place;
 - ☐ d. Notifying the next of kin of his or her request for an aid-in-dying drug (an individual who declines or is unable to notify next of kin shall not have his or her request denied for that reason); and
 - ☐ e. Participating in a hospice program or palliative care program.
- ☐ 2. Informed patient of right to rescind request (1st time).
- ☐ 3. Discussed the feasible alternatives, including, but not limited to, comfort care, hospice care, palliative care and pain control.
- ☐ 4. Met with patient one-on-one, except in the presence of an interpreter, to confirm the request is not coming from coercion.

¹ "Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, pursuant to Section 4609 of the Probate Code, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand the significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision to health care providers.

- ☐ 5. First oral request for aid-in-dying: _____ Attending Physician Initials: _____
(date)
- ☐ 6. Second oral request for aid-in-dying: _____ Attending Physician Initials: _____
(date)
- ☐ 7. Written request submitted: _____ Attending Physician Initials: _____
(date)
- ☐ 8. Offered patient right to rescind (2nd time).

PATIENT'S MENTAL STATUS

Check one of the following (required):

- ☐ I have determined that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
- ☐ I have referred the patient to the mental health specialist² listed below for one or more consultations to determine that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
- ☐ If a referral was made to a mental health specialist, the mental health specialist has determined that the patient is not suffering from impaired judgment due to a mental disorder.

MENTAL HEALTH SPECIALIST'S INFORMATION, IF APPLICABLE:

Name

Title and License Number

Address (street, city, zip code)

² "Mental Health Specialist" means a psychiatrist or a licensed psychologist.

MEDICATION PRESCRIBED

Pharmacist Name: _____

Telephone Number: _____

1. Aid-in-dying medication prescribed:

☐ a. Name: _____

☐ b. Dosage: _____

2. Antiemetic medication prescribed:

☐ a. Name: _____

☐ b. Dosage: _____

3. Method prescription was delivered:

☐ a. In person

☐ b. By mail

☐ c. Electronically

4. Date medication was prescribed: _____

SIGNATURE

Physician Signature

Date

Name (Please Print)

END-OF-LIFE OPTION ACT CONSULTING PHYSICIAN COMPLIANCE FORM

PATIENT INFORMATION

Patient's Name: _____
(last) (first) (M.I.)

Date of Birth: _____

ATTENDING PHYSICIAN INFORMATION

Physician's Name: _____
(last) (first) (M.I.)

Telephone Number: _____

CONSULTING PHYSICIAN'S REPORT

1. Terminal Disease _____ Date of Examination(s) _____
2. Check boxes for compliance. *(Both the attending and consulting physicians must make these determinations.)*
 - ☐ 1. Determination that the patient has a terminal disease.
 - ☐ 2. Determination that the patient has the capacity to make medical decisions.¹
 - ☐ 3. Determination that patient is acting voluntarily.
 - ☐ 4. Determination that patient has made his/her decision after being fully informed of:
 - ☐ a. His or her medical diagnosis; and
 - ☐ b. His or her prognosis; and
 - ☐ c. The potential risks associated with taking the drug to be prescribed; and
 - ☐ d. The potential result of taking the drug to be prescribed; and
 - ☐ e. The feasible alternatives, including, but not limited to, comfort care, hospice care, palliative care and pain control.

¹ "Capacity to make medical decisions" means that, in the opinion of an individual's attending physician, consulting physician, psychiatrist, or psychologist, pursuant to Section 4609 of the Probate Code, the individual has the ability to understand the nature and consequences of a health care decision, the ability to understand the significant benefits, risks, and alternatives, and the ability to make and communicate an informed decision to health care providers.

PATIENT'S MENTAL STATUS

Check one of the following (required):

- ☐ I have determined that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
- ☐ I have referred the patient to the mental health specialist² listed below for one or more consultations to determine that the individual has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.
- ☐ If a referral was made to a mental health specialist, the mental health specialist has determined that the patient is not suffering from impaired judgment due to a mental disorder.

MENTAL HEALTH SPECIALIST'S INFORMATION, IF APPLICABLE:

Name

Telephone Number

Date

CONSULTANT'S INFORMATION

Physician Signature

Date

Name (Please Print)

Mailing Address

Telephone Number

City, State, Zip Code

² "Mental Health Specialist" means a psychiatrist or a licensed psychologist.

END-OF-LIFE OPTION ACT ATTENDING PHYSICIAN FOLLOW-UP FORM

The End-of-Life Option Act requires physicians who write a prescription for an aid-in-dying drug to complete this follow-up form within **30 calendar days** of a patient's death, whether from ingestion of the aid-in-dying drug obtained under the Act or from any other cause.

For the State Department of Public Health to accept this form, it must be signed by the attending physician, whether or not he or she was present at the patient's time of death.

This form should be mailed or sent electronically to the State Department of Public Health. All information is kept strictly confidential.

Date: _____

Patient Name: _____

Attending Physician Name: _____

CAUSE OF DEATH

Did the patient die from ingesting the aid-in-dying drug, from their underlying illness, or from another cause, such as terminal sedation or ceasing to eat or drink?

- ☐ Aid-in-dying drug (lethal dose) — Please sign below and go to page 2.

Attending physician signature: _____

- ☐ Underlying illness — There is no need to complete the rest of the form. Please sign below.

Attending physician signature: _____

- ☐ Other — There is no need to complete the rest of the form. Please specify the circumstances surrounding the patient's death and sign.

Please specify: _____

Attending physician signature: _____

(over)

Part A and Part B should only be completed if the patient died from ingesting the lethal dose of the aid-in-dying drug.

Please read carefully the following to determine which situation applies. Check the box that indicates the scenario and complete the remainder of the form accordingly.

- ☐ The attending physician was present at the time of death.

The attending physician must complete this form in its entirety and sign Part A and Part B.

- ☐ The attending physician was not present at the time of death, but another licensed health care provider was present.

The licensed health care provider must complete and sign Part A of this form. The attending physician must complete and sign Part B of this form.

- ☐ Neither the attending physician nor another licensed health care provider was present at the time of death.

Part A may be left blank. The attending physician must complete and sign Part B of this form.

PART A. TO BE COMPLETED AND SIGNED BY THE ATTENDING PHYSICIAN OR ANOTHER LICENSED HEALTH CARE PROVIDER PRESENT AT DEATH

1. Was the attending physician at the patient's bedside when the patient took the aid-in-dying drug?

☐ Yes

☐ No

If no: was another physician or trained health care provider present when the patient ingested the aid-in-dying drug?

☐ Yes, another physician

☐ Yes, a trained health care provider/volunteer

☐ No

☐ Unknown

2. Was the attending physician at the patient's bedside at the time of death?

☐ Yes

☐ No

If no: was another physician or licensed health care provider present at the patient's time of death?

☐ Yes, another physician or licensed health care provider

☐ No

☐ Unknown

3. On what day did the patient consume the lethal dose of the aid-in-dying drug?

 (month/day/year) ☐ Unknown
4. On what day did the patient die after consuming the lethal dose of the aid-in-dying drug?

 (month/day/year) ☐ Unknown
5. Where did the patient ingest the lethal dose of the aid-in-dying drug?
 - ☐ Private home
 - ☐ Assisted-living residence
 - ☐ Nursing home
 - ☐ Acute care hospital in-patient
 - ☐ In-patient hospice resident
 - ☐ Other (specify) _____
 - ☐ Unknown
6. What was the time between the ingestion of the lethal dose of aid-in-dying drug and unconsciousness?
 Minutes _____ and/or Hours _____ ☐ Unknown
7. What was the time between lethal medication ingestion and death?
 Minutes _____ and/or Hours _____ ☐ Unknown
8. Were there any complications that occurred after the patient took the lethal dose of the aid-in-dying drug?
 - ☐ Yes — vomiting, emesis
 - ☐ Yes — regained consciousness
 - ☐ No complications
 - ☐ Other — please describe: _____
 - ☐ Unknown
9. Was the Emergency Medical System activated for any reason after ingesting the lethal dose of the aid-in-dying drug?
 - ☐ Yes — please describe: _____
 - ☐ No
 - ☐ Unknown

10. At the time of ingesting the lethal dose of the aid-in-dying drug, was the patient receiving hospice care?

- ☐ Yes
- ☐ No, refused care
- ☐ No, other (specify) _____

SIGNATURE

Signature of attending physician present and time of death

Name of licensed health care provider present at time of death if not attending physician

Signature of licensed health care provider

PART B. TO BE COMPLETED AND SIGNED BY THE ATTENDING PHYSICIAN

1. On what date was the prescription written for the aid-in-dying drug? _____
2. When the patient initially requested a prescription for the aid-in-dying drug, was the patient receiving hospice care?
- ☐ Yes
- ☐ No, refused care
- ☐ No, other (specify) _____
3. What type of health care coverage did the patient have for their underlying illness? (*Check all that apply*)
- ☐ Medicare
- ☐ Medi-Cal
- ☐ Covered California
- ☐ V.A.
- ☐ Private insurance
- ☐ No insurance
- ☐ Had insurance, do not know type

4. Possible concerns that may have contributed to the patient's decision to request a prescription for aid-in-dying drug. Please check "Yes," "No," or "Don't know," depending on whether or not you believe that concern contributed to their request. *(Please check as many boxes as you think may apply.)*
- a. His or her terminal condition representing a steady loss of autonomy
 - ☐ Yes
 - ☐ No
 - ☐ Don't Know
 - b. The decreasing ability to participate in activities that made life enjoyable
 - ☐ Yes
 - ☐ No
 - ☐ Don't Know
 - c. The loss of control of bodily functions
 - ☐ Yes
 - ☐ No
 - ☐ Don't Know
 - d. Persistent and uncontrollable pain and suffering
 - ☐ Yes
 - ☐ No
 - ☐ Don't Know
 - e. A loss of dignity
 - ☐ Yes
 - ☐ No
 - ☐ Don't Know
 - f. Other concerns (specify): _____

SIGNATURE

Signature of attending physician

