End-of-Life Option Act

I. SETTING

Medical Center

II. PURPOSE

This section outlines the policy and procedures for complying with the End-of-Life Option Act (hereinafter referred to as the Act), which allows a terminally ill and decisionally competent adult patient to request a drug or drugs from their physician which the patient may use to end their life. This policy describes the specific conditions that must be met and the processes to be followed by the University of California, Davis Health (UCDH) staff members.

III. DEFINITIONS

For the purposes of this policy, the following terms have these definitions:

A. Aid-in-dying drugs: Drugs prescribed by a physician for a qualified individual, which the qualified individual may choose to self-administer to bring about their death due to a terminal disease.

B. Attending Physician: A physician who assumes primary responsibility for the health care of the individual as it pertains to the individual's decision to request an aid-in-dying drug to end his/her life. The Attending Physician is also the prescribing physician under the Act.

C. California resident: A person able to establish residency through at least one of the following:

1. Possession of a California driver license or other identification issued by the State of California

2. Registration to vote in California

3. Evidence that the person owns or leases property in California

4. Filing of a California tax return for the most recent tax year

D. Capacity to make medical decisions: In the opinion of an individual's Attending Physician, Consulting Physician, Psychiatrist, or Mental Health Specialist, the individual has the ability to (1) understand the nature and consequences of a specific health care decision, (2) understand its significant benefits, risks, and alternatives, and (3) make and communicate an informed decision to health care providers.

E. Consulting Physician: A physician who is independent from and does not report to the Attending Physician and is qualified by specialty or experience to provide an independent diagnostic and prognostic assessment of the individual's terminal disease.

F. Health Care provider: Any person licensed or certified as a practitioner of the healing arts under California law such as physicians, pharmacists, nurses, psychologists, social workers, and physician assistants.

G. Informed decision: A voluntary decision made by an individual with decisional capacity to request and obtain a prescription for drugs 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 indicate that the person has a terminal illness and is not, within reasonable medical judgment, expected to live more than six months.

2. The potential risks associated with taking the drugs to be prescribed.

3. The probable result of taking the drugs to be prescribed.

4. The possibility that the individual may choose not to obtain the drugs or may obtain the drugs but may decide not to ingest them.

5. The feasible alternatives or additional treatment opportunities, including, but not limited to, comfort care, hospice care, palliative care, and pain control.

H. Mental Health Specialist: A psychiatrist or a licensed clinical psychologist.

I. Mental Health Specialist Assessment: 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.

J. Participating in the Act means any of the following: (1) performing the duties of the Attending Physician, Consulting Physician, Mental Health Specialist, or End-of-Life Option Act (EOLOA) Navigator; (2) delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drugs as specified in the Act; and (3) being present when the qualified individual takes the aid-in-dying drugs.

K. EOLOA Navigator: A health professional designated and trained to coordinate all aspects of the aid-in-dying procedures, working closely with the patient and participating health care providers.

L. Psychosocial assessment: An evaluation of a person's mental and emotional health, social status, and functional capacity, generally conducted by a social worker.

M. Public place: 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. Public place does not include a health care facility.

N. Qualified individual: An adult (18 years old or older) who has the capacity to make medical decisions, is a resident of California, and has satisfied the requirements of the Act in order to obtain a prescription for aid-in-dying drugs to end their life.

O. Self-administer: A qualified individual's affirmative, conscious, and physical act of administering and ingesting the aid-in-dying drugs to bring about their own death.

P. Terminal disease: An incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months.

IV. POLICY

A. UCDH elects to participate in the activities associated with the Act.

B. Participation by health care providers in any activities associated with the Act is strictly voluntary. A health care provider may elect to participate in activities authorized by the Act, in accordance with the processes set forth in this policy. Others may elect not to engage in activities authorized by the Act (Additional relevant information may be found in UCDH Policy 2924, Employee Requests Related to Cultural, Religious or Ethical Beliefs.)

C. Health care providers are prohibited from engaging in false, misleading, or deceptive practices relating to their willingness to qualify and individual or provider a prescription for an aid-in-dying medication to a qualified individual.

D. A health care provider who has chosen not to participate in the Act should be careful to convey compassion and avoid abandonment when discussing end of life care with patients who have requested information about the Act or asked for assistance in qualifying. Additional assessment of the patient's concerns should be explored as appropriate, and may include consideration of palliative care, hospice, social services, or more aggressive symptom management. (Sections V.A.4 and V.A.5 describe the procedures to be followed by a physician who has chosen not to participate in the Act.)

E. A physician who is otherwise willing to participate in the Act may nonetheless decline to accede to a request for aid-in-dying drugs at any time and for any reason.

F. Discussions about aid-in-dying may arise while the patient is hospitalized. In such cases, the 1st Oral Request, the Psychosocial Assessment, the Consulting Physician Assessment, and the Mental Health Specialist Assessment (if needed) may be provided during the hospitalization. The Attending Physician Assessment and the 2nd Oral Request must occur in the outpatient setting, no sooner than 48 hours after the patient is discharged.

G. Ingestion of aid-in-dying medication in the hospital is not permitted.

H. Aid-in-dying drugs may not be ingested in a public place or a place to which the public has access.

I. The Attending Physician, Consulting Physician, Mental Health Specialist and the EOLOA Navigator must not be related to the patient by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the individual's estate upon death.

J. Participating health care providers are responsible for ensuring that all activities (including required documentation and reporting) are performed in accordance with the Act and hospital policy. The Navigator will assist the patient and health care providers in complying with all aspects of UCDH policy and the Act.

K. Participating health care providers must use the most current version of the required forms set forth in the Act, posted on the California Department of Public Health website (see links at end of policy). When appropriate and compliant with the Act, providers may use the equivalent documentation tools in the Electronic Medical Record.

L. Involvement by physician trainees

1. A physician trainee may not fulfill any of the EOLOA physician roles (Attending, Consulting, or Mental Health Specialist).

2. A trainee's involvement in the EOLOA assessment steps is voluntary. A trainee may choose not to participate, or they may choose to participate, as a learner, in a patient's EOLOA qualification process.

3. Performance assessments may not be influenced by a trainee's decisions about participation in the Act.

M. The Bioethics Consultation Committee will be available to provide guidance to health care providers involved in aid-in-dying cases, to help ensure that cases adhere to the norms of ethical patient care.

N. This policy must be posted on the UCDH website.

V. PROCEDURES

A. Request for Aid-in-Dying Drugs and Attending Physician Response

1. Requests for aid-in-dying drugs must be made by a patient who:

a. Is a California resident

b. Is an established UCDH patient

c. Has a terminal disease

d. Has the capacity to make a health care decision regarding aid-in-dying drugs

e. Has the capability of self-administering and ingesting the aid-in-dying drugs

2. Requests for aid-in-dying drugs must come directly from the patient to the Attending Physician. Such requests cannot be made by a patient's surrogate or by the patient's health care provider and may not be made through an advance health care directive. The request process has two components:

a. Two oral requests that are made a minimum of 48 hours apart. The Attending Physician must document these requests and the dates of these requests in the EMR, using the standardized documentation tools.

b. One written request, appropriately witnessed, using the State of California form, "Request for an Aid-in-Dying Drug to End My Life in a Humane and

Dignified Manner" (see link at end of policy). The Attending Physician must document this request and the date of the request in the EMR, using the standardized documentation tools.

3. The patient's request must be made directly to the Attending Physician and may not be made through a designee such as a resident physician or nurse. All non-attending health care providers must notify the Attending Physician if any such request is made by the patient, in a manner consistent with the Procedures described in Section V.G.

4. If the request is made to a physician who has chosen not to participate in the Act, the non-participating physician must (1) inform the patient that they have chosen not to participate in the Act, (2) document the date of the patient's request and the provider's notice of their objection, and (3) and transfer the individual's medical record upon request.

5. In addition, in order to ensure a timely response to the patient's request for assistance with aid-in-dying, the non-participating physician must either (1) refer the patient to the EOLOA Navigator, by using the EMR referral "End of Life Options Navigator Referral", or (2) refer the patient to the Practice Manager or Medical Director.

6. If an Attending Physician receives a request from a patient who wishes to receive the aid-in-dying drugs, the physician should explore the reasons for the request including inadequately controlled symptoms or other areas of distress including inadequate support. The physician should offer appropriate referrals (e.g., hospice, pain management, palliative care) that may be helpful to the patient.

7. The Attending Physician should summarize each discussion about aid-in dying with the patient in the EMR and contact the Navigator.

B. Responsibilities of the Attending Physician

The Attending Physician will be responsible for determining whether or not a patient has qualified for an aid-in-dying drug, taking into account all the legal requirements and procedural steps. The Attending Physician's assessment should be consistent with professional and ethical norms that describe aid-in-dying qualification as a careful and considered process.

The responsibilities of an Attending Physician cannot be delegated. Before prescribing the aid-in-dying drugs, the Attending Physician must do all the following:

1. Initiate the involvement of the EOLOA Navigator using the EMR referral "End of Life Options Navigator Referral."

2. Assess, and offer to treat, unaddressed symptoms as appropriate. Consideration should be given to referrals for palliative care, hospice, social services, or more aggressive symptom management.

3. Provide an assessment about whether the patient is qualified under the Act, including determination that:

    a. The patient has capacity to make health care decisions about aid-in-dying

b. The patient has a terminal disease

c. The patient has made a voluntary request for aid-in-dying drugs

d. The patient has met the residency requirements of the Act

4. Confirm that the patient is making an informed decision as defined in section III.G. of this policy.

5. Collaborate with the EOLOA Navigator to arrange for an assessment with a Consulting Physician, then receive confirmation from the Consulting Physician's assessment that the patient is terminally ill, has the capacity to make medical decisions, is acting voluntarily, and has made an informed decision.

6. If there are indications of a mental disorder, the physician shall refer the individual for a Mental Health Specialist Assessment and receive confirmation the patient has the capacity to make medical decisions, is acting voluntarily, has made an informed decision, and is not suffering from impaired judgment due to a mental disorder.

7. Confirm that 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 an interpreter as described below) whether or not the patient is feeling coerced or unduly influenced by another person.

8. Counsel the patient about the importance of:

   a. Having another person present when they ingest the aid-in-dying drugs.

   b. Not ingesting the aid-in-dying drugs in a public place.

   c. Notifying the next of kin of their request for the aid-in-dying drugs. A patient who declines or is unable to notify next of kin must not have their request denied for that reason, but this should be strongly encouraged unless there is a compelling reason not to disclose.

   d. Considering participating in a hospice program.

   e. Maintaining the aid-in-dying drugs in a safe and secure location.

9. When appropriate, complete a Physician Orders for Life Sustaining Treatment (POLST) form with the patient. If not currently applicable, the Attending Physician should inform the patient that a POLST should be completed.

10. Inform the patient that they may withdraw or rescind the request for aid-in-dying drugs at any time and in any manner. The patient has the right to change their mind without regard to their mental state.

11. Offer the patient an opportunity to withdraw or rescind the request for the aid-in-dying drugs before prescribing the drug.

12. Verify for a second time, immediately before writing the prescription for the aid-in-dying drugs, that the patient is making an informed decision.

13. Inform the Chief Medical Officer and Pharmacy Administration that such a request has been made.

14. Within 30 calendar days of writing a prescription for an aid-in-dying drug, complete the "Attending Physician Checklist and Compliance Form" (see link at end of policy) and place it and the completed "Consulting Physician Compliance Form" (see link at end of policy) in the patient's medical record and arrange for its submittal to California Department of Public Health (CDPH) by the EOLOA Navigator.

15. Within 30 calendar days of the patient's death, complete the Attending Physician Follow-up Form and arrange for its submittal to CDPH through the Navigator.

C. Responsibilities of the EOLOA Navigator

The EOLOA Navigator will be a social worker, nurse, or psychologist, with experience providing direct clinical care to patients in hospice, palliative care, or equivalent settings. The Navigator assists the participating physicians and the patient in following all steps required by the Act, guiding completion of administrative records and filing of reports with the California Department of Public Health. The EOLOA Navigator will do the following:

1. Assist the participating physicians with the requirements of the Act.

2. Determine if a psychosocial assessment has been completed. If a psychosocial assessment has not been completed, the Navigator will complete it or request one from a qualified social worker. The psychosocial assessment shall be documented in the patient's EMR.

3. Review the patient's written request to ensure it has been completed in accordance with the requirements of the Act.

4. Assist with identifying, and making referrals to, an appropriate Consulting Physician and, when requested, a Mental Health Specialist.

5. Identify and suggest additional resources that might be of benefit to the patient and to the Attending Physician, including but not limited to a mental health specialist, pastoral care, hospice, home health, and/or palliative care.

6. Convene a meeting including the Attending Physician, Consulting physician and others, if there are unresolved issues that require additional attention.

7. Assist in ensuring that all required forms and documentation have been completed and submitted to CDPH as required by the Act.

8. Document interactions with the patient and other relevant coordination activities in the EMR.

9. Confirm with the Legal Affairs Department that all requirements are met, and all appropriate steps are carried out in accordance with the Act (as outlined in this policy)

before aid-in-dying drugs are prescribed.

D. Responsibilities of the Consulting Physician

The Consulting Physician must do all the following:

1. Examine the patient and their 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.

5. Fulfill the documentation requirements, including completing a note in the EMR.

6. Complete the "Consulting Physician Compliance Form" (see link at end of policy) from the State of California and return it to the Navigator.

E. Responsibilities of the Mental Health Specialist

A psychiatrist or clinical psychologist shall do all of the following if the patient has been referred for a Mental Health Specialist Assessment:

1. Examine the qualified patient and their relevant medical records.

2. Determine that the patient has the mental capacity to make medical decisions, act voluntarily, and make an informed decision.

3. Determine that the patient is not suffering from impaired judgment due to a mental disorder. The presence of a mental disorder, including depression, shall not, in and of itself, exclude a patient from qualification in the Act. Rather, it must be determined that the mental disorder is interfering with decision making capacity.

4. Document in the patient's medical record a report of the outcome and determinations made during the mental health specialist's assessment.

5. Recommend, as appropriate, any interventions to address distressful symptoms.

F. Responsibilities of the Consulting Pharmacist

The consulting pharmacist will:

1. Provide consultation, as needed, to the Attending Physician regarding the aid-in-dying medications.

2. Coordinate preparation and dispensing of aid-in-dying medication to the patient or their designated proxy.

3. Provide written and verbal education to the patient or their proxy, regarding storage and use of medication, as well as instructions for the disposal of unused medication.

G. Procedures for physician trainees

1. If a patient makes an EOLOA request of a trainee, and the trainee chooses to participate in the EOLOA process, the trainee's responsibilities are as follows:

    a. Inform the patient that they will communicate the request to the supervising physician.

    b. Enter a referral in the EMR for EOLOA navigation ("End of Life Option Navigator Referral").

    c. Communicate with the supervising physician that the patient has made an EOLOA request.

    d. Document in the patient's chart that they have made an EOLOA request, and that the request has been communicated to the supervising physician.

2. In the circumstance where both the supervisor and the trainee participate in the qualification process, the supervising physician must personally assess the patient and must co-sign any documentation related to the EOLOA (e.g., assessment notes, CDPH reporting forms).

3. If a patient makes an EOLOA request of a trainee, and the trainee chooses not to participate in the EOLOA process, the trainee must, at a minimum, do the following:

    a. Inform the patient that they do not participate in the EOLOA.

    b. Inform the patient they will communicate the request to the supervising physician.

    c. Communicate with the supervising physician that the patient has made an EOLOA request.

    d. Document the following in the patient's chart: (1) the patient's oral request for assistance with aid-in-dying, (2) the date of the request (3) the trainee's notice that they do not participate in the Act, and (4) that the request has been communicated to the supervising physician.

H. Addressing Conflicts that Arise in the Assessment Process

Concerns or conflicts identified by the Attending Physician, the Consulting Physician, the Mental Health Specialist, the Navigator, or other individuals involved in the patient's care should be addressed as follows:

1. If there are concerns among any clinicians regarding the capacity of the patient to make an informed decision regarding aid-in-dying, a mental health consultation may be requested for the purpose of providing an assessment of the patient's decisional capacity.

2. If there is disagreement between the Attending and Consulting physicians regarding the patient's eligibility for the EOLOA, a meeting should be convened including the Attending Physician, the Consulting Physician, the Navigator and, as appropriate, other relevant consulting clinicians (for example, experts in the patient's condition and/or palliative care specialists), to assemble the best evidence to inform the Attending Physician's decision of whether the patient qualifies for the Act.

3. If there are concerns regarding the voluntariness of the request, these should be investigated; Legal Affairs, Risk Management and law enforcement should be considered. Involvement of the Bioethics Consultation Committee may be requested. Aid-in-dying drugs must not be prescribed if there are concerns about the voluntary nature of the request.

4. If there is disagreement regarding whether the patient's needs can be met in another way, a meeting may be convened including the Attending Physician, the Consulting Physician, the Navigator, other consulting clinicians and additional consultants to clarify the interventions that might benefit the patient and identify whether they should be presented to the patient before or in lieu of aid-in-dying drugs. Involvement of the Bioethics Consultation Committee may be requested by any provider.

I. Documentation Requirements

All of the following must be documented in the patient's medical record. Most documentation will reside in progress notes, but paper documents and signed documents will be scanned and attached to appropriate encounters or episodes.

1. Two oral requests for aid-in-dying drugs (at least 48 hours apart), and the date of those requests.

2. One written request for aid-in-dying drugs (using the form "Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner"), and the date of that request.

3. 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.

4. The Consulting Physician's diagnosis and prognosis and verification that the qualified patient has the capacity to make healthcare 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.

5. A report of the outcome and determination made during a mental health specialist's assessment, if performed.

6. The Attending Physician's offer to the qualified patient to withdraw or rescind their request at the time of second oral request.

7. 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 drugs prescribed.

J. Death Certificate

For the purpose of completing the death certificate for a qualified individual whose death was the result of ingesting an aid-in-dying drug, the underlying terminal disease should be listed as the cause of death.

K. Use of an Interpreter

1. An interpreter should be used in conformance with UCDH policy in discussions regarding the Act and in completion of patient forms. The Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner may be completed with the assistance of an interpreter, in two ways:

    a. The written request form signed by the patient may 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 Physician.

    b. The written request form signed by the patient may be prepared in English even when the conversations or consultations were conducted in a language other than English if the interpreter completes the interpreter attestation.

2. 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. 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.

L. Prescribing the Aid-in-Dying Drugs

After the Attending Physician has fulfilled their responsibilities in accordance with Section V.B, the Attending Physician may prescribe the aid-in-dying drugs by following these steps:

1. The UC Davis Cancer Center pharmacy is the pharmacy that will dispense the aid-in-dying drugs. Physicians may not bypass the pharmacy in dispensing aid-in-dying drugs.

2. Prescriptions must be transmitted electronically.

3. The Attending Physician will counsel the patient on the optimal procedures for administration of the drugs.

4. Physicians should counsel patients that unused aid-in-dying drugs should be returned to a facility authorized to dispose them, or as provided by the Board of Pharmacy and/or Drug Enforcement Agency.

M. Dispensing Aid-in-Dying Medication from UC Davis Cancer Center Pharmacy

1. The pharmacist may dispense the medication to the patient, or to a person expressly designated by the patient. The patient's instruction about a designee must be documented in the EMR.

2. The Navigator and pharmacist will coordinate to schedule a dispensing visit for the patient and/or their proxy, at the UC Davis Cancer Center Pharmacy.

N. CDPH Reporting Requirements

1. Within 30 calendar days of writing a prescription for the aid-in-dying drugs, the Attending physician must submit the following to CDPH:

   a. The "Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner"

   b. The "Attending Physician Checklist and Compliance Form"

   c. The "Consulting Physician Compliance Form"

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

3. The Navigator will assist the Attending Physician and Consulting Physician in completing and submitting these forms.

O. Any UCDH policies and procedures implemented regarding aid-in-dying must be consistent with the Act.

VI. RELATED DOCUMENTS

A. UC Davis Medical Center Policy 2924, Employee Requests Related to Cultural, Religious or Ethical Beliefs

B. Provider Forms

1. Attending Physician Checklist & Compliance

2. Consulting Physician Compliance

3. Attending Physician Follow-Up

C. Patient Forms

1. Patient's Request for Aid-in-Dying Drug

2. Interpreter's Declaration

VII. REFERENCES

California Health and Safety Code § 442 et seq. and § 443 et seq. Medical Board of California

https://www.mbc.ca.gov/Licensing/Physicians-and-Surgeons/Practice-Information/

VIII. REVIEWED BY:

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