Overview of the California End of Life Option Act

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On October 5, 2015, Governor Jerry Brown signed the End of Life Option Act into law, making California the fourth state in which mentally-competent, terminally-ill patients may request prescriptions from their physicians to hasten death.

The law will take effect 90 days after the special session on health care and financing ends. Already, there are efforts to engage the palliative care and bioethics communities in guiding implementation practices for the new law, to help support institutions in developing policies mindful of the complicated ethical issues that surround aid-in-dying. As well, clinicians are likely to encounter new educational needs – concerning aid-in-dying specifically but also palliative care more generally – as patients inquire about this new option for end-of-life care. To help prepare physicians to respond to patients' inquiries, what follows is an overview of the practice and specific details about the new California law.

The California End of Life Option Act

What does the new California law do?

The law authorizes a California resident adult, who has been determined to be terminally-ill and mentally-competent, to make a request for a drug prescribed for the purpose of ending his or her life.

What safeguards are included in the law?

The Act includes several safeguards, which are aimed at restricting access to patients who are terminally-ill and mentally-competent:

• Two physician assessments are required. The "*attending*" and "*consulting*" physicians must each independently determine that the individual has a terminal disease with a prognosis of six months or less, and is able to provide informed consent. Elements of informed consent, including disclosure of relevant information, assessment of decisional capacity and assurance of voluntariness, are stipulated in the law.

• If either physician is aware of any "*indications of a mental disorder*," a mental health specialist assessment must be arranged to determine that the individual "*has the capacity to make medical decisions and is not suffering from impaired judgment due to a mental disorder.*"

• The attending physician must provide counseling about the importance of the following: "*having another person present when he or she ingests the aid-in-dying drug, not ingesting the aid-in-dying drug in a public place, notifying the next-of-kin of his or her request for the aid-in-dying drug, participating in a hospice program and maintaining the aid-in-dying drug in a safe and secure location*."

• The attending physician must offer the individual the opportunity to withdraw his or her request for the aid-in-dying drug at any time.

• The individual must make two oral requests, separated by a minimum of fifteen days, and one written request for the aid-in-dying drug.

• The written request must be observed by two adult witnesses, who attest that the patient is "*of sound mind and not under duress, fraud or undue influence*."

• The patient must make a "final attestation," forty-eight hours before he or she intends to ingest the medication.

• Only the person diagnosed with the terminal disease may request a prescription for the aid-in-dying drug (i.e., surrogate requests are not permitted).

• The individual must be able to self-administer the medication.

What are the documentation and reporting requirements?

The law explicitly stipulates a number of requirements for documentation in the patient's medical record, largely corresponding to the safeguards above. In addition, the law creates two reporting obligations:

1. Within 30 days of writing a prescription for an aid-in-dying drug, the attending physician must submit to the California Department of Public Health (CDPH) a copy of the qualifying patient's written request, an attending physician checklist and compliance form, and a consulting physician's compliance form.

2. Within 30 days following the individual's death, the attending physician must submit a follow-up form to CDPH. All forms will be posted on the CDPH and Medical Board websites.

Is participation compulsory?

No. Participation in the law is voluntary for all parties. Individual providers – and institutions as well – may make personal, conscience-based decisions about whether or not to participate.

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