

Medical Aid in Dying Policy [Organization Name]

Effective Date:

Introduction

[Organization Name] has made the decision to opt-in to provide services authorized in the Colorado End-of-Life Act, for those eligible to receive those services or items. Physicians, Advanced Practice Providers, and workforce members are not required to participate in providing the medical aid in dying services or items; participation is entirely voluntary.

[Organization Name's] position on medical aid in dying will be communicated to all patients, physicians, workforce members, referral sources, partners, and the community.

Colorado End-of-Life Act

The Colorado End-of-Life Act provides the option for terminally ill individuals, over the age of 18, with a prognosis of 6 months or less, who have the mental capacity to make an informed decision, is a resident of Colorado, and has satisfied other requirements, to request and obtain a prescription for medical aid in dying medication to end his or her own life.

Physicians and other healthcare providers at [Organization Name] may perform the duties of an attending physician, consulting physician, a licensed mental health provider, prescribe the medications under the Colorado End-of-Life Options Act, fill the medications under the Colorado End-of-Life Options Act, be present when the qualified individual self-administers the medication, and/or participate in patient support in relation to the Colorado End-of-Life Options Act.

This policy describes requirements and guidelines for following the Colorado End-of-Life Act for encounters with patients. This policy does not preclude or replace other existing policies in relation to policies regarding pain management, advance directives, resuscitation status, or end-of-life care.

All health care providers who choose to participate in the Colorado End-of-Life Act must provide the appropriate standard of care. All health care providers who choose to participate in the Colorado End-of-Life Act take on the responsibility to ensure the correct procedures are followed and are correctly documented in accordance with the Act, Colorado Department of Public Health and Environment regulations, and [Organization Name] policy.

Patient Requests

A patient must satisfy all requirements of the Colorado End-of-Life Act in order to obtain a medical aid in dying medication. For the patient to obtain the medical aid in dying medication, the patient must meet the following requirements:

- 18 years of age or older;

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- Provide proof of Colorado residency through:
 - Colorado driver's license or identification card issued by the State of Colorado, or
 - Colorado voter's registration card or other documentation showing the patient is registered to vote in Colorado, or
 - Evidence that the patient owns or leases property in Colorado, or
 - A Colorado income tax return for the most recent tax year.
- Diagnosed with a terminal illness by their attending physician and given a prognosis of 6 months or less;
- Determined to be mentally capable of making an informed decision by the attending physician;
- Provided a valid, voluntary request to receive medical aid in dying medication; and
- Receiving health care for a terminal disease from an attending physician at [Organization Name].

Mental Capacity or Mentally Capable is defined as, in the opinion of the patient's Attending Physician, Consulting Physician, Psychiatrist, or Psychologist, the patient has the ability to make and communicate an informed decision to health care providers.

An informed decision is defined as a decision made by the patient, based on the understanding and acknowledgement of the relevant facts, and made after the Attending Physician fully informs the patient of his or her diagnosis and prognosis, the potential risks with the medical aid in dying medication, the result of taking the medical aid in dying medication, and the choices available to the patient that demonstrate his or her self-determination and intent to end his or her life in a peaceful manner.

A patient does not have the right to request medical aid in dying medication solely due to age or disability.

For a valid, voluntary request to be allowed under the Colorado End-of-Life Act, the request must:

- Be initiated by the patient and cannot be made through utilization of an Advance Care Directive, MOST, or other document. It cannot be requested by the patient's personal representative (i.e. guardian, medical durable power of attorney);
- Include two oral requests, separated by at least 15 days;
- Include a valid written request to the attending physician; the written request must:
 - Be on a specified form, identified by [Organization Name]
 - Be signed and dated by the patient requesting the medical aid in dying medication, and

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- Witnessed by two other individuals, who attest that the individual is:
 - Mentally capable;
 - Acting voluntarily; and
 - Not being coerced to sign the request.
- The patient's attending physician and an individual authorized as the patient's qualified power of attorney or durable medical power of attorney may not serve as a witness to the written request.
- At least one of the witnesses must not be related to the patient by blood, marriage, civil union, or adoption; must not be entitled under a will or by operation of law to any portion of the patient's estate upon the patient's death; or is an employee of [Organization Name] or a resident in the facility where the patient is receiving treatment.

The patient may rescind their request for the medical aid in dying medication at any time without regard to the patient's mental state regardless of where the patient is in the process.

All health care providers are expected to respond to patient's request with openness and compassion

Roles & Responsibilities

Attending Physician

The Attending Physician is defined as a physician who has primary responsibility for the care of a terminally ill patient and the treatment of the patient's terminal illness.

The Attending Physician must make the initial determination if the patient is qualified to request the medical aid in dying medication under the Colorado End-of-Life Act.

The Attending Physician must act upon the following responsibilities:

- Make sure the patient is qualified to obtain the medical aid in dying medication, under the requirements outlined in the Act:
 - Patient has a terminal illness with a prognosis of 6 months or less,
 - Patient is mentally capable,
 - Patient is making an informed decision, and
 - Patient has made the request voluntarily.
- Have the patient provide proof of Colorado residency
- Provide care that follows established medical standards and accepted medical guidelines
- Refer the patient to a Consulting Physician for confirmation of the diagnosis and prognosis, to determine if the patient is mentally capable, is making an informed decision, and is acting voluntarily
- Discuss the informed consent with the patient, and have the patient sign the informed consent, after discussing the following:

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- Patient's medical diagnosis and prognosis of 6 months or less,
- The alternatives or additional treatment opportunities, including palliative care and hospice care,
- Potential risks associated with taking the medical aid in dying medication,
- Results of taking the medical aid in dying medication, and
- Possibility that the patient can obtain the medical aid in dying medication but choose not to take it.
- Refer the patient to a Licensed Mental Health Professional if the Attending Physician believes the patient may not be mentally capable of making an informed decision
- Determine and confirm that patient is not being coerced or influenced to make this decision by another person, by discussing with the patient, without the presence of other individuals
- Educate and discuss the importance of the following with the patient:
 - Having another person present when self-administering the medical aid in dying medication
 - Not taking the medical aid in dying medication in a public place
 - Storing the medical aid in dying medication securely
 - Proper disposal of unused medical aid in dying medication, either by:
 - Returning the unused medical aid in dying medication to the Attending Physician who prescribed the medication, who shall dispose of the unused medical aid in dying medication in the manner required by law; or
 - Lawful means in accordance with section 25-15-328 CRS or any other state or federally approved medication take-back program authorized under the federal Secure and Responsible Drug Disposal Act of 2010
 - Notifying the next of kin of the patient's request for medical aid in dying medication
 - Educate the patient that he or she may rescind the request for the medical aid in dying medication at any time, in any manner
 - Educate the patient about completing a MOST form to document the patient's resuscitation and care preferences prior to prescribing the medical aid in dying medication
- Verify again before writing the medical aid in dying prescription that the patient is making an informed decision
- Dispense medical aid in dying medication directly, if properly licensed, and file dispensing record with Colorado Department of Health and Public Environment.
- Deliver the written prescription personally, by mail, or through authorized electronic transmission to a licensed pharmacist, who will dispense the medical aid in dying medication to the qualified patient or an individual expressly designated by the qualified patient

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- The Attending Physician prescribing the medical aid in dying medication, who delivers the prescription to a pharmacist, must inform the pharmacy that the medical aid in dying medication was prescribed under the Colorado End-of-Life Act
- Ensure that all the appropriate steps and requirements are carried out under the Colorado End-of-Life Act and in accordance with this policy
- When applicable, sign the death certificate of a qualified patient who obtained and self-administered the medical aid in dying medication. When this has occurred, the death shall be listed as the underlying terminal illness, as established under the Colorado End-of-Life Act
- Complete all documentation requirements, as the following:
 - Date of the oral requests by the patient,
 - A valid written request,
 - The Attending Physician's diagnosis and prognosis, patient's mental capacity, and that the patient is making a voluntary request and an informed decision,
 - The Consulting Physician's confirmation of diagnosis and prognosis, mental capacity, informed decision
 - Written confirmation of mental capacity from a Licensed Mental Health Provider, if applicable
 - Documentation of notification of the right of the patient to rescind his or her request at any time, in any manner
 - Documentation that all requirements under the Act have been satisfied, noting the steps taken out to carry out the request, and noting the medical aid in dying medication prescribed and when
- Report medical record information to the Colorado Department of Health and Public Environment within 30 days of writing a prescription for the medical aid in dying medication for a qualified patient. The Attending Physician may delegate this responsibility if he or she deems appropriate.

If the Attending Physician believes the patient may not be mentally capable of making an informed decision, the patient must be referred to a licensed mental health provider. The Attending Physician must not prescribe the medical aid in dying medication unless the patient is determined to be mentally capable of making an informed decision.

The Attending Physician can not delegate his or her responsibilities.

Consulting Physician

The Consulting Physician is defined as a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a terminally ill patient's illness.

The Consulting Physician is responsible for the following:

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- Examine the patient and the relevant records
- Provide confirmation, in writing, to the Attending Physician:
 - Patient has a terminal illness,
 - Patient has a prognosis of 6 months or less,
 - Patient is making an informed decision, and
 - Patient is mentally capable, or provide documentation that the Consulting Physician has referred the patient to a Licensed Mental Health Provider for evaluation of mental capacity of the patient

If the Consulting Physician believes the patient may not be mentally capable of making an informed decision, the patient must be referred to a licensed mental health provider.

The Consulting Physician can not delegate his or her responsibilities

Licensed Mental Health Provider

The Licensed Mental Health Provider is defined as a psychiatrist licensed under article 36 of title 12 CRS, or a psychologist licensed under part 3 of article 43 of title 12, CRS.

The Licensed Mental Health Provider is responsible for evaluating the patient to determine whether the patient is mentally capable and is making informed decisions. The Licensed Mental Health Provider must provide the results of the evaluation, in writing, to the physician who requested the evaluation.

The Licensed Mental Health Provider can not designate his or her responsibilities.

Pharmacy

A pharmacist who participates in dispensing medical aid in dying medication must:

- Confirm that the medical aid in dying medication is for the patient who receives care at [Organization Name],
- Confirm the prescription for the medical aid in dying medication is written by an Attending Physician, as specified in the Colorado End-of-Life Act, and
- File a copy of the dispensing record with the Colorado Department of Public Health and Environment on the state-required form within 10 calendar days of dispensing the medical aid in dying medication.

Medical Record Requirements

If a physician does not want to participate in the Colorado End-of-Life Act, and the physician transfers care to another physician, the physician must coordinate the transfer of the patient's relevant medical records to the new health care provider.

Federal Funds and Insurance

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[Organization Name] will not use any federal funds for providing services or items under the Colorado End-of-Life Act. 42 U.S. Code 14402 restricts the use of Federal funds for providing any health care service or item for the purpose of causing, or for assisting in causing the death of any individual, such as by medical aid in dying. Therefore, individuals insured under Medicare, Medicaid, and other federally funded programs will not receive payment for medical aid in dying services or items. Currently, some commercial insurance plans will cover medical aid in dying services or items; however it is the individual's responsibility to verify their plan's coverage.

Penalties and Immunities

It is a Class 2 felony to coerce, exert undue influence on a terminally ill person to request lethal medication. It is a Class 2 felony to knowingly cause an individual's death by forging or altering a request, or concealing or destroying a patient's rescission.

Prohibition Against Discrimination

The Affordable Care Act (ACA) Section 1553, 42 U.S.C. 18113, Prohibition Against Discrimination on Assisted Suicide states that any health care provider that receives Federal financial assistance under the ACA, or any health plan under the ACA, may not subject an individual to discrimination on the basis that the health care provider or organization does not provide services for the purpose of causing, or for assisting in causing the death of an individual, such as by medical aid in dying. The Office for Civil Rights is designated to receive complaints for the Prohibition Against Discrimination.

Sanctions

Any workforce members or healthcare providers at [Organization Name] who do not abide by this policy will be disciplined in accordance with [Organization Name's] Disciplinary Policy.

Resources

Title 25 Public Health and Environment Health Care Article 48. End of Life Options
CRS 25-48-101-123 (2016)