

UC Health Participation in Activities under the End of Life Option Act

Responsible Officer:	EVP- <u>University of California</u> Health
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Issuance Date:	June 9, 2016
Effective Date:	TBD <u>June 9, 2016</u>
Last Review Date:	<u>March 10, 2021</u> June 9, 2016-
Scope:	This interim <u>P</u> policy applies to faculty, <u>academic personnel</u> and staff responsible for patient care activities at any UC Health facilities including, without limitation, UC’s health systems, hospitals, clinics, and student health centers.

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Contact:	Cathryn Nation
Title:	Associate -Vice President, <u>Health Sciences</u> UC Health
Email:	Cathryn.Nation@ucop.edu
Phone #:	(510) 987-9705

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I. BACKGROUND

The End of Life Option Act (Cal. Health & Safety Code § 443 et seq., referred to in this policy as the “Option Act”), as enacted during the 2015-16 Second Extraordinary Session of the California Legislature and effective June 9, 2016, allows certain terminally ill adult patients with the mental ~~capacity to make medical decisions~~ Capacity to Make Medical Decisions to request to be prescribed and ~~self-administer~~ Self-Administer an ~~aid-in-dying drug~~ Aid-In-Dying Drug to end their life if specified conditions are met.

The Option Act establishes specific procedures and requirements to be followed by patients and ~~health care provider~~ Health Care Providers who choose to assist them. It

also provides that, upon proper notice, a ~~health care provider~~Health Care Provider may “opt out” or prohibit its employees, independent contractors, or other persons or entities from participating in activities authorized under the Option Act while on premises owned, managed, or directly controlled by the prohibiting ~~health care provider~~Health Care Provider or while acting within the course and scope of any employment by, or contract with, the prohibiting ~~health care provider~~Health Care Provider.¹

UC Health has chosen not to opt out, but acknowledges the rights of individual employees to refrain from participating in activities authorized under the Option Act.

II. POLICY SUMMARY

It is the policy of the University of California to extend to its patients the choices made available through the Option Act and to comply with its terms. However, the University neither requires nor encourages any individual provider to participate. Participation in activities authorized under the act is ***strictly voluntary***. Health care providers employed by UC Health may choose not to prescribe or dispense Aid in Dying Drugs to their patients, not to serve as ~~consulting physician~~Consulting Physicians, not to perform ~~M~~mental H~~health~~ Specialist A~~assessments~~, not to advise patients of their rights under the Option Act, and not to participate in other activities authorized by the Option Act; and individual patients deemed eligible to receive Aid in Dying Drugs ~~wi~~shall be provided with information about all of their options, inclusive of comfort care, hospice care, palliative care, pain control, and other alternatives to administration of Aid in Dying Drugs.

III. DEFINITIONS

As provided in Cal. Health & Safety Code section 443.1, the following (selected) definitions apply to the End of Life Option Act:

Aid-In-Dying Drug~~*Aid-In-Dying Drug*~~: A drug determined and prescribed by a ~~physician~~Physician for a ~~qualified individual~~Qualified Individual, which the ~~qualified individual~~Qualified Individual may choose to ~~self-administer~~Self-Administer to bring about ~~their~~his or her death due to a ~~terminal disease~~Terminal Disease.

Attending Physician: The ~~physician~~Physician who has primary responsibility for the health care of an individual and treatment of the individual’s ~~terminal disease~~Terminal Disease.

Capacity to Make Medical Decisions:² In the opinion of an individual’s ~~attending physician~~Attending Physician, ~~consulting physician~~Consulting Physician, psychiatrist, or

¹ Cal. Health & Safety Code § 443.215. The Option Act will remain in effect until January 1, 2026, at which time it will be repealed by its own terms, unless the Legislature acts to delete or further extend that date.

² See Cal. Probate Code § 4609.

psychologist, 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 (directly or through a qualified interpreter) to make and communicate an ~~informed decision~~Informed Decision to ~~health care provider~~Health Care Providers.

Consulting Physician: A ~~physician~~Physician who is independent from the ~~attending physician~~Attending Physician and who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's ~~terminal disease~~Terminal Disease.

Health Care Provider or Provider of Health Care:³ Any person licensed or certified as a practitioner of the healing arts under California law; or any licensed clinic, health dispensary, or health facility. Licensed ~~physician~~Physicians, nurses, psychologists, physician assistants, pharmacists, and emergency medical technicians are all ~~health care provider~~Health Care Providers.

Informed Decision: A decision by an individual with a ~~terminal disease~~Terminal Disease to request and obtain a prescription for a drug that the individual may ~~self-administer~~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~~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.

Mental Health Specialist: A psychiatrist or a licensed psychologist.

Mental Health Specialist Assessment: One or more consultations between an individual and a ~~mental health specialist~~Mental Health Specialist for the purpose of determining that the individual has the ~~capacity to make medical decisions~~Capacity to Make Medical Decisions and is not suffering from impaired judgment due to a mental disorder.

Physician: A doctor of medicine or osteopathy currently licensed to practice medicine in California.

³ See Cal. Bus & Prof. Code, Division 2; Osteopathic Initiative Act; Chiropractic Initiative Act; Cal Health & Safety Code, Division 2; Cal. Health & Safety Code, Division 2.5.

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. For purposes of this policy, an occupied patient room is not a public place.

Qualified Individual: An adult who has the capacity to make medical decisions, is a resident of California, and has satisfied the requirements of the Option Act in order to obtain a prescription for a drug to end ~~their~~~~his or her~~ life.

Self-Administer: A ~~qualified individual~~Qualified Individual's affirmative, conscious, and physical act of administering and ingesting an ~~aid-in-dying drug~~Aid-In-Dying Drug to bring about ~~their~~~~his or her~~ own death.

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

UC Health: Faculty, academic personnel and staff responsible for patient care activities at any UC Health facilities including, without limitation, UC's health systems, hospitals, clinics, and student health centers.

IV. POLICY TEXT

- A. Participation Permitted:** UC Health permits its providers to participate in the Option Act, if they so choose. This means that UC Health providers may: (i) perform the duties of an Attending Physician; (ii) perform the duties of a Consulting Physician; (iii) perform the duties of a Mental Health Specialist; (iv) deliver prescriptions for, dispense, and deliver dispensed ~~Aid-In-Dying Drug~~Aid-In-Dying Drugs; and (v) be present when a patient takes an ~~Aid-In-Dying Drug~~Aid-In-Dying Drug.
- B. Voluntary Participation:** Participation in activities authorized under the Option Act and this policy is **strictly voluntary**. ~~Health care provider~~Health Care Providers employed or operated by UC Health may choose not to prescribe or dispense Aid in Dying Drugs to their patients.
- C. Conditions to Opting Out:** A UC Health provider who elects, for reasons of conscience, morality, or ethics, not to engage in activities authorized under the Option Act and this policy is not required to take any action in support of an individual's decision to request, receive, or administer an Aid in Dying Drug and ~~must~~shall not be subject to discipline solely for refusing to inform a patient of ~~their~~~~his or her~~ rights under the Option Act or for refusing to refer a patient to a ~~physician~~Physician who participates in activities authorized under the Option Act and this policy. However:

1. **Access to Information**: Any health care provider who diagnoses a patient with a terminal illness must notify the patient of his or her right to comprehensive information and counseling regarding all other legal end-of-life options and, upon the patient's request, to provide that comprehensive information and counseling or, if the patient is in a UC Health facility, refer the patient to a hospice or other public agency or community organization that specializes in end-of-life care, case management and consultation.⁴
2. **Records**: A patient who transfers care from a non-participating UC Health provider to a participating provider outside of UC Health in order to obtain an Aid in Dying Drug must promptly be provided with a copy of their his or her medical records to facilitate the transfer.

D. Requirements for UC Medical Centers: Every UC Medical Center mustshall:

1. Develop local procedures to facilitate compliance with all of the requirements and safeguards of the Option Act. A Medical Center may, at its option, revise its bylaws, policies, or procedures to require:
 - a. Special privileges for Attending Physicians, Consulting Physicians, and Mental Health Specialists wishing to participate in end-of-life activities authorized under the Option Act.
 - b. The performance of a Mental Health Specialist Assessment to confirm that a terminal patient requesting ~~aid in dying drug~~Aid-In-Dying Drugs has the mental ~~capacity to make medical decisions~~Capacity to Make Medical Decisions and ~~self-administer~~Self-Administer the drugs if prescribed.
 - c. Additional controls to assure that terminal patients seeking ~~aid in dying drug~~Aid-In-Dying Drugs are fully informed of their options and that the requirements of the Option Act are met and appropriately documented.

Any changes to medical staff bylaws or policies mustshall be made only upon the recommendation of the medical staff and approval of the Medical Center's governing body, consistent with applicable law and accreditation requirements.

2. Revise its Language Assistance Plan to assure that patients who are deaf, hearing impaired, or limited English proficient have the same access to services authorized under the Option Act as do hearing and native English speakers by making available interpreters who meet the standards specified in the Option Act and documenting that the interpreters' services were provided as specified in the Option Act.

~~⁴ See Cal. Health & Safety Code §§ 442-442.7.~~

3. Adopt the forms required by the Option Act and issued or updated by the California Department of Public Health, the Medical Board of California, or other authorized agencies for documentation and reporting of services performed under the Option Act.⁵
4. Designate at least one pharmacy location within the Medical Center, or maintain a list of local pharmacy locations outside the Medical Center, that are known to stock and fill prescriptions for ~~Aid-In-Dying Drug~~Aid-In-Dying Drugs; and any affiliated or non-affiliated facilities that are qualified to dispose of excess or unused ~~Aid-In-Dying Drug~~Aid-In-Dying Drugs, consistent with state and federal law, including without limitation requirements of the California State Board of Pharmacy and federal Drug Enforcement Administration.

A UC Medical Center may establish a requirement that any patient requesting ~~aid-in-dying drug~~Aid-In-Dying Drugs seek and receive a palliative care consult prior to receiving a prescription, in order to assure the patient fully understands and has considered all options available to address pain, discomfort, depression, or other concerns short of ending ~~their~~his or her life, and to help avoid potential unconscious bias in care delivery.

E. Requirements for Participating Providers:

1. **Independence.** Participating providers ~~must~~shall, as required by the Option Act, maintain independence from one another and from their patients. Specifically, Attending Physicians, Consulting Physicians, and Mental Health Specialists, as defined in the Act, must not be related to a patient to whom they are providing Option Act services by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the patient's estate upon death.
2. **Locations:**
 - a. **Physician Services; Medication Dispensing.** Participation in provider activities authorized under the Option Act is permitted only in ambulatory or outpatient settings and with respect to patients who are receiving care at UC Health hospitals or clinics and are Qualified Individuals.⁶
 - b. **Medication Administration.** Qualified Individuals may not ~~self-administer~~Self-Administer Aid-In-Dying DrugAid-In-Dying Drugs in any

⁵ See Final Attestation For An ~~Aid-In-Dying Drug~~Aid-In-Dying Drug To End My Life In A Humane and Dignified Manner (Cal. Health & Safety Code § 443.11(c); Attending Physician Checklist & Compliance Form (*id.* at § 443.22(b)); Consulting Physician Compliance Form (*id.* at § 443.22(b)); Attending Physician Follow-Up Form (*id.* at § 443.22(b)); Request For An ~~Aid-In-Dying Drug~~Aid-In-Dying Drug To End My Life In A Humane And Dignified Manner (*id.* at § 443.11(a)-(b)).

⁶ Cal. Health & Safety Code § 443.17(d)

Public Place, including on University premises open to or accessible by the public.

V. COMPLIANCE / RESPONSIBILITIES

A. **Medical Centers:** It is the Medical Centers' responsibility to ensure and document compliance with the Option Act and this policy.

B. **Providers Who Participate:** Individual participating providers are responsible for ensuring that all activities (including required documentation and reporting) are performed in accordance with the Option Act and any locally established policies and procedures. For example, it is the obligation of the ~~attending physician~~Attending Physician and ~~consulting physician~~Consulting Physician to ensure that correct procedures are followed and documentation completed and reported internally and to the California Department of Public Health in accord with the Option Act, this Policy, and any locally adopted policies or procedures.

B.C. **Student Health Centers:** It is the Student Health Centers' responsibility to ensure and document compliance with the Option Act and this policy or to refer the student to the nearest UC Medical Center.

VI. PROCEDURES

Each UC Medical Center ~~must~~shall adopt local procedures addressing its implementation of this Policy. All such procedures must be consistent with this Policy and the Option Act.

VII. RELATED INFORMATION

- Assembly Bill X2-15, End of Life Option Act:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB15
- Governor Brown's Signing Message Re: End of Life Option Act:
https://www.ca.gov/archive/gov39/wp-content/uploads/2017/08/ABX2_15_Signing_Message.pdf~~https://www.gov.ca.gov/docs/ABX2_15_Signing_Message.pdf~~
- California Department of Public Health:
<https://www.cdph.ca.gov/Programs/CHSI/Pages/End-of-Life-Option-Act.aspx>~~https://www.cdph.ca.gov/Pages/EndofLifeOptionAct.aspx~~
- California Hospital Association: <http://www.calhospital.org/end-life-option-act>
- Medical Board of California: http://www.ombc.ca.gov/forms_pubs/
- Compassion & Choices Doc2Doc Consult Program:
<https://compassionandchoices.org/contact-a-consultant/>~~https://www.compassionandchoices.org/research/doc2doc-program/~~
- Senate Bill 1002, End of Life Option Act: Telephone Number (Pending):
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB102

— Patient Access to Health Records Act, Cal. Health & Safety Code § 123100 *et seq.*:

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC§ionNum=123110<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=123001-124000&file=123100-123149.5>

— California Health & Safety Code §§ 442-442.7:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=1.&part=1.8.&lawCode=HSC

— https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=1.&title=&part=1.8.&chapter=&article=

VIII. FREQUENTLY ASKED QUESTIONS

- **How should Health Care Providers who have chosen not to participate in the Act communicate this information to patients who have requested information about the Act?**

Health care providers who have 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. In such cases, the non-participating Physician should disclose to the patient that they have chosen not to participate in the Act. In addition, the non-participating Physician may (1) refer the patient to the Practice Manager or Medical Director or (2) refer the patient to the EOLOA Patient Navigator, by using the electronic medical record (EMR) referral “End of Life Options Navigator Referral.” 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. **NA**

IX. REVISION HISTORY

- New interim policy issued: June 9, 2016

- Interim policy extended: November 11, 2020 - May 21, 2021