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Owner Lisa Kissel:
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Area Compliance &
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Administration &
Patient Care

End of Life Option Act

POLICY STATEMENT

To describe MMC's position regarding the California End of Life Option Act ("the Act") and to provide guidance to physicians opting in and providing care to their patients who express interest in ending their life under the Act.

This policy is limited to self-administered life-ending drugs and does not preclude or replace other existing policies, including but not limited to, Withdrawing or Foregoing Life Sustaining Treatment, Pain Management, Advance Directives/POLST, DNR, or the other end-of-life care services Marshall Medical Center (MMC) provides.

VALUES CONTEXT

The end-of-life care Marshall Medical Center (MMC) provides is grounded in the values of respecting the sacredness of life, providing compassionate care to dying and vulnerable persons, and respecting the integrity of health care providers. MMC believes in compassionate, end-of life care. MMC will not abandon dying patients or their families and is committed to provide appropriate support for dying persons and their families through the final stages of life by supporting patient self-determination through the use of advance directives, offering hospice, palliative and other supportive care, and providing effective pain and symptom management and other social, spiritual, and pastoral care support and services.

DEFINITIONS

Aid-in-dying drug: A drug determined and 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.

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

Capacity to make medical decisions: is defined as, in the opinion of an individual's Attending Physician, consulting physician, psychiatrist, or 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 to make and communicate an informed decision to health care providers.

PROCEDURE AND/OR GUIDELINE

1. MMC's Board of Directors approved to allow only physicians on its medical staff, who wish to prescribe aid-in-dying drug to their terminally ill patients, may do so outside MMC facilities including but not limited to the hospital, clinics, and all outpatient departments/locations. MMC will not provide aid-in-dying drug to hospitalized patients nor provide the drugs to be taken in a clinic or other outpatient setting. MMC caregivers will still provide other requested palliative care services to patients and their family, regardless of the patient's stated interest in exercising his/ her rights under the Act.
2. If a physician participates in the Act, he/she must immediately notify MMC's Chief Nursing Officer. It is the physician's responsibility to ensure that correct procedures are followed and the correct documentation is completed in accordance with the Act and this policy.
3. Any member of a patient care team may respond to questions about the Act from a patient and family with openness and compassion. Providers should seek to learn the meaning behind the patient's questions and help the patient understand the range of available options that MMC offers such as pain control, palliative and hospice care. MMC's goal is to help patients make informed decisions about end-of-life care. However, any request for aid-in-dying planning must be referred to the patients Attending Physician.

GUIDANCE FOR PROVIDERS WHO WISH TO PROVIDE SERVICES UNDER THE ACT

Patient Qualifications

- A. The patient must make the request for information about an aid-in-dying drug prescription. No one else can make the request on behalf of the patient 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.
- B. The patient's request must be voluntary, not coerced, as determined by the Attending Physician.
- C. Patients must have a DNR order and/or POLST filed in his/her medical record.
- D. Patients must meet the following qualifications:
 1. Must be 18 years of age and have capacity to make informed decisions.

2. Must have a terminal diagnosis confirmed by two physicians (attending and consulting) which is incurable and irreversible with a life expectancy of six months or less.
3. Must be a California resident. Residency can be established through one of the following:
 1. Valid California driver's license or ID card;
 2. Registration to vote in California;
 3. Evidence that patient owns, rents or leases property in California;
 4. The most recent filing of a California tax return;
4. Must not be suffering from mental illness interfering with decision making capacity.
5. Must have the physical and mental ability to self-administer the drug without help.
6. Must make two verbal requests separated by a minimum of 48 hours apart and one written request on a special form, *Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner*. (See Attachment A).
7. Must be willing to meet with a mental health professional if requested by the attending or consulting physician.

Attending Physician Responsibilities

1. The Attending Physician shall directly, and not through a designee, receive the patient's request and ensure that the date of the request is documented in the patient's medical record. An oral request documented in the patient's medical record is not to be disregarded by the Attending Physician solely because it was received by a prior Attending Physician or an Attending Physician who has chosen not to participate in the Act.
2. Attending Physicians who are unable or unwilling to support the patient's request for aid-in-dying drugs are required to:
 - a. Inform the patient they do not participate in the End of Life Option Act
 - b. Document the patient's date of request in their medical record
 - c. Transfer the patient's relevant medical records upon request to a physician who is willing to act as a prescriber.
3. Make the initial determination about whether the patient is qualified under the Act.
4. Ensures that the patient's request is made voluntarily; meets separately with the patient to ensure no coercion is involved. Makes it clear that the patient may withdraw or rescind the request at any time.
5. Confirms that the patient has made an informed decision by discussing all of the following:
 - a. His or her medical diagnosis and prognosis.
 - b. The potential risks associated with ingesting the requested drug.
 - c. The probable result of ingesting the drug.
 - d. The possibility that he or she may choose to obtain the drug but not take it.

- e. The feasible alternatives or additional treatment options such as comfort care, hospice care, palliative care and pain control.
6. Counsels the patient about having another person present when the drug is taken; notifying next of kin, though not required; keeping the drug in a safe place until use; and participating in hospice care.
7. Makes referrals to an independent consulting physician qualified by specialty or experience, as required by the Act and to a mental health specialist (psychiatrist or psychologist) for evaluation if there are indications of a mental disorder.
8. Verifies before writing the prescription that the patient still wants an aid-in-dying drug and is making an informed decision. The physician has a non-delegable obligation to offer the patient the opportunity to withdraw or rescind the request prior to writing the prescription.
9. Confirms that all requirements are met and all appropriate steps are carried out in accordance with the Act prior to writing a prescription.
10. Completes the *End of Life Option Act Attending Physician Checklist and Compliance Form* (See Attachment B) and fulfills the documentation and reporting requirements outlined under Section F below.
11. Provides the patient the *Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner*. (See Attachment A) and instructs the patient about completing it.
12. Within 30 calendar days following the patient's death from ingesting the aid-in-dying drug, or any other cause, whichever comes first, the Attending Physician must complete the *End of Life Option Act Attending Physician Follow-Up Form* (See Attachment D).

Consulting Physician Responsibilities

- A. Confirms the diagnosis and prognosis, in writing, after examining the patient and relevant medical records.
- B. Determines the patient's mental capacity and voluntary decision.
- C. If there are indications of a mental disorder, refers the individual for a mental health evaluation.
- D. Fulfills the documentation and reporting requirements outlined under Section F below.
- E. Completes the *End of Life Option Act Consulting Physician Compliance Form* (See Attachment C).

Note: The attending, consulting and mental health specialist may not be a witness to the patient's written request and cannot be related to the patient by blood, marriage, registered domestic partnership, or adoption or entitled to a portion of the estate.

Patient Responsibilities

- a. The patient must make two verbal requests, a minimum of 48 hours apart, to his/her attending physician.
- b. The patient must make a written request that meets all of the following conditions to be valid:

1. Use the California-required form, *Request for an Aid-in-Dying Drug to End My Life in a Humane and Dignified Manner* (See Attachment A).
 2. Signs and dates the form in the presence of two adult witnesses. Only one of the two witnesses may 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.
- c. The patient shall not ingest the drug on any MMC property or public place as defined by law.

Use of Interpreters

- A. If the requesting patient has limited English language proficiency, a qualified interpreter must be used to interpret the conversations and consultations between the patient and his/her attending and consulting physicians. The interpreter must meet the standards endorsed by the California Healthcare Interpreting Association or the National Council on Interpreting in Health Care or other standards deemed acceptable by CDPH.
- B. The patient's written request form is provided in English and includes an 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* (See Attachment A) form to the patient in the patient's target language.
- C. 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 estate.

Prescribing or Delivering the Aid-in-Dying Drug

- A. After the attending physician has met all his/her responsibilities, the drug may be delivered in any of the following ways:
 - a. Dispensing the drug directly to the patient;
 - b. With the patient's **written** consent, contacting a pharmacist and delivering the written prescription personally, by mail, or electronically to the pharmacist.

Handing the patient a written prescription to take to a pharmacy **is not permitted**.

Documentation and Reporting Requirements

1. **Medical Record**. All of the following must be documented in the patient's medical record:
 - a. All oral and written requests for the aid-in-dying drug.
 - b. The attending and consulting physicians' diagnosis and prognosis; their determinations of the patient's capacity to make informed medical decisions; the voluntary nature of the request; and their determinations that the patient does/does not meet the requirements of a qualified individual under the Act.
 - c. The mental health specialist's assessment, if applicable.
 - d. The attending physician's offer to the patient to withdraw or rescind the request at the time of the second oral request.

- e. The attending physician's note indicating that all requirements under Sections B and C above have been met, including the drug prescribed.
2. **Death Certificate.** The Act states that death resulting from the self-administration of an aid-in-dying drug is not suicide, assisted suicide, homicide or elder abuse. However, it is silent regarding the cause of death that should be listed on the death certificate. Physicians should list the cause(s) of death that they feel is most accurate.
 3. **Reporting to the California Department of Public Health (CDPH).** Within 30 calendar days of writing a prescription, the attending physician must submit the following:
 - a. A copy of the patient's written request, the Attending Physician Checklist & Compliance Form (Attachment B), and the Consulting Physician Compliance Form (Attachment C).
 - b. Within 30 calendar days following the patient's death from ingesting the aid-in-dying drug, or any other cause, whichever comes first, the Attending Physician Follow-Up Form (See Attachment D).
 - c. The forms are sent to CDPH at the following address:

California Department of Public Health Public Health Policy and Research Branch
Attention: End of Life Option Act
MS 5205
P. O. Box 997377
Sacramento, CA 95899-7377
The forms can also be faxed to (916) 440-5209.
 - d. This disclosure to CDPH is permitted under state and federal privacy laws. However, the information must not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other legal proceedings in response to a subpoena.

Immunity from Liability

The Act contains several protections from civil or criminal liability or sanctions and penalties for physicians who choose to be involved with their patient and who comply with the provisions of the Act. A physician can be present at the time of drug ingestion or can assist the patient by preparing the drug and not be subject to liability or loss of license, or privileges.

REFERENCES

California Health & Safety Code, Division 1, Part 1.85 (443-443.22), Assembly Bill No. 15 amending the Health and Safety Code (effective 1/1/22).

Approval Signatures

Step Description

Approver

Date

Applicability

Marshall Medical - Patient Care, Marshall Medical Center - Administrative

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