

POLICY and PROCEDURE**Department:** Administration**Creation Date:** 26-Jan-2019**Policy Title:** Colorado End of Life Options Act
(Patient's request for medical aid in dying)**Review Date:****Revise Date:**

PURPOSE:

The Colorado End of Life Options Act (C.R.S § 25-48-101, et seq.) authorizes medical aid in dying and allows a terminally ill adult with a prognosis of six months or less, who has mental capacity, has made 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 for the purpose of shortening a prolonged dying process through self-administration of the aid-in-dying medication to end his or her own life in a peaceful manner.

The purpose of this policy is to describe the position of Estes Park Health regarding the End of Life Options Act, including participation of physicians employed or under contract, to describe the requirements and procedures for compliance with The Colorado End-of-Life Options Act, and to provide guidelines for responding to patient requests for information about aid-in-dying medications in accordance with federal and state laws.

The requirements outlined in this policy do not preclude or replace other existing policies, including but not limited to Colorado End-of-Life Options Act, Hospice; Medically Inappropriate Treatment (Futility); Spiritual Care of Patients; Hospice Scope of Service; Healthcare Ethics Committee; Patient Rights Ethical Issues, Nursing; Patient Rights and Responsibilities; Do Not Resuscitate; Advanced Directives; Treatment of Pain, Nursing; Informed Patient Consent; referenced herein.

POLICY:

1. The Colorado End-of-Life Options Act (herein after the "Act") allows adult (18 years or older) terminally ill patients, with capacity to make health care decisions, seeking to mitigate suffering and shorten a prolonged dying process, to request aid-in-dying medications from an attending physician. These terminally ill patients must be Colorado residents (as defined herein) who will, within reasonable medical judgment, die within 6 months. Patients requesting an aid-in-dying medication must satisfy all requirements of the Act in order to obtain the prescription for that medication. Such a request must be initiated by the patient and cannot be made through utilization of an

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- Advance Health Care Directive, Physician Orders for Life-Sustaining Treatment or other document. It cannot be requested by the patient's surrogate.
2. Estes Park Health respects the privacy of the Health Care Provider-Patient relationship and expects that any discussion of, or participation in the Act will be kept private and confidential.
 3. Estes Park Health neither encourages nor discourages participation in the Act. Only those providers who are willing and desire to participate should do so. Any participation or refusal to participate in the Act by Estes Park Health physicians, employees, or patients is entirely voluntary, and Estes Park Health will not penalize an individual for participating in, or refusing to participate in the Act. An Estes Park Health physician, staff, or employee that elects not to engage in activities authorized by the Act is not required to take any action in support of a patient's request for a prescription for an aid-in-dying medication, including but not limited to, referral to another provider who participates in such activities.
 4. Estes Park Health is more than an Acute Care Hospital. Estes Park Health includes services delivered outside of the Acute Care Hospital: Long-term Residential Care in the Estes Park Health Living Center, and Home Health and Hospice.
 5. Estes Park Health permits the ingestion or self-administration of an aid-in-dying medication outside of Estes Park Health premises, including within a patient's home. Estes Park Health premises include the Acute Care Hospital (Emergency Department, Inpatient Hospital), and the Estes Park Living Center.
 6. Estes Park Health does not permit ingestion or self-administration of an aid-in-dying medication on any Estes Park Health premises including the Acute Care Hospital (Emergency Department, Inpatient Hospital), and the Estes Park Living Center.
 7. If an Estes Park Health patient in the Acute Care Hospital or the Estes Park Living Center wishes to ingest or self-administer an aid-in-dying medication, Estes Park Health will cooperate with the patient in transfer to another facility of the patient's choice. The transfer will promote continuity of care. Upon request, Estes Park Health will transfer a copy of the patient's medical record to the new health care provider/facility.

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1. Written notice of this policy will be included in the admissions paperwork filled out by every Estes Park Health patient. This policy will also be communicated by other means intended to provide advance notification of this policy, including posting on the Estes Park Health website.
2. When a patient makes an inquiry about or requests access to activities under the Act, initially, the patient will be given a copy of this policy and then will be referred to an organization or individual that is well versed in the requirements of the Act. The organization or individual will assist the patient in understanding of the Act, inform them about the process and provide educational material related to the patient's end-of-life options. This activity will augment, but not substitute for, the obligations of the attending and consulting physicians' roles described herein. If the patient's current physician chooses not to participate in the Act, which is his or her right under the Act, the organization or individual will make an effort to identify a physician who will participate in the Act with the patient.
3. Estes Park Health will notify employed and contracted physicians and other health care providers of this policy. All other Estes Park Health employees and contractors will also be notified of this policy.
4. If a patient brings medical aid-in-dying medication into the Estes Park Health Acute Care Hospital setting and the patient's possession of such medication becomes known to any Estes Park Health personnel, the personnel shall inform the attending physician of the fact, and the attending physician shall at the next convenient opportunity inform the patient that the Patient may not ingest or self-administer aid-in-dying medication in the Acute Care Hospital. The physician will request that the patient relinquish such medication, which will be kept securely, and will be returned to patient upon patient's request at some point during the process of discharging or transferring the patient out of the Acute Care Hospital.
5. In the absence of a legal Do Not Resuscitate order, or a CPR directive in a Living Will document, standard acute poisoning protocols will be used to respond to an individual who ingests or self-administers an aid-in-dying medication on any Estes Park Health premises including the Acute Care Hospital and the Estes Park Living Center. Standard acute poisoning protocols will also be used to respond to an individual who arrives at Estes Park Health premises having ingested or self-administered an aid-in-dying medication.
6. Estes Park Health physicians and other health care providers may, if they choose, and as applicable and as defined in the Act and herein:
 - a. Perform the duties of an attending physician.
 - b. Perform the duties of a consulting physician.
 - c. Perform the duties of a mental health specialist.

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- d. Prescribe medications under this Act.
 - e. Participate in patient or provider support related to the Act.
7. Other than Physicians, who may choose to be present, Estes Park Health employees will not be present during the actual ingestion or self-administration of an aid-in-dying medication.
8. Estes Park Health may provide oversight and may review records to the extent necessary to ensure all requirements of the law have been followed and the correct documentation completed and submitted to the Colorado Department of Public Health and Environment.
- 9. Right to request medical aid-in-dying medication:**
- a. An adult resident of Colorado may make a request, in accordance with sections 25-48-104 and 25-48-112, to receive a prescription for medical aid-in-dying medication if:
 - b. The individual's attending physician has diagnosed the individual with a terminal illness with a prognosis of six months or less;
 - c. The individual's attending physician has determined the individual has mental capacity; and
 - d. The individual has voluntarily expressed the wish to receive a prescription for medical aid-in-dying medication
 - e. The right to request medical aid-in dying medication does not exist because of age or disability.
- 10. Request Process – Witness requirements.**
- a. In order to receive a prescription for medical aid-in-dying medication pursuant to the Colorado End of Life Options Act, an individual who satisfies the requirements in Section 25-48-103 must make two oral requests, separated by at least fifteen day, and a valid written request to his or her attending physician
 - b. To be valid, a written request for medical aid-in-dying medication must be:
 - i. Substantially in the same form as set forth in Section 25-48-112;
 - ii. Signed and dated by the individual seeking the medical aid-in-dying medication;
 - iii. Witnessed by at least two individuals who, in the presence of the individual, attest to the best of their knowledge and belief that the individual is:
 - iv. Mentally capable;
 - v. Acting voluntarily; and
 - vi. Not being coerced to sign the request.
 - vii. Of the two witnesses to the written request, at least one must not be:

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- viii. Related to the individual by blood, marriage, civil union, or adoption;
- ix. An individual who, at the time the request is signed, is entitled, under a will or by operation of law, to any portion of the individual's estate upon his or her death; or
- x. An owner, operator, or employee of a health care facility where the individual is receiving medical treatment or is a resident.
- xi. Neither the individual's attending physician nor a person authorized as the individual's Qualified Power of Attorney or Durable Medical Power of Attorney shall serve as a witness to the written request.

11. Right to rescind request – Requirements to offer opportunity to rescind

- a. At any time, an individual may rescind his or her request for medical aid-in-dying medication without regard to the individual's mental state.
- b. An attending physician shall not write a prescription for medical aid-in-dying medication under the Colorado End of Life Options Act unless the attending physician offers the qualified individual an opportunity to rescind the request for the medical aid-in-dying medication.

12. Attending physician responsibilities: The attending physician shall:

- a. Make the initial determination about whether an individual requesting medical aid-in-dying medication has a terminal illness, has a prognosis of six months or less, is mentally capable, is making an informed decision, and has made the request voluntarily;
- b. Request that individual demonstrate Colorado residency by providing documentation as described in section 25-48-102(14);
- c. Provide care that confirms to established medical standards and accepted medical guidelines;
- d. Refer the individual to a consulting physician for medical confirmation of the diagnosis and prognosis and for a determination of whether the individual is mentally capable, is making an informed decision, and acting voluntarily;
- e. Provide full, individual-centered disclosures to ensure that the individual is making an informed decision by discussing with the individual:
 - i. His or her medical diagnosis and prognosis of six months or less;
 - ii. The feasible alternatives or additional treatment opportunities, including comfort care, palliative care, hospice care, and pain control;
 - iii. The potential risks associated with taking the medical aid-in-dying medication to be prescribed;
 - iv. The probable result of taking the medical aid-in-dying medication to be prescribed; and

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- v. The possibility that the individual can obtain the medical aid-in-dying medication but choose not to use it;
 - f. Refer the individual to a licensed mental health professional pursuant to section 25-48-108 if the attending physician believes that the individual may not be mentally capable of making an informed decision;
 - g. Confirm that the individual's request does not arise from coercion or undue influence by another person by discussion with the individual, outside the presence of other persons, whether the individual is feeling coerced or unduly influenced by another person;
 - h. Counsel the individual about the importance of:
 - i. Having another person present when the individual self-administers the medical aid-in-dying medication prescribed pursuant to the Act.
 - ii. Not taking the medical aid-in-dying medication in a public place.
 - iii. Safe-keeping and proper disposal of unused medical aid-in-dying medication in accordance with section 25-48-120; and
 - iv. Notifying his or her next of kin the request for medical aid-in-dying medication;
 - i. Inform the individual that he or she may rescind the request for medical aid-in-dying medication at any time and in any manner;
 - j. Verify, immediately prior to writing the prescription for medical aid-in-dying medication, that the individual is making an informed decision;
 - k. Ensure that all appropriate steps are carried out in accordance with this the Act before writing a prescription for medical aid-in-dying medication; and
 - l. Either:
 - i. Dispense medical aid-in-dying medication directly to the qualified individual , including ancillary medications intended to minimize the individual's discomfort, if the attending physician has a current Drug Enforcement Administration certificate and complies with any applicable administrative role; or
 - ii. Deliver the written prescription personally, by mail, or through authorized electronic transmission in the manner permitted under Article 42.5 of Title 12 C.R.S. to a licensed pharmacist, who shall dispense the medical aid-in-dying medication to the qualified individual, the attending physician, or an individual expressly designated by the qualified individual.
13. **Consulting physician responsibilities:** Before an individual who is requesting medical aid-in-dying medication may receive a prescription for the medical aid-in-dying medication, a consulting physician must:
- a. Examine the patient and his or her relevant medical records.

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- b. Confirm in writing the attending physician:
- c. That the individual has a terminal illness;
- d. The individual has a prognosis of six months or less;
- e. That the individual is making an informed decision; and
- f. That the individual is mentally capable, or provide documentation that the consulting physician has referred the individual for further evaluation in accordance with Section 25-48-108.

14. Confirmation that individual is mentally capable – referral to mental health professional.

- a. An attending physician shall not prescribe medical aid-in-dying under the Colorado End of Life Options Act for an individual with a terminal illness until the individual is determined to be mentally capable and making an informed decision, and those determinations are confirmed in accordance with this section
- b. If the attending physician or the consulting physician believes that the individual may not be mentally capable of making an informed decision, the attending physician or the consulting physician shall refer the individual to a licensed mental health professional for a determination of whether the individual is mentally capable and making an informed decision
- c. A licensed mental health professional who evaluates an individual under this section shall communicate, in writing, to the attending or consulting physician who requested the evaluation, his or her conclusions about whether the individual is mentally capable and making informed decisions. If the licensed mental health professional determines that the individual is not mentally capable of making informed decisions, the person shall not be deemed a qualified individual under the Act and the attending physician shall not prescribe medical aid-in-dying medication to the individual.

15. Medical record documentation requirements – reporting requirements – department compliance reviews – rules.

- a. The attending physician shall document in the individual's medical record, the following information:
- b. Dates of all oral requests;
- c. A valid written request;
- d. The attending physician's diagnosis and prognosis, determination of mental capacity and that the individual is making a voluntary request and an informed decision;

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- e. The consulting physician's confirmation of diagnosis and prognosis, mental capacity, and that the individual is making an informed decision;
- f. If applicable, written confirmation of mental capacity from a licensed mental health professional;
- g. A notation of notification of the right to rescind a request made pursuant to the Act
- h. A notation by the attending physician that all requirements under the Act have been satisfied; indicating steps taken to carry out the request, including a notation of the medical aid-in-dying medications prescribed and when.
- i. The Department of Public Health and Environment requires any health care provider, upon dispensing a medical aid-in-dying medication pursuant to this Act, to file a copy of a dispensing record with the department.

16. Death certificate.

- a. Unless otherwise prohibited by law, the attending physician or the Hospice Medical Director shall sign the Death Certificate of a qualified individual who obtained and self-administered aid-in-dying medication.
- b. When a death has occurred in accordance with the Act, the cause of death shall be listed as the underlying terminal illness and the death does not constitute ground for post-mortem inquiry under Section 30-10-606(1), C.R.S.

17. Safe disposal of unused medical aid-in-dying medications: A person who has custody or control of medical aid-in-dying medication dispensed under this Act that the terminally ill individual decides not to use or that remains unused after the terminally ill individual's death shall dispose of the unused medical aid-in-dying medication either by:

- a. Returning the unused medical aid-in-dying medication to the attending physician who prescribed the medical aid-in-dying medication, who shall dispose of the unused medical aid-in-dying medication in the manner required by law; or
- b. Lawful means in accordance with Section 25-15-328, C.R.S or any other State of Federally approved medication take-back program authorized under the Federal "Secure and Responsible Drug Disposal Act of 2010", PUB.L.111-271, and regulations adopted pursuant to the Federal Act.

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1. **“Adult”** means an individual who is eighteen years of age or older.
2. **“Attending Physician”** means a physician who has primary responsibility for the care of a terminally ill individual and the treatment of the patient's terminal disease.
3. **“Consulting Physician”** means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding a terminally ill individual's terminal illness.
4. **“Health Care Provider” or “Provider”** means a person who is licensed, certified, registered, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of a profession. The term includes a health care facility, including a long-term care facility as defined in Section 25-3-103.7(1)(f.3) and a continuing care retirement community as described in Section 25.5-6-203 (1)©(I), C.R.S.
5. **“Informed decision”** means a decision the is:
 - a. Made by an individual to obtain a prescription for medical aid-in-dying medication that the qualified individual may decide to self-administer to end his or her life in a peaceful manner;
 - b. Based on an understanding and acknowledgement of the relevant facts; and
 - c. Made after the attending physician fully informs the individual of:
 - i. His or her medical diagnosis and prognosis of six months or less;
 - ii. The potential risks associated with taking the medical aid-in-dying medication to be prescribed;
 - iii. The probable result of taking the Medical aid-in-dying medication to be prescribed;
 - iv. The choices available to an individual that demonstrate his or her self-determination and intent to end his or her life in a peaceful manner, including the ability to choose whether to
 - 1) Request medical aid in dying;
 - 2) Obtain a prescription for medical aid-in-dying medication to end his or her life;
 - 3) Fill the prescription and possess medical aid-in-dying medication to end his or her life; and
 - 4) Ultimately self-administer the medical aid-in-dying medication to bring about a peaceful death; and
 - 5) All feasible alternatives or additional treatment opportunities, including comfort care, palliative care, hospice care³, and pain control.
6. **“Licensed Mental Health Professional”** means a psychiatrist licensed under article 36 or Title 12 C.R.S., or a psychologist licensed under Part 3 of Article 43 or Title 12 C.R.S.
7. **“Medical Aid in Dying”** means the medical practice of a physician prescribing medical aid-in-dying medication to a qualified individual that the individual may choose to self-administer to bring about a peaceful death.

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8. **“Medical aid-in-dying medication”** means medication prescribed by a physician pursuant to the Colorado End-of-Life Options Act to provide medical aid in dying to a qualified individual.
9. **“Medically Confirmed”** means that a consulting physician who has examined the terminally ill individual and the individual’s relevant medical records has confirmed the medical opinion of the attending physician.
10. **“Mental Capacity” or “Mentally Capable”** means that in the opinion of an individual’s attending physician, consulting physician, psychiatrist or psychologist, the individual has the ability to make and communicate an informed decision to health care providers.
11. **“Physician”** means a doctor of medicine or osteopathy licensed to practice medicine by the Colorado Medical Board.
12. **“Prognosis of Six Months or Less”** means a prognosis resulting from a terminal illness that the illness will, within reasonable medical judgment, result in death within six months and which has been medically confirmed.
13. **“Qualified Individual”** means a terminally ill adult with a prognosis of six months or less, who has mental capacity, has made an informed decision, is a resident of the state, and has satisfied the requirements of the Colorado End-of-Life Options Act in order to obtain a prescription for medical aid-in-dying medication to end his or her life in a peaceful manner.
14. **“Resident”** means an individual who is able to demonstrate residency in Colorado by providing any of the following documentation to his or her attending physician:
 - a. A Colorado driver’s license or identification card issued pursuant to Article 2 of Title 42 C.R.S.;
 - b. A Colorado voter registration card or other documentation showing the individual is registered to vote in Colorado;
 - c. Evidence that the individual owns or leases property in Colorado; or
 - d. A Colorado income tax return for the most recent tax year.
15. **“Self-Administer”** means a qualified individual's affirmative, conscious, and physical act of administering the medical aid-in-dying medication to himself or herself to bring about his or her own death.
16. **“Terminal Illness”** means an incurable and irreversible illness that will, within reasonable medical judgment, result in death.

REFERENCES:

1. Colorado End-of-Life Options Act (C.R.S § 25-48-101, et seq).
2. HOSPITAL Administrative Policies:
 - a. Colorado End-of-Life Options Act, Hospice
 - b. Medically Inappropriate Treatment (Futility)
 - c. Spiritual Care of Patients
 - d. Hospice Scope of Service
 - e. Healthcare Ethics Committee
 - f. Patient Rights Ethical Issues, Nursing
 - g. Patient Rights and Responsibilities



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- h. Do Not Resuscitate
- i. Advanced Directives
- j. Treatment of Pain, Nursing
- k. Informed Patient Consent