

Fact Sheet 32: California's *End of Life Option Act*

The California Senate Bill 128-*End of Life Option Act* 2015-2016 is an addition to the Health Safety Code signed in October 2015 and coming into effect on June 9th 2016. Modelled on the Oregon legislation it sets out conditions under which terminally-ill adults who are California residents and have less than an estimated six-month life expectancy may request their attending physician to prescribe a life-ending drug. This drug must be self-administered, although the attending physician and others may be present without penalty. The full Bill may be accessed at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=2015

Provisions include that a patient must:

- be at least 18 years of age and a resident of California,
- have a terminal disease, which cannot be cured or reversed and is expected to result in death within six months
- have the capacity to make medical decisions
- have no mental disorder which impairs their judgement, and
- the ability to take the drug themselves at a time they wish

Requests for aid in dying cannot be made in advance care directives or by others on behalf of the patient, even with evidence that this is what the patient would have wanted.

The Bill contains a checklist of procedures for health professionals to follow.

A patient must:

- request their attending physician to determine that he or she has a terminal disease, which cannot be cured or reversed and is expected to result in death within six months, and that the patient has the capacity to make medical decisions
- make two oral requests and one written request for prescription of the drug to the attending physician at least 15 days apart. The written request is made on a special witnessed form and discussed by the patient and physician alone (except for an interpreter if needed), to ensure the decision is voluntary.
- consult a second physician who can confirm the patient's diagnosis, prognosis, and capacity to make medical decisions. If either physician thinks the patient may have a psychiatric disorder the patient must be referred to a specialist.
- demonstrate informed consent by discussing all of the following with the attending physician: the effects, efficacy and time course of the drug; realistic alternatives to taking the drug, such as palliative care or pain control; withdrawal of the request for the drug, and the freedom to decide against taking it once prescribed; the circumstances in which the patient will take the drug, eg who else will be present, and who will notify next of kin.
- sign a form immediately before taking the drug confirming that they took it voluntarily.

Actively ending another person's life (euthanasia) remains illegal, but protections for the patient and physician include:

- voluntary participation by physicians and institutions
- the attending physician cannot be related to the patient or benefit from their estate

- witnesses to the patient's signature on the request form must testify that the patient signed voluntarily and had the capacity to sign. The physician cannot be a witness, and at least one of the witnesses cannot be related to the patient or benefit from their estate, nor be an employee of the institution caring for the patient.
- restrictions being placed on insurance and other financial institutions to prevent patients feeling financial pressure to end their lives.
- the death certificate listing the underlying disease as the cause of death; not classified as suicide.