



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

<b>Responsible Officer:</b>	EVP-University of California Health
<b>Responsible Office:</b>	University of California Health
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<b>Effective Date:</b>	6/21/2022
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<b>Scope:</b>	This policy applies to UC Health Care Entities and Health Care Providers at any UC Health location.

Contact:	Anne Foster
Title:	Chief Clinical Officer, UC Health
Email:	<a href="mailto:Anne.Foster@ucop.edu">Anne.Foster@ucop.edu</a>
Phone:	(510) 987-0306

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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, and as subsequently amended during the 2021-2022 Regular Session of the California Legislature (SB 380), effective January 1, 2022, allows certain terminally ill adult patients with the mental Capacity to Make Medical Decisions to request to be prescribed and Self-Administer an 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 Providers who choose to assist them. It also provides that, upon proper notice, a Health Care Entity may “opt out” or prohibit its employees, independent contractors, or other persons or entities, including Health Care Providers from participating in activities authorized under the Option Act while on premises owned, managed, or directly controlled by the prohibiting health care entity or while acting within the course and scope of any employment by, or contract with, the prohibiting Health Care Entity.<sup>1</sup>

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

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## II. POLICY SUMMARY

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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 Health Care 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 Physicians, not to perform Mental Health Specialist Assessments, and not to participate in other activities authorized by the Option Act; and individual patients deemed eligible to receive Aid in Dying Drugs must 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. UC Health Care Providers who choose not to participate under the Option Act must inform the patient that they do not participate under the Option Act, document the date of the patient’s request and the Health Care Provider’s notice to the patient of the Health Care Provider’s objection, transfer the patient’s medical records to another participating provider upon request, and not engage in false, misleading or deceptive practices related to willingness to qualify an individual or provide a prescription to a Qualified Individual under the Option Act.

UC Health facilities must post their current policy governing medical aid in dying on their public websites.

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## III. DEFINITIONS

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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:** A drug determined and prescribed by a Physician for a Qualified Individual, which the Qualified Individual may choose to Self-Administer to bring about

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<sup>1</sup> Cal. Health & Safety Code § 443.215. The Option Act will remain in effect until January 1, 2031, at which time it will be repealed by its own terms, unless the Legislature acts to delete or further extend that date

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:**<sup>2</sup> 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 (directly or through a qualified interpreter) to make and communicate an Informed Decision to health care providers. **Consulting Physician:** A Physician who is independent from the Attending Physician and who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding an individual's Terminal Disease.

**Health Care Entity:**<sup>3</sup> Any clinic, health dispensary, or health facility licensed under California law, including a general hospital, medical clinic, nursing home or hospice facility. This definition includes the UC Medical Centers. A Health Care Entity does not include individuals described in the definition of "Health Care Provider."

**Health Care Provider or Provider of Health Care:**<sup>4</sup> Any person licensed or certified as a practitioner of the healing arts under California law. Licensed physicians, nurses, psychologists, physician assistants, pharmacists, and emergency medical technicians are all Health Care Providers.

**Informed Decision:** A decision by an individual with a Terminal Disease to request and obtain a prescription for a drug that the individual may 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 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 licensed psychologist.

**Mental Health Specialist Assessment:** One or more consultations between an

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<sup>2</sup> See Cal. Probate Code § 4609.

<sup>3</sup> See Cal. Health & Safety Code, Division 2.

<sup>4</sup> 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.

individual and a Mental Health Specialist for the purpose of determining that the individual has the 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.

**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. Public Place does not include a Health Care Entity. 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 life.

**Self-Administer:** A Qualified Individual's affirmative, conscious, and physical act of administering and ingesting an Aid-In-Dying Drug to bring about their 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 Care Entities including, without limitation, UC's hospitals and clinics.

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## IV. POLICY TEXT

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- A. Participation Permitted:** UC Health permits its Health Care Providers to participate in the Option Act, if they so choose. This means that UC Health Care Providers may:
- i. perform the duties of an Attending Physician<sup>5</sup>;
  - ii. perform the duties of a Consulting Physician<sup>6</sup>;
  - iii. perform the duties of a Mental Health Specialist;
  - iv. deliver prescriptions for, dispense, and deliver dispensed Aid-In-Dying Drugs; and
  - v. be present when a Qualified Individual takes an Aid-In-Dying Drug.
- B. Voluntary Participation:** Participation in activities authorized under the Option Act and this policy is **strictly voluntary**. Health Care Providers employed by UC Health may choose not to:
- i. perform the duties of an Attending Physician<sup>[1]</sup>;

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<sup>5</sup> Cal. Health & Safety Code § 443.5.

<sup>6</sup> Cal. Health & Safety Code § 443.6.

- ii. perform the duties of a Consulting Physician<sup>[2]</sup>;
- iii. perform the duties of a Mental Health Specialist;
- iv. deliver prescriptions for, dispense, and deliver dispensed Aid-In-Dying Drugs; and
- v. be present when a Qualified Individual takes an Aid-In-Dying Drug

**C. Conditions to Opting Out:** A UC Health Care Provider who elects, for reasons of conscience, morality, ethics, or any other reason not prohibited by law, 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 not be subject to discipline for refusing to participate in activities authorized under the Option Act and this policy. However:

1. **Access to Information:** UC Health Care Entities must post their current policy governing medical aid in dying on their public website. Any Health Care Provider who diagnoses a patient with a terminal illness must notify the patient of their 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.<sup>7</sup> Any Health Care Provider who chooses not to participate under the Option Act must inform the patient that they do not participate under the Option Act. Health Care Providers must not engage in false, misleading, or deceptive practices related to willingness to qualify an individual or provide a prescription to a Qualified Individual under the Option Act.
2. **Documentation:** Any Health Care Provider who chooses not to participate under the Option Act must document the date of the patient's request for an Aid-in-Dying Drug and the Health Care Provider's notice to the patient of the Health Care Provider's objection in the medical record.
3. **Records:** A patient who transfers care from a non-participating UC Health Care 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 medical records to facilitate the transfer.

**D. Requirements for UC Medical Centers:**

Every UC Medical Center must:

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:

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<sup>7</sup> See Cal. Health & Safety Code §§ 442-442.7.

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- 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 Drugs has the mental Capacity to Make Medical Decisions and Self-Administer the drugs if prescribed.
- c. Additional controls to assure that terminal patients seeking 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 must 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.
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.<sup>8</sup>
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 Drugs; and any affiliated or non-affiliated facilities that are qualified to dispose of excess or unused 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 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 life, and to help avoid potential unconscious bias in care delivery.

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<sup>8</sup> See 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 To End My Life In A Humane And Dignified Manner (*id.* at § 443.11(a)-(b)).

## E. Requirements for Participating Providers:

1. **Independence.** Participating Health Care Providers must, 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 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.<sup>9</sup>
  - b. **Medication Administration.** Qualified Individuals may not Self-Administer Aid-In-Dying Drugs in any Public Place, including on University premises open to or accessible by the public.

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## V. COMPLIANCE / RESPONSIBILITIES

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- 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 Health Care 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 and 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.
- C. **Providers Who Opt Out:** A UC Health Care Provider who elects, for reasons of conscience, morality, ethics, or any reason not prohibited by law, 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 not be subject to discipline for refusing to participate in activities authorized under the Option Act and this policy. However, UC Health Care Providers who opt-out of participating in the Act must comply with §V.C.1-3 of this policy including (1) informing the patient that they have chosen not to participate in the Act, (2) documenting the date of the patient's request and the provider's notice of their objection, and (3) transferring the individual's medical record upon request.

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<sup>9</sup> Cal. Health & Safety Code § 443.17(d)

## VI. PROCEDURES

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Each UC Medical Center must adopt local procedures addressing its implementation of this Policy. All such procedures must be consistent with this Policy and the Option Act. Consideration should be given to develop procedures that support patient requests under the Act and that outline reasonable minimum expectations for Health Care Providers and other staff to comply with the Act.

## VII. RELATED INFORMATION

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- Senate Bill SB 380, End of Life:  
[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220SB380](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB380)
- Assembly Bill X2-15, End of Life Option Act:  
[https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201520162AB15](https://leginfo.legislature.ca.gov/faces/billTextClient.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.ca.gov/archive/gov39/wp-content/uploads/2017/08/ABX2_15_Signing_Message.pdf)
- California Department of Public Health:  
<https://www.cdph.ca.gov/Programs/CHSI/Pages/End-of-Life-Option-Act.aspx>
- Medical Board of California: [http://www.ombc.ca.gov/forms\\_pubs/](http://www.ombc.ca.gov/forms_pubs/)
- Compassion & Choices Doc2Doc Consult Program:  
[https://www.compassionandchoices.org/docs/default-source/default-document-library/doc2doc\\_flyer-3.pdf?sfvrsn=39039e3\\_1](https://www.compassionandchoices.org/docs/default-source/default-document-library/doc2doc_flyer-3.pdf?sfvrsn=39039e3_1)
- Senate Bill 1002, End of Life Option Act: Telephone Number (Pending):  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1002](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1002)
- Patient Access to Health Records Act, Cal. Health & Safety Code § 123100 *et seq.*:  
[https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=1.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=106.&title=&part=1.&chapter=1.&article=)
- California Health & Safety Code §§ 442-442.7:  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=HSC&sectionNum=442](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=HSC&sectionNum=442)



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## VIII. FREQUENTLY ASKED QUESTIONS

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### ***How should Health Care Providers who have chosen not to participate in the Act communicate with 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 must disclose to the patient that they have chosen not to participate in the Act and comply with all requirements in §V.C.1-3 of this policy. In order to ensure a timely response to the patient's request for assistance with aid-in-dying, the non-participating Health Care Provider must comply with local policies and procedures including referring the patient to the UC Health Care Entity's designated individual, such as a coordinator, practice manager or medical director, to assist with finding a Health Care Provider who has volunteered to participate under the Act. 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.

### ***What actions must a non-participating Health Care Provider take to comply with this policy and Act?***

If the request is made to a Health Care Provider who has chosen not to participate in the Act, the law and this policy require the non-participating Health Care Provider to (1) inform the patient that they have chosen not to participate in the Act, (2) document the date of the patient's request and the provider's notice of their objection, and (3) transfer the individual's medical record upon request. In addition, in order to ensure a timely response to the patient's request for assistance with aid-in-dying, the non-participating Health Care Provider must refer the patient to the UC Health Care Entity's designated individual, such as a coordinator, practice manager or medical director, to assist with finding a Health Care Provider who has volunteered to participate under the Act.

### ***Does this policy apply to student health centers?***

UC student health centers are exempt from licensure and therefore are not considered "Health Care Entities" under the Act or this policy and are not required to post their policies governing aid-in-dying on their websites. However, the Act and the policy still applies to all Health Care Providers that work at any UC location. The Health Care Providers at student health centers may choose whether or not to participate in activities as defined by the Act and this policy, but are required to provide information to patients about their option under Act and if the Health Care Provider chooses not to participate, perform the minimum requirements for non-participating Health Care Providers.

### ***Are there special requirements or considerations in the Act for minors?***

Only a Qualified Individual, defined as an adult with the Capacity to Make Medical Decisions, can be prescribed an aid-in-dying drug under the Act.

***What is the role of a non-participating Health Care Provider in a patient's continuing care, and would those individuals be allowed to provide "counter advice" to the patient regarding ending their life?***

A non-participating Health Care Provider can continue to treat the patient, but has no right to provide "counter advice" to the patient regarding ending their life.

Health Care Providers must not engage in false, misleading, or deceptive practices related to willingness to qualify an individual or provide a prescription for an Aid-In-Dying Drug to a Qualified Individual under the Act.

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## **IX. REVISION HISTORY**

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**June 21, 2022:** Changes include updated scope, updated policy owner, addition of a term & definition and updates to a definition. Compliance and responsibilities have been updated and FAQs have been added to §VIII. Pronouns have been updated, defined terms have been capitalized and changes were made for continuity of style.

**January 1, 2022:** Technical changes to comply with the legislative amendments to CA HSC § 443 et. Seq. that goes into effect January 1, 2022. Changes include the addition of a term & definition and changes to § IV.C.1 and IV.C.2 that address access to information and documentation, respectively. References, web links and dates that correspond to the amendments have also been changed. Pronouns have been updated and defined terms have been capitalized.

This Interim Policy is also reformatted to meet Web Content Accessibility Guidelines (WCAG) 2.0.

**May 21, 2021:** Extended interim status

**June 9, 2016:** New interim policy issued