

# COLORADO END-OF-LIFE OPTIONS ACT

The Colorado End-of-Life Options Act was passed by the voters as Proposition 106 in November, 2016. The law went into effect on December 16, 2016.

This law allows a Colorado resident adult, who has a terminal illness, and whose death is likely within 6 months, to ask a doctor for a prescription for drugs that will end the adult's life. This is called medical aid in dying, and when all

the steps in the law are followed carefully, the death is not considered suicide. Doctors and others who carefully follow the steps in the law, will not be held liable or punished either by professional discipline or civil or criminal law.

Medical aid in dying is voluntary for the persons who are ill and their doctors. No one can be forced to ask for aid-in-dying drugs, and no doctor can be forced to prescribe them.

## WHO CAN USE MEDICAL AID IN DYING?

To get the medical aid-in-dying drugs, a person must:

- Be 18 or older and a resident of Colorado (as proved by driver's license, property title or lease, voter registration, or tax return),
- Have a terminal illness, which their doctor believes cannot be cured or reversed and is likely to cause the person's death within 6 months,

- Make several voluntary requests (2 oral, 1 written),
- Have the mental capacity to make informed medical decisions.

Medical aid in dying cannot be requested in advance directives or by healthcare agents, conservators or guardians, or other surrogates, even if they know that is what the person would have wanted.

## HOW DOES A PERSON OBTAIN MEDICAL AID IN DYING?

The person who wishes to use medical aid in dying and their doctor must follow the steps in the law carefully. Here is a summary, but not a completely detailed list, of the steps:

- The person's "attending physician" (the doctor who is responsible for the person's care and treatment of their terminal illness) determines that the illness is terminal and the person will likely die in 6 months or less.
- The doctor confirms that the person is a Colorado resident and is able mentally to make medical decisions.
- The person must make 2 oral requests, at least 15 days apart, directly to his or her doctor (the attending physician) and 1 request in writing.
- The written request must follow a special format, and be witnessed by 2 people, only 1 of whom can be a relative, heir, owner or employee of the facility where the person is residing or receiving care. Neither witness can be the attending physician or the person's general or medical power of attorney.
- The doctor must discuss the request with the person without anyone else present to make sure the person is not being coerced or pressured.
- The person must see a second doctor (a "consulting physician") who confirms the person's diagnosis, prognosis, and ability to make medical decisions. If either doctor has doubts about the person's ability to make an informed medical decision, they must refer the person to a mental health professional.
- The mental health professional, if consulted, confirms that the person can make medical decisions.
- If either of the doctors or the mental health professional believes that the person cannot make an informed medical decision, the person will not receive a prescription for medical aid-in-dying drugs.
- The doctor must advise the person about:
  - The risks and possible complications from the drugs
  - The fact that death is the likely result
  - That the person may receive the drugs but decide not to take them
  - That the person may change their mind and take back their request at any time
  - Alternatives and/or other treatments, including comfort care, palliative care, hospice care, pain control
  - That it would be a good idea to let their caregivers, family, and "next of kin" know about their plans
  - That it would be a good idea to have someone present when they take the drugs, in case of any complications
  - Not to take the drugs in public place
  - Keep drugs in safe place and, if they decide not to take them, dispose of unused drugs properly
- Once all these steps are complete, the doctor checks once more that the person is making an informed decision, and then dispenses the drugs or delivers the prescription to a pharmacist. The drugs can be picked up by the person or someone they designate.
- The person then takes the drugs at a time of their choosing – or not at all. If the person dies without taking the drugs, the drugs must be returned to the doctor or a safe take-back program.

## DOES A PERSON HAVE TO TAKE THE DRUGS THEY REQUESTED?

No. If the person has received the drugs, they can take them whenever they want, or not take them at all. Taking the drugs is the person's choice alone. The person has to take the drugs themselves; the drugs can't be given to the person without their knowledge. Some people wait to fill the prescription until they know for sure they want to take the

drugs; that way, the drugs are not sitting around for any time, and the person hasn't spent money on drugs they won't use. The drugs can be very expensive, and while some private health insurance might cover the cost, Medicare and Medicaid in Colorado will not. If they are not used, they must be returned to the doctor or a safe take-back program.

## DO DOCTORS HAVE TO GIVE THEIR PATIENTS MEDICAL AID-IN-DYING DRUGS IF THEY ASK?

No. A doctor, nurse, pharmacist, mental health professional, and any other healthcare provider can decide whether they want to take part in medical aid in dying. They can't be punished by law or professional sanction if they do take part or if they don't.

Administrators of healthcare facilities can prohibit doctors from writing prescriptions for any person who intends to take the drug on the premises of the facility. This applies to hospitals and clinics, and also to long-term care facilities,

assisted living residences, and continuing care retirement communities.

Some facilities and healthcare services may adopt policies that limit their clinicians' participation in medical aid in dying, due to religious or ethical organizational rules. Any facility that prohibits or limits medical aid in dying has to give advance written notice of their policy to any doctor and to their patients and residents.

## HOW DOES THE END-OF-LIFE OPTIONS ACT PROTECT PATIENTS FROM ABUSE?

The End-of-Life Options Act contains these protections:

- Two witnesses must be present when the patient signs the written request form. The witnesses sign the request form if they agree that the person appears to be "of sound mind" and not being pressured, coerced, or unduly influenced in making the request.
- At least one of the witnesses must be unrelated to the person and not entitled to inherit part of the person's estate.
- At least one of the witnesses must be someone who does not own, operate, or work for the facility where the person is residing or receiving care.
- The doctor who is treating the person or the person's general or medical power of attorney cannot be witnesses.
- The doctor must speak to the person alone to make sure they are not being pressured by anyone else.
- It is a serious crime for anyone to try to force a patient to request or take medical aid-in-dying drugs.
- Persons can change their minds and take back their request for the drugs at any time.
- The law does not allow a doctor or anyone else to end the person's life by lethal injection, mercy killing, or active euthanasia.

## DOES THE END-OF-LIFE OPTIONS ACT AFFECT INSURANCE, WILLS, OR OTHER CONTRACTS?

In brief, no. Life, health, or accident insurance or annuities, or the rates charged for them, cannot be based on or affected by whether a person asks for, uses, or decides not to use medical aid in dying.

Healthcare benefits due to a person with a terminal illness who is covered under a sickness or accident insurance policy, including benefits under the Colorado Medical

Assistance Act, cannot be changed, denied, or otherwise affected by whether the person makes a request or uses medical aid in dying.

Obligations owing to the person under a will, contract, or other agreement existing when the person decides to use or not use medical aid in dying cannot be affected by their asking for, using, or not using the drugs.

**This document provides only information about the Act and does not constitute legal advice.  
Consult an attorney for advice on your situation.**

