



Colorado Legislative Council Staff

Room 029 State Capitol, Denver, CO 80203-1784
(303) 866-3521 • FAX: 866-3855 • TDD: 866-3472
leg.colorado.gov/lcs
E-mail: lcs.ga@state.co.us

MEMORANDUM

January 10, 2017

TO: Interested Persons
FROM: Anne Wallace, Research Analyst, 303-866-4364
SUBJECT: Medical Aid-in-Dying

Summary

This memorandum provides an overview of Colorado's Medical Aid-in-Dying law, which legalized the practice of prescribing medical aid-in-dying medication to eligible terminally ill patients in Colorado.

The Colorado End-of-Life Options Act

Colorado voters approved the Colorado End-of-Life Options Act by ballot initiative, and the law became effective in December 2016. The law legalizes the process of medical aid-in-dying in Colorado. Medical aid-in-dying (MAID) is defined as, "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."¹

Initiating MAID. In order to be eligible to voluntarily request and receive a prescription for MAID medication, an individual must:

- be an adult resident of Colorado;
- have a diagnosis of a terminal illness with six months or less to live; and
- be determined to be mentally capable of making and communicating an informed decision to his or her health care provider.

Physician and patient requirements. The law contains detailed information on the steps that an attending physician and his or her patient must complete before a prescription for MAID medication may be dispensed. In general, the following steps must be taken for a patient to legally receive MAID medication:

- the patient must make two oral requests for MAID medication at least 15 days apart;

¹Section 25-48-102 (7), C.R.S.

- the patient must make a written request for MAID medication witnessed by at least two other persons;
- an attending physician must attest that the patient is eligible to receive MAID medication; and
- a second physician must confirm the patient's condition and diagnosis.

The proper form for a written request for MAID is included within the text of the law, and the Colorado Department of Public Health and Environment (CDPHE) has a copy of the form on the CDPHE website. In addition, the attending physician is required to document certain information in the patient's medical records throughout the process.

Data gathering and reporting. If a prescription for MAID medication is written for a patient, the patient's health care providers are required to submit two forms to CDPHE. The attending physician must complete a form that documents completion of required steps taken to comply with the law. These steps include, but are not limited to, attesting that the patient made two oral requests and one written request for the medication; documentation on the patient's diagnosis, prognosis, and mental capacity; notation of the medication and dosage prescribed; and information on the consulting physician's diagnosis. This form must be submitted within 30 days of writing a prescription.

The health care provider that dispenses the medication to a patient must complete a form with information on the patient, prescribing and dispensing health care providers, and medication dispensed. This form must be completed within ten calendar days of dispensing the medication. Both forms are publically available on the CDPHE website and can be mailed or emailed when completed.

Voluntary participation by health care providers. Under the law, health care providers may choose whether to participate in providing MAID medication to patients, and are not subject to professional or criminal repercussions based on that choice. The definition of health care provider includes both individual health care workers and health care facilities. Because the law does not define "participation in providing medical aid-in-dying medication," a range of activities could be considered participation in the process, including discussing a patient's request for medication, confirming a patient's diagnosis, or acting as a witness to a request for medication. When a health care facility decides on the extent to which the facility will participate in providing MAID medication, the facility is required to provide written notice to physicians and patients regarding its policy.

Criminal penalties and immunities. The law created new penalties for persons who abuse the MAID process, while also granting criminal and civil immunities for persons unless they act with negligence, recklessness, or intentional misconduct. The law creates a class 2 felony for knowingly coercing a terminally ill person to request medication or for tampering with a request for medication.

Health insurance coverage. Medical insurance companies (including Medicaid and Medicare) are not required to cover MAID medication, so individual patients must check with their insurance company about coverage.

Additional Resources

The following additional resources may be helpful to those interested in issues concerning MAID:

- The 2016 Blue Book contains the full text of the End-of-Life Options Act, and includes a summary and arguments for and against the ballot initiative. A PDF version of the 2016 Blue Book is available here:
http://leg.colorado.gov/sites/default/files/2016_bilingual_bluebook_for_the_internet_0.pdf
- Information and forms related to the MAID law are available on the CDPHE website at: <https://www.colorado.gov/pacific/cdphe/medical-aid-dying>; and
- Compassion and Choices, a national nonprofit organization committed to improving care and expanding choice at the end of life, provides information on facilities that participate in MAID. This information is available on Compassion and Choices website at <https://www.compassionandchoices.org/colorado/>.