

	Program: UTILIZATION MANAGEMENT	
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Title of Policy: END OF LIFE OPTION ACT		

SECTION I: RELEVANT PRODUCT LINES

Product Type	Y/N	Product Type	Y/N
Medi-Cal	Y	Commercial	Y
Cal MediConnect	Y	Covered California (Exchange)	Y
Medicare Advantage	Y		

SECTION II: DEFINITIONS

Term	Definition
Adult	An individual 18 years of age or older.
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 his or her 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.
Attending Physician Checklist and Compliance Form	A form, as described in <i>Section 443.22</i> of the California Health & Safety Code, identifying each and every requirement that must be fulfilled by an Attending Physician to be in good faith compliance with this part should the Attending Physician choose to participate.
Capacity to Make Medical Decisions	In the opinion of an individual’s Attending Physician, Consulting Physician, psychiatrist, or psychologist, pursuant to <i>Section 4609</i> of the Probate Code, 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 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.
Department	The State Department of Public Health.
Health Care Provider or Provider of Health Care	Any person licensed or certified pursuant to Division 2 (commencing with <i>Section 500</i>) of the Business and Professions Code; any person licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act; any person certified pursuant to Division 2.5 (commencing with <i>Section 1797</i>) of the Health and

Term	Definition
	Safety Code; and any clinic, health dispensary, or health facility licensed pursuant to Division 2 (commencing with <i>Section 1200</i>) of this Health and Safety Code.
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: <ol style="list-style-type: none"> 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.
Medically Confirmed	The medical diagnosis and prognosis of the Attending Physician has been confirmed by a Consulting Physician who has examined the individual and the individual’s relevant medical records.
Mental Health Specialist Assessment	One or more consultations between an 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.
Mental Health Specialist	A psychiatrist or a licensed psychologist.
Physician	A doctor of medicine or osteopathy currently licensed to practice medicine in this state.
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.
Qualified Individual	An Adult who has the Capacity to Make Medical Decisions, is a resident of California, and has satisfied the requirements of this part in order to obtain a prescription for a drug to end his or her life.
Self-Administer	A Qualified Individual’s affirmative, conscious, and physical act of administering and ingesting the Aid-in-dying Drug to bring about his or her 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.

SECTION III: POLICY

Heritage Provider Network (HPN) and its affiliated Medical Groups (Groups) will comply with the requirements of the California End of Life (EOL) Option Act when assisting members with EOL services, which includes consultations and the prescription of an Aid-in-Dying Drug.

Medi-Cal Coverage requirements for end of life services

For Medi-Cal members, EOL services are a “carve-out” for Medi-Cal managed care health plans and are covered by Medi-Cal Fee for Service (FFS). Members are responsible for finding a Medi-Cal FFS physician for all aspects of the EOL benefit. During an unrelated visit with a Group physician, a beneficiary may provide an oral request for EOL services. If the physician is also enrolled with the Department of Health Care Services (DHCS) as a Medi-Cal FFS provider, that physician may elect to

become the beneficiary's attending physician as he or she proceeds through the steps in obtaining EOL services. EOL services following the initial visit are no longer the responsibility of the Group, and must be completed by a Medi-Cal FFS attending physician, or a Medi-Cal FFS consulting physician. Alternatively, if the Group physician is not a Medi-Cal FFS provider, the physician may document the oral request in his or her medical records as part of the visit; however, the Group physician should advise the beneficiary that following the initial visit he or she must select a Medi-Cal FFS physician in order for all of the remaining Act requirements to be satisfied.

SECTION IV. CALIFORNIA'S END OF LIFE OPTION ACT- PROVISIONS

California Health and Safety Code Section 443.2

- (a) An individual who is an Adult with the Capacity to Make Medical Decisions and with a Terminal Disease may make a request to receive a prescription for an Aid-in-Dying Drug if all of the following conditions are satisfied:
 - (1) The individual's Attending Physician has diagnosed the individual with a Terminal Disease.
 - (2) The individual has voluntarily expressed the wish to receive a prescription for an Aid-in-Dying Drug.
 - (3) The individual is a resident of California and is able to establish residency through any of the following means:
 - (A) Possession of a California driver's license or other identification issued by the State of California.
 - (B) Registration to vote in California.
 - (C) Evidence that the person owns or leases property in California.
 - (D) Filing of a California tax return for the most recent tax year.
 - (4) The individual documents his or her request pursuant to the requirements set forth in *Section 443.3*.
 - (5) The individual has the physical and mental ability to Self-Administer the Aid-in-Dying Drug.
- (b) A person shall not be considered a "Qualified Individual" under the provisions of this part solely because of age or disability.
- (c) A request for a prescription for an Aid-in-Dying Drug under this part shall be made solely and directly by the individual diagnosed with the Terminal Disease and shall not be made on behalf of the patient, including, but not limited to, through a power of attorney, an advance health care directive, a conservator, health care agent, surrogate, or any other legally recognized health care decisionmaker.

California Health and Safety Code Section 443.3

- (a) An individual seeking to obtain a prescription for an Aid-in-Dying Drug pursuant to this part shall submit two oral requests, a minimum of 15 days apart, and a written request to his or her Attending Physician. The Attending Physician shall directly, and not through a designee, receive all three requests required pursuant to this section.
- (b) A valid written request for an Aid-in-Dying drug under subdivision (a) shall meet all of the following conditions:
 - (1) The request shall be in the form described in *Section 443.11*.

- (2) The request shall be signed and dated, in the presence of two witnesses, by the individual seeking the Aid-in-Dying Drug.
- (3) The request shall be witnessed by at least two other Adult persons who, in the presence of the individual, shall attest that to the best of their knowledge and belief the individual is all of the following:
 - (A) An individual who is personally known to them or has provided proof of identity.
 - (B) An individual who voluntarily signed this request in their presence.
 - (C) An individual whom they believe to be of sound mind and not under duress, fraud, or undue influence.
 - (D) Not an individual for whom either of them is the Attending Physician, consulting Physician, or Mental Health Specialist.
- (c) Only one of the two witnesses at the time the written request is signed may:
 - (1) Be related to the Qualified Individual by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the individual's estate upon death.
 - (2) Own, operate, or be employed at a health care facility where the individual is receiving medical treatment or resides.
- (d) The Attending Physician, consulting Physician, or Mental Health Specialist of the individual shall not be one of the witnesses required pursuant to paragraph (3) of subdivision (b).

California Health and Safety Code Section 443.4

- (a) An individual may at any time withdraw or rescind his or her request for an Aid-in-Dying Drug, or decide not to ingest an Aid-in-Dying Drug, without regard to the individual's mental state.
- (b) A prescription for an Aid-in-Dying Drug provided under this part may not be written without the Attending Physician directly, and not through a designee, offering the individual an opportunity to withdraw or rescind the request.

California Health and Safety Code Section 443.5

- (a) Before prescribing an Aid-in-Dying Drug, the Attending Physician shall do all of the following:
 - (1) Make the initial determination of all of the following:
 - (A) (i) Whether the requesting Adult has the Capacity to Make Medical Decisions.
 - (ii) If there are indications of a mental disorder, the Physician shall refer the individual for a Mental Health Specialist Assessment.
 - (iii) If a Mental Health Specialist Assessment referral is made, no Aid-in-Dying Drugs shall be prescribed until the Mental Health Specialist determines that the individual has the Capacity to Make Medical Decisions and is not suffering from impaired judgment due to a mental disorder.
 - (B) Whether the requesting Adult has a Terminal Disease.
 - (C) Whether the requesting Adult has voluntarily made the request for an Aid-in-Dying Drug pursuant to *Sections 443.2 and 443.3*.

- (D) Whether the requesting Adult is a Qualified Individual pursuant to subdivision (o) of *Section 443.1*.
 - (2) Confirm that the individual is making an Informed Decision by discussing with him or her all of the following:
 - (A) His or her medical diagnosis and prognosis.
 - (B) The potential risks associated with ingesting the requested Aid-in-Dying Drug.
 - (C) The probable result of ingesting the Aid-in-Dying Drug.
 - (D) The possibility that he or she may choose to obtain the Aid-in-Dying Drug but not take it.
 - (E) The feasible alternatives or additional treatment options, including, but not limited to, comfort care, hospice care, palliative care, and pain control.
 - (3) Refer the individual to a consulting Physician for medical confirmation of the diagnosis and prognosis, and for a determination that the individual has the Capacity to Make Medical Decisions and has complied with the provisions of this part.
 - (4) Confirm that the Qualified Individual's request does not arise from coercion or undue influence by another person by discussing with the Qualified Individual, outside of the presence of any other persons, except for an interpreter as required pursuant to this part, whether or not the Qualified Individual is feeling coerced or unduly influenced by another person.
 - (5) Counsel the Qualified Individual about the importance of all of the following:
 - (A) Having another person present when he or she ingests the Aid-in-Dying Drug prescribed pursuant to this part.
 - (B) Not ingesting the Aid-in-Dying Drug in a Public Place.
 - (C) Notifying the next of kin of his or her request for an Aid-in-Dying Drug. A Qualified Individual who declines or is unable to notify next of kin shall not have his or her request denied for that reason.
 - (D) Participating in a hospice program.
 - (E) Maintaining the Aid-in-Dying Drug in a safe and secure location until the time that the Qualified Individual will ingest it.
 - (6) Inform the individual that he or she may withdraw or rescind the request for an Aid-in-Dying Drug at any time and in any manner.
 - (7) Offer the individual an opportunity to withdraw or rescind the request for an Aid-in-Dying Drug before prescribing the Aid-in-Dying Drug.
 - (8) Verify, immediately before writing the prescription for an Aid-in-Dying Drug, that the Qualified Individual is making an Informed Decision.
 - (9) Confirm that all requirements are met and all appropriate steps are carried out in accordance with this part before writing a prescription for an Aid-in-Dying Drug.
 - (10) Fulfill the record documentation required under *Sections 443.8* and *443.19*.
 - (11) Complete the Attending Physician Checklist and Compliance Form, as described in *Section 443.22*, include it and the consulting Physician compliance form in the individual's medical record, and submit both forms to the State Department of Public Health.
 - (12) Give the Qualified Individual the final attestation form, with the instruction that the form be filled out and executed by the Qualified Individual within 48 hours prior to the Qualified Individual choosing to Self-Administer the Aid-in-Dying Drug.
- (b) If the conditions set forth in subdivision (a) are satisfied, the Attending Physician may deliver the Aid-in-Dying Drug in any of the following ways:

- (1) Dispensing the Aid-in-Dying Drug directly, including ancillary medication intended to minimize the Qualified Individual's discomfort, if the Attending Physician meets all of the following criteria:
 - (A) Is authorized to dispense medicine under California law.
 - (B) Has a current United States Drug Enforcement Administration (USDEA) certificate.
 - (C) Complies with any applicable administrative rule or regulation.
 - (2) With the Qualified Individual's written consent, contacting a pharmacist, informing the pharmacist of the prescriptions, and delivering the written prescriptions personally, by mail, or electronically to the pharmacist, who may dispense the drug to the Qualified Individual, the Attending Physician, or a person expressly designated by the Qualified Individual and with the designation delivered to the pharmacist in writing or verbally.
- (c) Delivery of the dispensed drug to the Qualified Individual, the Attending Physician, or a person expressly designated by the Qualified Individual may be made by personal delivery, or, with a signature required on delivery, by United Parcel Service, United States Postal Service, Federal Express, or by messenger service.

California Health and Safety Code Section 443.6

Before a Qualified Individual obtains an Aid-in-Dying Drug from the Attending Physician, the consulting Physician shall perform all of the following:

- (a) Examine the individual and his or her relevant medical records.
- (b) Confirm in writing the Attending Physician's diagnosis and prognosis.
- (c) Determine that the individual has the Capacity to Make Medical Decisions, is acting voluntarily, and has made an Informed Decision.
- (d) If there are indications of a mental disorder, refer the individual for a Mental Health Specialist Assessment.
- (e) Fulfill the record documentation required under this part.
- (f) Submit the compliance form to the Attending Physician.

California Health and Safety Code Section 443.7

Upon referral from the attending or consulting Physician pursuant to this part, the Mental Health Specialist shall:

- (a) Examine the Qualified Individual and his or her relevant medical records.
- (b) Determine that the individual has the mental Capacity to Make Medical Decisions, act voluntarily, and make an Informed Decision.
- (c) Determine that the individual is not suffering from impaired judgment due to a mental disorder.

- (d) Fulfill the record documentation requirements of this part.

California Health and Safety Code Section 443.8

All of the following shall be documented in the individual's medical record:

- (a) All oral requests for Aid-in-Dying Drugs.
- (b) All written requests for Aid-in-Dying Drugs.
- (c) The Attending Physician's diagnosis and prognosis, and the determination that a Qualified Individual has the Capacity to Make Medical Decisions, is acting voluntarily, and has made an Informed Decision, or that the Attending Physician has determined that the individual is not a Qualified Individual.
- (d) The consulting Physician's diagnosis and prognosis, and verification that the Qualified Individual has the Capacity to Make Medical Decisions, is acting voluntarily, and has made an Informed Decision, or that the consulting Physician has determined that the individual is not a Qualified Individual.
- (e) A report of the outcome and determinations made during a Mental Health Specialist's assessment, if performed.
- (f) The Attending Physician's offer to the Qualified Individual to withdraw or rescind his or her request at the time of the individual's second oral request.
- (g) A note by the Attending Physician indicating that all requirements under *Sections 443.5 and 443.6* have been met and indicating the steps taken to carry out the request, including a notation of the Aid-in-Dying Drug prescribed.

California Health and Safety Code Section 443.9

- (a) Within 30 calendar days of writing a prescription for an Aid-in-Dying Drug, the Attending Physician shall submit to the State Department of Public Health a copy of the qualifying patient's written request, the Attending Physician Checklist and Compliance Form, and the consulting Physician compliance form.
- (b) Within 30 calendar days following the Qualified Individual's death from ingesting the Aid-in-Dying Drug, or any other cause, the Attending Physician shall submit the Attending Physician followup form to the State Department of Public Health.

California Health and Safety Code Section 443.10

A Qualified Individual may not receive a prescription for an Aid-in-Dying Drug pursuant to this part unless he or she has made an Informed Decision. Immediately before writing a prescription for an Aid-in-Dying Drug under this part, the Attending Physician shall verify that the individual is making an Informed Decision.

California Health and Safety Code Section 443.11

- (a) A request for an Aid-in-Dying Drug as authorized by this part shall be in the form defined by the Medical Board of California.
- (b)
 - (1) The written language of the request shall be written in the same translated language as any conversations, consultations, or interpreted conversations or consultations between a patient and his or her attending or consulting physicians.
 - (2) Notwithstanding paragraph (1), the written request may be prepared in English even when the conversations or consultations or interpreted conversations or consultations were conducted in a language other than English if the English language form includes an attached interpreter's declaration that is signed under penalty of perjury. The interpreter's declaration shall state be in the form defined by the Medical Board of California.
 - (3) An interpreter whose services are provided pursuant to paragraph (2) shall not be related to the qualified individual by blood, marriage, registered domestic partnership, or adoption or be entitled to a portion of the person's estate upon death. An interpreter whose services are provided pursuant to paragraph (2) shall meet the standards promulgated by the California Healthcare Interpreting Association or the National Council on Interpreting in Health Care or other standards deemed acceptable by the department for health care providers in California.
- (c) The final attestation form given by the Attending Physician to the Qualified Individual at the time the Attending Physician writes the prescription shall appear in the form defined by the Medical Board of California.
 - (1) Within 48 hours prior to the individual Self-Administering the Aid-in-Dying Drug, the individual shall complete the final attestation form. If Aid-in-Dying medication is not returned or relinquished upon the patient's death as required in *Section 443.20*, the completed form shall be delivered by the individual's health care provider, family member, or other representative to the Attending Physician to be included in the patient's medical record.
 - (2) Upon receiving the final attestation form the Attending Physician shall add this form to the medical records of the Qualified Individual.

California Health and Safety Code Section 443.12

- (a) A provision in a contract, will, or other agreement executed on or after January 1, 2016, whether written or oral, to the extent the provision would affect whether a person may make, withdraw, or rescind a request for an Aid-in-Dying Drug is not valid.
- (b) An obligation owing under any contract executed on or after January 1, 2016, may not be conditioned or affected by a Qualified Individual making, withdrawing, or rescinding a request for an Aid-in-Dying Drug.

California Health and Safety Code Section 443.13

- (a)
 - (1) The sale, procurement, or issuance of a life, health, or annuity policy, health care service plan contract, or health benefit plan, or the rate charged for a policy or plan contract may not be conditioned upon or affected by a person making or rescinding a request for an Aid-in-Dying Drug.
 - (2) Pursuant to *Section 443.18*, death resulting from the self-administration of an Aid-in-Dying Drug is not suicide, and therefore health and insurance coverage shall not be exempted on that basis.

- (b) Notwithstanding any other law, a Qualified Individual's act of Self-Administering an Aid-in-Dying Drug shall not have an effect upon a life, health, or annuity policy other than that of a natural death from the underlying disease.
- (c) An insurance carrier shall not provide any information in communications made to an individual about the availability of an Aid-in-Dying Drug absent a request by the individual or his or her Attending Physician at the behest of the individual. Any communication shall not include both the denial of treatment and information as to the availability of Aid-in-Dying Drug coverage. For the purposes of this subdivision, "insurance carrier" means a health care service plan as defined in *Section 1345* of this code or a carrier of health insurance as defined in *Section 106* of the Insurance Code.

California Health and Safety Code Section 443.14

- (a) Notwithstanding any other law, a person shall not be subject to civil or criminal liability solely because the person was present when the Qualified Individual Self-Administers the prescribed Aid-in-Dying Drug. A person who is present may, without civil or criminal liability, assist the Qualified Individual by preparing the Aid-in-Dying Drug so long as the person does not assist the qualified person in ingesting the Aid-in-Dying Drug.
- (b) A Health Care Provider or professional organization or association shall not subject an individual to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating in good faith compliance with this part or for refusing to participate in accordance with subdivision (e).
- (c) Notwithstanding any other law, a Health Care Provider shall not be subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for participating in this part, including, but not limited to, determining the diagnosis or prognosis of an individual, determining the capacity of an individual for purposes of qualifying for the act, providing information to an individual regarding this part, and providing a referral to a Physician who participates in this part. Nothing in this subdivision shall be construed to limit the application of, or provide immunity from, *Section 443.16* or *443.17*.
- (d)
 - (1) A request by a Qualified Individual to an Attending Physician to provide an Aid-in-Dying Drug in good faith compliance with the provisions of this part shall not provide the sole basis for the appointment of a guardian or conservator.
 - (2) No actions taken in compliance with the provisions of this part shall constitute or provide the basis for any claim of neglect or elder abuse for any purpose of law.
- (e)
 - (1) Participation in activities authorized pursuant to this part shall be voluntary. Notwithstanding *Sections 442* to *442.7*, inclusive, a person or entity that elects, for reasons of conscience, morality, or ethics, not to engage in activities authorized pursuant to this part is not required to take any action in support of an individual's decision under this part.
 - (2) Notwithstanding any other law, a Health Care Provider is not subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for refusing to participate in activities authorized under this part, including, but not limited to, refusing to inform a patient regarding his or her rights under this part, and not

referring an individual to a Physician who participates in activities authorized under this part.

- (3) If a Health Care Provider is unable or unwilling to carry out a Qualified Individual's request under this part and the Qualified Individual transfers care to a new Health Care Provider, the individual may request a copy of his or her medical records pursuant to law.

California Health and Safety Code Section 443.15

- (a) Subject to subdivision (b), notwithstanding any other law, a Health Care Provider may prohibit its employees, independent contractors, or other persons or entities, including other Health Care Providers, from participating in activities under this part while on premises owned or under the management or direct control of that prohibiting Health Care Provider or while acting within the course and scope of any employment by, or contract with, the prohibiting Health Care Provider.
- (b) A Health Care Provider that elects to prohibit its employees, independent contractors, or other persons or entities, including Health Care Providers, from participating in activities under this part, as described in subdivision (a), shall first give notice of the policy prohibiting participation under this part to the individual or entity. A Health Care Provider that fails to provide notice to an individual or entity in compliance with this subdivision shall not be entitled to enforce such a policy against that individual or entity.
- (c) Subject to compliance with subdivision (b), the prohibiting Health Care Provider may take action, including, but not limited to, the following, as applicable, against any individual or entity that violates this policy:
 - (1) Loss of privileges, loss of membership, or other action authorized by the bylaws or rules and regulations of the medical staff.
 - (2) Suspension, loss of employment, or other action authorized by the policies and practices of the prohibiting Health Care Provider.
 - (3) Termination of any lease or other contract between the prohibiting Health Care Provider and the individual or entity that violates the policy.
 - (4) Imposition of any other nonmonetary remedy provided for in any lease or contract between the prohibiting Health Care Provider and the individual or entity in violation of the policy.
- (d) Nothing in this section shall be construed to prevent, or to allow a prohibiting Health Care Provider to prohibit, any other Health Care Provider, employee, independent contractor, or other person or entity from any of the following:
 - (1) Participating, or entering into an agreement to participate, in activities under this part, while on premises that are not owned or under the management or direct control of the prohibiting provider or while acting outside the course and scope of the participant's duties as an employee of, or an independent contractor for, the prohibiting Health Care Provider.
 - (2) Participating, or entering into an agreement to participate, in activities under this part as an Attending Physician or consulting Physician while on premises that are not owned or under the management or direct control of the prohibiting provider.
- (e) In taking actions pursuant to subdivision (c), a Health Care Provider shall comply with all procedures required by law, its own policies or procedures, and any contract with the individual or entity in violation of the policy, as applicable.
- (f) For purposes of this section:

- (1) "Notice" means a separate statement in writing advising of the prohibiting Health Care Provider policy with respect to participating in activities under this part.
 - (2) "Participating, or entering into an agreement to participate, in activities under this part" means doing or entering into an agreement to do any one or more of the following:
 - (A) Performing the duties of an Attending Physician as specified in *Section 443.5*.
 - (B) Performing the duties of a consulting Physician as specified in *Section 443.6*.
 - (C) Performing the duties of a Mental Health Specialist, in the circumstance that a referral to one is made.
 - (D) Delivering the prescription for, dispensing, or delivering the dispensed Aid-in-Dying Drug pursuant to paragraph (2) of subdivision (b) of, and subdivision (c) of, *Section 443.5*.
 - (E) Being present when the Qualified Individual takes the Aid-in-Dying Drug prescribed pursuant to this part.
 - (3) "Participating, or entering into an agreement to participate, in activities under this part" does not include doing, or entering into an agreement to do, any of the following:
 - (A) Diagnosing whether a patient has a Terminal Disease, informing the patient of the medical prognosis, or determining whether a patient has the capacity to make decisions.
 - (B) Providing information to a patient about this part.
 - (C) Providing a patient, upon the patient's request, with a referral to another Health Care Provider for the purposes of participating in the activities authorized by this part.
- (g) Any action taken by a prohibiting provider pursuant to this section shall not be reportable under *Sections 800 to 809.9*, inclusive, of the Business and Professions Code. The fact that a Health Care Provider participates in activities under this part shall not be the sole basis for a complaint or report by another Health Care Provider of unprofessional or dishonorable conduct under *Sections 800 to 809.9*, inclusive, of the Business and Professions Code.
- (h) Nothing in this part shall prevent a Health Care Provider from providing an individual with health care services that do not constitute participation in this part.

California Health and Safety Code Section 443.16

- (a) A Health Care Provider may not be sanctioned for any of the following:
 - (1) Making an initial determination pursuant to the standard of care that an individual has a Terminal Disease and informing him or her of the medical prognosis.
 - (2) Providing information about the End of Life Option Act to a patient upon the request of the individual.
 - (3) Providing an individual, upon request, with a referral to another Physician.
- (b) A Health Care Provider that prohibits activities under this part in accordance with *Section 443.15* shall not sanction an individual Health Care Provider for contracting with a Qualified Individual to engage in activities authorized by this part if the individual Health Care Provider is acting outside of the course and scope of his or her capacity as an employee or independent contractor of the prohibiting Health Care Provider.
- (c) Notwithstanding any contrary provision in this section, the immunities and prohibitions on sanctions of a Health Care Provider are solely reserved for actions of a Health Care Provider taken pursuant to this part. Notwithstanding any contrary provision in this part, Health Care Providers may be sanctioned by their licensing board or agency for conduct and actions constituting unprofessional conduct, including failure to comply in good faith with this part.

California Health and Safety Code Section 443.17

- (a) Knowingly altering or forging a request for an Aid-in-Dying Drug to end an individual's life without his or her authorization or concealing or destroying a withdrawal or rescission of a request for an Aid-in-Dying Drug is punishable as a felony if the act is done with the intent or effect of causing the individual's death.
- (b) Knowingly coercing or exerting undue influence on an individual to request or ingest an Aid-in-Dying Drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request, or to administer an Aid-in-Dying Drug to an individual without his or her knowledge or consent, is punishable as a felony.
- (c) For purposes of this section, "knowingly" has the meaning provided in *Section 7* of the Penal Code .
- (d) The Attending Physician, consulting Physician, or Mental Health Specialist shall not be related to the individual by blood, marriage, registered domestic partnership, or adoption, or be entitled to a portion of the individual's estate upon death.
- (e) Nothing in this section shall be construed to limit civil liability.
- (f) The penalties in this section do not preclude criminal penalties applicable under any law for conduct inconsistent with the provisions of this act.

California Health and Safety Code Section 443.18

Nothing in this part may be construed to authorize a Physician or any other person to end an individual's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this part shall not, for any purposes, constitute suicide, assisted suicide, homicide, or elder abuse under the law.

California Health and Safety Code Section 443.19

- (a) The State Department of Public Health shall collect and review the information submitted pursuant to *Section 443.9*. The information collected shall be confidential and shall be collected in a manner that protects the privacy of the patient, the patient's family, and any medical provider or pharmacist involved with the patient under the provisions of this part. The information shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.
- (b) On or before July 1, 2017, and each year thereafter, based on the information collected in the previous year, the Department shall create a report with the information collected from the Attending Physician followup form and post that report to its Internet Web site. The report shall include, but not be limited to, all of the following based on the information that is provided to the Department and on the Department's access to vital statistics:
 - (1) The number of people for whom an aid-in-dying prescription was written.
 - (2) The number of known individuals who died each year for whom aid-in-dying prescriptions were written, and the cause of death of those individuals.
 - (3) For the period commencing January 1, 2016, to and including the previous year, cumulatively, the total number of aid-in-dying prescriptions written, the number of people who died due to

use of Aid-in-Dying Drugs, and the number of those people who died who were enrolled in hospice or other palliative care programs at the time of death.

- (4) The number of known deaths in California from using Aid-in-Dying Drugs per 10,000 deaths in California.
- (5) The number of Physicians who wrote prescriptions for Aid-in-Dying Drugs.
- (6) Of people who died due to using an Aid-in-Dying Drug, demographic percentages organized by the following characteristics:
 - (A) Age at death.
 - (B) Education level.
 - (C) Race.
 - (D) Sex.
 - (E) Type of insurance, including whether or not they had insurance.
 - (F) Underlying illness.

- (c) The State Department of Public Health shall make available the Attending Physician Checklist and Compliance Form, the consulting Physician compliance form, and the Attending Physician followup form, as described in *Section 443.22*, by posting them on its Internet Web site.

California Health and Safety Code Section 443.20

A person who has custody or control of any unused Aid-in-Dying Drugs prescribed pursuant to this part after the death of the patient shall personally deliver the unused Aid-in-Dying Drugs for disposal by delivering it to the nearest qualified facility that properly disposes of controlled substances, or if none is available, shall dispose of it by lawful means in accordance with guidelines promulgated by the California State Board of Pharmacy or a federal Drug Enforcement Administration approved take-back program.

California Health and Safety Code Section 443.21

Any governmental entity that incurs costs resulting from a Qualified Individual terminating his or her life pursuant to the provisions of this part in a Public Place shall have a claim against the estate of the Qualified Individual to recover those costs and reasonable attorney fees related to enforcing the claim.

California Health and Safety Code Section 443.215

This part shall remain in effect only until January 1, 2026, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2026, deletes or extends that date.

California Health and Safety Code Section 443.22

- (a) The Medical Board of California may update the Attending Physician Checklist and Compliance Form, the consulting Physician compliance form, and the Attending Physician followup form, based on those provided in subdivision (b). Upon completion, the State Department of Public Health shall publish the updated forms on its Internet Web site.
- (b) Unless and until updated by the Medical Board of California pursuant to this section, the Attending Physician Checklist and Compliance Form, the consulting Physician compliance form, and the Attending Physician followup form shall be in the form defined by the Medical Board of California.

SECTION IV: REFERENCES

CA Health & Safety Code §§ 443.1 through 443.22
DHCS ALL PLAN LETTER 16-006

Utilization Management Procedure



Heritage
Provider Network
&
Affiliated Medical Groups

Department: Utilization Management
Procedure Number: UM-041-P-001
Effective Date: 6/9/2016
Approval Date: 3/16/2021
Approved By: HPN UMC
Last Review Date: 2/3/2021
Reviewed By: HPN CS

Subject: End of Life Option Act

Related Policies and Procedures: UM-041 End of Life Option Act

Applicable to: Utilization Management

I. Relevant Product Lines

Product Type	Y/N	Product Type	Y/N
Medi-Cal	Y	Commercial	Y
Cal MediConnect	Y	Covered California (Exchange)	Y
Medicare Advantage	Y		

II. Procedure

1. Group physicians who agree to participate in a member's right to EOL services must follow all requirements of the California End of Life Option Act.
2. Providers will use the required forms per the Medical Board of California which will be submitted to the California Department of Public Health (CDPH) and also included in the individual's medical record:
 - a. Provider Forms
 - i. Attending Physician Checklist and Compliance Form
 - ii. Consulting Physician Compliance Form
 - iii. Attending Physician's Follow Up Form
 - b. Patient Forms
 - i. Patient's Request for Aid-in-Dying Drug
 - ii. Final Attestation for Aid-in-Dying Drug
 - iii. Interpreter's Declaration / Form (if one is used)
3. Providers will refer to the following resources
 - a. Medical Board of California:
https://www.mbc.ca.gov/Licensees/Physicians_and_Surgeons/End_of_Life.aspx
 - b. CDPH: <https://www.cdph.ca.gov/Programs/CHSI/Pages/End-of-Life-Option-Act.aspx>
4. If the Groups receive a request for EOL services for Medi-Cal members, the Group will refer the member to the contracted health plan.
5. Groups will contact the contracted health plan for information on the appropriate handling of EOL requests for Commercial, CMC, Medicare Advantage members.