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PIN 23-09-ASC

TO: ALL ADULT AND SENIOR CARE PROGRAM LICENSEES

FROM: ***Original signed by Kevin Gaines***
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Deputy Director
Community Care Licensing Division

SUBJECT: **END OF LIFE OPTION ACT UPDATES**

Provider Information Notice (PIN) Summary

PIN 23-09-ASC provides a summary and reminders of the provisions of Assembly Bill (AB) X2-15, the End of Life Option Act (EOLOA), chaptered in 2015, and important changes to the EOLOA following Senate Bill (SB) 380, chaptered in 2021. Changes include reducing the timeframe between the two required requests for aid-in-dying drugs from 15 days to 48 hours; no longer requiring a single physician to be the sole recipient of the requests; removing the requirement for a final attestation form; and extending the sunset date to January 1, 2031.

Please post/keep this PIN in the facility where persons in care can easily access it and distribute the PIN Summary for Persons in Care (located at the end of this PIN) to persons in care and/or, if applicable, their representatives.

OVERVIEW

[AB X2-15](#), or the EOLOA, chaptered in 2015, added [Part 1.85](#) (commencing with Section 443) of Division 1 of the Health and Safety Code. In 2021, [SB 380](#) was chaptered, modifying provisions of the EOLOA, including extending the sunset date from January 1, 2026 to January 1, 2031.

The EOLOA authorizes a mentally competent adult, who has been determined by their attending physician (and confirmed by a consulting physician) to be suffering from a terminal disease, to make a request for a drug for the purpose of ending their own life. The EOLOA established a procedure for making these requests, and requires specific information to be documented in the individual's medical record, including all oral and written requests for an aid-in-dying drug.

The EOLOA specifies that a person or entity that elects, for reasons of conscience, morality, or ethics, not to participate, is not required to take any action in support of an individual's decision. It also indicates a person shall not be subject to civil or criminal liability solely because the person is present when the qualified individual self-administers the prescribed aid-in-dying drug. Furthermore, 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.

The EOLOA makes it a felony to knowingly alter or forge a request for drugs to end an individual's life without their authorization, or to conceal or destroy a withdrawal or rescission of a request for such a drug, if it is done with the intent or effect of causing the individual's death. The EOLOA also makes it a felony to knowingly coerce or exert undue influence on an individual to request the aid-in-dying drug, or to administer an aid-in-dying drug to an individual without their knowledge or consent.

With the enactment of SB 380, the EOLOA provided the following changes that may specifically impact residents:

- Previously the EOLOA required the timeframe between two oral requests for a prescription for an aid-in-dying drug to be a minimum of 15 days apart. SB 380 reduced the timeframe to a minimum of 48 hours apart.
- The EOLOA no longer requires a single physician be the sole recipient of a qualified individual's requests for an aid-in-dying drug. Accordingly, an oral request documented in an individual's medical record shall not be disregarded by a physician solely because it was received by a prior physician or a physician who chose not to participate.
- SB 380 removed the requirement that an individual who is prescribed and ingests the aid-in-dying drug complete a final attestation form.

Note: In addition to the two oral requests, a valid written request must be signed and dated, in the presence of two witnesses, by the individual seeking the aid-in-dying drug. Only one of the two witnesses may:

- 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.
- Own, operate, or be employed at a health care entity where the person is receiving medical treatment or resides.

PARTICIPATION BY LICENSEES AND EMPLOYEES

Pursuant to the EOLOA, licensees may elect, for reasons of conscience, morality, or ethics, to prohibit employees from participating in activities pursuant to the EOLOA. Licensees may inform residents and prospective residents whether the licensee has elected not to participate in the specified activities related to the EOLOA. Specific to the Adult Residential Facility (ARF), Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN), Residential Care Facility for the Chronically III (RCFCI), Residential Care Facility for the Elderly (RCFE) or a Social Rehabilitation Facility (SRF) environment, participation in activities pursuant to the EOLOA is described as:

- Delivering the prescription for, dispensing, or delivering the dispensed aid-in-dying drug.
- Being present when the qualified resident takes the aid-in-dying drug prescribed.

RESIDENT RIGHTS

Residents living in an ARF, ARFPSHN, RCFCI, RCFE or an SRF facility and determined to be qualified to obtain the aid-in-dying drug (“qualified resident”) retain the rights to obtain and self-administer the prescription, regardless of whether the licensee has decided to prohibit employees from participating in activities pursuant to the EOLOA. The decision of a qualified resident to exercise their rights under this law shall not be basis for an eviction.

MEDICATION STORAGE

Qualified residents living in ARFs, ARFPSHNs, RCFCIs, RCFEs and SRFs have two options for medication storage at the facility:

- Centrally store the medication with the facility; or
- Store the medication in their rooms.

Qualified residents who choose to store the medication in their rooms must store it in a locked receptacle (for example a locked box, a safe, a locked cabinet, etc.) which prevents access to the medication by other persons.

As long as the qualified resident stores the medication in a locked receptacle, facilities cannot require the qualified resident to have their aid-in-dying drug centrally stored. If the facility centrally stores and manages medications, the facility must honor the request of any qualified resident and centrally store the aid-in-dying medication, unless the facility objects to delivering or dispensing the drug pursuant to the EOLOA. If the facility objects to delivering or dispensing the drug pursuant to the EOLOA, the qualified resident is responsible for these activities, including storing the drug, e.g., in

a locked receptacle in their room or off-site at the home of a loved one.

RESIDENT DISCLOSURES

There is no requirement for a qualified resident to disclose to anyone their intent to use the EOLOA, except for the medical professionals involved in qualifying the resident and dispensing the medication. Therefore, such residents are not required to inform the licensee or facility staff of their intent to exercise their rights under this law. However, qualified residents are encouraged to communicate such intentions with the licensee and direct care staff. Facilities are also encouraged to communicate with residents regarding end of life planning issues. In addition to other procedures required by the EOLOA, physicians are required to counsel residents on the importance of the following:

- Having another person present when the qualified resident ingests the aid-in-dying drug.
- Not ingesting the aid-in-dying drug in a public place.
- Notifying the next of kin of their request for an aid-in-dying drug.
- Participating in a hospice program.
- Maintaining the aid-in-dying drug in a safe and secure location until the time that the qualified resident will ingest it.

ADDITIONAL INFORMATION

The following resources are available online:

- California Department of Public Health (CDPH)
 - [End of Life Option Act](#)
- Coalition for Compassionate Care of California (CCCC)
 - [Information on the End of Life Option Act](#)

If you have any questions regarding this PIN, please contact your local [Adult and Senior Care Regional Office](#).

PIN Summary for Residents

A Companion Guide for Provider Information Notice (PIN) 23-09-ASC, End of Life Option Act Updates

The California Department of Social Services (CDSS) has prepared this **PIN Summary for Residents** as a companion to **PIN 23-09-ASC** to inform you of guidance we have provided to your care providers concerning your care.

OVERVIEW

[Assembly Bill \(AB\) X2-15](#), or the End of Life Option Act (EOLOA), is a law effective since 2016 that allows certain people to make a request for an aid-in-dying drug to end their life due to a terminal disease. The EOLOA says that doctors and others may refuse to provide assistance due to their personal beliefs. Also, it is illegal to force someone to ask for the drug or to give it to someone without their permission.

In 2021, a new law, [Senate Bill \(SB\) 380](#) made changes to the EOLOA, including extending the end date of the law from 2026 to 2031.

Additional changes include:

- The time between when a qualified individual asks for the medication and when they can get it was shortened from 15 days to 48 hours.
- Doctors are now required to document all oral and written requests for aid-in-dying drugs in a patient's medical record and to review a patient's medical record for all such requests made, even those made to previous doctors or doctors who declined to assist. Qualified residents no longer have to fill out a form before taking the medication.

It is important to note that individuals need to ask their doctor for the medication twice verbally, a minimum of 48 hours apart, and once in writing. They also need to have two witnesses who saw them sign the written request. Only one of the witnesses can be:

- Someone 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.
- Someone who owns, runs, or works at the place where they are living or getting medical treatment.

The EOLOA applies to Adult Residential Facilities (ARF), Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHN), Residential Care Facilities for

the Chronically Ill (RCFCI), Residential Care Facilities for the Elderly (RCFE), and Social Rehabilitation Facilities (SRF).

PARTICIPATION BY YOUR CARE PROVIDERS

Your care providers can choose not to take part in certain activities related to the EOLOA because of reasons of conscience, morality, or ethics. Your care providers may tell residents and potential residents whether they have made the choice to not take part in activities related to the EOLOA. These activities include:

- Delivering, dispensing, or delivering the dispensed aid-in-dying drug.
- Being present when the qualified resident takes the aid-in-dying drug.

RESIDENT RIGHTS

If you qualify to get the aid-in-dying drug under the EOLOA, you have the right to get and use the drug, even if your care providers do not want to be involved. You cannot be evicted from the facility just because you choose to exercise your rights under the EOLOA.

MEDICATION STORAGE

If you qualify for the aid-in-dying drug under the EOLOA you have two options for storing the drug:

- Centrally store it with the facility; or
- Keep it in your room safely and securely.

If you choose to keep the medication in your room, you must keep it in a locked container that prevents others from accessing it. It is important to remember, even if the facility has a policy for centrally storing medication, you can keep the drug in a locked container in your own room, if you choose. If you request to centrally store the drug, and the facility stores and manages medications, your care providers must honor your request unless the facility objects to taking part in the activities related to EOLOA. If your facility objects to taking part in the activities related to the EOLOA, you are responsible for storing the medication in a locked receptacle in your room or off-site at the home of a loved one.

RESIDENT DISCLOSURES

If you are thinking about using the EOLOA or you qualify for the aid-in-dying drug, you do not have to tell your care providers about your plans. However, it is a good idea to talk to your care providers about your end-of-life plans. In addition, doctors have to talk to you about important things like having someone there when you take the drug, not taking it in a public place, telling your family about it, participating in hospice care, and keeping the drug in a safe place until you use it.

Your care providers, the licensee of your facility, and your local Long-Term Care [Ombudsman](https://www.ombudsman.org/) (call 1-800-510-2020) are available to answer your questions.