

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 16 State Hospital Operations
Article 6. End of Life Option Act

Adopt as follows:

Section 4600. End of Life Option Act Participation.

- (a) All terminally ill patients in the custody and care of the Department of State Hospitals shall receive appropriate and necessary medical care for their situation, including counseling, hospice, and palliative care, as appropriate and desired.
- (b) The Department of State Hospitals will not permit employees, independent contractors, or other persons, except as provided in section 4601 subdivision (c)(1), to participate in activities under the End of Life Option Act, Health and Safety Code section 443 et. seq., while on premises owned or under the management or direct control of the Department of State Hospitals, or while acting within the course and scope of any employment by, or contract with, the Department of State Hospitals.
- (c) Patients committed to the Department of State Hospitals under Penal Code section 2684 are not considered to be in the custody of the Department of State Hospitals, for the purposes of Article 6, End of Life Option Act. The Department of State Hospitals will provide the appropriate and necessary medical care for those committed pursuant to Penal Code section 2684. Patients committed to the Department of State Hospitals under Penal Code section 2684 shall not be provided the option of the aid-in-dying drug, pursuant to title 15, California Code of Regulations, section 3359.8.

Note: Authority cited: Sections 4005.1, 4027, and 4101, Welfare and Institutions Code. Reference: Sections 443 and 443.15, Health and Safety Code. Title 15, California Code of Regulations, section 3359.8.

Section 4601. Petitions to the Superior Court and Access to the End of Life Option Act.

- (a) A terminally ill patient, as defined by the End of Life Option Act, may petition the superior court of the county of commitment for access to participate in activities under the End of Life Option Act by requesting release from the custody and care of the Department of State Hospitals from the court. If the

superior court orders release from the custody and care of the Department of State Hospitals, the Department of State Hospitals shall release the patient to the ordered entity or person.

- (b) If the superior court does not release a patient, the terminally ill patient may petition the court to determine if the patient is a qualified individual, as defined by the End of Life Option Act, to participate in the activities under the End of Life Option Act.
 - (1) The court shall use the criteria in Health and Safety Code sections 443.1 subdivision (o) and 443.2 subdivisions (a) and (b) in determining whether the patient is a qualified individual.
 - (A) If the court determines that a patient meets the criteria under Health and Safety Code section 443.2 subdivision (a), with the exception of Health and Safety Code section 443.2 subdivision (a)(4), the court may order the Department of State Hospitals to proceed pursuant to subdivision (c).
- (c) If, following a petition under subdivision (b), the court orders that the patient meets the qualifications under the End of Life Option Act, and that the Department of State Hospitals shall facilitate the patient's access to participate in activities under the End of Life Option Act, the Department of State Hospitals will facilitate the patient's access to an off-site facility that allows the patient the ability to participate in activities under the End of Life Option Act. The Department of State Hospitals will facilitate the necessary transportation to and from the off-site facility and ensure that the patient has access to his or her off-site physician, who has primary responsibility for the patient's participation in activities under the End of Life Option Act under Health and Safety Code section 443.1 subdivision (c). The Department of State Hospitals will provide the off-site facility and physician with the patient's necessary medical records.
 - (1) If the court orders that the patient meets the qualifications under the End of Life Option Act, and the Department of State Hospitals is unable to find an off-site facility for the patient to participate in activities under the End of Life Option Act, the Department of State Hospitals will facilitate the patient's ability to participate in activities under the End of Life Option Act on-site. The Department of State Hospitals will contract with off-site medical healthcare professionals in order to facilitate the patient's participation in activities under the End of Life Option Act on-site in a safe and secure location. The patient's ability to participate in activities under the End of Life Option Act on-site shall not contradict Department of State

Hospital policy regarding the safety and security of the facilities.

Note: Authority cited: Sections 4005.1, 4027, and 4101, Welfare and Institutions Code. Reference: Sections 443, 443.1, 443.2 and 443.15, Health and Safety Code; and Code of Federal Regulations, title 45, sections 164.502 and 164.504.

Section 4602. Record Keeping for the End of Life Option Act.

- (a) The Department of State Hospitals will request a copy of all forms required by Health and Safety Code section 443 et seq., from the contracted entity, to put into the patient's medical file.
- (b) The superior court order directing the Department of State Hospitals to facilitate the patient's participation in activities under the End of Life Option Act will be kept in the patient's medical file.
 - (1) If access to participation in activities under the End of Life Option Act is provided pursuant to section 4601, subdivision (c)(1), a copy of all forms required by Health and Safety Code section 443 et seq. shall be placed in the patient's medical file.

Note: Authority cited: Sections 4005.1, 4027 and 4101, Welfare and Institutions Code. Reference: Sections 443 and 443.9, Health and Safety Code; and Code of Federal Regulations, title 45, sections 164.502 and 164.504.