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Colorado Hospital Association

Proposition 106: Implementing the Colorado End-of-Life Options Act

NOVEMBER 2016

Disclaimers

CHA did not take a position on Proposition 106 and does not have a formal position on medical aid-in-dying. As such, CHA is neither encouraging or discouraging member hospitals and health systems from facilitating or participating in medical aid-in-dying.

The Association's objective is to support our members by providing them with sufficient information to make informed decisions and comply with the law's requirements.

This guidance does not constitute legal advice to CHA members or others. Each hospital should consult with legal counsel on these matters and have legal counsel review any policies proposed as a result of this guidance.

Webinar Overview

- Introduction
Katherine Mulready, VP of Legislative Policy and Chief Strategy Officer, CHA
- Background: Medical Aid-in-Dying Efforts & Lessons from Other States
Matt Whitaker, Multi-State Implementation Manager, Compassion and Choices
- What Hospitals Need to Know Now
Amber Burkhart, Policy Analyst, CHA
- Conclusion, Next Steps, and Q&A Session
Katherine Mulready, VP of Legislative Policy and Chief Strategy Officer, CHA

Companion tools available at www.cha.com:

- A Hospital Guide to the Colorado End-of-Life Options Act
- Webinar Powerpoint Presentation

Learning Objectives

- At the conclusion of the webinar, participants will understand:
 - The recent history of medical aid-in-dying laws and experiences in other states
 - The basic structure and process for patients seeking medical aid-in-dying under Proposition 106
 - Key decision points and steps that hospitals should address immediately to effectively respond to the requirements of Proposition 106
 - CHA's next steps as they relate to education and potential legislation regarding medical aid-in-dying

Introduction

- Proposition 106 was passed by Colorado voters in November 2016 with 65 percent voting in support
 - It will be codified in Colorado statutes, C.R.S 25-48-101, *et seq.*
- It establishes a system for Colorado residents with a terminal illness to request and self-administer aid-in-dying medication from a physician under certain conditions
- Participation by hospitals and physicians is entirely voluntary, but policies to opt-in or opt-out must be in place to ensure they can be enforced
- Hospitals should notify patients and staff of adopted policies
- Implementation Date: Uncertain - December 2016 or January 2017

History & Experiences from Other States

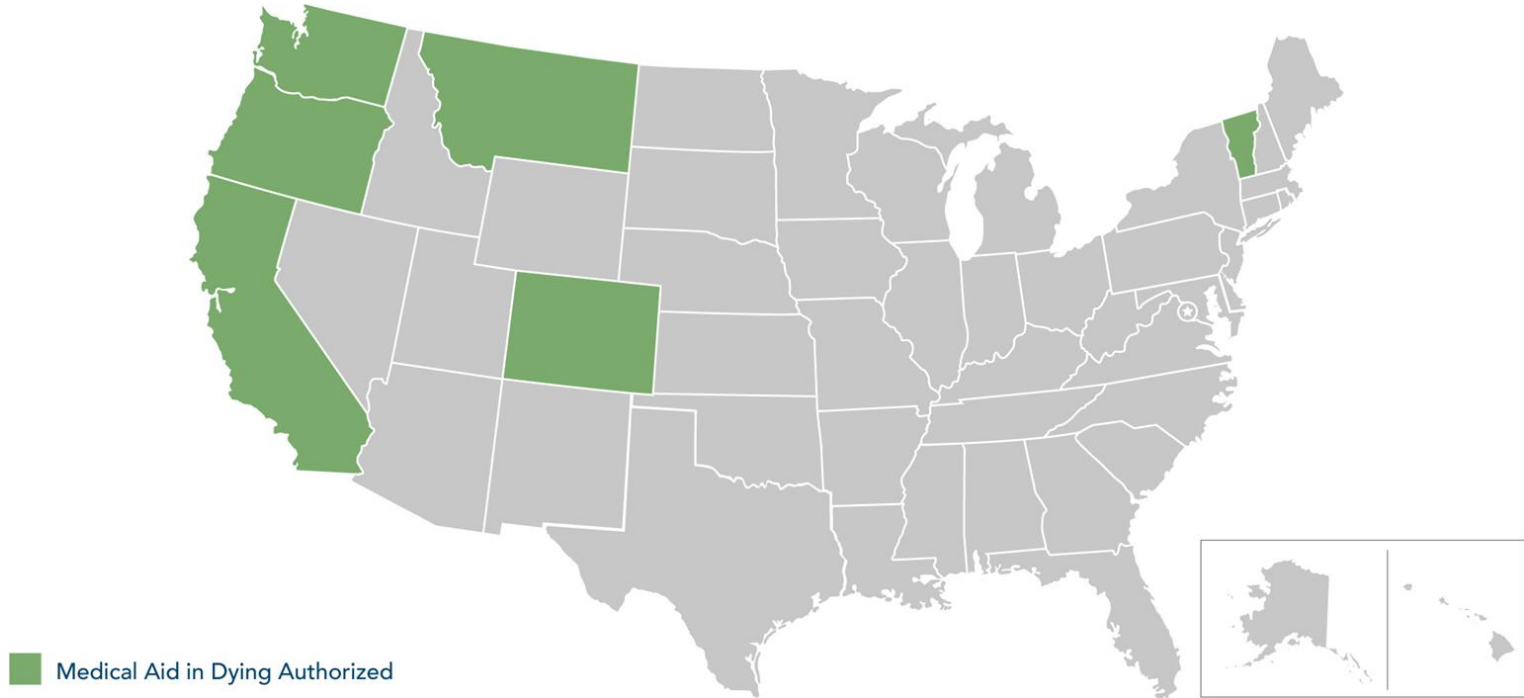
Matt Whitaker, Multi-State Implementation Manager, Compassion and Choices

About Compassion & Choices

C&C is the nation's oldest, largest and most active nonprofit organization committed to improving care and expanding choice at the end of life.

C&C supports, educates and advocates.

CO Access Campaign



Medical aid in dying is a medical practice in which a terminally ill, mentally capable adult with a prognosis of six months or less to live may request from her or his doctor a prescription for medication which they can choose to self-administer to bring about a peaceful death.

Majority of Americans and Doctors Support Medical Aid in Dying as an Option

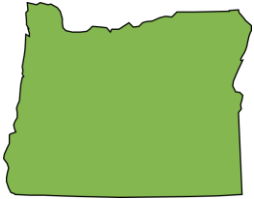
- 68-74% of Americans agree with access to medical aid in dying (Gallup 2015, Harris 2014)
- 56% of Colorado Medical Society members agree with access to medical aid in dying (2016)

Colorado End-of-Life Options Act



Coloradans overwhelmingly authorized medical aid in dying on November 8, 2016.

States Where Medical Aid in Dying Is Authorized



Oregon,
1997, by ballot
initiative



Washington,
2008, by ballot
initiative



Montana,
2009, by court
ruling



Vermont, 2013,
through
legislation



California, 2015,
through
legislation



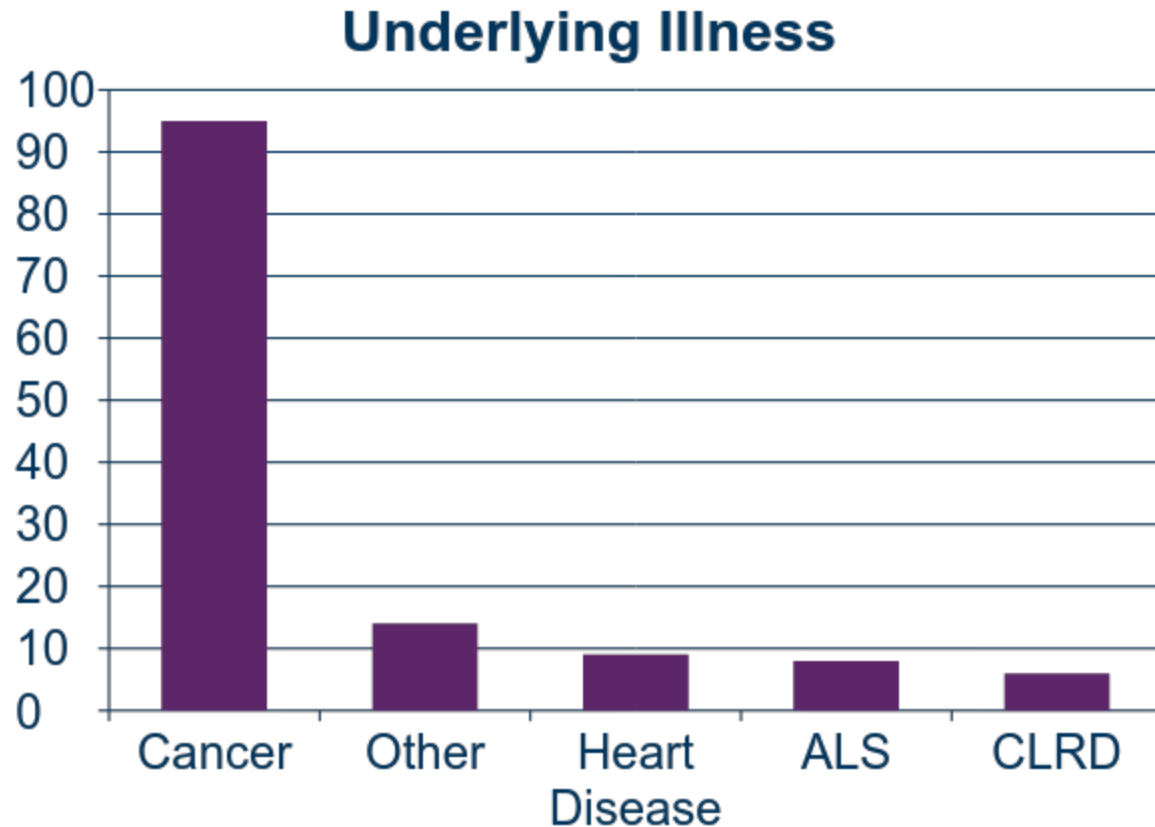
Colorado, 2016,
by ballot
initiative

Colorado End-of-Life Options Act: Eligibility Requirements

- Adult
- Terminally ill
- Prognosis of 6 months or less
- Mentally capable of making informed medical decisions



Diagnosis of People Who Used the Death With Dignity Law in Oregon



Hospice and Palliative Care Are Improved and Better Utilized

- 92% enrolled in hospice
- 90% died at home



Colorado Access Campaign

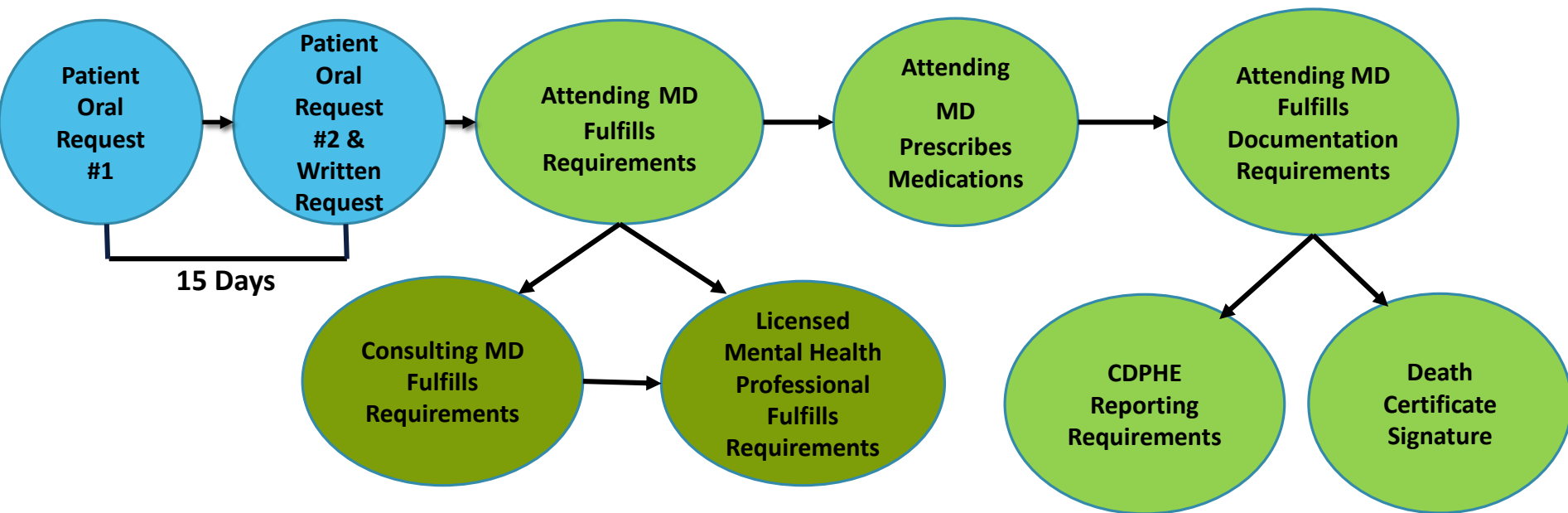
Resources:

- ✓ End-of-Life Options Act website:
www.CompassionAndChoices.org/Colorado
- Videos for doctors and patients
- Clinical criteria + fact sheets
- State forms
- Request a Speaker
- **Find Care Tool** that lists facilities that have adopted policies that honor patient choice
- ✓ Doc2Doc consultation service **800-247-7421**
- ✓ Pharmacist2Pharmacist consultation service

What Hospitals Need to Know Now

Amber Burkhart, Policy Analyst, CHA

Colorado End-of-Life Options Act: Process Overview

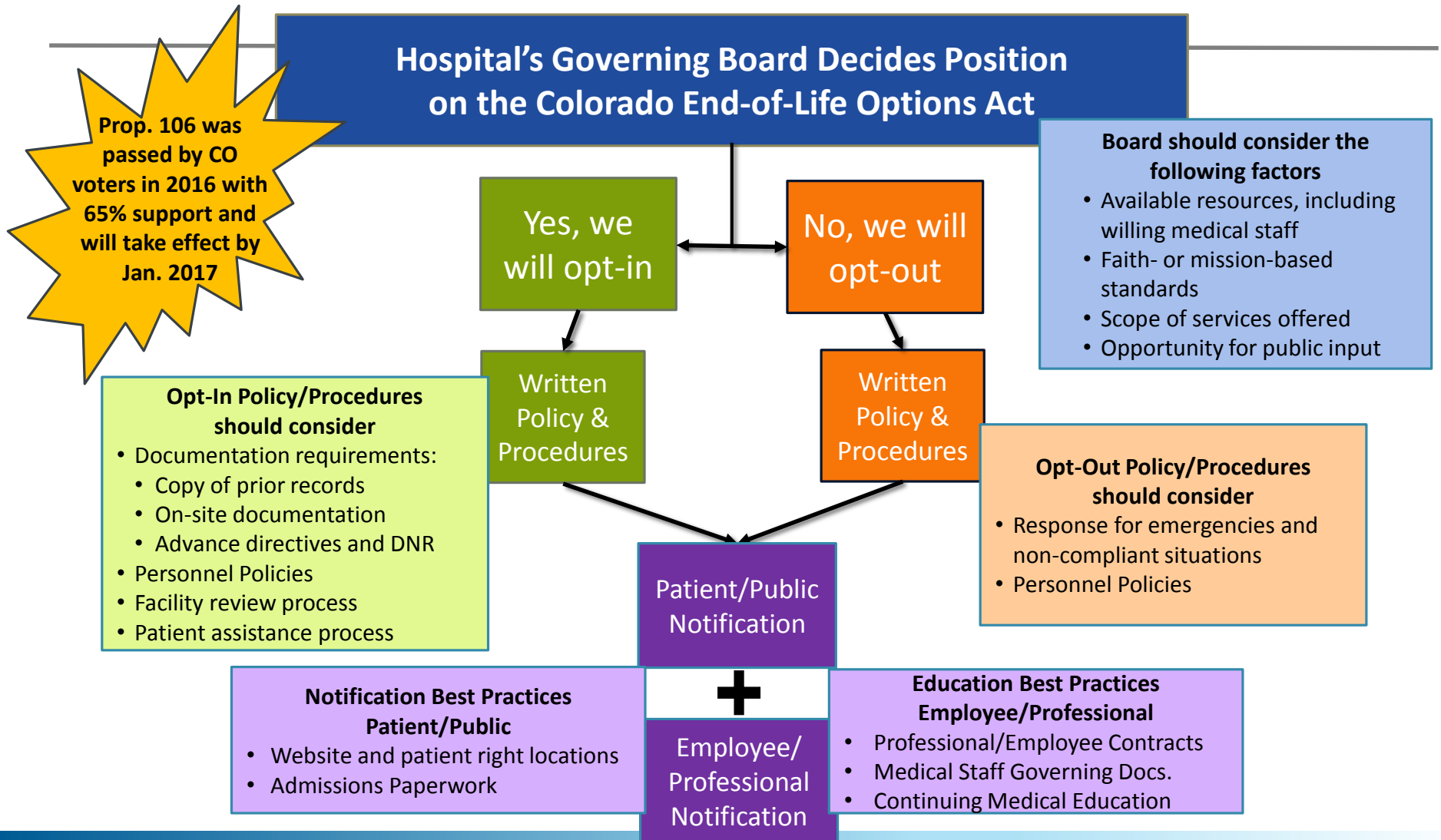


A patient has the ability to change his or her mind at any point during the process.

What It Means for Hospitals

- Participation by hospitals and physicians is voluntary, but CHA strongly recommends all hospitals adopt a policy governing actions that will occur on the hospital premises
 - Hospitals that opt-in will give the option to patients who choose to take aid-in-dying medication to do so on the hospital premises
 - Hospitals that opt-out can deny a patient's request to take the aid-in-dying medication on the hospital premises
- In other states with medical aid-in-dying laws, the majority of patients who choose to take medications do so at home – not at a hospital

Policy Considerations for Implementing the Colorado End-of-Life Options Act in Colorado Hospitals



Whether to Participate: Factors to Consider

- The hospital's mission and current scope of services offered
- Applicable faith-based and ethical standards that support or preclude medical aid-in-dying
- Resources available to implement the elements of the Act
 - Medical staff members willing to serve as attending physicians to prescribe medications
 - Consulting physicians to evaluate patients
 - Mental health professionals to evaluate mental capacity of patients
- Potential litigation and risk management considerations

Opting In

- Hospitals that opt-in will give the option to patients who choose to take aid-in-dying medication to do so on the hospital premises
- Policy should address the process and personnel responsibilities for:
 - Ensuring adequate informed consent
 - Documenting reporting requirements and risk management considerations
 - Proper prescribing and administering of medications
- Additional policy considerations include:
 - Ensuring informed consent and documentation
 - Self-administered medication policy
 - Personnel policies
 - Patient services that may be provided
- Provide advance written notification to patients

Opting Out

- Hospitals that opt-out can deny a patient's request to take the aid-in-dying medication on the hospital premises
 - The law is silent on whether a hospital can prevent an employee, contracted professional, or other provider engaged to practice on-premises from participating in medical aid-in-dying off-premises
 - A hospital can limit an employee's scope of employment or contracted professional's scope of performance
- Hospitals should adopt a policy reflecting their opt-out decision. This policy may also address:
 - Prohibiting physicians employed or under contract from prescribing aid-in-dying medications to individuals who intend to use the medication on the hospital's premises
 - Unplanned situations (e.g., ED admissions following self-administered aid-in-dying medication; patients/staff acting outside the opt-out policy)
- Provide advance written notification to patients and physicians

Notification Requirements

- Patients must be notified of the hospital's policy, whether the policy is to opt-in or opt-out
- Physicians must be notified of the hospital's policy if the hospital chooses to opt-out
- Recommendations for Patient/Public Notification:
 - Website
 - Locations where patient rights are posted/available
 - Included in admissions paperwork
- Recommendations for Employees, Contracted Professionals and Staff:
 - Included in employment agreements and contracts with professionals
 - Included in governing documents for medical staff
 - Provided in all-staff emails and through continuing education programs

Conclusion, Q&A

Next Steps

Hospitals

- Develop policies and procedures to enable compliance with the law

Colorado Hospital Association

- Provide technical assistance to members
- Work with partners to consider potential legislation addressing implementation and compliance concerns:
 - Liability and opt-out protections,
 - Clarity of procedural requirements,
 - Adopting best practices from other states

Colorado Medical Board

- Having repealed the aid-in-dying policy in November, consider whether a more limited policy is still necessary (February 2017)

Colorado Department of Public Health and Environment (CDPHE)

- Develop rules for mandated reporting (January 2017)

Q&A

- Questions can be submitted via the chat function on your webinar.
- Questions arising after the webinar can be sent to Amber Burkhardt, Policy Analyst, at amber.burkhardt@cha.com.
- Facility-specific or legal questions should be addressed in consultation with your hospital's legal counsel.

