Cancer Health

New California Law Eases Aid-in-Dying Process

Beginning January 1, patients in California no longer have to wait 15 days between required requests for death-inducing drugs.

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During her three-year battle with breast cancer, my wife, Leslie, graciously endured multiple rounds of horrifically toxic treatment to eke out more time with our two young children.

But after 18 cancer-free months, the disease returned with a vengeance in June 2003. It fractured her bones and invaded her spinal canal, bathing her brain in malignancy.

During the final six months, as she lay on her home hospice bed in constant pain, attached to a morphine drip around-the-clock while losing her eyesight and withering to a skeleton, the idea of ending her suffering by ending her life didn't even enter into our conversations.

I've been thinking a lot about those bleak days while looking into California's End of Life Option Act, which allows terminally ill patients with a life expectancy of less than six months to end their lives by taking medications prescribed by a physician. In October, Gov. Gavin Newsom signed a revised version of the law, extending it to January 2031 and loosening some restrictions in the 2015 version that proponents say have become barriers to dying people who wish to avail themselves of the law.

The original law, which remains in effect until Jan. 1, contains numerous safeguards meant to ensure that patients are not being coerced by family members who view them as a burden or a potential financial bonanza.

Under the current law, patients who want to die must make two oral requests for the medications at least 15 days apart. They also must request the drugs in writing, and two doctors must agree the patients are legally eligible. After receiving the medications, patients must confirm their intention to die by signing a form 48 hours before ingesting them.

The patients must take the drugs without assistance, either orally, rectally or through a feeding tube. And physicians can decline to prescribe the death-inducing drugs.

After the law had been in effect for a while, its proponents and practitioners concluded that some safeguards made the option unavailable to certain patients.

Some patients were so sick they died during the 15 days they were required to wait between their first and second requests for the medications. Others were too weak or disoriented to sign the final attestation.

The revised law reduces the 15-day waiting period to just two days and eliminates the final attestation.

It also requires health care facilities to post their aid-in-dying policies online. Doctors who decline to prescribe the drugs — whether on principle or because they don't feel qualified — are obliged to document the patient's request and transfer the record to any other doctor the patient designates.

The most important part of the new law, advocates say, is the shortening of the waiting period.

Dr. Chandana Banerjee, an assistant clinical professor specializing in palliative medicine at City of Hope National Medical Center in Duarte, California, says she's seen many patients who were afraid to broach the subject of their own death until they were very close to the end.

"By the time they made that first request and then had to wait for those 15 days, they either became completely nondecisional or went into a coma or passed away," Banerjee says.

Amanda Villegas, 30, of Ontario, California, became an outspoken advocate for updating the law after watching her husband, Chris, die an agonizing death from metastatic bladder cancer in 2019.

When the couple asked about the possibility of a physician-assisted death, Villegas says, staff at the Seventh-day Adventist hospital where Chris was being treated told them, inaccurately, that it was illegal. When he finally made a request for death-inducing drugs, it was too late: He died before the 15-day waiting period was up.

The new law "will open doors for people who might … experience the same roadblocks," Villegas says. "When you are dying, the last thing you need is to go through bureaucratic barriers to access peace."

Medical aid in dying straddles the same political fault line as abortion and has long been opposed by many religious institutions and anti-abortion groups. It has also encountered resistance from some disability rights organizations that claim it belittles the lives of those who are physically dependent on others.

"We object to the whole idea of a state providing a vehicle for people to kill themselves," says Alexandra Snyder, CEO of the Life Legal Defense Foundation, an anti-abortion nonprofit law firm. The 15-day waiting period, she says, provided an important cooling-off period for patients to reflect on a decision that is irreversible. "Now, any safeguards that were in the law are gone."

Proponents of the law say they haven't seen evidence that a patient's decision to take the life-ending medications has ever been anything other than voluntary.

Though neither version of the law requires a medical professional to be present when a patient takes the drugs, medical standards encourage professional participation in the dying process, says Dr. Lonny Shavelson, chair of the American Clinicians Academy on Medical Aid in Dying. The drugs should be kept at the pharmacy until the patient is ready to ingest them, he says — though that doesn’t always happen.

From the time the aid-in-dying law took effect in June 2016 through Dec. 31, 2020, just under two-thirds of the 2,858 people who received prescriptions actually took the medications and died, according to the most recent data from the California Department of Public Health. The rest died before they could take the drugs or found other ways to manage their pain and emotional distress.

Most major commercial health plans — including Kaiser Permanente, Anthem Blue Cross, Blue Shield of California and Health Net — cover aid-in-dying drugs and the related doctor visits, as does Medi-Cal, the government-run health insurance program for people with low incomes.

However, more than 60% of those who take the drugs are on Medicare, which does not cover them. Effective life-ending drug combinations are available for as little as $400.

Talk to your doctor sooner rather than later if you are considering medically assisted death, in case you’ll need to seek a different physician’s help. If your doctor agrees to help, the law requires that he or she discuss other end-of-life options with you, including hospice and palliative care.

Whatever choice a patient makes, being more open about our mortality is important, says state Sen. Susan Eggman (D-Stockton), the author of the revised aid-in-dying law.

“We should all have more conversations about life and death and what we want and don’t want and what is a peaceful death,” she says. “We are all going to die.”

Leslie and I had plenty of those conversations, until the cancer ultimately robbed her of her mind.

In her final months, she would often sink into a semiconscious state, far out of our reach for days on end. Then, just when we thought she wasn’t coming back, she would suddenly open her eyes and ask for the children. She’d get into her wheelchair and join us at the dinner table.

Those periods, which we called “awakenings,” were a source of great comfort to everyone who loved Leslie — but especially to the kids, who were relieved and overjoyed to have their mommy back.

Though I’ll never know for sure, I suspect Leslie would not have wanted to foreclose on such moments.

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