HEALTH AND SAFETY CODE - HSC

DIVISION 1. ADMINISTRATION OF PUBLIC HEALTH [135 - 1179.102] *(Division 1 enacted by Stats. 1939, Ch. 60.)*

PART 1.8. END-OF-LIFE CARE [442 - 442.9] *(Part 1.8 added by Stats. 2008, Ch. 683, Sec. 2.)*

442. For the purposes of this part, the following definitions shall apply:

(a) “Actively dying” means the phase of terminal illness when death is imminent.

(b) “Disease-targeted treatment” means treatment directed at the underlying disease or condition that is intended to alter its natural history or progression, irrespective of whether or not a cure is a possibility.

(c) “Health care provider” means an attending physician and surgeon. It also means a nurse practitioner or physician assistant practicing in accordance with standardized procedures or protocols developed and approved by the supervising physician and surgeon and the nurse practitioner or physician assistant.

(d) “Hospice” means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary caregiver and the family of the hospice patient, and that meets all of the criteria specified in subdivision (b) of Section 1746.

(e) “Palliative care” means medical treatment, interdisciplinary care, or consultation provided to a patient or family members, or both, that has as its primary purpose the prevention of, or relief from, suffering and the enhancement of the quality of life, rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life as described in subdivision (b) of Section 1339.31. In some cases, disease-targeted treatment may be used in palliative care.

(f) “Refusal or withdrawal of life-sustaining treatment” means forgoing treatment or medical procedures that replace or support an essential bodily function, including, but not limited to, cardiopulmonary resuscitation, mechanical ventilation, artificial nutrition and hydration, dialysis, and any other treatment or discontinuing any or all of those treatments after they have been used for a reasonable time.

(Added by Stats. 2008, Ch. 683, Sec. 2. Effective January 1, 2009.)

442.5. (a) When a health care provider makes a diagnosis that a patient has a terminal illness, the health care provider shall do both of the following:

(1) Notify the patient of his or her right, or, when applicable, the right of another person authorized to make health care decisions for the patient, to comprehensive information and counseling regarding legal end-of-life options. This notification may be provided at the time of diagnosis or at a subsequent visit in which the provider discusses treatment options with the patient or the other authorized person.

(2) Upon the request of the patient or another person authorized to make health care decisions for the patient, provide the patient or other authorized person with comprehensive information and counseling regarding legal end-of-life care options pursuant to this section. When a terminally ill patient is in a health facility, as defined in Section 1250, the health care provider, or medical director of the health facility if the patient’s health care provider is not available, may refer the patient or other authorized person to a hospice provider or private or public agencies and community-based organizations that specialize in end-of-life care case management and consultation to receive comprehensive information and counseling regarding legal end-of-life care options.

(b) If a patient or another person authorized to make health care decisions for the patient, requests information and counseling pursuant to paragraph (2) of subdivision (a), the comprehensive information shall include, but not be limited to, the following:

(1) Hospice care at home or in a health care setting.

(2) A prognosis with and without the continuation of disease-targeted treatment.

(3) The patient's right to refusal of or withdrawal from life-sustaining treatment.

(4) The patient's right to continue to pursue disease-targeted treatment, with or without concurrent palliative care.

(5) The patient's right to comprehensive pain and symptom management at the end of life, including, but not limited to, adequate pain medication, treatment of nausea, palliative chemotherapy, relief of shortness of breath and fatigue, and other clinical treatments useful when a patient is actively dying.

(6) The patient's right to give individual health care instruction pursuant to Section 4670 of the Probate Code, which provides the means by which a patient may provide written health care instruction, such as an advance health care directive, and the patient's right to appoint a legally recognized health care decisionmaker.

(c) The information described in subdivision (b) may, but is not required to, be in writing. Health care providers may utilize information from organizations specializing in end-of-life care that provide information on factsheets and Internet Web sites to convey the information described in subdivision (b).

(d) Counseling may include, but is not limited to, discussions about the outcomes for the patient and his or her family, based on the interest of the patient. Information and counseling, as described in subdivision (b), may occur over a series of meetings with the health care provider or others who may be providing the information and counseling based on the patient's needs.

(e) The information and counseling sessions may include a discussion of treatment options in a culturally sensitive manner that the patient and his or her family, or, when applicable, another person authorized to make health care decisions for the patient, can easily understand. If the patient or other authorized person requests information on the costs of treatment options, including the availability of insurance and eligibility of the patient for coverage, the patient or other authorized person shall be referred to the appropriate entity for that information.

(f) The notification made pursuant to paragraph (1) of subdivision (a) shall not be required if the patient or other person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient has already received the notification.

(g) For purposes of this section, "health care decisions" has the meaning set forth in Section 4617 of the Probate Code.

(h) This section shall not be construed to interfere with the clinical judgment of a health care provider in recommending the course of treatment.

(Amended by Stats. 2015, Ch. 303, Sec. 245. (AB 731) Effective January 1, 2016.)

442.7. If a health care provider does not wish to comply with his or her patient's request or, when applicable, the request of another person authorized to make health care decisions, as defined in Section 4617 of the Probate Code, for the patient for information on end-of-life options, the health care provider shall do both of the following:

(a) Refer or transfer a patient to another health care provider that shall provide the requested information.

(b) Provide the patient or other person authorized to make health care decisions for the patient with information on procedures to transfer to another health care provider that shall provide the requested information.

(Amended by Stats. 2014, Ch. 568, Sec. 2. (AB 2139) Effective January 1, 2015.)

442.9. (a) Before the discharge from an acute care hospital of a Medi-Cal beneficiary diagnosed with a terminal illness, the hospital's designated case manager or discharge planner shall evaluate the patient's likely need for posthospital services and their ability to access those services. For patients anticipated to need in-home personal care, the hospital case manager or discharge planner shall ask the patient, or another person authorized to make health care decisions for the patient, if they are interested in receiving information about the in-home supportive services (IHSS) program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code). If the patient or authorized person expresses interest in receiving the IHSS information, the hospital case manager or discharge planner shall provide to the patient or authorized person the information, including how to initiate the application process and the option for a family member to provide care as an IHSS provider subject to the IHSS provider enrollment conditions set forth in that article.

(b) If the patient seeks to apply for services under the IHSS program, the hospital case manager or discharge planner shall, as appropriate, communicate to the patient's primary care physician the patient's interest in applying for IHSS to support the timely completion of the health care certification form (SOC 873 or its successor), as described in Section 12309.1 of the Welfare and Institutions Code.

(Added by Stats. 2024, Ch. 346, Sec. 1. (AB 1005) Effective January 1, 2025.)