

## California (2016-)

California's [End of Life Option Act](#), which legalised assisted suicide, came into effect on 9 June 2016.<sup>1</sup> It was amended by [SB380](#) with effect from 1 January 2022.

The Act requires an annual report with very minimal data. The latest annual report covers [2024](#)<sup>2</sup>.

### Number of deaths

The 2024 annual report so far reports the deaths of 1032 people under the Act. This represents 0.36% of all deaths in California (up 28.6% from 2022)

However, the number of people reported each year to have died from ingesting lethal substances prescribed under the Act gets revised in each subsequent report, so this is likely to be significantly less than the real number of deaths by assisted suicide for 2024.

For example, the number initially reported for 2019 (405) was revised upwards each year and is now (2024) reported as 504.

Reported deaths by assisted suicide in 2022 accounted for 0.451% of all deaths of white Californians – 30 times the rate for blacks (0.015%) and 14 times the rate for Hispanics (0.033%).<sup>3</sup>

### Mental health

Although there is a requirement in the [Act](#) that “If there are indications of a mental disorder, the physician shall refer the individual for a mental health specialist assessment” and, if such a referral is made for the physician to report this to the California Department of Public Health, the annual reports do not contain any information about whether any such referrals occurred.

### Complications

There is a [follow up form](#) which must be completed and returned to the California Department of Public Health by the “attending physician”, that is the physician who writes the prescription for the lethal substance, within 30 days of the death of the person whether from ingesting the lethal substance, from the underlying illness or other causes.<sup>4</sup>

In the case of those people who die from ingesting the lethal substance and for whom a licensed health care provider was present at the time of death this form also seeks information on the length of time between ingestion and unconsciousness and between ingestion and death, as well as any complications that occurred.

**However, no information on complications, or length of time between ingestion and unconsciousness and between ingestion and death has so far been included in the annual reports or otherwise published.**

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<sup>1</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520162AB15](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520162AB15)

<sup>2</sup>

[https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH\\_End\\_of\\_Life\\_Option\\_Act\\_Report\\_2024.pdf](https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CDPH_End_of_Life_Option_Act_Report_2024.pdf)

<sup>3</sup> Deaths by sex and ethnicity from: [Statewide Death Profiles - 2014-2022 Final Deaths by Year Statewide - California Health and Human Services Open Data Portal](#)

<sup>4</sup>

[https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/EOL%20Attending%20Physician%20follow-up%20form%20\(fillable\).pdf](https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/EOL%20Attending%20Physician%20follow-up%20form%20(fillable).pdf)

In 3,075 (56.7%) of the 5,423 deaths by ingestion of a lethal poison reported to 2024, there was no health care provider known to be present. In these cases, we will never know if there were any complications. Nor will we know if the person ingested the lethal poison voluntarily or was forced, cajoled, pressured or tricked into doing so.

### *Reasons for request*

In all cases the form also seeks information on the concerns that may have contributed to the patient's decision to request a prescription for a lethal substance including a concern about: His or her terminal condition representing a steady loss of autonomy; The decreasing ability to participate in activities that made life enjoyable; The loss of control of bodily functions; Persistent and uncontrollable pain and suffering; A loss of Dignity.

**None of this information has been reported in the published annual reports although the Act does not preclude the publication of this data.**

### *Final attestation*

The Act initially provided that “Within 48 hours prior to the individual self-administering the aid-in-dying drug, the individual shall complete the final attestation form. If aid-in-dying medication is not returned or relinquished upon the patient’s death as required in Section 443.20, the completed form shall be delivered by the individual’s health care provider, family member, or other representative to the attending physician to be included in the patient’s medical record.”

There was no penalty for failure to comply with this provision. The annual reports did not give any information as to whether final attestation forms were received for all 2,422 people who were reported as dying from lethal substances prescribed under the Act up until 2021.

The requirement for a final attestation was abolished from 1 January 2022.

### *Automatic repeal*

One feature of the initial Act was that it “shall remain in effect only until 1 January 2026, and as of that date is repealed”. This repeal date has now been extended to 1 January 2031.

### *Aiding, advising or encouraging suicide now lawful*

California used to have an absolute prohibition against aiding, advising or encouraging suicide.

Until 5 September 2018 section 401 of its Penal Code provided that:

*Every person who deliberately aids, or advises, or encourages another to commit suicide is guilty of a felony.*

Since 5 September 2018 **this absolute prohibition has been eroded by an exception.**

Section 401 now reads:

*(a) Any person who deliberately aids, advises, or encourages another to commit suicide is guilty of a felony.*

*(b) A person whose **actions are compliant with the provisions of the End of Life Option Act (Part 1.85 (commencing with Section 443) of Division 1 of the Health and Safety Code) shall not be prosecuted under this section.***

California's *End of Life Option Act* facilitates the request and ingestion of lethal substances in order to commit suicide. It is available for anyone who is said to have "*an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, result in death within six months*".

Section 443.17 of the *End of Life Option Act* does provides that:

***Knowingly coercing or exerting undue influence on an individual to request or ingest an aid-in-dying drug for the purpose of ending his or her life or to destroy a withdrawal or rescission of a request, or to administer an aid-in-dying drug to an individual without his or her knowledge or consent, is punishable as a felony.***

There is a **significant gap** between "*knowingly coercing or exerting undue influence*" and *deliberately advising, or encouraging* a person to commit suicide.

**This change to California's Penal Code makes it lawful for a person to deliberately advise and encourage a person to request and/or subsequently to ingest a lethal substance in order to kill herself, provided only that the intensity or manner of the advising and encouragement falls just short of "*knowingly coercing or exerting undue influence*".**

An impatient heir – or anyone else who wanted a person dead - could almost certainly get away with repeatedly and persuasively suggesting that the person make a request for a lethal substance or later, having been supplied with the lethal substance, to take it.

#### *Financial issues*

[Stephanie Packer](#), a wife and mother of four who was diagnosed with a terminal form of scleroderma, said her insurance company initially indicated it would pay for her to switch to a different chemotherapy drug at the recommendation of her doctors.

But shortly after California's End of Life Option Act went into effect, Ms. Packer's insurance company had a change of heart.

"And when the law was passed, it was a week later I received a letter in the mail saying they were going to deny coverage for the chemotherapy that we were asking for," Ms. Packer said.

She said she called her insurance company to find out why her coverage had been denied. On the call, she also asked whether suicide pills were covered under her plan.

"And she says, 'Yes, we do provide that to our patients, and you would only have to pay \$1.20 for the medication,'" Ms. Packer said.

Ms. Packer said her doctors have appealed the insurance company's decision twice, to no avail. She said **the assisted-suicide law creates an incentive for insurance companies to deny terminally ill patients coverage.**<sup>5</sup>

[Dr Brian Callister](#), associate professor of internal medicine at the University of Nevada, said he tried to transfer two patients to California and Oregon for procedures not performed at his hospital.

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<sup>5</sup> <https://www.washingtontimes.com/news/2016/oct/20/assisted-suicide-law-prompts-insurance-company-den/>

Representatives from two different insurance companies denied those transfer requests by phone, he said.

The patients were not terminal, but “would have become terminal without the procedures.”

And in both cases, the insurance medical director said to me, "Brian, we're not going to cover that procedure or the transfer, but would you consider assisted suicide?" "

The phone calls took place last year within the span of a month, Dr. Callister said. He said he did nothing to prompt the suggestion in either case.<sup>6</sup>

### Cooling off period

As from 1 January 2022, the final request for the prescription and supply of a lethal substance to end life can now be made 48 hours after the initial request – compared to the 15 days initially required. In 2024, 79.8% of applicants waited less than 15 days between the initial and final requests.

Shortening the gap between an initial request and the act of suicide with a prescribed lethal substance necessarily increases the risk of wrongful deaths, particularly of those who are experiencing depression or other mental health issues as result of a terminal diagnosis or some other change in their circumstances. With more time to adjust the wish to die by ingesting a lethal poison may fade.

For those for whom death is truly imminent – within a few days – surely the better approach is to make them comfortable through palliative care rather than hazarding a suicide by ingesting an experimental lethal substance that cannot, in any case, be guaranteed to bring about a rapid, peaceful, painless death.

### Conclusion

California's experiment with assisted suicide includes allowing others (including impatient heirs) to deliberately advise and encourage a person to request and/or subsequently to ingest a lethal substance in order to kill herself.

Not even all of the minimal data required to be reported by physicians is being made public.

Californians are being denied health insurance coverage for treatment but being offered payment for assisted suicide instead.

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<sup>6</sup> <https://m.washingtontimes.com/news/2017/may/31/insurance-companies-denied-treatment-to-patients-o/>