



College of Physicians and Surgeons of British Columbia

Professional Standards and Guidelines

Medical Assistance in Dying

Preamble

This document is a standard of the Board of the College of Physicians and Surgeons of British Columbia.

Registrants are expected to be aware of and comply with their legal, ethical and professional obligations, and are encouraged to seek the guidance of legal counsel, or medical-legal advice from the Canadian Medical Protective Association (CMPA). Registrants may also contact a member of registrar staff at the College to discuss professional and ethical obligations.

Legislative Guidance

The Parliament of Canada has amended the Criminal Code, RSC 1985, c.C-46 to allow medical assistance in dying (MAiD) under certain limited circumstances. Medical assistance in dying means the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death. While amendments to the Criminal Code have enabled nurse practitioners to perform MAiD, the required provincial regulations have not been enacted so MAiD can only be performed by medical practitioners at this time.

In order for a patient to receive MAiD, they must meet all of the following criteria:

- a. they are eligible for health services funded by a government in Canada
- b. they are at least 18 years of age and capable of making decisions with respect to their health
- c. they have a grievous and irremediable medical condition
- d. they have made a voluntary request for MAiD that, in particular, was not made as a result of external pressure
- e. they have given informed consent to receive MAiD after having been informed of the means that are available to relieve their suffering including palliative care

Grievous and Irremediable Medical Condition

A person has a grievous and irremediable medical condition only if they meet all of the following criteria:

- a. they have a serious and incurable illness, disease, or disability
- b. they are in an advanced state of irreversible decline in capability
- c. that illness, disease, disability or state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable
- d. their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time they have remaining

The federal government has indicated that MAiD is intended to be restricted to those individuals who are declining towards death, allowing them to choose a peaceful death as opposed to a prolonged, painful or difficult one.

Rights and Autonomy

Patients have the right to make decisions about their bodily integrity (autonomy) and to have access to unbiased and accurate information about relevant medical issues and treatments. Physicians have an obligation to provide their patients with health information and health services in a non-discriminatory fashion and an obligation not to abandon their patients. Culturally and spiritually appropriate end-of-life care services should be available to all patients.

Physicians have the right to decide whether or not to perform medical assistance in dying. Nothing in the Criminal Code compels a person to provide MAiD.

Process

The process respecting MAiD involves the opinion of two independent medical assessors (MAs), one of whom shall also be the prescriber/administrator of the lethal substances. Only a physician may be a MA.

1. Physicians must have the appropriate competencies, qualifications, experience and training to render a diagnosis and prognosis of the patient's condition, together with the appropriate technical knowledge and competency to provide MAiD in a manner that is respectful to the patient. Physicians must have a complete and full discussion about MAiD with the patient; physicians are expected to provide patients with all the information required to make informed choices about treatment and to communicate the information in a manner that is easily understood by the patient.
2. Both the MAs must agree in writing that the patient meets the criteria for MAiD as set out by the Criminal Code which includes that the patient has a grievous and irremediable medical condition causing suffering that is intolerable to the patient. A request for MAiD is contextual to the patient's medical condition, its natural history and prognosis, treatment options and the risks and benefits associated with each option. Physicians are responsible to ensure that the patient understands such factors and is able to communicate a reasoned decision based on that understanding.
3. Both MAs must be licensed for independent practice in their respective Canadian jurisdictions, and at least one practitioner must be licensed in British Columbia.
4. Both MAs must be independent of each other. The MAs are independent if they

- a. are not a mentor to the other practitioner or responsible for supervising their work,
 - b. do not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death, other than standard compensation for their services relating to the request, or
 - c. do not know or believe that they are connected to the other practitioner or to the person making the request in any other way that would affect their objectivity.
5. One of the MAs, but not both, may provide their assessment by telemedicine provided that, during the telemedicine assessment, another regulated health professional is in physical attendance with the patient to act as a witness to the assessment.
6. The patient requesting MAiD must be competent and able to give free and informed consent to MAiD.
- a. Both MAs must be satisfied that the patient is mentally capable of making a free and informed decision at the time of the request and throughout the process.
 - b. If either MA is unsure that the patient has capacity to consent to MAiD the patient must be referred to another practitioner with expertise in capacity assessment, such as a psychologist, psychiatrist, neurologist, geriatrician, or FP/GP with additional training and expertise for a further in-person capacity assessment.
 - c. The patient must maintain mental capacity for MAiD to proceed. If at any time during the progression of the patient's condition, the patient loses the mental capacity to rescind his or her decision, MAiD ceases to be an option.
 - d. MAiD cannot be provided to patients who are not able to give consent including when consent is given through an alternate or substitute decision-maker, or through a personal advance directive.
7. Physicians must:
- a. be satisfied that the request for MAiD was a voluntary request and was not made as a result of external pressure and that it was made after being advised of their grievous and irremediable condition
 - b. ensure that the request for MAiD is made in writing before two independent witnesses
 - c. ensure that there are at least 10 days between the day on which the request was signed by or on behalf of the patient and the day on which MAiD is provided, or if both MAs are of the opinion that the patient's death or loss of capacity to provide informed consent is imminent, any shorter period that the MAs consider appropriate to the circumstances
 - d. ensure that the patient has been informed that they may, at any time, and in any manner, withdraw their request

8. Physicians must inform the patient requesting MAiD of the following and the information must be included in the patient's medical record with a copy provided to the patient:
 - a. the patient's diagnosis and prognosis
 - b. feasible alternatives (including comfort care, palliative care and pain control)
 - c. option to rescind the request for MAiD at any time
 - d. risk of taking the prescribed substances
9. The following information must be in the patient's medical record:
 - a. copies of all relevant medical records from other physicians/practitioners involved in the patient's care supporting the diagnosis and prognosis of the patient's grievous and irremediable condition, disease or disability; this includes ensuring that a specialist has provided a diagnosis and prognosis, including treatment recommendations, and that this has been discussed with the patient by the specialist
 - b. all written and oral requests for MAiD and a summary of the discussion
 - c. confirmation that after the completion of all documentation that the patient was offered the opportunity to rescind the request
 - d. confirmation that the two MAs have discussed and determined which practitioner will prescribe and/or administer the substance used for MAiD
 - e. confirmation by the prescribing practitioner that all the requirements have been met including the steps taken and the substance prescribed
10. Physicians are required to complete the following provincial forms:
 - a. record of request by patient for MAiD
 - b. the record of each assessment completed by the physicians, including the prescribing physician
 - c. a record of capacity assessment, if done

Physicians shall also use the preprinted orders for medications when issuing a prescription for MAiD.

11. The physician who prescribes or administers the substance to be used in MAiD shall do so in the patient's name, and indicate on the prescription(s) that the indication is MAiD. The pharmacist shall dispense the prescription for the MAiD substance directly to the prescribing physician. The physician will provide it to the patient for self-administration, or administer the substance themselves.
12. The physician who prescribes or administers the substance to be used in MAiD, must immediately before providing or administering the substance give the patient the opportunity to withdraw their request for MAiD and ensure that the patient gives express consent to receive MAiD. The physician must personally attend the patient during the self-administration or administration of medical assistance in dying and remain in attendance until death is confirmed. This may not be delegated to another person or professional.

13. The physician who prescribes or administers the substance to the patient is responsible for completing the medical certificate of death, and for complying with any request for information or provision of medical records required by an agency tasked with completing a review of MAiD. Physicians are required to complete the medication administration record provided by the pharmacist, and retain that record as part of the medical record. Additionally, the physician is responsible for returning to the pharmacy any unused substances as soon as reasonably practicable, and ideally within 48 hours of confirmation of the patient's death.

Documentation

A patient's request for MAiD should be signed and dated by the patient requesting MAiD. If the patient is unable to sign and date the request, another person, who is at least 18 years old and who understands the nature of the request for MAiD and who does not know or believe that they are a beneficiary under the will of the patient making the request, or a recipient in any other way, of a financial or other material benefit resulting from the patient's death, may do so in the patient's presence on their behalf, and under the patient's express direction.

A patient's request for MAiD must be witnessed by two independent witnesses who must be at least 18 years old and understand the nature of the request for MAiD. A person is not considered independent if they

- a. know or believe that they are a beneficiary under the will of the patient making the request, or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death,
- b. are an owner or operator of any health-care facility at which the patient making the request is being treated or any facility in which that patient resides,
- c. are directly involved in providing health-care services to the patient making the request, or
- d. directly provide personal care to the patient making the request.

The medical certificate of death should indicate that the manner of death involved MAiD and that the cause of death is the underlying illness/disease causing the grievous and irremediable medical condition.

Conscientious Objection

Physicians may make a personal choice not to assess patients for and/or perform MAiD, based on their values and beliefs. The College expects the physician to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes consulting with other experts on relevant medical facts and, when needed, competency assessments.

Physicians who object to MAiD on the basis of their values and beliefs are required to provide an effective transfer of care for their patients by advising patients that other physicians may be available to see them, suggesting the patient visit an alternate physician or service, and if authorized by the patient, transferring the medical records as required.

Where needed, physicians must offer assistance to the patient and must not abandon the patient. While a physician is not required to make a formal referral on behalf of the patients, they do have a duty of care that must be continuous and non-discriminatory. Physicians should not discuss in detail their personal beliefs and should not pressure patients to disclose or justify their own beliefs. In all cases, physicians must practise within the confines of the legal system, and provide compassionate, non-judgmental care according to the *CMA Code of Ethics*.

Approved by Board: June 23, 2016

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