

# Medical Assistance in Dying

A Guideline for Nurses

## INTRODUCTION

On June 17, 2016, the federal government enacted legislation regulating the provision of medical assistance in dying (MAiD). This was in response to the Supreme Court of Canada's *Carter* decision delivered on February 6, 2015 which struck down the law prohibiting MAiD for Canadians who met certain conditions outlined by the court<sup>1</sup>.

Since the standards of practice for nurses<sup>2</sup> require individual nurses to practice in accordance with relevant legislation<sup>3</sup>, and given the role that nurses play in end of life care, this practice guideline was developed to help nurses understand their professional accountabilities with respect to aiding in the provision of MAiD. A separate document is being developed that will address the role of nurse practitioners (NPs) who choose to be providers of MAiD as part of their practice.

## WHAT IS MEDICAL ASSISTANCE IN DYING (MAiD)?

MAiD refers to the process where, at the client's request, an NP or physician:

- Prescribes and administers a medication to the client that causes their death; or
- Prescribes or provides a medication to the client so that the client may self-administer the medication and in so doing cause their own death.

## NURSES WHO CHOOSE TO BE INVOLVED IN MAiD

Nurses always have and will continue to have a major role in providing care to clients and their families at end of life. The legal changes which allow clients to choose MAiD when certain criteria are met does not change the key role that nurses play in end of life care. You should consider the following when asked to assist in MAiD as a member of the health care team: client discussions, client eligibility, statutory safeguards, administration of medication, privacy and confidentiality, documentation and witnessing a written request.

As with any other nursing care, nurses must ensure they have the knowledge, skills and abilities to provide safe, competent, ethical and compassionate care to clients. Additionally, section 241.2(7) of the *Criminal Code*<sup>4</sup>, requires that MAiD be provided with reasonable knowledge, care and skill and in accordance with applicable provincial laws, rules or standards. Nurses who knowingly fail to comply with these legal requirements may be convicted of a criminal offence. This guideline may be considered one of the standards or rules referred to in the *Criminal Code*. Therefore, all nurses should familiarize themselves with the contents of the *Criminal Code* and ensure their practice is consistent with its terms.

## Client Discussions

If a client asks you about assisted dying, you can explore reasons for the client's request but you should do so in the context of a conversation about all other end of life care options, including palliative care. You may provide information about MAiD and answer client questions, making every effort to ensure that the conversation is client-centered and reflects the client's values. You should be aware that counselling suicide, in the sense of encouraging, soliciting or inciting suicide, remains a criminal offence<sup>5</sup>.

1 *Carter v. Canada* (Attorney General) [2015] S.C.J. No. 5, 2015 SCC 5 (the *Carter* decision)

2 Nurses refer to registered nurses, nurse practitioners and licensed practical nurses.

3 Standard 5.1.4 of the *Standards of Practice for Registered Nurses* (2012) and Standard 1.1 of the *Standards of Practice for Licensed Practical Nurses in Canada* (2013).

4 *Criminal Code*, R.S., c. C-34, (the *Criminal Code*), at s 241.2(7).

5 *Criminal Code*, s. 241(a)

You may also refer the inquiries to the client's NP or physician or other employer personnel who may be in a better position to respond to the client's questions about available services, including psychosocial support. You must continue to provide care that supports the client's right to make informed decisions about their care and their end of life needs, which may include conversations about the option of MAiD.

You should promptly inform the client's primary care provider and other appropriate members of the health care team of the client's requests and document the encounter in the client's record.

### Client Eligibility

Nurses who are assisting in MAiD as a member of the health care team are not permitted to determine the client's eligibility, as that role remains the responsibility of the providing NP/physician.

However, before assuming any role in the process, you must

- discuss the client's request for assisted dying with other members of the healthcare team,
- review the client record and
- review the client's written request for assisted dying.

You must also follow any employer or agency policy regarding your participation in MAiD.

Physicians and NPs are authorized to provide MAiD when the client meets the following eligibility criteria:

- They are eligible – or, but for any applicable minimum period of residence or waiting period, would be eligible – for health services funded by a government in Canada;
- They are at least 18 years of age and capable of making decisions with respect to their health;
- They have a grievous and irremediable medical condition;
- They have made a voluntary request for MAiD that, in particular, was not made as a result of external pressure; and
- They give informed consent to receive medical assistance in dying<sup>6</sup>.

If you know or reasonably believe that the client does not meet the eligibility criteria described above, you must immediately raise your concerns with the health care team, your manager or others as necessary. Your regulatory college or the Canadian Nurses Protective Society (CNPS) may be able to provide further guidance. Contact information for the regulatory colleges and the CNPS is below.

### Statutory Safeguards

The *Criminal Code* sets out a number of safeguards that must be met before an eligible client can receive assistance in dying. As a health care professional assisting in MAiD, you should be aware of these safeguards as well as any additional safeguards outlined in employer or agency policy.

As with client eligibility concerns, if you know or reasonably believe that not all mandatory safeguards have been complied with, you must immediately discuss these issues with other health care team members, your manager, and others as necessary. Your regulatory college or the CNPS may be able to provide further guidance.

The safeguards in section 241.2(3) of the *Criminal Code* include, but are not limited to, the following:

- The client's request must be made in writing and signed and dated by the client
- The client's request must be signed and dated before two independent witnesses
- Another NP or physician has provided a written opinion confirming that the client meets all of the eligibility criteria set out in section 241.2(1) of the *Criminal Code*
- There are at least 10 clear days between the day on which the request was signed by the client and the day on which MAiD is provided or – if both NPs and/or physicians assessing the eligibility criteria are of the opinion that the client's death, or the loss of capacity to provide informed consent, is imminent – any shorter period that the first NP/physician considers appropriate in the circumstances
- Immediately before the provision of MAiD, the NP or physician must give the client an opportunity to withdraw their request and ensure that the client gives express consent to receive MAiD.

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<sup>6</sup> *Criminal Code*, s. 241.2(1). There are additional safeguards in the *Criminal Code* that apply to clients who have difficulty communicating (s.241.2(3)(i)) and to clients who are unable to sign the request (s.241.2(4)).

## Administration of Medication for Assisted Dying

Nurses are not authorized to administer the medication that causes the client's death under any circumstances, even if requested by the providing NP/physician and/or the client.

You may, however, assist in the administration of the medication, including engaging in the following activities, at the direction of the providing NP/physician, where the safeguards outlined above have been met:

- Insert an intravenous line that will later be used to administer the medication;
- Be present during the administration of the medication to provide holistic nursing interventions to meet the needs of the client and their family during the dying process;
- In the case of a client seeking to self-administer the medication, passing the oral medication to the client, so long as the client explicitly asks for your assistance. In this scenario, you should refrain from activities that may be viewed as the actual administration of the medication, such as placing oral medication in the client's mouth or pushing medication into the client's intravenous line.

As per the [CRNNS Medication Guidelines](#) (2011) and the [CLPNNS Medication Guidelines](#) (2013), medications should be administered only by the health care professional who has prepared them except in the case of emergency situations. Therefore you should not prepare MAiD medications, such as drawing medication into a syringe, for the NP or physician who will be providing MAiD.

## Privacy and Confidentiality

Assisted dying remains a sensitive topic which involves many different perspectives. As with all other aspects of nursing practice, you must maintain the privacy and confidentiality of clients and families who are involved in MAiD, including respecting the client's wishes about communicating with family members.

## Documentation

When documenting discussions regarding MAiD or the care you provided with assisting with MAiD, you must follow agency policy and applicable documentation guidelines. Your documentation must be clear and comprehensive and, in addition, should include the following:

- who initiated the conversation;
- questions asked and information provided;
- the identity of the persons present;
- the name of the provider that administers the medication, where applicable.

You can find the applicable documentation guidelines below:

- Documentation Guidelines for Registered Nurses.
- Documentation Guidelines for Licensed Practical Nurses.

## Witnessing a Written Request for MAiD

A client who wishes to receive assistance in dying must submit a request to the providing NP or physician. The request must be written, signed and dated by the client after they have been informed of or diagnosed with the grievous and irremediable medical condition.

The client may ask you to act as a witness to their signature on their written request for MAiD. You may act as a witness as long as you:

- are aware that the document is a formal request for assisted dying;
- are not directly involved with providing health care services or personal care services to the client making the request;
- do not directly provide personal care to the client;
- are not or reasonably believe that you are not a beneficiary under the client's will or will receive a financial or other material benefit from the client's death;
- are not an owner or operator of a health care facility where the client is being treated or any facility in which the client resides.

Therefore, a nurse who is involved in the care of a patient who is making a request for MAiD would not be suitable to act as a formal witness to this request.

## NURSES WHO CHOOSE NOT TO BE INVOLVED WITH MAID

### Conscientious Objection

If MAiD is in conflict with your moral beliefs and values, you may decline to participate in any aspect of client care connected with it. However, if you choose not to participate on these grounds, you must promptly inform either your employer of your objection or your client if you are a self-employed nurse. You must also continue to provide safe, competent, ethical and compassionate care until alternative care arrangements can be made to meet the client's needs or wishes.

As with all other aspects of nursing care, you are expected to provide nursing services in a professional, non-judgmental, and non-discriminatory way. You must be mindful of the difference between exploring clinical options for client care and expressing your personal opinions. This is particularly applicable when you are having discussions about MAiD with the client or their family.

Further guidance on raising a conscientious objection can be found in the [Canadian Nurses Association's \(2008\) Code of Ethics](#), section G. 7 and Appendix D: Ethical Considerations in Addressing Expectation that are in Conflict with One's Conscience or the [Code of Ethics for LPNs in Canada](#): Appendix A: Guidelines for Ethical Decision Making (CLPNNS, 2013). Further guidance on your duty to provide care can be found below:

- [CRNNS Duty to Provide Care Practice Guidelines](#)
- [CRNNS Duty to Report Practice Guidelines](#)
- [CLPNNS Duty of Care, Duty to Provide Care and Duty to Report Guidelines](#).

### Conclusion

Nurses provide important care to clients through all stages of their life span including end of life. Regardless of future developments related to MAiD, nurses providing care to clients at end of life will continue to follow governing legislation, standards of practice and codes of ethics.

The Carter decision and subsequent MAiD legislation does not change nurses' accountabilities as they relate to clients who are seeking advice or requiring palliative care. Nurses continue to have an integral role in providing quality end of life care for those clients. This includes creating and implementing nursing plans of care, providing information to clients contemplating treatment options, advocating for clients, conducting assessments, administering medications and treatments and providing comfort care to those engaged in the dying process and their families. Additional resources and education about palliative care are offered by a variety of organizations such as the [Canadian Nurses Association](#), [Canadian Hospice and Palliative Care Association](#) and the [de Souza Institute](#).

CRNNS and CLPNNS will continue to monitor the situation for further developments that may provide additional clarity about the role of nurses in MAiD. Given the quickly changing nature of the landscape around medical assistance in dying, we encourage you to check your regulatory college's website often for updates. If you are asked to participate in a client's medical assistance in dying process and you have questions, we recommend that you contact your employer, CNPS or your regulatory college for further guidance.

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College of Registered Nurses of Nova Scotia

Email: [practice@crnns.ca](mailto:practice@crnns.ca) | Phone: 902.491.9744 | Website: [crnns.ca](http://crnns.ca)

College of Licensed Practical Nurses of Nova Scotia

Email: [practiceconsultant@clpnns.ca](mailto:practiceconsultant@clpnns.ca) | Phone: 902.423.1579 | Website: [clpnns.ca](http://clpnns.ca)