

Medical Assistance in Dying (MAiD): A Guide for Manitoba Physiotherapists

Purpose:

This guideline is intended to assist physiotherapists to comply with legal obligations and professional expectations with respect to Medical Assistance in Dying (MAiD¹) as outlined in federal and provincial legislation. It also is intended to provide direction for physiotherapists who conscientiously object to aiding in the provision of medical assistance in dying.

Background information on MAiD

In 2016 the *Criminal code* exempted from criminal liability medical practitioners and nurse practitioners who provide MAiD. This exemption also extends to any other person who does “anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with MAiD” [Bill C-14,S. 241 (2)].

“For greater certainty, no social worker, psychologist, psychiatrist, therapist, medical practitioner, nurse practitioner or other health care professional commits an offence if they provide information to a person on the lawful provision of medical assistance in dying” [Bill C-14, S. 241 (5.1)]

Changes to the Criminal Code in 2021 (Bill C-7) allowed MAiD for eligible persons who wish to pursue a medically assisted death, whether their natural death is reasonably foreseeable or not. The revised law creates a two-track approach to procedural safeguards for medical practitioners to follow based on whether a person’s natural death is reasonably foreseeable. Additionally, the Bill allowed for persons suffering solely from a mental illness, however, with a delayed implementation. In March 2023, through former Bill C-39, the eligibility date for MAiD for persons suffering solely from a mental illness was changed to March 17, 2024. In February 2024, the eligibility date was further extended until March 2027. Any requests for MAiD where a mental disorder is the sole underlying medical condition (MAiD MD-SUMC) do not meet criteria for MAiD.

Medical Assistance in Dying (MAiD) is defined in s. 241.1 of the Criminal Code to mean:

- a) the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or
- b) 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.

Who can access Medical Assistance in Dying?

Eligibility and Statutory Safeguards

A person may receive medical assistance in dying only if they meet all of the following criteria:

- (a) 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;
- (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 medical assistance in dying that, in particular, was not made as a result of external pressure; and
- (e) they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.

What does grievous and irremediable medical condition mean?

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

- (a) the person has a serious and incurable illness, disease or disability;
- (b) the person is in an advanced state of irreversible decline in capability;
- (c) that illness, disease or disability or that 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; and
- (d) the person's 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 that they have remaining.

Only physicians or nurse practitioners can assess or confirm a client's eligibility for and provide medical assistance in dying.

What safeguards are in place?

Section 241.2(3) of the *Criminal Code* sets out a number of statutory safeguards that must be met before a client can receive medical assistance in dying when natural death is reasonably foreseeable. These safeguards include but are not limited to the following:

- The medical practitioner being of the opinion that the person meets all of the requirements for eligibility.
- The request was made in writing and dated after the person was informed of the grievous and irremediable medical condition. This request must be signed and dated before two independent witnesses who also sign and date the request.
- Ensure another medical practitioner or nurse practitioner has provided a written opinion confirming that the client meets all of the eligibility criteria for medical assistance in dying and that this practitioner is independent;
- The client is to be informed that they can withdraw their request for medical assistance in dying at any time, including up to immediately before the medically assisted death;
- Unless the conditions for a waiver of final consent² or advance consent – self-administration³ have been met, immediately before providing MAiD, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive MAiD.
- Immediately before providing the medical assistance in dying, giving the person an opportunity to withdraw their request and ensure the person gives express consent to receive medical assistance in dying; and
- If the client has difficulty communicating, the providers must take all necessary measures to provide a reliable means by which the person may understand the information that is provided and communicate their decision.

Conditions for Waiver of Final Consent ²

The law allows the waiver of final consent immediately before receiving MAiD for persons whose natural death is reasonably foreseeable. The physician or nurse practitioner may provide MAiD without final consent if:

- before the person loses the capacity to consent to receiving MAiD,
 - they met all the eligibility criteria and all other statutory safeguards,
 - they entered into an arrangement in writing with the physician or nurse practitioner that the physician or nurse practitioner would administer a substance to cause their death on a specified day,
 - they were informed by the physician or nurse practitioner of the risk of losing the capacity to consent to receiving MAiD prior to the day specified in the arrangement, and
 - in the written arrangement, they consented to the administration by the physician or nurse practitioner of a substance to cause their death on or before the day specified in the arrangement if they lost their capacity to consent to receiving MAiD prior to that day.

- the person has lost the capacity to consent to receiving MAiD,
- the person does not demonstrate, by words, sounds, or gestures, refusal to have the substance administered or resistance to its administration*; and
- the substance is administered to the person in accordance with the terms of the arrangement.

Conditions for Advanced Consent for Persons Who Choose to Self-administer a Substance for MAiD³

In the case of a person who loses the capacity to consent to receiving MAiD after self-administering a substance, provided to them under Criminal Code S. 241.2, so as to cause their own death, a physician or nurse practitioner may administer a substance to cause the death of that person if:

- before the person loses the capacity to consent to receiving MAiD, they and the physician or nurse practitioner entered into an arrangement in writing providing that the physician or nurse practitioner would:
 - be present at the time the person self-administered the first substance, and
 - administer a second substance to cause the person's death if, after self-administering the first substance, the person lost the capacity to consent to receiving MAiD and did not die within a specified period;
- the person self-administers the first substance, does not die within the period specified in the arrangement and loses the capacity to consent to receiving MAiD; and
- the second substance is administered to the person in accordance with the terms of the arrangement.

Before MAiD can be provided to an individual where natural death is not reasonably foreseeable, considering all of their medical circumstances, the practitioner must, in addition to the safeguards listed above when death is reasonably foreseeable:

- ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, housing, community services and palliative care (not an inclusive list) and has been offered consultations with relevant professionals who provide those services or that care;
- ensure that they and the assessor referred to above have discussed with the person the reasonable and available means to relieve the person's suffering and they and the assessor referred to above agree with the person that the person has given serious consideration to those means;
- ensure that there are at least 90 clear days between the day on which the first assessment of whether the person meets the eligibility criteria begins and the day on which MAiD is provided to them or if the assessments have been completed and they and the assessor referred to above are both of the opinion that the loss of the person's capacity to provide consent to receive MAiD is imminent any shorter period that the first practitioner considers appropriate in the circumstances;

These safeguards emphasize the importance of the client's decision and help avoid miscommunication and uncertainty. In addition, these requirements are evidence that the authorized providers are acting within the scope of the law and are consistent with reasonable medical knowledge and skill.

Who can provide assistance?

Those who can conduct assessments and provide medical assistance in dying are:

- physicians
- nurse practitioners (in provinces where this is allowed)

Those who can **help** provide medical assistance in dying include:

- pharmacists, pharmacy technicians and assistants
- family members or other people that are asked to help
- health care providers who help physicians or nurse practitioners

These people can assist in the process without being charged under criminal law. However, physicians, nurse practitioners and other people who are directly involved must follow:

- the rules set out in the *Criminal Code*
- applicable provincial and territorial health-related laws, rules and policies

[Criminal Code provisions on Medical Assistance in Dying legislation \(effective March 17, 2021\)](#)

How does conscience-based objection apply to me?

The College of Physiotherapists of Manitoba acknowledges that there are differing views with respect to medical assistance in dying. This guideline is not intended to promote or devalue an individual physiotherapist's values or beliefs.

The legislation **does not force** any person to provide or assist in providing services related to MAiD.

While physiotherapists have the right to conscience-based objection, they also have a responsibility to respond to a patient's inquiry about MAiD. If asked by a patient for or about MAiD, physiotherapists must ensure timely access to a resource that provides accurate information and abide by the guidelines set out by the College. Additionally, physiotherapists are required to adhere to any additional policies as outlined by their institution and/or regional health authority (RHA).

While a physiotherapist may choose to not provide information about assisted death to a patient the physiotherapist must:

- acknowledge the patient's request and assure the patient their request will be conveyed;
- inform both their supervisor and employer about the request;
- maintain the therapeutic relationship with the patient and continue to provide care unrelated to medical assistance in dying;
- inform the employer about their conscientious objection, and;

- document in the patient health record any request for information related to medical assistance in dying, the interaction with the patient, the care provided and/or any resources given to the patient in accordance with professional standards and organizational policy.

Irrespective of a patient's desire to explore MAiD, the physiotherapist must continue to provide ongoing (non-MAiD related) care and not abandon the patient. Physiotherapists must adhere to the Code of Ethics and Standards of Practice when considering termination or interruption of care. Refusal or failure to provide routine care may constitute abandonment and is contrary to a physiotherapist's ethical responsibilities.

Regardless of where they work or live, physiotherapists should refer all inquiries from the public, patients or other health professionals to the Manitoba Provincial Medical Assistance in Dying Clinical Team through Shared Health by calling 204-926-1380 or email to:

maid@sharedhealthmb.ca

What should physiotherapists consider?

Physiotherapists may find themselves in situations where medical assistance in dying (MAiD) is under discussion. Should a physiotherapist be involved in such discussions it is important that physiotherapists:

- practice ethically;
- know and understand all relevant legislation, practice standards/directions and organizational policies;
- know the role of the PT and the limitations of the physiotherapy scope of practice in addressing client questions or requests for medically assisted death;
- know that they may provide the information on medical assistance in dying that is available on Shared Health's website at sharedhealthmb.ca/services/maid/ ;
- clearly define the role of the PT in the treatment of clients eligible for medically assisted dying;
- continue providing competent and ethical physiotherapy services to the patient in accordance with clinical judgement, Standards of Practice/Directions, Code of Ethics and professional obligations;
- communicate with their supervisor to inform of or relay client questions about medically assisted death;
- advise the patient that a referral has been made to a physician, or to the Manitoba Provincial Medical Assistance in Dying Clinical Team;
- document any discussions or referral in the patient health record; and
- contact the College of Physiotherapists of Manitoba with any questions.

Contact Information

The Manitoba Provincial Medical Assistance in Dying Clinical Team

The Provincial Medical Assistance in Dying Clinical Team through Shared Health is an interdisciplinary team that serves as the central consultative and practical resource for health care providers, patients and families in Manitoba. The team consists of physicians, nurses, social workers, pharmacists and speech language pathology, administrative personnel, and ethics specialists.

They can be contacted at 204-926-1380 or maid@sharedhealthmb.ca .

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