



Guideline Title: Medical Assistance in Dying (MAiD) Guideline	Date Approved: January 2017
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MEDICAL ASSISTANCE IN DYING (MAiD) GUIDELINE

OVERVIEW OF THIS GUIDELINE

This Medical Assistance in Dying (MAiD) Guideline contains recommendations endorsed by the NSCRT. It does not replace employer policies but provides additional detail and enhances practice. Members are responsible for familiarizing themselves with all practice guidelines published by the College.

INTRODUCTION

In February 2015, the Supreme Court of Canada ruled in *Carter vs. Canada* that the Criminal Code of Canada be amended to remove the prohibition on MAiD. The Supreme Court gave the government until June 6, 2016, to create a new law. On June 17, 2016, the Parliament of Canada enacted legislation to amend the Criminal Code of Canada to permit MAiD. The Criminal Code allows a person, under limited circumstances, to request and receive a substance intended to end their life (sections 241.1 – 241.4). On March 17, 2021, changes to the legislation took effect that:

- Revised eligibility criteria for obtaining MAiD and the assessment process.
- Changed existing safeguards for eligible people whose natural death is considered reasonably foreseeable.
- Expanded the framework for federal data collection and reporting.

The revised law also contains new safeguards for eligible people who request MAiD and whose death is not considered reasonably foreseeable.

PURPOSE OF THIS GUIDELINE

This guideline was developed to help respiratory therapists understand the changes to the Criminal Code regarding MAiD, their role in end-of-life care, and their professional responsibilities and duties with respect to the following:

- Current legislation related to MAiD
- Respiratory Therapists Act
- Code of Ethical and Professional Conduct for Respiratory Therapists



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- Standards of Practice for Respiratory Therapists
- Employer policies and procedures

WHAT IS MEDICAL ASSISTANCE IN DYING?

Medical Assistance in Dying (MAiD) is a process that allows someone who is found eligible, to receive assistance from a medical practitioner in ending their life. There are 2 methods of MAiD available in Canada. A physician or a nurse practitioner directly administers medication that causes death, or prescribes or provides medication to a patient so the patient can self-administer the medication that causes their death.

The eligibility criteria for MAiD in Canada are as follows:

- The person seeking MAiD must be eligible for health services funded by a province or territory, or the federal government. Additionally, they may need to meet a province or territory's minimum residence or waiting period.
- The person requesting MAiD must be 18 years of age or older and have decision-making capacity. They must make a voluntary request that does not result from external pressure or influence.
- Have a grievous and irremediable medical condition. This means that, to qualify for MAiD, the person seeking MAiD must have a serious and incurable illness, disease, or disability. The person must also be in an advanced state of irreversible decline and experience enduring physical or mental suffering from their illness, disease, disability, or state of decline that cannot be relieved under conditions they consider acceptable.

Note:

- Reasonably Foreseeable Natural Death (RFND) is no longer an eligibility criterion. Instead, it determines which set of safeguards applies to someone requesting MAiD.
- If the sole underlying medical condition is a mental illness, the person seeking MAiD is currently excluded from being eligible for MAiD, even if they meet other criteria. However, this exclusion is set to be removed in March 2027.

STATUTORY SAFEGUARDS

The Criminal Code sets out safeguards to be met before a person can receive MAiD. Healthcare professionals must know these, and any additional safeguards outlined in employer policy. There are further safeguards which must be met for MAiD requests when a person's death is not reasonably foreseeable (i.e. when they are not at the end of life), which include:



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1. There must be at least 90 days between the MAiD eligibility assessment and the day when MAiD is provided.
2. A second assessment is required by a healthcare practitioner specializing in the condition causing the person unbearable suffering.
3. Two independent healthcare practitioners (one of whom is a specialist in the condition causing the person unbearable suffering) must provide an assessment and confirm that all eligibility requirements are met.
4. The person requesting MAiD must be informed of all available and appropriate means to relieve their suffering, including counselling services, mental health and disability support services, community services and palliative care, and be offered consultations with those who provide those services.
5. The person seeking MAiD and the healthcare practitioners must have discussed reasonable and available means to alleviate the person's suffering and agree that the person has seriously considered those means.
6. Immediately before MAiD is provided, the healthcare practitioner must give the person requesting MAiD the opportunity to withdraw their request for MAiD and ensures that they provide express consent. An exception to this requirement is possible if the person requesting MAiD has a waiver of final consent. One can waive the requirement to provide consent just before MAiD is received, only if natural death is reasonably foreseeable and while the person receiving MAiD had decision-making capacity:
 - They were assessed and approved to receive MAiD.
 - The practitioner advised that they are at risk of losing the capacity to provide final consent.
 - They made a written arrangement with their practitioner to provide consent before their chosen date for MAiD if they no longer anticipated having the capacity to consent on that date.

It is not known at this time if there will be further safeguards specifically for MAiD requests where mental illness is the only medical condition.

RESPIRATORY THERAPISTS AND MAiD

Respiratory Therapists (RTs) care for and support patients and their families through chronic and terminal illnesses. The NSCRT does not anticipate that respiratory therapists will be asked to assist a physician or nurse practitioner in performing MAiD, so this guideline does not address the processes involved in delivering or assisting MAiD. Respiratory therapists may encounter patients who wish to request MAiD, are being assessed for eligibility for MAiD, or are waiting to receive MAiD. In these circumstances, your professional responsibility is to continue to provide supportive care to the patient and their family and to be familiar with the processes involved. RTs approached about aiding in the provision of MAiD should speak with their employer about their role in MAiD.



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PROFESSIONAL RESPONSIBILITIES AND ACCOUNTABILITIES

Respiratory therapists are bound to apply the NSCRT Code of Ethical and Professional Conduct for Respiratory Therapists, which includes:

- Providing care without discrimination and respecting the rights and dignity of all individuals.
- Respecting the personal and legal rights of the patient, including the right to informed consent and refusal/withdrawal of treatment.
- Adhering to the NSCRT Standards of Practice, NSCRT Scope of Practice, and applicable laws and regulations.
- Knowledge of employer policies.
- The rights of all healthcare professionals to conscientiously object to MAiD. This right is protected in the Charter of Rights and Freedoms. Therefore, no healthcare professional is required to provide MAiD or assist a physician or nurse practitioner providing MAiD.

While providing supportive end-of-life care in hospital or community healthcare settings, respiratory therapists may encounter patients who wish to discuss MAiD. In response to patient questions, you may provide objective and accurate information about MAiD. Directing, counselling, or recommending a person end their life remains an offence under the Criminal Code. However, health professionals are permitted to provide information about MAiD.

If a patient communicates their desire for MAiD in a hospital setting, inform the attending physician or nurse practitioner. Contact the patient's physician or nurse practitioner if you receive a request in a community setting. Advise your direct manager that a request is being considered to initiate appropriate arrangements to support the healthcare team, the patient, and their loved ones.

PRIVACY AND CONFIDENTIALITY

MAiD is a controversial and sensitive issue, and RTs must respect the patient's right to privacy. The RT should inquire about the patient's desire to communicate their wish for MAiD to family members. You must respect the patient's wishes when communicating with family members.

DOCUMENTATION

Respiratory therapists must document discussions regarding MAiD as per employer policy and the NSCRT Documentation Guideline. It is appropriate for the RT to inform the patient of the requirement to document discussions and communicate with healthcare team members.

WITNESSING A WRITTEN REQUEST FOR MAiD

A person requesting MAiD must submit a written request to a physician or nurse practitioner. The Criminal Code requires that the request be made in writing in the presence of an independent witness who must sign the request.



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The role of the independent witness is to confirm that the person signing and dating their written request for MAiD understands what they are signing. An independent witness must be at least 18 years old and understand what it means to request MAiD. An independent witness can be a paid healthcare professional other than the nurse practitioner or medical practitioner who completes the required eligibility assessment for the patient/client.

To be considered independent means that the witness cannot:

- Know or believe that they are a beneficiary under the person's will or may benefit in any other way from the person's death.
- Be an owner or operator of a health care facility where the person lives or is receiving care.
- Be a caregiver for the person requesting MAiD, unless that is their primary occupation for which they are paid.

CONSCIENTIOUS OBJECTION

The Canadian Charter of Rights and Freedoms ensures all individuals' freedom of conscience and religion. Bill c-14 states that nothing in the Act affects the guarantee of freedom of conscience and religion. Therefore, the rights of respiratory therapists who object to MAiD based on conscience and religion must be honoured. If you object to MAiD and feel you cannot care for a patient inquiring about, being assessed for or waiting to receive MAiD, you must advise your employer of your objection and request an alternate care provider. You must continue to provide safe, supportive care until an alternate care provider is in place.

RELATED DOCUMENTS

- NSCRT Standards of Practice [Standards of Practice - Nova Scotia College of Respiratory Therapists \(nscrt.com\)](http://www.nscrt.com)
- NSCRT Code of Ethical and Professional Conduct
[CODE OF ETHICAL AND PROFESSIONAL CONDUCT.pdf \(nscrt.com\)](http://www.nscrt.com)
- NSCRT Documentation Guideline
https://www.nscrt.com/images/202002_Documentation_Guideline.pdf
- Personal Health Information Act (PHIA) of Nova Scotia [Personal Health Information Act | novascotia.ca](http://www.novascotia.ca)

RESOURCES

The Canadian Charter of Rights and Freedoms, Part 1 Constitution Act, 1867 [The Canadian Charter of Rights and Freedoms \(justice.gc.ca\)](http://www.justice.gc.ca)

Criminal Code R.S.C., 1985, c C-46, Section 241 [Criminal Code \(justice.gc.ca\)](http://www.justice.gc.ca)



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Carter v Canada (Attorney General), 2015 SCC 5, [2015] 1 SCR 331 [Carter]. [CanLII - 2015 SCC 5 \(CanLII\) \(archive.ph\)](#)

Government Bill C-14 (House of Commons) C-14 (42-1) (Royal Assent), June 17, 2016 [Government Bill \(House of Commons\) C-14 \(42-1\) - Royal Assent - An Act to amend the Criminal Code and to make related amendments to other Acts \(medical assistance in dying\) - Parliament of Canada](#)