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# MEDICAL ASSISTANCE IN DYING

*Guidance to Pharmacists &  
Pharmacy Technicians*

**UPDATED ON: March 17, 2021**

Reflects federal amendments to the Criminal Code of Canada (March 17, 2021) related to patient eligibility criteria, procedural safeguards, and reporting requirements for health care professionals.

## Purpose

This guidance is intended to assist pharmacy professionals to comply with legal obligations and professional expectations with respect to medical assistance in dying (MAiD) as outlined in federal and provincial legislation, the [Standards of Practice](#), [Code of Ethics](#) and College policies and guidelines.

## Background

Assisting with death has historically been considered a crime under the Criminal Code. In the context of the *Carter v. Canada*<sup>1</sup> decision, the Supreme Court of Canada (SCC) found that this absolute prohibition violated an individual's *Charter* right to life, liberty and security of person. Accordingly, the SCC ruled that the criminal law must permit some form of MAiD (referred to as 'physician-assisted death' by the SCC).

The SCC suspended its decision to allow federal and provincial governments time to develop a framework to support the provision of MAiD. On June 17, 2016 the federal government enacted amendments to the *Criminal Code of Canada* (the "Criminal Code") to include circumstances under which MAiD is permitted.

Subsequent to the SCC decision, the College of Physicians and Surgeons of Ontario has released a [Policy on Medical Assistance in Dying](#) for physicians, and the College of Nurses of Ontario has released a [Guidance on Nurses' Role in Medical Assistance in Dying](#). The Ontario College of Pharmacists guidance document is aligned to these documents.

On March 17, 2021, changes to eligibility criteria, procedural safeguards, and reporting requirements came into effect with the passage of Bill C-7.

- Eligibility criteria has been amended to expressly exclude persons suffering solely from mental illness
- Eligibility criteria has been amended to remove the previous requirement that the patient's death be "reasonably foreseeable". This criteria is now used as a factor when a medical or nurse practitioner assesses the patient.
  - If death *is* reasonably foreseeable, the 10-day reflection period requirement is removed, and patients have the option to enter into an agreement where MAiD can be provided if they lose capacity after requesting MAiD.

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<sup>1</sup> *Carter v. Canada* (Attorney General), 2015 SCC 5.

- If death **is not** reasonably foreseeable, a 90-day reflection period is required unless there is a risk that the patient will lose capacity in that time. Additionally, one of the eligibility assessors must be a specialist in the patient's condition, and additional efforts need to be made to ensure patients are aware of and have considered their alternative treatment options.
- Procedural safeguards have been amended to reduce the number of independent witnesses to the patient's written request for MAiD from 2 to 1. Amendments were also made to permit a person involved in providing personal or health care to the patient to act as a witness provided that they are not the practitioner conducting the eligibility assessment and/or providing MAiD to the patient.
- Reporting requirements have been amended to include pharmacy technicians. Pharmacists and pharmacy technicians are required to report if they have dispensed a substance in connection with the provision of MAiD.  
*\*The federal [Regulations for the Monitoring of MAiD](#) need to be amended for pharmacy technician reporting obligations to be in force. Until the new regulations are in force, there are no new/additional federal reporting requirements under the current reporting regime.*

This guideline has been updated to reflect these legislative changes.

## Definitions

**Medical Assistance in Dying:** In accordance with federal legislation, medical assistance in dying includes circumstances where a medical practitioner or nurse practitioner, at an individual's request: (a) administers a substance that causes an individual's death; or (b) prescribes a substance for an individual to self-administer to cause their own death.

**Medical Practitioner:** A person who is entitled to practise medicine under the laws of a province.

**Nurse Practitioner:** A registered nurse who, under the laws of Ontario, is entitled to practise as a nurse practitioner, and autonomously make diagnoses, order and interpret diagnostic tests, prescribe substances, and treat patients.

**Pharmacy Professional:** A person who is entitled to practise pharmacy according to the limits of their certificate of registration under the laws of a province as either a Pharmacist or a Pharmacy Technician in Part A of the Register.

## ***Criteria for Medical Assistance in Dying***

In accordance with federal legislation, for an individual to access MAiD, they must:

1. Be eligible for publicly funded health-care services in Canada;
2. Be at least 18 years of age and capable of making decisions with respect to their health;
3. Have a grievous and irremediable medical condition, which means the patient:
  - Has a serious and incurable illness, disease or disability (excluding those suffering solely from mental illness), and
  - Is in an advanced state of irreversible decline in capability, and
  - Is enduring physical or psychological suffering, caused by the illness, disease or disability or that state of decline, that is intolerable to the person and that cannot be relieved under conditions that they consider acceptable.
4. Make a voluntary request for medical assistance in dying that is not the result of external pressure; and
5. Provide informed consent to receive medical assistance in dying.

## ***Conscientious Objection***

The federal legislation does not address how conscientious objections of healthcare providers are to be managed. Pharmacists who have a conscientious objection to MAiD are not obliged to prepare and dispense prescriptions for this purpose. If a pharmacy professional has a conscientious objection to providing MAiD they are required to comply with the College's expectations for conscientious objections in general, as set out in the [Code of Ethics](#) and [Professional Obligations when Declining to Provide a Pharmacy Product or Service due to Conscience or Religion Guideline](#).

In circumstances where a pharmacy professional declines to assist in MAiD on the basis of a conscientious objection, they must provide the patient with an effective referral to a non-objecting alternate provider where the patient can receive the desired services in a timely manner.

## ***Guidance when Aiding in Medical Assistance in Dying***

Pharmacy professionals must not perform any activity that implies they are the health professional leading the provision of MAiD for a patient.

Pharmacists and pharmacy technicians are exempted from criminal liability when dispensing a prescription that is written by a medical or nurse practitioner for the provision of MAiD.

### **1. Patient inquiries about Medical Assistance in Dying**

Pharmacists and pharmacy technicians can support patients by providing information about the process for initiating a request for MAiD.

Pharmacists and pharmacy technicians should refer all inquiries, discussions, and engagements with individuals, patients, families and/or groups to a medical or nurse practitioner.

It remains a crime to provide a person with information on how they can take direct action to end their life outside of the provision of MAiD, such as information on where to find certain deadly chemicals that could be ingested to cause death. It also remains a crime for anyone to encourage, counsel, advise, recommend, or in any way try to influence a person in seeking to end their life.

### **2. Assessment of the patient**

Pharmacy professionals are **not** responsible for assessing whether a patient meets eligibility criteria, or documenting or collecting a patient's consent or written request for MAiD. The medical or nurse practitioner providing care to the patient is responsible for ensuring that the patient's written request meets legislative requirements, including following the appropriate safeguards based on the factors affecting the patient's condition, and documenting the patient's initial and final consent prior to administering MAiD.

The pharmacist must be confident that the medical or nurse practitioner has affirmed that each of the eligibility criteria and safeguards are met. The pharmacist does not need to confirm the specific details of how the assessment was conducted or how documentation was collected. A pharmacist only needs to confirm that a medical or nurse practitioner declares that the patient, according to legislation, meets eligibility criteria, has provided informed consent and has been independently assessed by a second medical or nurse practitioner. Where a medical or nurse practitioner has not indicated that all criteria and safeguards have been met, the pharmacist should follow-up with the medical or nurse practitioner.

Pharmacists are encouraged to engage in a collaborative process with the medical or nurse practitioner as early as possible, once they are aware that the patient has initiated a request for

MAiD. Collaboration at an early stage is required to ensure that patients who have met the criteria and are eligible for MAiD are able to access required medications and supplies in a timely manner.

The pharmacist should discuss the following with the medical or nurse practitioner:

- The protocol selected;
- The method of administration, including whether there is a need for medication to support the provision of clinician-administered MAiD if necessary after self-administration and as part of an existing agreement between the patient and medical or nurse practitioner.
- The scheduled time for the administration of MAiD;
- The time required to prepare the pharmaceutical agent(s);
- Whether there is a specific date after which the prescription should not be dispensed;
- How to complete appropriate documentation;
- Procedures for returning unused drugs to the pharmacy for safe disposal; and
- Any other relevant information required by the pharmacist.

### **3. Receiving a prescription for medical assistance in dying**

The medical or nurse practitioner is required to inform the pharmacist of the indication when a prescription is intended for MAiD. The substance to be administered should be dispensed as close as possible to the date on which MAiD will be provided.

Standardized Prescription Protocols have been developed for the purpose of MAiD. Medical and nurse practitioners will exercise their professional judgement to determine the appropriate drug protocol for the patient based on individual circumstances and drug availability.

A pharmacist should not adapt a prescription intended to be utilized for MAiD. Should there be a need to adjust the treatment, the pharmacist should bring this to the attention of the prescriber to allow the prescriber to make the decision. Additionally, the pharmacist or pharmacy technician shall personally prepare, label and distribute the prescription(s) for MAiD. No aspect of dispensing MAiD drugs shall be delegated to non-regulated pharmacy staff.

### **4. Dispensing a prescription for medical assistance in dying**

The intent of federal legislation is that MAiD will be administered shortly after a patient receives a prescription. Where a patient presents a prescription to a pharmacist or pharmacy technician, and a considerable time has passed since the provision of the prescription, the pharmacist should consult the prescriber prior to dispensing.

Pharmacists must not dispense drugs intended for MAiD for “Office Use” by the physician. While it is appropriate to provide the prescription directly to the prescribing medical or nurse practitioner, the medications **must only** be dispensed under that patient’s name and appropriately recorded in the patient record.

Pharmacists are expected to practice in accordance with the [Standards of Practice](#) with respect to dispensing a prescription when providing MAiD. It is important that the pharmacist counsel the individual picking up the medications regarding the stability, storage requirements and any other details supporting the efficacy and administration of the preparations. Pharmacists are also encouraged to discuss appropriate disposal of unused medications with the patient or his/her agent.

## 5. Documentation and reporting of medical assistance in dying

Pharmacists are required to document appropriate information on the patient record according to the College’s [Documentation Guidelines](#), including information such as indication and pertinent patient (or agent) dialogue.

As of March 17, 2021, the federal reporting requirements for medical assistance in dying have been legally changed.

- Pharmacists and pharmacy technicians who have dispensed a substance in connection with the provision of MAiD must report to Health Canada via the Canadian MAiD Data Collection Portal within 30 days after the day of dispensing.
  - **EN:** [www.canada.ca/reporting-medical-assistance-in-dying](http://www.canada.ca/reporting-medical-assistance-in-dying);
  - **FR:** [www.canada.ca/declaration-aide-medicale-a-mourir](http://www.canada.ca/declaration-aide-medicale-a-mourir)
- Under [s. 241.31 of the Criminal Code](#), a pharmacist or pharmacy technician who **knowingly** fails to comply with this requirement could face a maximum term of imprisonment of two years.

*\*The federal [Regulations for the Monitoring of MAiD](#) need to be amended for pharmacy technician reporting obligations to be in force. Until the new regulations are in force, there are no new/additional federal reporting requirements under the current reporting regime.*

## Appendix A: Ethical Considerations

The [Code of Ethics](#) and the [Professional Obligations when Declining to Provide a Pharmacy Product or Service due to Conscience or Religion Guideline](#) must be considered holistically and in context with all ethical principles and standards. When providing services to support MAiD pursuant to the consent of a patient and the prescription of a medical or nurse practitioner, the following principles and standards are particularly relevant:

### *Principle 1: Beneficence*

*Pharmacists and Pharmacy Technicians serve and benefit the patient and society's best interests.*

- Ensure the primary focus at all times is the well-being and best interests of the patient.
- Apply therapeutic judgment in order to assess the appropriateness of current or proposed medication therapy given individual patient circumstances.
- Provide patients with the relevant and sufficient information they need in order to make more informed decisions about their healthcare.
- Participate in consultation, communication and documentation with colleagues or other healthcare professionals to facilitate quality patient care.

### *Principle 2: Non-Maleficence*

*Pharmacists and Pharmacy Technicians refrain from participating in behaviours that may harm patients or society and whenever possible prevent harm from occurring.*

- Practice only within their scope of practice, recognize their limitations and when necessary, refer the patient to a colleague or other healthcare professional whose expertise can best address the patient's needs.
- In circumstances where they are unwilling to provide a product or service to a patient on the basis of moral or religious grounds, ensure the following:
  - i. that the member does not directly convey their conscientious objection to the patient;
  - ii. that the member participates in a system designed to respect the patient's right to receive products and services requested;
  - iii. that there is an alternative provider available to enable the patient to obtain the requested product or service, which minimizes inconvenience or suffering to the patient.
- Assume responsibility for making reasonable efforts to ensure continuity of patient care when they are unable or unwilling to provide requested pharmacy services.



*Principle 3: Respect for Persons*

*Pharmacists and Pharmacy Technicians respect their patients as self-governing decision-makers in their healthcare and treat all patients fairly and equitably.*

- Respect and value the autonomy and dignity of patients.
- Practice patient-centered care and treat patients with sensitivity, caring, consideration and respect.
- Listen to patients to seek understanding of their needs, values and desired health goals and respect their right to be an active decision-maker in their healthcare.
- Respect the patient’s values, customs and beliefs and their right to hold these as self-governing decision-makers.

*Principle 4: Accountability*

*Pharmacists and Pharmacy Technicians maintain the public trust by ensuring that they act in the best interest of their patients and society.*

- Assume responsibility for all decisions and actions they undertake in professional practice, including failure to make a decision and take appropriate action when necessary.
- Ensure that all professional documentation is accurately maintained in accordance with practice standards.