

Medical Assistance in Dying: What Social Workers Need to Know

Adopted December 2, 2016, Updated November 2021

TABLE OF CONTENTS

Introduction.....	1
Medical Assistance in Dying.....	1
Social Work Role.....	2
Continuing Professional Development & Competence in Practice	4
Future Considerations & Research	4
Conclusion	5
References/Resources.....	5
Appendix A.....	7

Medical Assistance in Dying (MAID): What Social Workers Need to Know

Introduction

Social work is one of the largest health professions in Newfoundland and Labrador with over 1600 Registered Social Workers (RSW's) practicing throughout all regions.

As a profession, social work remains current on the legislative developments and national and international dialogue on medical assistance in dying (MAID). The NLCSW has been extensively involved in discussions pertaining to the implementation of MAID legislation in Newfoundland and Labrador and clarifying the role of social work in this area. While previously referred to as physician assisted dying, the terminology currently used is medical assistance in dying. This is reflective of the team based approach to care.

While medical assistance in dying was prohibited in Canada up until the 2015 Supreme Court of Canada's decision of *Carter v Canada (AG)*, this service was available in other international jurisdictions. As national dialogue began to grow, the Canadian Association of Social Workers (CASW) produced a *Statement of Principles on Physician Assisted Dying* in 1994 (re-released in 2015) and a discussion paper on physician-assisted death in 2016. The principles outlined by the CASW address the importance of a robust palliative care system and the need for strong safeguards to be put in place to ensure that people do not pursue medical assistance in dying due to the lack of palliative or end of life care options. At the same time, these documents outline the role social workers may have in medically assisted dying given their unique perspective and expertise, and highlight the need for more training and support for social workers in this area.

Bill C-14, the Canadian legislation on medical assistance in dying, received royal assent on **June 17, 2016**, and became law. On **March 17, 2021**, Bill C-7: An Act to amend the Criminal Code (medical assistance in dying), received royal assent and is now in force. Bill C-7 enacts several changes to broaden eligibility criteria to request and receive MAID, procedural safeguards, and enhanced reporting requirements for data collection. The Department of Justice has provided information on the changes to the legislation from 2016-2018. Please see Appendix A.

Medical Assistance in Dying

Medical assistance in dying, as defined in Bill C-14 means

- 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.

As of March 17, 2021, persons who wish to receive MAID must satisfy the following eligibility criteria:

- be 18 years of age or older and have decision-making capacity
- be eligible for publicly funded health care services
- make a voluntary request that is not the result of external pressure
- give informed consent to receive MAID, meaning that the person has consented to receiving MAID after they have received all information needed to make this decision
- have a serious and incurable illness, disease or disability (excluding a mental illness until March 17, 2023)
- be in an advanced state of irreversible decline in capability
- have enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable

(Government of Canada, 2021)

Bill C-7 has removed the eligibility requirement that a person's death has become reasonably foreseeable and added additional safeguards in those circumstances. It also excludes mental illness as the sole underlying medical condition for eligibility for MAID, subject to a period of legislative review.

Assessing whether a person meets the criteria for medical assistance in dying is quite rigorous and there are many safeguards put in place as outlined in the legislation. Not all individuals seeking this service will receive it. However, since becoming law, numerous individuals throughout Canada, including Newfoundland and Labrador, have sought medical assistance in dying and received it.

Social Work Role

The CASW Code of Ethics (2005) outlines the values and principles that guide social work practice. Social workers support an individual's right to self-determination (consistent with their capacity and with the rights of others) and to make decisions based on voluntary, informed consent. With the passing of legislation, individuals have a legal right to seek medical assistance in dying.

So, what does this legislation mean in terms of social work practice? Social workers have always been involved in end of life care. Social workers work with individuals and families in acute care settings, palliative care, and long-term care in providing support around issues such as end of life, grief and loss and advance health care planning. As members of interdisciplinary teams, within their current scope of practice, social workers may be involved in the care of individuals who request and receive medical assistance in dying (MAID). Social workers may also be working with the individual's family and loved ones during this process. Whether or not an individual who requests medical assistance in dying is able to receive this service, social workers will continue to be part of the care and provide on-going support. Although social workers will not be

administering medication as part of MAID, social workers may be in the room with the individual and family at the time of death as a health care team member.

It is understandable that social workers may have concerns about their role in MAID. Two issues that have been highlighted include legal considerations and freedom of conscience and religion.

- **Legal Considerations: An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) S.C. 2016, c. 3)**

Bill C-14 amended the Criminal Code to create exemptions from criminal prosecution for health care providers involved in the lawful provision of information pertaining to MAID. Section 5.1 of Bill C-14 states:

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.

However, it remains a criminal offense to ‘counsel’ a person to die by suicide as outlined in the Criminal Code, subsection 241(1). It is therefore important that social workers are familiar with the legislative aspects of MAID and are able to distinguish between the word counsel as it is related to the criminal code and counselling within the therapeutic social work relationship. Counsel in the criminal code means to ‘procure, solicit and incite’, while counsel in the therapeutic relationship covers activities related to communication, information sharing, the provision of psychosocial support and referrals. Within the context of therapeutic counselling, social workers may provide information on the lawful provision of MAID when requested by clients, including where to access this service. Social workers follow the NLCSW standards for documentation and record keeping, and ensure this information is documented in the client file.

The legislation on medical assistance in dying continues to evolve and health care organizations are developing and updating policies and practices related to MAID to which social workers must be attuned in their practice. It is therefore important that social workers who are involved, or may become involved in MAID, seek consultation within their organizations and legal advice as needed.

- **Freedom of Conscience & Religion**

Social workers may also be concerned about how their own personal values and beliefs will be considered in the provision of MAID. While social workers respect and uphold a client’s right to make choices based on voluntary, informed consent, the legislation on medical assistance in dying does recognize and uphold people’s freedom of conscience and religion as outlined in the Canadian Charter of Rights and Freedoms. Therefore, health care providers are not compelled under the legislation to provide or assist in MAID. Social workers do however have an ethical responsibility to strive for impartiality

in practice and refrain from imposing their values, views and preferences on clients. Social workers who are personally and/or morally opposed to MAID, and believe that their values and beliefs will negatively impact their ability to provide ethical and competent services related to MAID, must inform their employer and take steps to refer clients seeking MAID to another social work colleague or appropriate health care provider.

Continuing Professional Development & Competence in Practice

Social workers have an ethical responsibility to strive to “maintain and increase their professional knowledge and skill” (CASW Code of Ethics, 2005, p. 8). Given that social workers will be involved in the provision of support for those seeking or availing of medical assistance in dying, members must continue to explore continuing professional development opportunities pertaining to the role of social work in MAID, seek to understand the legislation, policies and programs concerning MAID, and be familiar with relevant organizational/employer guidelines pertaining to the delivery of MAID services. It is also important that social workers seek supervision and consultation pertaining to their role in MAID.

Self-care is an important concept related to professional competence. MAID may invoke strong emotional reactions amongst health care professionals including social workers. It is therefore important that social workers continue to engage in critical reflection and seek opportunities to focus on their own self-care while maintaining professionalism and the respect for the best interests of clients. Seeking guidance from supervisors/managers is a helpful strategy.

Future Considerations & Research

As outlined in Bill C-7, a comprehensive review by a Joint Committee of both Houses of Parliament will be undertaken to review MAID and issues including, but not limited to:

- Mature minors,
- Advance requests for MAID
- Mental Illness
- State of palliative care in Canada
- Protection of Canadians with disabilities

An independent review respecting MAID requests by persons with a mental illness will also be undertaken by experts, with a final report outlining recommended protocols, guidance, and safeguards, due in March 2022. NLCSW will continue to keep apprised of any changes in legislation and update social workers accordingly.

Conclusion

As Newfoundland and Labrador continues to implement the federal legislation on medical assistance in dying, social workers must ensure that they are familiar with a) the legislation pertaining to MAID, including any changes, b) the role of social work in the MAID process, c) organizational policies and procedures, and d) the CASW Code of Ethics and NLCSW Standards of Practice, and how they relate to MAID. Social workers must also continue to assess their own personal values and beliefs and seek appropriate supervision and guidance on their role in MAID. Social workers are also encouraged to seek organizational and legal advice as appropriate prior to engaging in MAID.

References/Resources

- An Act to amend the Criminal Code (medical assistance in dying). (2021, c.2).
<https://www.parl.ca/LegisInfo/en/bill/43-2/C-7>
- An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying). (2016, c.3).
<https://www.parl.ca/DocumentViewer/en/42-1/bill/C-14/royal-assent>
- Association of Registered Nurses Newfoundland and Labrador (ARNNL). (2016). *Registered nurses and nurse practitioners – Aiding in medical assistance in dying*.
<https://crnnl.ca/site/uploads/2021/09/rns-and-nps-aiding-in-maid.pdf>
- Canadian Association of Social Workers. (2016) *Discussion paper: Medical Assistance in Dying*. <https://www.casw-acts.ca/en/discussion-paper-medical-assistance-dying>
- Canadian Association of Social Workers. (2005). *Code of ethics*.
https://nlcsw.ca/sites/default/files/inline-files/CASW_Code_of_Ethics_2005.pdf
- Canadian Association of Social Workers. (2005). *Guidelines for ethical practice*.
https://nlcsw.ca/sites/default/files/inline-files/CASW_Guidelines_for_Ethical_Practice_2005.pdf
- Canadian Association of Social Workers. (2015). *Statement of principles on physician assisted death*. <https://www.casw-acts.ca/en/statement-principles-physician-assisted-death-2015>
- Canadian Association of Social Workers. (2016). *Physician-assisted death: Discussion paper*. https://www.casw-acts.ca/files/attachements/physician-assisted_death_casw_discussion_paper_final.pdf

Newfoundland and Labrador College of Social Workers. (2021). *Standards of practice for social workers in Newfoundland and Labrador*.

https://nlcsw.ca/sites/default/files/inline-files/Standards_of_Practice_for_Social_Workers_in_NL.pdf

Government of Canada. (2021). Canada's new medical assistance in dying (MAID) law.

<https://www.justice.gc.ca/eng/cj-jp/ad-am/bk-di.html>

Report of the Special Joint Committee on Physician-Assisted Dying. (2016, February). Medical assistance in dying: A patient-centered approach.

<https://www.parl.ca/DocumentViewer/en/42-1/PDAM/report-1>

APPENDIX A



CANADA'S NEW MEDICAL ASSISTANCE IN DYING LAW

On March 17, 2021, changes to Canada's new medical assistance in dying (MAID) law came into force. This marks a significant milestone for Canada. The new law responds to feedback from over 300,000 Canadians, experts, practitioners, stakeholders, Indigenous groups, and provinces and territories, provided during the January and February 2020 consultations. The revised law is also informed by the testimony of over 120 expert witnesses heard throughout Bill C-7's study by the House of Commons and the Senate.

These changes to the *Criminal Code* now allow MAID for eligible persons who wish to pursue a medically assisted death, whether their natural death is reasonably foreseeable or not. The new law will reduce unnecessary suffering in Canada. It also supports greater autonomy and freedom of choice for eligible persons, and provides safeguards to protect those who may be vulnerable.

ORIGINAL MAID LEGISLATION 2016

REQUEST FOR MAID

ELIGIBILITY CRITERIA

- HAVE A GRIEVOUS AND IRREMIABLE MEDICAL CONDITION
- NATURAL DEATH MUST BE REASONABLY FORESEEABLE

SAFEGUARDS FOR ALL ELIGIBLE PERSONS

FINAL CONSENT TO BE PROVIDED BEFORE ADMINISTRATION OF MAID

NEW MAID LAW

CAME INTO FORCE ON MARCH 17, 2021

REQUEST FOR MAID

ELIGIBILITY CRITERIA

- HAVE A GRIEVOUS AND IRREMIABLE MEDICAL CONDITION
- "REASONABLE FORESEEABILITY OF NATURAL DEATH" CRITERION REPEALED
- ELIGIBILITY FOR PERSONS SUFFERING SOLELY FROM MENTAL ILLNESS IS TEMPORARILY EXCLUDED UNTIL MARCH 17, 2023 (EXPERT REVIEW WILL MAKE RECOMMENDATIONS ON PROTOCOLS, GUIDANCE AND SAFEGUARDS FOR MAID FOR PERSONS SUFFERING FROM MENTAL ILLNESS BY MARCH 17, 2022)

EXISTING & EASED SAFEGUARDS FOR ELIGIBLE PERSONS WHOSE DEATH IS REASONABLY FORESEEABLE

NEW & STRENGTHENED SAFEGUARDS FOR ELIGIBLE PERSONS WHOSE DEATH IS NOT REASONABLY FORESEEABLE

FINAL CONSENT OR POSSIBLE WAIVER OF FINAL CONSENT FOR ELIGIBLE PERSONS UNDER CERTAIN CIRCUMSTANCES

FINAL CONSENT TO BE PROVIDED BEFORE ADMINISTRATION OF MAID

MEDICAL ASSISTANCE IN DYING

To support health care practitioners and sustain pan-Canadian cooperation on the implementation of the new MAID law, the Government of Canada will continue to work with provinces and territories, health care practitioners and regulatory bodies on best practices, clinical guidance, training, monitoring and reporting.

FOR MORE DETAILED INFORMATION ON THE CHANGES TO CANADA'S MAID LAW THAT CAME INTO FORCE ON MARCH 17, 2021, PLEASE CONSULT THE MEDICAL ASSISTANCE IN DYING WEBPAGE ON [JUSTICE.GC.CA](https://www.justice.gc.ca)