



College of Physicians and Surgeons of British Columbia

# Professional Standards and Guidelines

## Medical Assistance in Dying

### Preamble

This document is a standard of the Board of the College of Physicians and Surgeons of British Columbia.

### College's Position

The Supreme Court of Canada (SCC) in *Carter v. Canada* established medical assistance in dying (MAID) as a charter right for “a competent adult person who clearly consents to the termination of life and has a grievous and irremediable medical condition (including an illness, disease or disability) that causes suffering that is intolerable to the individual.” A person need not have a terminal illness to seek medical assistance in dying. The decision allows both medically assisted suicide, where the patient is provided assistance in intentionally ending his or her own life, and voluntary euthanasia, where a physician directly administers a lethal dose of medication to end the patient's life. The SCC also stated that “nothing ...would compel physicians to provide assistance in dying.”

The federal government is expected to enact legislation addressing MAID. In the interim, the College acknowledges that it is in the public interest and in the interest of registrants to establish a process for physicians to follow when a patient requests assistance in dying in accordance with the SCC decision. When legislation regulating medical assistance in dying is enacted, the provisions of the legislation will take priority over the provisions of this document.

Registrants are expected to be aware of and comply with their legal, ethical and professional obligations and are encouraged to seek the guidance of legal counsel, or medical-legal advice from the Canadian Medical Protective Association (CMPA). Registrants may also contact a member of registrar staff at the College to discuss professional and ethical obligations.

### Rights and Autonomy

Patients have the right to make decisions about their bodily integrity (autonomy) and to have access to unbiased and accurate information about relevant medical issues and treatments. Physicians have an obligation to provide their patients with health information and health services in a non-discriminatory fashion and an obligation not to abandon their patients. Culturally and spiritually appropriate end-of-life care services should be available to all patients.

Physicians have the right to decide whether or not to perform medical assistance in dying.

## **Eligibility for Medical Assistance in Dying**

In order for a patient to receive medical assistance in dying, they must meet all of the following criteria:

- a. they must be an adult (at least 19 years of age)
- b. they are capable of making decisions respecting their health
- c. they have a grievous and irremediable medical condition (illness, disease or disability) that causes enduring suffering that is intolerable to the patient
- d. they had made a voluntary request in writing for MAID witnessed by two independent witnesses
- e. they have given free and informed consent to receive MAID
- f. they are eligible for publicly funded health-care services

## **Process**

The process respecting medical assistance in dying involves the opinion of two physicians, the attending physician and the consulting physician, and the patient's consistent expression of a desire for medical assistance in dying over a reasonable period of time.

1. Both the attending and the consulting physician for a patient requesting medical assistance in dying must have the appropriate competencies, qualifications, experience and training to render a diagnosis and prognosis of the patient's condition, together with the appropriate technical knowledge and competency to provide medical assistance in dying in a manner that is respectful to the patient. Both physicians must have a complete and full discussion about medical assistance in dying with the patient; physicians are expected to provide patients with all the information required to make informed choices about treatment and to communicate the information in a manner that is easily understood by the patient.
2. Both the attending and consulting physician must agree in writing that the patient meets the criteria for MAID as set out by the Supreme Court of Canada which includes that the patient has a grievous and irremediable medical condition causing suffering that is intolerable to the patient. A request for MAID is contextual to the patient's medical condition, its natural history and prognosis, treatment options and the risks and benefits associated with each option. Physicians are responsible to ensure that the patient understands such factors and is able to communicate a reasoned decision based on that understanding.
3. Both the attending and consulting physicians must be licensed for independent practice in their respective Canadian jurisdictions, and at least one physician must be licensed in British Columbia.
4. Both physicians must be independent of each other. In order to be independent, the physicians must:
  - a. not be in a business relationship with each other, or act as a mentor or supervisor to the other, or in any other way that would affect their objectivity

- b. know or believe that they are not a beneficiary under the will of the patient requesting MAID or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death, other than the standard compensation for their services relating to the request
  - c. know or believe that they are not connected to the other physician or the patient requesting medical assistance in dying in any other way that would affect their objectivity
- 5. One of the physicians, but not both, may provide their assessment by telemedicine provided that, during the telemedicine assessment, another physician is in physical attendance with the patient to act as a witness to the assessment.
- 6. The patient requesting MAID must be competent and able to give free and informed consent to MAID.
  - a. Both physicians must be satisfied that the patient is mentally capable of making a free and informed decision at the time of the request and throughout the process.
  - b. If either physician is unsure that the patient has capacity to consent to MAID the patient must be referred to another physician with expertise in capacity assessment, such as a psychiatrist, neurologist, geriatrician, or FP/GP with additional training and expertise for a further in-person capacity assessment.
  - c. If the sole diagnosis contributing to a request for MAID is a psychiatric or psychological condition, an in-person capacity assessment from a psychiatrist is required.
  - d. The patient must maintain mental capacity for MAID to proceed. If at any time during the progression of the patient's condition, the patient loses the mental capacity to rescind his or her decision, MAID ceases to be an option.
  - e. MAID cannot be provided to patients who are not able to give consent including when consent is given through an alternate or substitute decision-maker, or through a personal advance directive.
- 7. Both physicians must:
  - a. be satisfied that the request for MAID was a voluntary request and was not made as a result of external pressure
  - b. ensure that the request for MAID is made in writing before two independent witnesses
  - c. ensure that there is at least 10 days between the day on which the request was signed by the patient and the day on which MAID was provided, or if both physicians are of the opinion that the patient's death or loss of capacity to provide informed consent is imminent, any shorter period that the physicians consider appropriate to the circumstances
  - d. ensure that the patient has been informed that they may, at any time, and in any manner, withdraw their request

8. Both physicians must inform the patient requesting MAID of the following and the information must be included in the patient's medical record with a copy provided to the patient:
  - a. the patient's diagnosis and prognosis
  - b. feasible alternatives (including comfort care, palliative care and pain control)
  - c. option to rescind the request for MAID at any time
  - d. risk of taking the prescribed substances
9. The following information must be in the patient's medical record:
  - a. copies of all relevant medical records from other physicians/practitioners involved in the patient's care supporting the diagnosis and prognosis of the patient's grievous and irremediable condition, disease or disability; this includes ensuring that a specialist has provided a diagnosis and prognosis, including treatment recommendations, and that has been discussed with the patient by the specialist
  - b. all written and oral requests for MAID and a summary of the discussion
  - c. confirmation that after the completion of all documentation that the patient was offered the opportunity to rescind the request
  - d. confirmation that the two physicians have discussed and determined which physician will prescribe and/or administer the substance used for MAID
  - e. confirmation by the prescribing physician that all the requirements have been met including the steps taken and the substance prescribed
10. Physicians are required to complete the following provincial forms:
  - a. record of request by patient for medical assistance in dying
  - b. the record of each assessment completed by the physicians, including the prescribing physician
  - c. a record of capacity assessment, if done

Physicians shall also use the preprinted orders for medications when issuing a prescription for MAID.

11. The physician who prescribes or administers the substance to be used in MAID shall do so in the patient's name, and indicate on the prescription(s) that the indication is MAID. The pharmacist shall dispense the prescription for the MAID substance directly to the prescribing physician. The physician will provide it to the patient for self-administration, or administer the substance themselves.
12. The physician who prescribes or administers the substance to be used in MAID, must immediately before providing or administering the substance give the patient the opportunity to withdraw their request for MAID and ensure that the patient gives express consent to receive MAID. The physician must personally attend the patient during the self-administration or administration of medical assistance in dying and remain in attendance until death is confirmed. This may not be delegated to another person or professional.

13. The physician who prescribes or administers the substance to the patient is responsible for completing the medical certificate of death, and for complying with any request for information or provision of medical records required by an agency tasked with completing a review of MAID. Additionally, the physician is responsible for returning to the pharmacy any unused substances as soon as reasonably practicable, and ideally within 48 hours of confirmation of the patient's death.

### **Documentation**

A patient's request for MAID should be signed and dated by the patient requesting MAID. If the patient is unable to sign and date the request, another person, who is at least 19 years old and who understands the nature of the request for MAID, may do so in the patient's presence on their behalf, and under the patient's express direction.

A patient's request for MAID must be witnessed by two independent witnesses who must be at least 19 years old and understand the nature of the request for MAID. A person is not considered independent if they

- a. know or believe that they are a beneficiary under the will of the patient making the request, or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death,
- b. are an owner or operator of any health-care facility at which the patient making the request is being treated or any facility in which that patient resides,
- c. are directly involved in providing health-care services to the patient making the request, or
- d. directly provide personal care to the patient making the request.

The medical certificate of death should indicate that the manner of death involved medical assistance in dying and that the cause of death is the underlying illness/disease causing the grievous and irremediable medical condition.

### **Conscientious Objection**

Physicians may make a personal choice not to assess patients for and/or perform MAID, based on their values and beliefs. The College expects the physician to provide patients with enough information and assistance to allow them to make informed choices for themselves. This includes consulting with other experts on relevant medical facts and, when needed, competency assessments.

Physicians who object to MAID on the basis of their values and beliefs are required to provide an effective transfer of care for their patients by advising patients that other physicians may be available to see them, suggesting the patient visit an alternate physician or service, and if authorized by the patient, transferring the medical records as required.

Where needed, physicians must offer assistance to the patient and must not abandon the patient. While a physician is not required to make a formal referral on behalf of the patients, they do have a duty of care that must be continuous and non-discriminatory. Physicians should not discuss in detail their personal beliefs and should not pressure patients to disclose or justify

their own beliefs. In all cases, physicians must practise within the confines of the legal system, and provide compassionate, non-judgmental care according to the CMA *Code of Ethics*.

**Approved by Board:** June 3, 2016

**Effective date:** June 6, 2016