

PRACTICE STANDARD

Medical Assistance in Dying

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Related topic(s): [Access to Medical Care Without Discrimination; Indigenous Cultural Safety, Cultural Humility and Anti-racism](#)

A **practice standard** reflects the minimum standard of professional behaviour and ethical conduct on a specific topic or issue expected by the College of its registrants (all physicians and surgeons who practise medicine in British Columbia). Standards also reflect relevant legal requirements and are enforceable under the [Health Professions Act](#), RSBC 1996, c.183 (*HPA*) and College [Bylaws](#) under the *HPA*.

Preamble

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

Under the Criminal Code, RSC 1985, c.C-46, two forms of medical assistance in dying (MAiD) are permitted:

- the administering by a medical practitioner or nurse practitioner of a substance to a person at their request that causes their death
- the prescribing or providing by a medical practitioner or a nurse practitioner of a substance to a person at their request, for their self-administration and in doing so cause their own death

In addition, the federal minister of health has made regulations for the monitoring and reporting of MAiD, which name the BC Ministry of Health as the designated recipient of reportable information from physicians, nurse practitioners and pharmacists. Registrants must be aware of, and comply with, both the federal legislation and provincial reporting requirements for MAiD.

The practice standard outlines the Criminal Code safeguards for when death is reasonably foreseeable (track 1) and when death is not reasonably foreseeable (track 2). This excludes cases where a mental disorder is the sole underlying condition.

College's position

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 conditions and their treatment. Registrants 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. The College expects registrants to provide their patients with enough information and assistance to allow them to make informed choices for themselves.

Conscientious objection

Registrants have the right to decide whether to perform medical assistance in dying and may make a personal choice not to assess patients for and/or perform MAiD, based on their values and beliefs. Nothing in the Criminal Code compels a person to provide MAiD. While a registrant is not required to make a formal referral on behalf of the patient, they do have a duty of care that must be continuous and non-discriminatory. Registrants should not discuss in detail their personal beliefs with the patient and should not pressure patients to disclose or justify their own beliefs. In all cases, registrants must practise within the confines of the legal system, and always treat the patient with dignity and respect, according to the Canadian Medical Association *Code of Ethics and Professionalism*.

Transfer of care

Registrants 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 practitioners 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, registrants must offer assistance to the patient and must not abandon the patient.

Eligibility criteria

For a patient to receive MAiD, they must meet all the following criteria:

- a. They are 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, as defined by meeting the following criteria:
 - i. They have a serious and incurable illness, disease, or disability.
 - ii. **Note:** Patients whose only medical condition is a mental illness, and who otherwise meet all eligibility criteria, will not be eligible for MAiD.
 - iii. They are in an advanced state of irreversible decline in capability.
 - iv. That illness, disease, disability, or 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.
- d. They have made a voluntary request for MAiD that was not made as a result of external pressure.
- e. They have given informed consent to receive MAiD after having been advised of the means that are available to relieve their suffering, including palliative care.

Independent witness for patient request

The Criminal Code requires that a patient's request for medical assistance in dying must be made in writing, in the presence of one independent witness. This witness must then also sign the request.

To be considered independent, a witness must:

- a. be at least 18 years of age
- b. understand the nature of the request for medical assistance in dying
- c. not know or believe that they are a beneficiary under the will of the patient making the request, or that they will receive, in any other way, any financial or other material benefit resulting from the patient's death
- d. not be an owner or operator of any health-care facility at which the patient making the request is being treated or any facility in which the patient resides
- e. not be directly involved in providing health-care services to the patient making the request (unless this is their primary occupation and they are paid to do so)
- f. not directly provide personal care to the patient making the request (unless this is their primary occupation and they are paid to do so)

- g. if they are directly involved in providing health-care services or directly provide personal care to the patient as their primary occupation and they are paid to do so, they must not be either the medical practitioner or nurse practitioner who will provide
 - i. medical assistance in dying to the patient, or
 - ii. an opinion confirming the patient meets the criteria for medical assistance in dying, as set out in section 241.2(1) of the Criminal Code

Proxy for patient request

The Criminal Code requires that if the patient requesting medical assistance in dying has the mental capacity to make a free and informed decision with respect to their health, but is physically unable to sign and date the request for medical assistance in dying, another person may sign in the patient's presence, on the patient's behalf, and under the patient's express direction. The person acting as a proxy must be at least 18 years of age, understand the nature of the request for medical assistance in dying, and not know or believe that they are a beneficiary under the will of the patient making the request, or that they will receive, in any other way, any financial or other material benefit resulting from the patient's death.

Medical assessors

The process respecting MAiD involves the opinion of two independent medical assessors (MAs), one of whom shall also be the assessor-prescriber of the lethal substances. Only a physician or nurse practitioner may be a MA. Both MAs must be licensed for independent practice in their respective Canadian jurisdictions, and at least one MA must be licensed in British Columbia.

Registrants acting as an MA must have the appropriate competencies, qualifications, experience and training to render a diagnosis and understanding of the patient's condition, together with the appropriate technical knowledge and competency to provide MAiD in a manner that is respectful to the patient.

When death is not reasonably foreseeable, MAiD can occur in circumstances where neither MA has expertise in the condition causing the patient's suffering. However, in such circumstances, one of the MAs must consult with a medical practitioner or nurse practitioner who does have the appropriate expertise to ensure that all treatment options have been identified and explored. Both MAs must be made aware of the consultation results.

Both MAs must be independent of each other. The MAs are independent if they

- a. are not a mentor to the other MA or responsible for supervising their work,
- b. do not 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 that patient's death, other than standard compensation for their services relating to the request, and
- c. do not know or believe that they are connected to the other MA or to the patient making the request in any other way that would affect their objectivity.

Eligibility assessment

Both MAs must:

- a. agree in writing that the patient meets the criteria for MAiD as set out by the Criminal Code and this standard
- b. be satisfied that the request for MAiD was a voluntary request and was not made as a result of external pressure and that it was made after being advised of their grievous and irremediable condition
- c. ensure that the patient has a full understanding of their medical condition, its natural history and prognosis, treatment options and the risks and benefits associated with each option and is able to communicate a reasoned decision based on their understanding
- d. ensure that, **for patients whose death is not reasonably foreseeable**, there is a minimum assessment period of 90 clear days—the 90 clear days can be shortened if loss of capacity is imminent if all assessments are completed and the assessor and assessor-prescriber are in agreement to shorten the timeline

Note: For patients who death is reasonably foreseeable, there is no mandatory reflection period.

- e. ensure that the patient has been informed that they may, at any time, and in any manner, withdraw their request
- f. ensure that if there is a waiver of final consent in place, the appropriate steps, outlined in this standard, were taken
- g. ensure that, if the person has difficulty communicating, all necessary measures are taken to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision

Virtual assessment

Registrants may assess a person's request for MAiD and obtain consultations in relation to MAiD virtually if the person agrees to a virtual assessment, it includes video of enough quality to ensure expected safeguards are in place, and it can determine a valid conclusion of the person's eligibility. Virtual assessments are only to be used when an in-person assessment would impact a patient's access.

Obtaining consent

The patient requesting MAiD must be competent and able to give free and informed consent to MAiD. Both MAs must be satisfied that the patient is mentally capable of making a free and informed decision at the time of the request.

If either MA is unsure that the patient has capacity to consent to MAiD during a request, the patient must be referred to another practitioner with current expertise in capacity assessment, such as a psychologist, psychiatrist, neurologist, geriatrician, or family practice registrant with additional training or experience for a further in-person or video-enabled telemedicine capacity assessment.

Providers must obtain informed consent directly from the person requesting MAiD, not the substitute decision-maker of an incapable person.

A waiver of final consent is permitted for **patients whose death is naturally foreseeable** under the following circumstances:

- the patient has been assessed and all eligibility criteria and safeguards have been met to receive MAiD
- the patient is at risk of losing decision-making capacity before their preferred date to receive MAiD, and has been informed of that risk
- the patient makes an arrangement in writing with their practitioner to waive final consent, and according to which the practitioner will administer MAiD on or before their preferred date if they have lost the capacity to provide final consent at that time

Prescribing MAiD

Registrants acting as the assessor-prescriber must:

- a. be of the opinion that the patient meets all of the eligibility criteria established for medical assistance in dying
- b. ensure that the request for medical assistance in dying was a voluntary request and was not made as a result of external pressure
- c. ensure that the request was signed and dated after the patient was advised by a physician or nurse practitioner that they have a grievous and irremediable condition
- d. be satisfied that the request for medical assistance in dying was made in writing and signed and dated by the patient or by their proxy before one independent witness, who then also signed and dated the request
- e. ensure that the patient has been informed that they may, at any time, and in any manner, withdraw their request
- f. ensure that another assessor (physician or nurse practitioner) provided a written opinion that the patient meets all the eligibility criteria established for medical assistance in dying
- g. be satisfied that they and the other assessor are independent
- h. where death is **not reasonably foreseeable**:
 - i. ensure that the patient has been informed of the means available to relieve their suffering, including (where appropriate), counselling services, mental health and disability support services, community services and palliative care, and has been offered consultations with relevant professionals who provide those services or care
 - ii. ensure that, if they and the assessor do not have expertise in the medical source of the patient's suffering, a consultation has been done with a medical practitioner or nurse practitioner who does have the appropriate expertise to ensure that reasonable and available means to relieve the patient's suffering have been identified and explored by the patient
 - iii. ensure that they and the assessor have both discussed the reasonable and available means to relieve the patient's suffering and they and the assessor agree that the patient has given serious consideration to those means

- iv. ensure there are 90 clear days between the day on which the first assessment for eligibility is initiated and the day on which medical assistance in dying is provided

Note: The requirement for 90 clear days can be shortened as appropriate if both the assessor and assessor-prescriber are of the opinion the patient's loss of capacity to provide consent for medical assistance in dying is imminent.

The rationale for determining whether a patient is track 1 or track 2 needs to be clearly documented in the patient's medical record by the assessor-prescriber.

Registrants acting as the assessor-prescriber must not set a date for MAiD, issue the prescription, or pick up the medications for MAiD until eligibility assessments are completed by both the prescriber and assessor.

Administering MAiD

Immediately before providing MAiD, the registrant acting as assessor-prescriber must give the patient an opportunity to withdraw their request and ensure that the patient gives express consent to receive MAiD.

In the case of a person **whose death is reasonably foreseeable**, this requirement is waived if all of the following criteria is met:

- a. Before the person loses the capacity to consent to receiving medical assistance in dying
 - i. they satisfied all applicable criteria and safeguards,
 - ii. they entered into an arrangement in writing with the assessor-prescriber that the assessor-prescriber would administer a substance to cause their death on a specified day,
 - iii. they were informed by the assessor-prescriber of the risk of losing the capacity to consent to receiving medical assistance in dying prior to the day specified in the arrangement, and
 - iv. in the written arrangement, they consented to the administration by the assessor-prescriber 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 medical assistance in dying prior to that day.
- b. The person has lost the capacity to consent to receiving medical assistance in dying.
- c. The person does not demonstrate, by words, sounds or gestures, refusal to have the substance administered or resistance to its administration.
 - i. Involuntary words, sounds or gestures made in response to contact are not considered a demonstration of refusal or resistance.
 - ii. If words, sounds or gestures are made that demonstrate a refusal to receive the substance, medical assistance in dying can no longer be provided on the basis of the consent outlined in this section.
- d. The substance is administered to the person in accordance with the terms of the arrangement.

If a person loses capacity to consent to medical assistance in dying after self-administering a substance provided for the purposes of medical assistance in dying, an assessor-prescriber may administer a substance to cause the death of that person if all of the following criteria is met:

- a. Before the person loses the capacity to consent to receiving medical assistance in dying, they and the assessor-prescriber entered into an arrangement in writing providing that the assessor-prescriber would
 - i. be present at the time the person self-administered the first substance, and
 - ii. 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 medical assistance in dying and did not die within a specified period.
- b. 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 medical assistance in dying.
- c. The second substance is administered to the person in accordance with the terms of the arrangement.

The registrant 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.

Documentation

Registrants 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:

- the patient's diagnosis and prognosis
- feasible alternatives (including comfort care, palliative care and pain control)
- confirmation that the patient meets all eligibility criteria, as outlined in this standard
- confirmation that the patient has given serious consideration to the means to relieve their suffering
- option to rescind the request for MAiD at any time
- risk of taking the prescribed substances

The following information must also be retained in the patient's medical record:

- copies of all required reporting forms from the Ministry of Health
- copies of all relevant medical records from other registrants/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 this has been discussed with the patient by the specialist
- all written and oral requests for MAiD and a summary of the discussion

- confirmation that the two MAs have discussed and determined which MA will prescribe and/or administer the substance used for MAiD
- confirmation that after the completion of all documentation that the patient was offered the opportunity to rescind the request
- confirmation by the prescribing MA that all the requirements have been met including the steps taken and the substance prescribed

Obtaining and returning MAiD substance

The pharmacist must dispense the prescription for the MAiD substance directly to the prescribing registrant. The registrant will provide it to the patient for self-administration or administer the substance themselves. Any unused substances must be returned to the pharmacy as soon as reasonably practicable, within 72 hours of confirmation of the patient's death.

When there is no other reasonable option, a registrant may ask another physician, nurse practitioner, licensed practical nurse, registered nurse, registered psychiatric nurse, or pharmacist to return the substances to the pharmacy. Registrants must document the name of the person assigned to return the substances in the patient record.

Reporting

For the purpose of oversight or monitoring of MAiD, there are specific requirements and time frames for reporting MAiD information. Reporting requirements may apply to registrants in the following situations:

- withdrawal of request by the patient
- completion of a preliminary assessment of whether a person meets eligibility criteria to provide the information required by the federal Regulations for the Monitoring of MAiD
- completion of an assessment of whether the patient meets the criteria set out in section 241.2(1) of the Criminal Code (either as an assessor or assessor-prescriber) prior to or receiving a written request
- determination of ineligibility
- death of patient from another cause
- provision of MAiD by administering a substance
- provision of MAiD by prescribing or providing a substance for self-administration

A registrant who prescribes or administers the substance to the patient is responsible for completing the Medical Certificate of Death. In addition, registrants must comply with any request for information or provision of medical records sought by the BC Ministry of Health for the purposes of oversight and monitoring of MAiD.

In order to meet the requirement that MAiD is indicated on the Medical Certificate of Death and that the cause of death is the underlying illness/disease causing the grievous and irremediable medical condition, the Vital Statistics Agency recommends that the Medical Certificate of Death be completed as follows:

- report MAiD in PART I (a)
- report the underlying illness/disease causing the grievous and irremediable medical condition in Part I
- report manner of death as “Natural”

Registrants who provide MAiD must also complete the Prescription and Medication Administration Record which can be accessed through each health authority’s care coordination centre. **For community-based registrants who are not affiliated with a health authority, this form can be accessed by contacting the College.** For more information on reporting requirements and time frames, please visit the [BC Ministry of Health Medical Assistance in Dying website](#).