

PRACTICE SUPPORT DOCUMENT ON PROVIDING AN ASSESSMENT REQUESTED IN RELATION TO MAiD

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Preamble

In June of 2016, the Canadian Federal Government passed Bill C-14, an Act amending the Criminal Code of Canada to allow for Medical Assistance in Dying (MAiD). The legislation seeks to strike a balance between allowing self-determination for those who are facing intolerable suffering due to an irremediable medical condition, and protection for those who are considered to be vulnerable (e.g.s, minors, the disabled). Suffering as a result of mental illness or a mental health condition is not at this time covered under the MAiD legislation.

The term MAiD is used to describe both "voluntary euthanasia" and "assisted suicide." The former action refers to a qualified medical practitioner (i.e., physician) or nurse practitioner administering medication to a patient who is eligible for and freely consents to MAiD, and that action brings about their death. The latter action refers to the provision of medication by a qualified medical practitioner or nurse practitioner to a patient who is eligible for and freely consents to MAiD, and that the patient uses to end their own life. It is important to stress that only those circumstances outlined within the MAiD legislation are exempted from criminal prosecution under the Criminal Code. A person's consent to die is not a defense for someone who causes their death. The exception to the Criminal Code prohibition is when a medical practitioner or nurse practitioner exempted under the legislation to provide MAiD services provides that service to a patient who is eligible for and has freely consented to receive MAiD. It remains a crime under the Criminal Code to assist someone to commit suicide or to counsel them to commit suicide. The MAiD legislation contains an exemption regarding assisted suicide for designated medical practitioners or nurse practitioners, and people who would assist them in providing or dispensing medication to eligible patients to allow them to end their own lives.

Only physicians and nurse practitioners are specifically identified within the legislation as legally allowed to administer MAiD services to eligible patients. Indemnification from prosecution is extended to those

in allied professions who may be engaged by eligible physicians or nurse practitioners to assist them in the provision of MAiD (e.g. psychologists, social workers, and pharmacists). It is important to remember that as a psychologist, one must be engaged by a qualified medical practitioner or nurse practitioner to participate in MAiD and cannot initiate involvement independently. All registrants should ensure that they do not direct, and cannot be seen to be directing, a patient to consider medical assistance in dying and suicide. Clients who are seeking information about medical assistance in dying should be directed to their physician or nurse practitioner, who can discuss the options available to the patient or assist them to find someone who can help.

Psychologists may be asked to assist in the determination of patient capacity to make the decision to end their life and their freedom from duress in making the decision. Registrants are reminded that it is important to be clear with themselves and others about the legal limits of their participation in MAiD, as well as any personal limits and the limits of their professional competency, which may apply.

In Saskatchewan, MAiD can only be provided after evaluations by two independent medical assessors (as noted above, specified as being either a qualified nurse practitioner or a physician registered in Saskatchewan) have established the requesting patient meets the criteria for medical assistance in dying. During the MAiD process, one or both medical assessors may refer a patient to a psychologist or other qualified practitioner with expertise in capacity assessment if they are unsure the patient has the capacity to give free and informed consent. As with all professional activities, registrants who participate in MAiD requests must maintain compliance with all relevant professional standards and requirements.

Checklist

The following checklist is a non-exhaustive list of considerations for registrants who are considering providing an assessment of an individual who has requested MAiD, to assist the registrant in ensuring they are offering their services consistently with their professional obligations.

- I have the requisite competency to perform a capacity assessment.
- I have ensured that I am aware of, and understand, current MAiD legislation at both the federal and provincial levels of government, and that I am familiar with the forms and reporting requirements of a consultant practitioner in the MAiD process.
- I will ensure that the process I use for obtaining informed consent for any MAiD related assessment includes, at a minimum, the following:
 - a clear explanation of my role,
 - a clear explanation of the assessment process,
 - disclosure regarding risk of harm to self specifically related to the unique situation of the MAiD legislation,
 - an explanation of the limits of confidentiality unique to the situation, including but not limited to:
 - disclosure necessary to access collateral information, including disclosure for the purposes of (i) conducting collateral interviews with involved medical staff, family members, etc., and (ii) reviewing relevant medical information,
 - the identification of all parties who will be consulted for collateral information, and

- the identification of all parties who will have access to the results of my assessment,
 - an explanation of how my assessment results, which will include consideration of collateral information obtained, may be anticipated to be used, and
 - written documentation of the informed consent agreement that is, wherever possible, signed by the client.
- I have appropriately considered the requirements and range of issues in undertaking an interview and possible formal assessment of the individual requesting MAiD, including, but not limited to, considering:
 - the presence of significant cognitive compromise,
 - the presence of affective states that may be influencing the individual's ability to make judgments, and
 - the ability to reason and make decisions regarding their medical situation and their MAiD request, in order to assess whether the individual is able:
 - to understand their illness and the purpose of their request,
 - meaningfully to review options to treatment,
 - to evaluate the risks and benefits of receiving and not receiving treatment, and
 - to evaluate the consequences and risks regarding all decisions relevant to the assessment of their capacity to consent.
- I have considered and assessed the core issues of:
 - the competency of the individual to give informed consent for MAiD,
 - the ability of the individual to make health care decisions for themselves, and
 - the ability of the individual to request MAiD of their own free will.
- I have ensured that my assessment is based on information and techniques that are appropriate, unbiased, and sufficient to address the referral questions.
- I am aware and have considered that, dependent on the individual's specific medical condition, the ability to consent may fluctuate daily.
- I have confirmed the medical facts of the individual's care, including undertaking a thorough review of past treatment care and priorities.
- I have considered the need to review availability of, and compliance to, previous and current treatment options pursued by the individual related to their grievous and irremediable medical condition.
- I will consult with medical personnel as appropriate to ensure my own understanding of the individual's medical condition and treatment options is sufficient to evaluate their capacity to consent.
- I have considered establishing what the patient's family understands, as appropriate.
- I have identified what, if any, external forces/conflicts may be influencing the MAiD decisionmaking.

- I have relied upon the most appropriate and relevant psychometric tools and techniques in the assessment of the individual who is requesting MAiD.
- I have considered the need to assess the individual's understanding of the current MAiD protocol, which includes:
 - two independent witnesses,
 - a specific understanding of the word "independent,"
 - access and eligibility to receive MAiD includes a waiting period of 10 days, and ○ that exceptions may exist.
- I will ensure that the individual understands they have the right to change their mind about a MAiD decision.
- I will appropriately specify any limitations to my opinions.
- I will ensure I thoroughly document my assessment, including the source of the referral and any specific questions posed, my informed consent process, any testing and interviews conducted, all collateral information considered, my findings and opinions and any limitations to my opinions, and my communications regarding my assessment results.