

Medical Assistance in Dying (MAiD) Practice Guideline

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COLLEGE OF
LICENSED PRACTICAL NURSES
OF NEWFOUNDLAND AND LABRADOR
LPNS - A PRACTICAL APPROACH TO QUALITY CARE



The College of Licensed Practical Nurses of Newfoundland and Labrador (CLPNNL) has the legislated responsibility, in accordance with the Licensed Practical Nurses Act (2005), to regulate the practice of Licensed Practical Nurses (LPNs) in Newfoundland and Labrador. The mission of CLPNNL is to regulate licensed practical nurses in the public interest.

USING THIS DOCUMENT

Practice guidelines are documents that outline the LPN's accountability in specific practice contexts. These guidelines reflect relevant legislation and are designed to assist LPNs to understand their responsibilities and legal obligations. This practice guideline will describe the CLPNNL's expectations for LPNs in relation to Medical Assistance in Dying (MAiD).

INTRODUCTION

Legislation regulating the provision of Medical Assistance in Dying (MAiD) (Bill C-14) received Royal Assent on June 17, 2016. Bill C-14 allows for eligible individuals to receive medical assistance in dying. In addition, it establishes safeguards to protect clients and provides protection for health care providers who participate in MAiD within the parameters of the legislation.

On March 17, 2021, Bill C-7 introduced further amendments to the *Criminal Code* in relation to MAiD.

WHAT IS MAiD?

MAiD means (Section 241.1 of the Criminal Code¹):

- (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.

¹ An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying), Assented to June 17, 2016, Bill C – 14. The Criminal Code can be accessed via <http://laws-lois.justice.gc.ca/eng/acts/C-46/FullText.html>



LPNS ROLE IN MAiD

LPNs have a significant role in providing end of life care to clients and their families, whether the process is medically assisted or not. LPNs must have the knowledge, skill, ability, and judgement to provide safe, competent, ethical and compassionate end of life care. According to Section 241.2(7) of the *Criminal Code*, MAiD must be provided with reasonable knowledge, care and skill and in accordance with any applicable provincial laws, rules and standards.

THE CLPNNL PROVIDES THE FOLLOWING GUIDELINES FOR LPNS:

1. LPNs can aid in MAiD under the direction of a medical practitioner or nurse practitioner².
2. If requested, LPNs may support access to accurate and objective information about MAiD to clients so that they may make informed decisions about their care.
3. LPNs must not initiate³ a discussion on MAiD with clients.
4. LPNs must have the knowledge, skill, ability, and judgement to provide safe, competent, ethical and compassionate end of life care.
5. If the LPN has reason to believe that the client does not meet the eligibility criteria, or all mandatory safeguards are not in place, the LPN must immediately discuss this with the client's health care team.
6. LPNs can insert an intravenous line that will be used for the administration of the medication that will cause death.
7. LPNs are **NOT** authorized under any circumstances to administer the substance that causes the death.
8. LPNs can be present to provide end of life nursing care during the administration of the medication that will cause death.
9. LPNs must document their involvement in MAiD in accordance with regulatory body's documentation principles, standards of practice and employer policy.

² In June 2018 the scope of practice for Nurse Practitioners in Newfoundland and Labrador was changed to include providing MAiD. Association of Registered Nurses of Newfoundland and Labrador. (2018). Nurse Practitioners Providing Medical Assistance in Dying (MAiD); St. John's: Author.

³ Criminal Code. (1985). Section 241 (1).



ELIGIBILITY FOR MAiD

Determining eligibility for MAiD is the responsibility of the medical practitioner or nurse practitioner. LPNs should be aware of the criteria but are not permitted to determine the client's eligibility for MAiD. See Appendix A, (starting at Section 241.2) from the *Criminal Code* for information on eligibility for MAiD.

SAFEGUARDS

The *Criminal Code*¹ identifies the safeguards that must be met before an eligible person can receive medical assistance in dying, in situations when natural death is foreseeable, and when natural death is not foreseeable. See Appendix A (starting at Section 241.2(3)) for information on safeguards in relation to MAiD.

INDEPENDENT WITNESSES

The *Criminal Code*¹ describes who may act as an independent witness as well as exceptions to this provision. See Appendix A (starting at Section 241.2(5)) for information on independent witness in relation to MAiD.

CONSCIENTIOUS OBJECTION

The LPN may decline to participate in MAiD if it conflicts with their moral beliefs and values. If the LPN chooses not to participate in MAiD, the LPN must notify the manager immediately so that alternate arrangements for nursing care can be made. The LPN's personal beliefs about MAiD should not be expressed to the client and/or family. The LPN must also continue to provide safe, competent, ethical and compassionate care in a professional, nonjudgmental, and non-discriminatory manner until alternative care arrangements can be made to meet the client's needs or wishes.

SUMMARY

LPNs have a significant role in providing end of life care to clients and their families, whether the process is medically assisted or not. LPNs must have the knowledge, skill, ability and judgement to provide safe, competent, ethical and compassionate end of life care. In the provision of nursing care, LPNs must practice according to applicable legislation, standards of practice and the code of ethics.



APPENDIX A

**Criminal Code (R.S.C., 1985, c. C-46)
Section 241.1 and Section 241.2**

Medical Assistance in Dying

Definitions

241.1 The following definitions apply in this section and in sections 241.2 to 241.4.

medical assistance in dying 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. (*aide médicale à mourir*)

medical practitioner means a person who is entitled to practise medicine under the laws of a province. (*médecin*)

nurse practitioner means a registered nurse who, under the laws of a province, is entitled to practise as a nurse practitioner — or under an equivalent designation — and to autonomously make diagnoses, order and interpret diagnostic tests, prescribe substances and treat patients. (*infirmier praticien*)

pharmacist means a person who is entitled to practise pharmacy under the laws of a province. (*pharmacien*)

2016, c. 3, s. 3

Eligibility for medical assistance in dying

241.2 (1) A person may receive medical assistance in dying only if they meet all of the following criteria:

- (a)** they are eligible — or, but for any applicable minimum period of residence or waiting period, would be 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;
- (d)** they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and



(e) they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.

Grievous and irremediable medical condition

(2) A person has a grievous and irremediable medical condition only if they meet all of the following criteria:

- (a) they have a serious and incurable illness, disease or disability;
- (b) they are in an advanced state of irreversible decline in capability; and
- (c) that illness, disease or disability or that 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) [Repealed, 2021, c. 2, s. 1]

Exclusion

(2.1) For the purposes of paragraph (2)(a), a mental illness is not considered to be an illness, disease or disability.

Safeguards — natural death foreseeable

(3) Subject to subsection (3.2), before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining, the medical practitioner or nurse practitioner must:

- (a) be of the opinion that the person meets all of the criteria set out in subsection (1);
- (b) ensure that the person's request for medical assistance in dying was
 - (i) made in writing and signed and dated by the person or by another person under subsection (4), and
 - (ii) signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;
- (c) be satisfied that the request was signed and dated by the person — or by another person under subsection (4) — before an independent witness who then also signed and dated the request;
- (d) ensure that the person has been informed that they may, at any time and in any manner, withdraw their request;



(e) ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in subsection (1);

(f) be satisfied that they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are independent;

(g) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision; and

(h) immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying.

(i) [Repealed, 2021, c. 2, s. 1]

Safeguards — natural death not foreseeable

(3.1) Before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is not reasonably foreseeable, taking into account all of their medical circumstances, the medical practitioner or nurse practitioner must

(a) be of the opinion that the person meets all of the criteria set out in subsection (1);

(b) ensure that the person's request for medical assistance in dying was

(i) made in writing and signed and dated by the person or by another person under subsection (4), and

(ii) signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;

(c) be satisfied that the request was signed and dated by the person — or by another person under subsection (4) — before an independent witness who then also signed and dated the request;

(d) ensure that the person has been informed that the person may, at any time and in any manner, withdraw their request;

(e) ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in subsection (1);

(e.1) if neither they nor the other medical practitioner or nurse practitioner referred to in paragraph (e) has expertise in the condition that is causing the person's suffering, ensure that they or the medical practitioner or nurse practitioner referred to in paragraph (e) consult with a medical practitioner or nurse practitioner who has that expertise and share the results of that consultation with the other practitioner;

(f) be satisfied that they and the medical practitioner or nurse practitioner referred to in paragraph (e) are independent;



(g) ensure that the person 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 that care;

(h) ensure that they and the medical practitioner or nurse practitioner referred to in paragraph (e) have discussed with the person the reasonable and available means to relieve the person's suffering and they and the medical practitioner or nurse practitioner referred to in paragraph (e) agree with the person that the person has given serious consideration to those means;

(i) ensure that there are at least 90 clear days between the day on which the first assessment under this subsection of whether the person meets the criteria set out in subsection (1) begins and the day on which medical assistance in dying is provided to them or — if the assessments have been completed and they and the medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the loss of the person's capacity to provide consent to receive medical assistance in dying is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;

(j) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision; and

(k) immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying.

Final consent — waiver

(3.2) For the purposes of subsection (3), the medical practitioner or nurse practitioner may administer a substance to a person to cause their death without meeting the requirement set out in paragraph (3)(h) if

(a) before the person loses the capacity to consent to receiving medical assistance in dying,

(i) they met all of the criteria set out in subsection (1) and all other safeguards set out in subsection (3) were met,

(ii) they entered into an arrangement in writing with the medical practitioner or nurse practitioner that the medical practitioner or nurse practitioner would administer a substance to cause their death on a specified day,

(iii) they were informed by the medical practitioner or nurse practitioner 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 medical practitioner or nurse practitioner 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; and
- (d) the substance is administered to the person in accordance with the terms of the arrangement.

For greater certainty

(3.3) For greater certainty, involuntary words, sounds or gestures made in response to contact do not constitute a demonstration of refusal or resistance for the purposes of paragraph (3.2)(c).

Advance consent invalidated

(3.4) Once a person demonstrates, by words, sounds or gestures, in accordance with subsection (3.2), refusal to have the substance administered or resistance to its administration, medical assistance in dying can no longer be provided to them on the basis of the consent given by them under subparagraph (3.2)(a)(iv).

Advance consent — self-administration

(3.5) In the case of a person who loses the capacity to consent to receiving medical assistance in dying after self-administering a substance, provided to them under this section, so as to cause their own death, a medical practitioner or nurse practitioner may administer a substance to cause the death of that person if

- (a) before the person loses the capacity to consent to receiving medical assistance in dying, they and the medical practitioner or nurse practitioner entered into an arrangement in writing providing that the medical practitioner or nurse practitioner 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; and
- (c) the second substance is administered to the person in accordance with the terms of the arrangement.

Unable to sign

(4) If the person requesting medical assistance in dying is unable to sign and date the request, another person — who is at least 18 years of age, who understands the nature of the request for medical assistance in dying and who does not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person’s death — may do so in the person’s presence, on the person’s behalf and under the person’s express direction.



Independent witness

(5) Any person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying may act as an independent witness, except if they

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

Exception

(5.1) Despite paragraphs (5)(c) and (d), a person who provides health care services or personal care as their primary occupation and who is paid to provide that care to the person requesting medical assistance in dying is permitted to act as an independent witness, except for

- (a)** the medical practitioner or nurse practitioner who will provide medical assistance in dying to the person; and
- (b)** the medical practitioner or nurse practitioner who provided an opinion under paragraph (3)(e) or (3.1)(e), as the case may be, in respect of the person.

Independence — medical practitioners and nurse practitioners

(6) The medical practitioner or nurse practitioner providing medical assistance in dying and the medical practitioner or nurse practitioner who provides the opinion referred to in paragraph (3)(e) or (3.1)(e) are independent if they

- (a)** are not a mentor to the other practitioner or responsible for supervising their work;
- (b)** do not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person'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 practitioner or to the person making the request in any other way that would affect their objectivity.



Reasonable knowledge, care and skill

(7) Medical assistance in dying must be provided with reasonable knowledge, care and skill and in accordance with any applicable provincial laws, rules or standards.

Informing pharmacist

(8) The medical practitioner or nurse practitioner who, in providing medical assistance in dying, prescribes or obtains a substance for that purpose must, before any pharmacist dispenses the substance, inform the pharmacist that the substance is intended for that purpose.

Clarification

(9) For greater certainty, nothing in this section compels an individual to provide or assist in providing medical assistance in dying.

2016, c. 3, s. 3

[2021, c. 2, s. 1](#)





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