



## Introduction

In 2016, the Parliament of Canada passed federal legislation that altered the Criminal Code of Canada, enabling eligible Canadians to request medical assistance in dying (MAID).<sup>1,2</sup>

### Only physicians or nurse practitioners can assess a client's eligibility for and provide MAID.<sup>2</sup>

Physiotherapists may find themselves in situations where MAID is discussed. This document is intended to provide facts about MAID, guidance to the profession, and links to additional resources.

## Definitions

The following definition of MAID is found in legislation:

*“Medical assistance in dying means:*

- the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or*
- 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.”<sup>2</sup>*

For the purpose of the legislation:

A **medical practitioner** means “a person who is entitled to practice medicine under the laws of Alberta”, a registered physician.

A **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.”<sup>2</sup>

## Eligibility Criteria

### Eligibility for MAID

*“A person may receive medical assistance in dying only if they meet all of the following criteria:*

- 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;*
- they are at least 18 years of age and capable of making decisions with respect to their health;*
- they have a grievous and irremediable medical condition;*
- they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and*
- 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.”<sup>2</sup>*

### Grievous and irremediable medical condition

*“A person has a grievous and irremediable medical condition only if they meet all of the following criteria:*

- they have a serious and incurable illness, disease or disability;*
- they are in an advanced state of irreversible decline in capability; and*
- 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.”<sup>2</sup>*

## Legislative Amendments (2021)

Amendments to the Criminal Code pertaining to MAID (Bill C-7, 2021) received royal assent on March 17, 2021.<sup>3</sup> These amendments:

- Repeal the prior requirement that a person's natural death be reasonably foreseeable in order for them to be eligible for MAID.
- Repeal requirements for a 10-day period of reflection once a patient requests MAID.
- Create safeguards that must be respected before MAID is provided. The applicable safeguards depend on whether the person's natural death is reasonably foreseeable.
- Create a requirement for a 90-day minimum assessment period when natural death is not foreseeable.\*  
\*In some circumstances, a shorter assessment period is enabled by the legislation.
- Enable provision of MAID to a person whose natural death is reasonably foreseeable and who has lost the capacity to consent, when specific conditions are met.

### MAID and Mental Illness

Bill C-7, 2021 repealed the provisions in the Criminal Code that stipulated that a mental illness is not considered to be an illness, disease, or disability. These criminal code provisions had previously restricted access to MAID for individuals whose sole underlying medical condition is a mental illness.

Access to MAID for individuals whose sole medical condition is a mental illness **was** set to come into effect on March 17, 2023.

**However, in 2023, the Government of Canada moved to delay access until at least March 17, 2024, by passing Bill C-39 which received Royal Assent on March 9, 2023.<sup>4</sup>**

According to the Government of Canada, “the main purpose of this proposed extension is to allow more time to ensure MAID assessors and providers are ready to assess requests for MAID for persons suffering solely from a mental illness in a safe and consistent manner across Canada by the time the proposed extension is over.”<sup>5</sup>

## Who is Ineligible for MAID?

- Individuals whose sole underlying condition is a mental illness are currently ineligible for MAID.
- Advanced requests for MAID are prohibited. This includes patients who don't currently meet eligibility criteria but who wish to make a request now for fear of losing capacity in the future.<sup>6</sup>

## Specific Guidance to Physiotherapists

Physiotherapists do not have the scope of practice and required competencies to assess for or provide MAID.

Physiotherapists are not expected to be expert in the nuances of eligibility and requirements for access to MAID.

Physiotherapists are expected to have a basic awareness of the legislation and to facilitate appropriate referrals to health care providers with the scope of practice and necessary competence to assess for eligibility or provide MAID in instances where a patient asks about MAID.

Physiotherapists are not required to be part of discussions related to MAID if this conflicts with their moral beliefs and values (conscientious objection), however; the physiotherapist does owe a duty of care to their patient and must not allow their personal judgments about a patient's health choices compromise the patient's physiotherapy care. In this circumstance, the requirement is that the physiotherapist refer the patient to the appropriate provider or the Medical Assistance in Dying Care Coordination Service.

If a physiotherapist works in a setting or with a population where a MAID discussion is reasonably foreseeable, or finds themselves in a situation where MAID is discussed, the physiotherapist is advised to:

- Continue providing competent and ethical physiotherapy services to the patient in accordance with their clinical judgment, Standards of Practice, Code of Ethical Conduct and professional obligations.
- Acknowledge any requests for information related to Medical Assistance in Dying in a compassionate way. A patient's request for information is their constitutional right. Physiotherapists support access to accurate and objective information and make appropriate referrals when the client's needs are best addressed by another provider.

Note: physiotherapists should respond to the patient's request but should not initiate conversations about MAID, to avoid any perception of advising or counselling.

- Understand the legislation and that a physiotherapist is not committing an offence under the criminal code if they provide information to a person on the lawful provision of MAID. Providing information is quite different from advising or counselling a patient. Specifically, the Act indicates:

"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."<sup>2</sup>

- If making a referral, refer the patient to their most responsible health-care provider - preferably a physician or nurse practitioner. If the patient does not have a most responsible health-care provider or family physician, refer them to the [Alberta Health Services - Medical Assistance in Dying Care Coordination Service](#).
  - Advise the patient if a referral has been made.
  - Document discussions or referrals in the patient record.
  - Practice and be prepared with your responses.
- Consider your own ethical perspective related to this issue. AHS has developed a [Values Based Self-Assessment](#) that may assist you to identify your position.

## Additional Resources

There are many excellent resources available to support all Albertans including health-care providers who have questions about medical assistance in dying. The links below are comprehensive and are updated as new information is available.

- Alberta Health Services. [Medical Assistance in Dying](#)
- Alberta Health Services. [Medical assistance in dying: Values-based self-assessment tool for health care providers](#)
- Alberta Health Services. [Medical Assistance in Dying Care Coordination Service](#)
- Government of Canada. [Medical Assistance in Dying](#)
- College of Physicians and Surgeons. [Medical Assistance in Dying](#)

## Helpful legislative links

- Government of Canada. [Canada's Medical Assistance in Dying \(MAID\) Law](#)
- Government of Canada. [Criminal Code. Medical Assistance in Dying](#)
- Government of Canada. [An Act to Amend the Criminal Code \(Medical Assistance in Dying\). Bill C-7, 2021](#)
- Government of Canada. [An Act to Amend An Act to Amend the Criminal Code \(Medical Assistance in Dying\). Bill C-39, 2023](#)

## References

1. Government of Canada. Medical Assistance in Dying. Available at <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html#a2>. Accessed February 22, 2023.
2. Government of Canada. Criminal Code. Medical Assistance in Dying. Available at <https://laws-lois.justice.gc.ca/eng/acts/C-46/page-33.html#h-119953> Accessed February 22, 2023.
3. Government of Canada. An Act to Amend the Criminal Code (Medical Assistance in Dying). Bill C-7, 2021. Available at <https://parl.ca/DocumentViewer/en/43-2/bill/C-7/royal-assent> Accessed February 22, 2023.
4. Government of Canada. An Act to Amend An Act to Amend the Criminal Code (Medical Assistance in Dying). Bill C-39. 2023. Available at <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-39/first-reading> Accessed on April 5, 2023.
5. Department of Justice, Government of Canada. Delay of Eligibility for Medical Assistance in Dying for Persons Suffering Solely from Mental Illness Proposed by Ministers of Justice and Health. Available at <https://www.canada.ca/en/department-justice/news/2023/02/delay-of-eligibility-for-medical-assistance-in-dying-for-persons-suffering-solely-from-mental-illness-proposed-by-ministers-of-justice-and-health.html> Accessed April 5, 2023.
6. College of Physicians and Surgeons. Advice to the Profession: Medical Assistance in Dying. Available at [https://cpsa.ca/wp-content/uploads/2020/06/AP\\_Medical-Assistance-in-Dying.pdf](https://cpsa.ca/wp-content/uploads/2020/06/AP_Medical-Assistance-in-Dying.pdf) Accessed February 22, 2023.

College of Physiotherapists of Alberta  
Contact us for more  
information on this or other practice guidelines.

780.438.0338 | 1.800.291.2782  
info@cpta.ab.ca  
www.cpta.ab.ca