

ADVISORY STATEMENT

REVISED: April 2024

Medical Assistance in Dying (MAiD): Considerations for Occupational Therapists

Occupational therapists practise within the scope of the profession, with knowledge of, and adherence to, national and provincial legislation, regulations, standards of practice and policies relevant to the practice of occupational therapy — COTBC Code of Ethics (p. 4)

Purpose

This advisory statement provides an overview of medical assistance in dying (MAiD), including legal and ethical considerations for occupational therapy practice in British Columbia.

Medical Assistance in Dying

Background

MAiD is defined as “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” (Government of Canada, 2016).

MAiD was declared legal in Canada on June 17, 2016, after Bill C-14 enacted amendments to the [Criminal Code of Canada](#). The changes to the *Criminal Code* exempt health care professionals, including occupational therapists, from criminal liability where MAiD is legally performed, as stated in c. C-46: “241 (5.1) 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” (*Criminal Code*, 1985, c. C-46).

The law was revised effective March 17, 2021, after Bill C-7 enacted amendments to the *Criminal Code* to modify MAiD eligibility criteria. The law does not require a person’s natural death to be reasonably foreseeable.

On February 29, 2024, Bill C-62 came into effect, temporarily postponing the exclusion of eligibility for persons whose sole underlying medical condition is a mental illness for an additional period of three years to March 17, 2027.

The Parliamentary Special Joint Committee on Medical Assistance in Dying is in the process of reviewing the applicability of MAiD Legislation for mature minors, advance requests, palliative care and the protection of Canadians living with disabilities.

Eligibility Criteria

Persons who wish to receive MAiD must meet all the following criteria as listed on the Request for Medical Assistance in Dying Application Form:

1. Be 18 years old or older and have decision-making capacity regarding their health.
2. Be eligible for publicly funded health care services by a government in Canada.
3. Make a voluntary request that is not the result of external pressure.
4. Give informed consent to receive MAiD, meaning that the person has consented to receiving MAiD after they have received all information needed to make this decision.
5. Have a serious and incurable illness, disease or disability (Note: persons whose only medical condition is a mental illness, and who otherwise meet all eligibility criteria, will not be eligible for MAiD until March 17, 2027).
6. Be in an advanced state of irreversible decline in capability.
7. Have enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable.

Only a person who can directly give consent can be provided MAiD at this time. Consent cannot be provided through an alternative or substitute decision maker or a personal advance directive.

Documentation Requirements

In British Columbia, the Ministry of Health requires that the MAiD Request for Medical Assistance in Dying form be completed by the person requesting MAiD, or by their proxy under the person's express direction if the person cannot sign the form physically. The form is currently available only in English. A professional translator must also sign the form if language translation services are required. The MAiD Request form requires one independent witness, who must be at least 18 years old and understand the nature of the request for MAiD, to act as a witness for a person's request for MAiD. A witness is not considered independent if they meet any of the following criteria:

- 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 the person's death;
- 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 the person resides;
- are directly involved in providing health care services to the requestor*
- are directly provide personal care to the requestor*

* Note: A person who provides health care services or personal care as their primary occupation and who is paid to provide that care to the requestor is permitted to act as an independent witness so long as they are not involved in the assessment or provision of MAiD to the requestor.

As mentioned above, if a person cannot physically sign their Request for MAiD Form, a proxy can act on their behalf under the person's express direction. The proxy must meet the following criteria:

- cannot be the independent witness;
- must be at least 18 years of age and understand the nature of the request for MAiD;

- must not know or believe that they are a beneficiary in the person's will or a recipient of financial or other material benefit resulting from the person's death; and
- must sign the form in the presence of the person requesting MAiD and the independent witness.

All written and verbal requests for MAiD and a discussion summary must be documented in the person's medical record.

Eligibility Assessments

Once a person requests MAiD, their eligibility for medical assistance in dying must be assessed by a minimum of two medical practitioners (doctors or nurse practitioners) who will consider all the person's medical circumstances.

Both medical assessors must be satisfied that the person requesting MAiD is mentally capable of making an informed decision at the time of the request and throughout the process. A consultation with a third doctor or nurse practitioner that has expertise in the condition causing the person's suffering may also be required.

Considerations for the Roles and Responsibilities of Occupational Therapists in MAiD

Contributing to Eligibility Assessments

Occupational therapists offer cognitive screening, assessment, and intervention as standard clinical practice when there are concerns about client function or occupational performance. By evaluating the client's cognitive strengths and limitations in the context of performing everyday life activities, occupational therapists can identify strategies and adapt the environment to enable client participation.

Given the complexity of the process of assessing capacity to consent in relation to MAiD requests, medical assessors may ask an occupational therapist for input regarding a client's cognitive status when considering a client's capability to consent to MAiD. Occupational therapists are advised to participate in any employer-mandated and recommended educational opportunities and complete self-directed learning to maintain or enhance competence in this clinical practice area.

Acting as an Independent Witness or Proxy

Occupational therapists registered with the College of Occupational Therapists of British Columbia are permitted to act as a witness for a client who is completing the MAiD Request for Medical Assistance in Dying Application Form. They may also act as a proxy to sign and date the Patient Request Record form if the client is physically unable to do so.

Occupational therapists acting as a witness on the MAiD Patient Request Record form must meet the specified requirements. Occupational therapists should always confirm current provincial requirements and seek clarification from their applicable Health Authority MAiD Care Coordination Centre before acting as an independent witness or proxy, to ensure adherence to legislative requirements and employer policies.

Ensuring Individual Competence

Occupational therapists are obligated to “practise within the scope of the profession, with knowledge of, and adherence to, national and provincial legislation, regulations, standards of practice and policies relevant to the practice of occupational therapy” (COTBC Code of Ethics, 2006, p. 4) as they apply to MAiD. Occupational therapists should be familiar with policies and procedures related to MAiD relevant to their employer, health authority, facility, and care home. They need to be aware to direct clients seeking medical assistance in dying to their doctor, nurse practitioner or local health authority's MAiD Care Coordination service.

Providing End-of-Life Care

Occupational therapists work across the continuum of the lifespan. This includes providing occupational therapy services for clients who are receiving end-of-life care. Occupational therapists provide client-centred, culturally safe services that can enable individuals to access their environment, relieve discomfort, maintain important relationships, make choices, create meaningful memories, preserve a sense of purpose, and participate in activities to empower a sense of self-efficacy and control during the dying process. Occupational therapists also need to be cognizant of the interdependence of relationships with clients and caregivers providing end-of-life care. Caregivers may require support with respect to strategies for providing care and may require further support with grief and bereavement during the palliative care and MAiD process. When working with clients who are receiving end-of-life care, occupational therapists must continue to adhere to the standards for consent, professional boundaries, managing client information, and supervising occupational therapist assistants.

Conscientious Objection and Acting Ethically

Occupational therapists are expected to adhere to the College's Code of Ethics. This includes treating clients with dignity, demonstrating respect for their autonomy, and remaining non-judgemental in interactions with clients, clients' families, and other care providers.

Occupational therapists may elect not to participate or aid in the provision of MAiD on the grounds of conscience or religion. Occupational therapists who have a conscientious objection to aiding in the provision of assisted death must do so in a transparent, non-discriminatory manner that meets their ethical standards and practice obligations.

Occupational therapists who experience conscientious objection are advised to do the following:

- notify their immediate manager and seek employer support,
- not withhold information or impede their clients' access to MAiD,
- direct clients to available MAiD resources and obtain consent to refer the client to an alternative service provider who will address the client's MAiD request, and
- continue to provide other occupational therapy service components not directly related to the request for MAiD until care has been successfully transferred to another occupational therapist or care provider.

At this time, not every health facility must provide MAiD. If an occupational therapist works for an employer that declines to provide MAiD on conscientious or religious grounds, the occupational

therapist should be familiar with relevant organizational resources that enable clients to access information regarding their MAiD options.

SUMMARY

This advisory statement provides an overview of Medical Assistance in Dying (MAiD), based on legislative changes related to client access to MAiD. If there are discrepancies between this advisory statement and the legislation, the legislation will supersede information provided in this advisory statement. Occupational Therapists need to be clear on their role if asked to act as an independent witness or a proxy for the client's Request for MAiD Form. Occupational therapists who work in end-of-life care should confirm current provincial requirements and seek clarification from their applicable Health Authority MAiD Care Coordination Service and be familiar with their employer's policies and procedures related to MAiD.

MAiD Resources

[British Columbia Bereavement Helpline](#)

[Dying with Dignity Canada](#)

References

ACOTRO, ACOTUP & CAOT. (2021). *Competencies for occupational therapists in Canada*.

<https://cotbc.org/wp-content/uploads/Competencies-for-Occupational-Therapists-in-Canada-2021-Final-EN-HiRes.pdf>

American Journal of Occupational Therapy, November/December 2023, Vol. 77, Suppl.3. AOTA Position Statement: *End-of-Life Care and the Occupational Therapy Role*.

Bill C-7: An Act to Amend the Criminal Code (Medical Assistance in Dying). (2021). Royal Assent March 17, 2021, 43rd Parliament, 2nd session. <https://www.parl.ca/DocumentViewer/en/43-2/bill/C-7/royal-assent>

Bill C-14: An Act to Amend the Criminal Code and to Make Related Amendments to Other Acts (Medical Assistance in Dying). (2016). Royal Assent June 17, 2016, 42nd Parliament, 1st session. <https://www.parl.ca/DocumentViewer/en/42-1/bill/C-14/royal-assent>

Bill C-62: An Act to amend the Criminal Code (Medical Assistance in Dying), Royal Assent February 29, 2024, 44th Parliament, 1st session. <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-62/royal-assent>

British Columbia Ministry of Health. (n.d.). *Medical assistance in dying*.

<https://www2.gov.bc.ca/gov/content/health/accessing-health-care/home-community-care/care-options-and-cost/end-of-life-care/medical-assistance-in-dying>

British Columbia Ministry of Health. (n.d.). *Medical assistance in dying - Information for health care providers*. <https://www2.gov.bc.ca/gov/content/health/accessing-health-care/home-community-care/care-options-and-cost/end-of-life-care/medical-assistance-in-dying/information-for-providers>

British Columbian Ministry of Health Medical Assistance in Dying Request Form

<https://www2.gov.bc.ca/assets/gov/health/forms/1632fil.pdf>

https://www2.gov.bc.ca/assets/gov/health/forms/1632_instructions.pdf

Brooks, L. (2019). Health care provider experiences of and perspectives on medical assistance in dying: A scoping review of qualitative studies. *Canadian Journal on Aging, 38*(3), 384–396.

Canadian Association of Occupational Therapists. (2017). *Position statement: Occupational therapy and end-of-life care*. https://caot.ca/document/6130/PS_EndofLife.pdf

College of Occupational Therapists of British Columbia. (2006). *Code of Ethics*. https://cotbc.org/wp-content/uploads/Code_of_Ethics.pdf

College of Physicians and Surgeons of British Columbia. (2021). *Practice standard: Medical assistance in dying*. <https://www.cpsbc.ca/files/pdf/PSG-Medical-Assistance-in-Dying.pdf>

Council of Canadian Academies Expert Panel Working Group on Advance Requests for MAID. (2018). *The state of knowledge on advance requests for medical assistance in dying*. Council of Canadian Academies. <https://cca-reports.ca/wp-content/uploads/2019/02/The-State-of-Knowledge-on-Advance-Requests-for-Medical-Assistance-in-Dying.pdf>

Criminal Code of Canada, Revised Statutes of Canada (1985, c. C-46). Medical Assistance in Dying <https://laws-lois.justice.gc.ca/eng/acts/C-46/page-36.html#h-119953>

Freedom of Information and Protection of Privacy Act, Revised Statutes of British Columbia (1996, c. 165). https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96165_00

Government of Canada: *Options and Decision-Making at End of Life*

<https://www.canada.ca/en/health-canada/services/health-services-benefits/palliative-care/preparing-deciding.html#s3>

Hales, B., Bean, S., Isenberg-Grzeda, E., Ford, B., & Selby, D. (2019). Improving the Medical Assistance in Dying (MAID) process: A qualitative study of family caregiver perspectives. *Palliative and Supportive Care, 17*(5), 590–595.

Nuhn, A., Holmes, S., Kelly, M., Just, A., Shaw, J., & Wiebe, E. (2018). Experiences and perspectives of people who pursued medical assistance in dying. *Canadian Family Physician, 64*(9), e380–e386. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6135118/pdf/064e380.pdf>

Reel, K., Hewitt, K., & Drolet, M.J. (n.d.). *Report on the Professional Issue Forum on medical assistance in dying (MAiD) and suicide prevention: Navigating potential professional and ethical tensions*. Canadian Association of Occupational Therapists. <https://caot.in1touch.org/document/6643/2018%20MAiD%20and%20Suicide%20Prevention%20Report.pdf>

Report of the Special Joint Committee on Medical Assistance in Dying, February 2023, 44th Parliament, 1st Session: *Medical Assistance in Dying in Canada: Choices for Canadians*, <https://www.parl.ca/Content/Committee/441/AMAD/Reports/RP12234766/amadrp02/amadrp02-e.pdf>

Vancouver Coastal Health Authority and Providence Health Care. (2018). *Cognitive evaluation and intervention guideline*. <https://shop.healthcarebc.ca/PHCVCHDSTs/BD-00-07-40018.pdf>

Acknowledgements

COTBC thanks subject matter experts who shared their time and expertise and helped inform the development of this advisory statement.

Advisory statements are published by the College of Occupational Therapists of British Columbia to increase registrants' awareness of important issues relevant to the practice of occupational therapy.