



Frequently Asked Question

Physician-Assisted Dying (PAD)

June 13, 2016

What is the legal context for PAD?

In February of 2015 the Supreme Court of Canada rendered the *Carter*¹ decision which removed the legal barrier to physician assisted dying (PAD) in the Criminal Code. Direction from the Court stipulated that the decision was to come into effect on February 6, 2016, allowing federal, provincial and territorial governments to use the intervening year to establish how PAD would be implemented.

Work toward the development of new legislation made little progress in the immediate period following the *Carter* decision. The Conservative government created a three-member panel (the External Panel on Legislative Responses to Carter) in July of 2015 to consult Canadians and stakeholders. However, their work was impeded by the federal election in the fall of 2015 and they did not submit a report to the new Liberal government until December².

In January 2016, with a fast-approaching deadline looming and no definitive progress on proposed legislation, the Liberal government petitioned the Supreme Court for a six month extension to allow for additional time to craft legislation. After deliberation, the Court agreed to extend the deadline for four months but created an exemption allowing for appeal to a judge if a person wanted access to PAD earlier. To assist in the development of a federal response the government appointed a special joint parliamentary committee to explore the literature, existing models of physician assisted dying and consult with interested parties. The committee published *Medical Assistance in Dying: A Patient-Centered Approach*³ in February 2016.

On April 14, 2016 the federal government introduced Bill C-14 *An Act to amend the Criminal Code and to make related amendments to other Acts* (MAID)⁴. This legislation proposed allowing physicians and nurse practitioners the right to provide medical assistance in dying to eligible adults and provided protection for those assisting a physician or nurse practitioner in the provision of such. This legislation was not passed before June 6, 2016 and therefore the *Carter* decision takes effect.

What does the *Carter* decision say about PAD?

The *Carter* decision creates an exemption to criminal prosecution for physicians who provide physician-assisted death for a competent adult person who:

¹ <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>

² <http://www.justice.gc.ca/eng/rp-pr/other-autre/pad-amm/pad.pdf>

³ <https://assets.documentcloud.org/documents/2721231/Report-of-the-Special-Joint-Committee-on.pdf>

⁴ <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=8183660&Language=E&Mode=1>



1. Clearly consents to the termination of life, and
2. Has a grievous and irremediable medical condition (including an illness, disease, or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

This exemption **does not extend** to registered nurses (RNs) and nurses practitioners (NPs).

What direction has the NB Office of the Attorney General provided regarding PAD?

On June 13, the NB Office of the Attorney General issued a directive to clarify that those that deliver PAD, or assist in delivering PAD, will not be prosecuted, provided that PAD is within the limitations set by the *Carter* decision.⁵ This directive will remain in effect until such time as the federal government enacts legislation to amend the Criminal Code and provides protection for RNs and NPs who assist a physician in the provision of PAD.

What is NANB's guidance to RNs and NPs?

Nurses have a professional obligation to provide safe, competent, ethical and compassionate nursing care and are often the first health care professional with whom clients discuss end-of-life treatment decisions. If clients ask questions about PAD, RNs and NPs should compassionately acknowledge and answer questions and/or provide access to other sources of information. As well they should inform the client their physician will be notified so the client can request more information and continue exploring the option of PAD.

At the current time NPs cannot manage or lead assessments, discussions or treatment related to assisted death – PAD must be under the direction of a physician.

What is the role of RNs and NPs if a client chooses PAD?

In the event that a client proceeds with PAD then RNs and NPs can **assist** with the procedure under the direction of a physician, however, this **does not** include the administration of medication that causes death. Prior to assisting with PAD RNs and NPs must:

- ensure that they are satisfied that the parameters for PAD outlined in the *Carter* decision have been met.
- ensure they have the competency to undertake assistive tasks (e.g. start an IV)
- document their involvement in accordance with the *Standards for Documentation*

It is suggested that nurses being asked to assist a physician in the provision of PAD contact NANB for clarification of their role and seek advice from the Canadian Nurses Protective Society.

⁵ [http://www2.gnb.ca/content/dam/gnb/Departments/ag-pg/PDF/en/PublicProsecutionOperationalManual/Policies/Physician-AssistedDeath\(PAD\).pdf](http://www2.gnb.ca/content/dam/gnb/Departments/ag-pg/PDF/en/PublicProsecutionOperationalManual/Policies/Physician-AssistedDeath(PAD).pdf)



Is it mandatory to care for clients seeking PAD?

All nurses are accountable for providing safe, competent and ethical nursing care and will be expected to provide care for clients seeking PAD in accordance with the *Standards of Practice for Registered Nurses*, the *Standards for the Practice of Primary Health Care Nurse Practitioners*, and the *Standards for the Therapeutic Nurse-Client Relationship*.

It is recognized that some nurses' beliefs and ethical value system will prohibit their participation in the care of clients seeking PAD, and NANB upholds a nurse's right to conscientiously object to participate if this is the case. As is stated in the *Code of Ethics for Registered Nurses*:

If nursing care is requested that is in conflict with the nurse's moral beliefs and values but in keeping with professional practice, the nurse provides safe, compassionate, competent and ethical care until alternative care arrangements are in place to meet the person's needs or desires. If nurses can anticipate a conflict with their conscience, they have an obligation to notify their employers or, if the nurse is self-employed, persons receiving care in advance so that alternative arrangements can be made. (Code, G7)

Resources:

Standards of Practice for Registered Nurses <http://www.nanb.nb.ca/media/resource/NANB-StandardsOfPractice-RegisteredNurses-2012-E.pdf>

Standards for the Practice of Primary Health Care Nurse Practitioners
<http://www.nanb.nb.ca/media/resource/NANB-NPStandards-E-2016-05.pdf>

Standards for the Therapeutic Nurse-Client Relationship <http://www.nanb.nb.ca/media/resource/NANB-StandardsNurseClientRelation-E-2015-10.pdf>

Code of Ethics for Registered Nurses <http://www.nanb.nb.ca/media/resource/CNA-CodeOfEthics-E.pdf>

Standards for Documentation <http://www.nanb.nb.ca/media/resource/NANB-StandardsFor-Documentation-E.pdf>