

MEDICAL ASSISTANCE IN DYING

*Guidance to
Pharmacists & Pharmacy Technicians*



**Ontario College
of Pharmacists**

Putting patients first since 1871

UPDATED ON: June 27, 2016

to reflect federal amendments to the Criminal Code of Canada (June 17, 2016)

to include circumstances to which medical assistance in dying is permitted.

Purpose

This guidance is intended to assist pharmacy professionals to comply with legal obligations and professional expectations with respect to medical assistance in dying (MAiD) as outlined in federal and provincial legislation, the [Standards of Practice](#), [Code of Ethics](#) and College policies and guidelines.

Background

Assisting with death has historically been considered a crime under the Criminal Code. In the context of the *Carter v. Canada*¹ decision, the Supreme Court of Canada (SCC) found that this absolute prohibition violated an individual's *Charter* right to life, liberty and security of person. Accordingly, the SCC ruled that the criminal law must permit some form of MAiD (referred to as 'physician-assisted death' by the SCC).

The SCC suspended its decision to allow federal and provincial governments time to develop a framework to support the provision of MAiD. On June 17, 2016 the federal government enacted amendments to the *Criminal Code of Canada* (the "Criminal Code") to include circumstances under which MAiD is permitted.

Subsequent to the SCC decision, the College of Physicians and Surgeons of Ontario has released a [Policy on Medical Assistance in Dying](#) for physicians, and the College of Nurses of Ontario has released a [Guidance on Nurses' Role in Medical Assistance in Dying](#). The Ontario College of Pharmacists guidance document is aligned to these documents.

Definitions

Medical Assistance in Dying: In accordance with federal legislation, medical assistance in dying includes circumstances where a medical practitioner or nurse practitioner, at an individual's request: (a) administers a substance that causes an individual's death; or (b) prescribes a substance for an individual to self-administer to cause their own death.

¹ *Carter v. Canada* (Attorney General), 2015 SCC 5.

Medical Practitioner: means a person who is entitled to practise medicine under the laws of a province.

Nurse Practitioner: A registered nurse who, under the laws of Ontario, is entitled to practise as a nurse practitioner, and autonomously make diagnoses, order and interpret diagnostic tests, prescribe substances, and treat patients.

Pharmacist: means a person who is entitled to practise pharmacy under the laws of a province.

Criteria for Medical Assistance in Dying

In accordance with federal legislation, for an individual to access MAiD, he or she must:

1. Be eligible for publicly funded health-care services in Canada;
2. Be at least 18 years of age and capable of making decisions with respect to their health;
3. Have a grievous and irremediable medical condition (including an illness, disease or disability) which means the patient('s):
 - Has a serious and incurable illness, disease or disability, and
 - Is in an advanced state of irreversible decline in capability, and
 - Is enduring physical or psychological suffering, caused by the illness, disease or disability or that state of decline, that is intolerable to the person and that cannot be relieved under conditions that they consider acceptable, and
 - Natural death has become reasonably foreseeable;
4. Make a voluntary request for medical assistance in dying that is not the result of external pressure; and
5. Provide informed consent to receive medical assistance in dying.

Conscientious Objection

The federal legislation does not address how conscientious objections of healthcare providers are to be managed. Pharmacists who have a conscientious objection to MAiD are not obliged to prepare and dispense prescriptions for this purpose. Where a pharmacist has a conscientious objection to providing MAiD he or she is required to comply with the College's expectations for conscientious objections in general, as set out in the [Code of Ethics](#) and [Professional Obligations when Declining to Provide a Pharmacy Product or Service due to Conscience or Religion Guideline](#).

In circumstances where a pharmacist declines to assist in MAiD on the basis of a conscientious objection, he or she must provide the patient with an effective referral to a non-objecting alternate provider where the patient can receive the desired services in a timely manner.

Guidance when Aiding in Medical Assistance in Dying

Pharmacists should not perform any activity that is, or may imply that they are, leading MAiD.

Pharmacists and pharmacy technicians are exempted from criminal liability when dispensing a prescription that is written by a medical or nurse practitioner in providing MAiD.

1. Patient inquiries about Medical Assistance in Dying

Pharmacists and pharmacy technicians can support patients by providing information about the process for initiating a request for MAiD.

Pharmacists and pharmacy technicians should refer all inquiries, discussions, and engagements with individuals, patients, families and/or groups to a medical or nurse practitioner.

It remains a crime to provide a person with information that would enable he or she to take direct action to end his or her life in an unlawful manner, such as information on where to find certain deadly chemicals that could be ingested to cause death. It would also remain a crime for anyone to encourage, counsel, advise, recommend, or in any way try to influence a person to seek to end his or her life.

2. Assessment of the patient

Pharmacists are **not** responsible for assessing whether a patient meets eligibility criteria, or documenting or collecting a patient's consent or written request for MAiD. The medical or nurse practitioner providing care to the patient is responsible for ensuring that the patient's written request meets legislative requirements, and documenting the patient's initial and final consent prior to administering MAiD.

The pharmacist must be confident that the medical or nurse practitioner has affirmed that each of the eligibility criteria and safeguards are met. The pharmacist does not need to confirm the specific details of how the assessment was conducted or documentation was collected. A pharmacist only needs to confirm that a medical or nurse practitioner declares that the patient, according to legislation, meets eligibility criteria, has provided informed consent and has been independently assessed by a second medical or nurse practitioner. Where a medical or nurse practitioner has not indicated that all criteria and safeguards have been met, the pharmacist should follow-up with the medical or nurse practitioner.

Pharmacists are encouraged to engage in a collaborative process with the medical or nurse practitioner as early as possible, once they are aware that the patient has initiated a request for MAiD. Collaboration at an early stage is required to ensure that patients who have met the criteria and are eligible for MAiD are able to access required medications and supplies in a timely manner.

The pharmacist should discuss the following with the medical or nurse practitioner:

- The protocol selected;
- The scheduled time for the administration of medical aid in dying;
- The time required to prepare the pharmaceutical agent(s);
- Whether there is a specific date after which the prescription should not be dispensed;
- How to complete appropriate documentation;
- Procedures for returning unused drugs to the pharmacy for safe disposal; and
- Any other relevant information required by the pharmacist.

3. Receiving a prescription for medical assistance in dying

The medical or nurse practitioner is required to inform the pharmacist of the indication when a prescription is intended for MAiD. The substance to be administered should be dispensed as close as possible to the date on which MAiD will be provided.

Standardized Prescription Protocols have been developed for the purpose of MAiD. Medical and nurse practitioners will exercise their professional judgement to determine the appropriate drug protocol for the patient based on individual circumstances and drug availability.

A pharmacist should not adapt a prescription intended to be utilized for MAiD. Should he or she determine a need to adjust the treatment, it should be brought to the attention of the prescriber to allow the prescriber to make the decision.

4. Dispensing a prescription for medical assistance in dying

The intent of federal legislation is that MAiD will be administered shortly after a patient receives a prescription. Where a patient presents a prescription to a pharmacist or pharmacy technician, and a considerable time has passed since the provision of the prescription, the pharmacist may decide to consult the prescriber prior to dispensing.

Pharmacists must not dispense drugs intended for MAiD for “Office Use” by the physician. While it is appropriate to provide the prescription directly to the prescribing medical or nurse practitioner, the medications **MUST** only be dispensed under that patient’s name and appropriately recorded in the patient record.

Pharmacists are expected to practice in accordance with the [Standards of Practice](#) with respect to dispensing a prescription when providing MAiD. It is important that the pharmacist counsel the individual picking up the medications regarding the stability, storage requirements and any other details supporting the efficacy and administration of the preparations. Pharmacists are also encouraged to discuss appropriate disposal of unused medications with the patient or his/her agent.

5. Documentation and reporting of medical assistance in dying

Pharmacists are required to document appropriate information on the patient record according to the College’s [Documentation Guidelines](#), including information such as indication and pertinent patient (or agent) dialogue.

The federal government has indicated its intention to create a formal oversight and reporting body that would collect data on MAiD. Regulations outlining the types of data that will be collected and by whom, have not been developed to date.

Until such regulations are in force, the federal government has committed to working collaboratively with the provinces and territories on a protocol for the collection of MAiD data. The College will keep its members abreast of any developments in this regard.

Appendix A: Ethical Considerations

The [Code of Ethics](#) and the [Professional Obligations when Declining to Provide a Pharmacy Product or Service due to Conscience or Religion Guideline](#) must be considered holistically and in context with all ethical principles and standards. When providing services to support MAiD pursuant to the consent of a patient and the prescription of a medical or nurse practitioner, the following principles and standards are particularly relevant:

Principle 1: Beneficence

Pharmacists and Pharmacy Technicians serve and benefit the patient and society's best interests.

- Ensure the primary focus at all times is the well-being and best interests of the patient.
- Apply therapeutic judgment in order to assess the appropriateness of current or proposed medication therapy given individual patient circumstances.
- Provide patients with the relevant and sufficient information they need in order to make more informed decisions about their healthcare.
- Participate in consultation, communication and documentation with colleagues or other healthcare professionals to facilitate quality patient care.

Principle 2: Non-Maleficence

Pharmacists and Pharmacy Technicians refrain from participating in behaviours that may harm patients or society and whenever possible prevent harm from occurring.

- Practice only within their scope of practice, recognize their limitations and when necessary, refer the patient to a colleague or other healthcare professional whose expertise can best address the patient's needs.
- In circumstances where they are unwilling to provide a product or service to a patient on the basis of moral or religious grounds, ensure the following:
 - i. that the member does not directly convey their conscientious objection to the patient;
 - ii. that the member participates in a system designed to respect the patient's right to receive products and services requested;
 - iii. that there is an alternative provider available to enable the patient to obtain the requested product or service, which minimizes inconvenience or suffering to the patient.
- Assume responsibility for making reasonable efforts to ensure continuity of patient care when they are unable or unwilling to provide requested pharmacy services.

Principle 3: Respect for Persons

Pharmacists and Pharmacy Technicians respect their patients as self-governing decision-makers in their healthcare and treat all patients fairly and equitably.

- Respect and value the autonomy and dignity of patients.
- Practice patient-centered care and treat patients with sensitivity, caring, consideration and respect.
- Listen to patients to seek understanding of their needs, values and desired health goals and respect their right to be an active decision-maker in their healthcare.
- Respect the patient’s values, customs and beliefs and their right to hold these as self-governing decision-makers.

Principle 4: Accountability

Pharmacists and Pharmacy Technicians maintain the public trust by ensuring that they act in the best interest of their patients and society.

- Assume responsibility for all decisions and actions they undertake in professional practice, including failure to make a decision and take appropriate action when necessary.
- Ensure that all professional documentation is accurately maintained in accordance with practice standards.