Medical Assistance in Dying Guideline

Effective: November 3, 2021
Introduction

Federal legislation regarding medical assistance in dying (MAiD) first came into effect June 17, 2016. Bill C-14 includes changes to the *Criminal Code*, providing an exemption from culpable homicide for Nurse Practitioners (NP) and others involved in MAiD. “Medical assistance in dying must be provided with reasonable knowledge, care and skill and in accordance with any applicable laws, rules or standards” (*Criminal Code, 1985, 242.2[7]*). When MAiD first came into effect, only those persons whose natural death was “reasonably foreseeable” were eligible for the provision of MAiD.

Following feedback from Canadians, experts, practitioners, stakeholders, Indigenous groups, provinces and territories, Bill C-7 came into effect on March 17, 2021. The revised law expands eligibility requirements, and changes some of the safeguards and reporting requirements. The revised law no longer requires that a client’s natural death be reasonably foreseeable. This document provides guidance to Registered Nurses (RN) and NPs who are involved with MAiD.

Regulatory Authority

*The Registered Nurses Act, 1988* (the “Act”) provides the legislative authority for RN practice in Saskatchewan. Section 15(2) of the Act enables the CRNS to create bylaws that:

- prescribe the powers and procedures of the Council;
- provide for a code of professional ethics;
- set the standards for professional conduct, competency and proficiency of RNs and NPs; and,
- further specify categories of practice and the rights and privileges of those categories.

CRNS Bylaw IV details the privileges and obligations of practicing members. Obligations of practicing members include adhering to the *Code of Ethics, Registered Nurse Practice Standards* and *Registered Nurse Entry-level Competencies* that are incorporated by reference in Bylaws XIV and XV, respectively, which informs the standards for professional conduct, competency and proficiency of registered nurses.

Through the authority in the Act, Council creates and applies policies and procedures to approve standards and guidelines that set the expectations for registered nursing practice in Saskatchewan. The purpose of this guideline is to provide information to support the application of the standards and competencies for medical assistance in dying (MAiD).

Standards and Entry-Level Competencies that most specifically apply to MAiD include:

*Nurse Practitioner Practice Standards*, (SRNA, 2017)

Standard 4 – Service to the Public

23. Collaborate with clients to coordinate care and set priorities for the overall coordination of care.

24. Collaborate with interprofessional health care providers for optimal client outcomes.
**Nurse Practitioner Entry-level Competencies, (SRNA, 2017)**

B. Assessment

1. Establish the reason for the client encounter
   a. Identify urgent, emergent, and life-threatening situations.
   e. Establish priorities of client encounter.

E: Collaboration, Consultation, and Referral

3. Identify need for consultation and/or referral (e.g., to confirm a diagnosis, to augment a plan of care, to assume care when a client’s health condition is beyond the nurse practitioner’s individual competence or legal scope of practice).

4. Initiate a consultation and/or referral, specifying relevant information (e.g., client history, assessment findings, diagnosis) and expectations.

**Registered Nurse Practice Standards, (SRNA, 2019)**

Standard 1: Professional Responsibility and Accountability

1. Being accountable and accepting responsibility for their own actions and decisions.

Standard 3: Ethical Practice


**Registered Nurse Entry-Level Competencies, (SRNA, 2019)**

Clinician

1. Provides safe, ethical, competent, compassionate, client-centred and evidence informed nursing care across the lifespan in response to client needs.

   1.15 Incorporates knowledge about ethical, legal, and regulatory implications of medical assistance in dying (MAiD) when providing nursing care.

3. Communicator

   3.3 Uses evidence-informed communication skills to build trusting, compassionate and therapeutic relationships with clients.

7. Advocate

   7.12 Assesses client’s understanding of informed consent and implements actions when client is unable to provide informed consent.

**MAiD and the Criminal Code**

**Bill C-14**

On June 17, 2016, Royal Assent was given to Bill C-14 which created an exemption from culpable homicide for medical practitioners and NPs to provide MAiD. Additionally, there are exemptions for pharmacists and other persons who assist in MAiD. The Bill identified eligibility criteria and the required safeguards for the provision of MAiD.
Bill C-7

Bill C-7, which received Royal Assent on March 17, 2021:

- increases accessibility to MAiD for persons whose death is not reasonably foreseeable and have a grievous and irremediable medical condition;
- allows for final consent to be obtained by Advanced Directive in situations where the person’s death is reasonably foreseeable, and they are at risk of losing capacity and for decision making;
- requires that only one independent witness sign the written MAiD request;
- an independent witness can now be a professional personal or health care worker, this includes RNs and NPs; and,
- 10-day reflection period for a reasonably foreseeable death has been removed.

Medical assistance in dying defined

Medical assistance in dying means:

241.1 (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. (Criminal Code, 1985)

While it is permitted to provide information about MAiD, it remains a criminal offense to counsel or aid a person to commit suicide.

Counselling or aiding suicide

241 (1) Everyone is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years who, whether suicide ensues or not;
(a) counsels a person to die by suicide or abets a person in dying by suicide; or,
(b) aids a person to die by suicide. (Criminal Code, 1985)

Exemptions to the Criminal Code for MAiD

There are exemptions in the Criminal Code that enable medical practitioners and NPs to administer MAiD.

Exemption for medical assistance in dying

227 (1) No medical practitioner or nurse practitioner commits culpable homicide if they provide a person with medical assistance in dying in accordance with section 241.2. (Criminal Code, 1985)

There are exemptions in the Criminal Code for health professionals who aid in MAiD. RN practice falls within these exemptions as long as the RN is in compliance with the requirements set out in the Criminal Code, Code of Ethics, Registered Nurse Practice Standards and Registered Nurse Entry-level Competencies.

Exemption for person aiding practitioner

241 (3) No person is a party to an offence under paragraph (1) (b) if they do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying in accordance with section 241.2. (Criminal Code, 1985)

Exemption for person aiding patient

241 (5) No person commits an offence under paragraph (1) (b) if they do anything, at another person’s explicit request, for the purpose of aiding that other person to self-administer a substance that has been prescribed for that other person as part of the provision of medical assistance in dying in accordance with section 241.2. (Criminal Code, 1985)
Requesting MAiD

A person who has questions about pursuing MAiD should talk with their physician, NP, other health care professional or call 1-833-473-6243 for consultation and discussion about the Saskatchewan Health Authority Medical Assistance in Dying (SHA MAiD) program. The program has health care professionals who can answer questions and counsel the person. Although requests for MAiD may initially be made verbally, official requests for MAiD need to be in writing using the prescribed forms available through the SHA MAiD program.

If a person wishes to request MAiD and they are unable to write their request themselves, they can have someone else write the request on their behalf. The person writing the request needs to be at least 18 years of age, must understand what it means to request MAiD on behalf of another person and cannot profit or benefit from the person’s death. In both instances, the request must be signed and dated before an independent witness who must date and sign the request as well. An independent witness can be a professional personal or health care worker who is paid to provide health care services. Bill C-7 allows for RNs and NPs to be independent witnesses. The independent witness cannot benefit from the person’s death, they cannot be the operator of a health care facility where the person lives or receives care, and they cannot be an unpaid caregiver.

Eligibility for MAiD

As of March 17, 2021, the eligibility criteria for all persons who wish to receive MAiD are as follows:

• The person needs to be 18 years or older and have the capacity to make decisions about their health.
• The person needs to be eligible for publicly funded health care.
• The person must make a voluntary request for MAiD, without any external pressure.
• The person must give informed consent to receive MAiD after having received all information needed to make an informed decision.
• The person must have a serious, incurable illness, disease or disability, excluding mental illness as the sole underlying condition until March 17, 2023. (This temporary exclusion will provide the Government of Canada with more time to study how MAiD on the basis of a mental illness can safely be provided and for Parliament to adopt appropriate safeguards to protect vulnerable persons.)
• The person whose death is reasonably foreseeable and is at risk of losing capacity and decision-making capability can provide consent by an Advanced Directive.
• The person has enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions that person finds acceptable.

Safeguards for MAiD

Reasonably Foreseeable Natural Death

There are safeguards in place for persons whose natural death is reasonably foreseeable. The safeguards are as follows:
• The NP or medical practitioner must ensure that a signed and dated request for MAiD is made after a person has been informed by a medical practitioner or NP that they have a grievous and irremediable medical condition. The person must make their request for MAiD in writing and the request must be signed by one independent witness. A person whose occupation is providing health or personal care services and who is paid to provide the service to the person may be a witness.

• Two independent medical practitioners or NPs must assess and confirm that the person meets all eligibility criteria for the administration of MAiD. The person needs to be informed that they can withdraw their request for MAiD at any time during the process.

• The person must be informed of all available and appropriate means to relieve their suffering. Services include counselling services, mental health and disability support services, community services and palliative care services. These services need to be offered in consultation with professionals who provide these services.

• The person and practitioners must have discussed reasonable and available means to relieve suffering and agree that the person has seriously considered the options discussed.

• The person must be given an opportunity to withdraw consent and must confirm their consent for the administration of MAiD immediately before they receive the substance that will cause death.

• The person whose natural death is reasonably foreseeable no longer needs to wait ten days between the approval for MAiD and the administration of MAiD.

Not Reasonably Foreseeable Death

Safeguards in place for the person whose natural death is not reasonably foreseeable. The safeguards are as follows:

• The medical practitioner or NP must ensure that a signed and dated request for MAiD is made after a person has been informed by a medical practitioner or NP that they have a grievous and irremediable medical condition. The request must be signed by one independent witness. A person whose occupation is providing health or personal care services and who is paid to provide the service to the person may be a witness.

• Two independent medical practitioners or NPs must assess and confirm that the person meets all eligibility criteria for the administration of MAiD. The person needs to be informed that they can withdraw their request for MAiD at any time during the process. If the two practitioners who are assessing the person for eligibility to receive MAiD do not have expertise with the medical condition the person is suffering from, they must consult with a practitioner who does have the necessary expertise to assess the client.

• The person needs to be informed that they can withdraw their request for MAiD at any time during the process.

• The person must be informed of all available and appropriate means to relieve their suffering. Services include counselling services, mental health and disability support services, community services and palliative care services. These services need to be offered in consultation with professionals who provide these services.

• The person and practitioners must have discussed reasonable and available means to relieve suffering and agree that the person has seriously considered the options discussed.
• There should be at least 90 days between the first assessment for eligibility and administration. If the person is losing capacity to make health care decisions, the time period can be shortened as long as both assessments of the person have been completed.

• Immediately before the administration of MAiD, the person must be given an opportunity to withdraw their request.

Self-Administration

Safeguards in place for those persons who wish to self-administer MAiD.

• A request for MAiD can only be made after a person has been informed by a medical practitioner or NP that they have a grievous and irremediable medical condition. The person must make their request for MAiD in writing and the request must be signed by one independent witness. A person whose occupation is providing health or personal care services and who is paid to provide the service to the person may be a witness.

• Two independent medical practitioners or NPs must assess and confirm that the person meets all eligibility criteria for the administration of MAiD. The person needs to be informed that they can withdraw their request for MAiD at any time during the process. The person must be given an opportunity to withdraw consent and must confirm their consent for the administration of MAiD immediately before they receive the substance that will cause death.

• A written agreement should be in place between a person seeking MAiD and the medical practitioner or NP for a person who has met the eligibility criteria to self-administer MAiD. Should a person lose decision-making capacity after self-administering a substance, a medical practitioner or NP may administer the substance to cause death.

• The written agreement should include that the medical practitioner or NP be present at the time the person self-administers the first substance and shall administer the second substance to cause death if the person loses the capacity to self-administer the second substance.

• The medical practitioner or NP administers the second substance to cause death if the person has not died within a specific time period.

• The second substance needs to be administered to the person according to the terms of the agreement between the person and practitioner.

Consent for MAiD

The person must give informed consent for MAiD after they have been informed of all the available forms of treatment and options to relieve their suffering. This includes options such as palliative care, counseling, disability supports, home care, etc.

A person must give informed consent at the time of their request for MAiD and immediately before MAiD is provided as long they still have decision making capacity.

If a person has been assessed as eligible for MAiD, has a reasonably foreseeable death and is at risk of losing capacity before MAiD can be administered, a conversation with the person and the opportunity to complete an Advanced Directive form, provided by the SHA MAiD program should be offered by the medical practitioner or NP. A completed and signed Advance Directive provides consent for the person to receive MAiD on a scheduled day if the person has lost the capacity to provide consent at the time of administration. When an Advanced Directive is signed, the physician or NP agrees to provide MAiD on the scheduled day regardless of the person’s capacity to consent.
It is imperative that the medical practitioner or NP ensure that informed consent for MAiD is obtained verbally or through an Advanced Directive immediately prior to the provision of MAiD. If the NP is unsure of the person’s capacity to provide informed consent and an Advanced Directive is not in place, the NP may seek out the services of another health care professional who has the expertise to assess the person’s capacity to support the decision making of the NP. The person must also be given an opportunity to withdraw consent.

**Withdrawal of Consent for MAiD**

The person must be informed that they have the right to withdraw their request for MAiD at any time. A person is not obligated to proceed with MAiD even if they have been found eligible to receive MAiD. Immediately prior to the administration of MAiD, the person has a final opportunity to withdraw their consent for MAiD. A person who has lost capacity to consent can indicate refusal to continue with MAiD through words or gestures. At that point the Advanced Directive is invalidated.

**Conscientious Objection**

There is no legal or regulatory requirement for an RN or NP to participate in MAiD. The Code of Ethics for Registered Nurses, 2017 states,

“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. But nothing in the Criminal Code compels an individual to provide or assist in providing medical assistance in dying. If nurses can anticipate a conflict with their conscience, they notify their employers or persons receiving care (if the nurse is self-employed) in advance so alternative arrangements can be made.” (CNA, 2017, p. 17)

**The Role of the NP in MAiD**

The SHA MAiD program employs NPs and physicians who work collaboratively to support eligible residents of Saskatchewan who are exploring MAiD as an option. NPs connect with persons who are interested in learning more about MAiD and support them to navigate the pathway if the person chooses MAiD. These same NPs are responsible for assessing a person’s eligibility for MAiD and administering the substance that causes death.

Pathways and forms have been created and are available through the SHA MAiD program. It is the responsibility of the NP to ensure that the person meets all eligibility criteria and all safeguards. Immediately prior to administration of the substance that will cause death, the NP confirms the person’s consent (directly with the person or through an Advanced Directive) and then administers the substance. At all times in the process the NP provides safe and ethical care to the person and their family.

The SHA MAiD program provides NPs with all pertinent forms related to MAiD which are required to be returned when used. The SHA program is responsible for reporting MAiD data to the federal government as outlined in the legislation. Bill C-7 has expanded data that is collected to include such factors as race, Indigenous identity and disability. The data will also be used to identify inequality or disadvantage in the context of MAiD. For more information on MAiD, see the Saskatchewan Health Authority, [Medical Assistance in Dying webpage](#) or contact 1-833-473-6243.
Documentation at all points in the process is essential. The medical practitioner or NP should document all who were in attendance during the administration of MAiD. Included in the documentation should be that the client was given an opportunity to withdraw their consent and that they confirmed that they wanted to proceed with MAiD.

The Role of the RN in MAiD

RNs may be involved with MAiD in various ways. RNs can discuss MAiD with clients who have questions and are seeking information. RNs who receive a request for MAiD from a client need to connect the client with a medical practitioner or NP for further discussion. This may be done by connecting the client with the provincial program. RNs document their discussions with the client regarding MAiD objectively. See the SRNA Documentation Guideline for further guidance.

The role of the RN during a medically assisted death is to provide holistic nursing care before, during and after to support the client and family. RNs may initiate an intravenous line for the administration of MAiD and may be present when the substance is administered. RNs cannot administer the substances that cause death.

For more information about the provincial MAiD program, see the Saskatchewan Health Authority, Medical Assistance in Dying webpage or contact 1.833.473.6243.

Mental Illness

Currently those suffering exclusively from mental health conditions such as depression and personality disorders are not eligible for MAiD. Further study is required as to how to safely provide MAiD to those who are suffering solely from mental health illness and to ensure that the appropriate safeguards are in place. The law requires the federal Ministers of Justice and Health to initiate an expert review for considering guidance, protocols and safeguards for persons suffering from mental illness and to make recommendations by March 17, 2022. Clients with a mental health illness will not be eligible for MAiD prior to March 17, 2023.

Conclusion

Bill C-14 enabled changes to the Criminal Code that allows for persons who have a grievous and irremediable medical condition to seek MAiD to end their suffering. Changes brought about by Bill C-7 have increased access to MAiD. These changes allow more Canadians who find the suffering they experience to be unbearable to access MAiD and end their suffering. Under federal legislation and through a collaborative approach, RNs and NPs can support persons seeking MAiD.
References


