

## BRITISH COLUMBIA COLLEGE OF SOCIAL WORKERS

### PRACTICE GUIDANCE: Medical Assistance in Dying

#### BACKGROUND

The term ‘medical assistance in dying’ pertains to an authorized medical practitioner that prescribes, provides and/or administers a substance to a person, at their request, that causes their death. MAID can be requested at a hospital, long-term care facility, palliative care facility, home or other agreed upon location. The procedure is covered by government funded health services.

The practice guidance in this document is created to outline the professional requirements for lawful services of medical assistance in dying. The BC College of Social Workers does not take a position for or against MAID. Be aware that as this is an emerging field and there may be legal, provincial or practice changes that occur as issues emerge. It is the responsibility of the registrant to be informed.

#### HOW HAS THE LAW CHANGED?

Medical assistance in dying (MAID) was made legal in Canada on June 17, 2016 after Bill-C14 received royal assent introducing amendments to the *Criminal Code of Canada*. The changes to the *Criminal Code* exempt health care professionals, including social workers, from criminal liability where MAID is legally performed. The exempted professions include medical practitioners<sup>1</sup>, nurse practitioners, pharmacists and persons aiding the health care practitioners or patient with medical assistance in dying. This list is further clarified:

“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*, RSC 1985, c.C-46).

The procedural safeguards put in place in section 241.2(3) of the *Criminal Code* outline various requirements to respect the individual choices of those persons requesting MAID, while ensuring that vulnerable persons are protected<sup>2</sup>. New criminal offences have been created for the forgery or destruction of documents related to MAID and where medical or nurse practitioners fail to comply with safeguards.

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<sup>1</sup> Section 241.1 in the *Criminal Code* defines ‘medical practitioner’ as a person who is entitled to practise medicine under the laws of a province. ‘Nurse practitioner’ is defined as 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> Government of Canada & Electronic Communications, “About the proposed legislation”, (7 June 2016), online: <<http://www.justice.gc.ca/eng/cj-jp/ad-am/legis.html>>.

## WHO CAN ACCESS MAID?

The person making a request for MAID must meet each of the following:

- Eligible to receive government funded health services,
- Be at least 18 years of age and capable to make health care decisions,
- Have a grievous and irremediable medical condition,
  - Defined as an illness, disability or disease that is irreversible and will cause intolerable suffering leading to a reasonably foreseeable natural death
- Make the voluntary request for medical assistance in dying, and
- Provide informed consent to receive MAID after being informed of alternative means and services to relieve suffering including palliative care, pain control and other options.

Registrants should continue to be aware of and work within other legislative responsibilities. Persons requesting MAID must be able to expressly consent to the service immediately before it is provided. The person requesting MAID must be able to understand the information relevant to providing or refusing consent and must be able to appreciate the consequences of consenting or not consenting to the service. Wishes made in advance directives and the consent of substitute decision makers cannot authorize consent to MAID.

## THE ROLES AND RESPONSIBILITIES OF HEALTH CARE PROFESSIONALS

### WHICH PROFESSIONALS ARE RESPONSIBLE FOR MAID?

Only medical or nurse practitioners and pharmacists will be directly involved in the process to complete assessments, ensure safeguards, prescribe, dispense and administer substances. Either medical or nurse practitioners can assess the eligibility of persons making the request.

British Columbia has instituted additional requirements beyond those required by the Federal Government. For example, a regulated health professional must act as a witness to a Telehealth eligibility assessment completed by a medical or nurse practitioner. Pharmacists dispense the substances directly to the medical or nurse practitioner, not to the person or other healthcare professional. Additionally a medical or nurse practitioner must be present during the administration or self-administration of the substances, remaining with the person until death. The medical or nurse practitioner must return any unused substances back to the pharmacy. For the full list of additional safeguards, review the Medical Assistance in Dying documents published by the Government of British Columbia<sup>3</sup>.

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<sup>3</sup> Government of British Columbia, “Medical assistance in dying - province of British Columbia”, (16 December 2016), online: <<http://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>>.

## HOW CAN A REGISTERED SOCIAL WORKER PARTICIPATE IN THE PROVISION OF MAID?

Registrants cannot legally determine the eligibility of a service user<sup>4</sup> requesting medical assistance in dying. This is done by a medical or a nurse practitioner. In the event that a service user requests MAID, registrants must refer the service user to a medical or nurse practitioner; only these professionals are able to complete the required assessments, forms and procedures.

The Registered Social Worker acts in a supportive role in the provision of MAID. Registrants may perform supportive functions as long as they:

- 1) Demonstrate adequate knowledge, care and skill,
- 2) Comply with the *Criminal Code*, all applicable legislation, workplace policies, procedures, and
- 3) Adhere to the British Columbia *Standards of Practice*

Registrants respect and facilitate service user self-determination and distinguish between their own values, attitudes and needs from those of the service user<sup>5</sup>. Registrants should be able to provide correct and objective information on the legal provision of MAID in order to enable service users to make informed decisions. Registrants may wish to prepare themselves in advance for requests for information about medical assistance in dying by becoming more familiar with legislative changes and resources available, particularly as registrants may be the first to hear of a request.

Registrants should not initiate the discussion on medical assistance in dying with service users. However, Registrants should be able to interpret and understand when a service user is making an inquiry about MAID as the inquiry could take different forms including a direct request for MAID, asking for a medical or nurse practitioner to assist them with ending their life or asking for a list of all available end-of-life care options<sup>6</sup>. The service user should be the first raise the topic before the registrant suggests or provides detailed information. Suggesting that a service user consider MAID is not appropriate social work practice and could be seen as pressuring the service user or as counseling suicide. Registrants should clearly document the request for medical assistance in dying and demonstrate that legal requirements have been met, including informing the service user of informed options and what referrals were offered.

Should a service user request MAID, the service user may speak to their family and close friends about the decision. They may wish to have a discussion about end of life processes such as detailing a celebration of life or religious ceremonies. However, there is no formal notification process by which family is notified when a service user has requested medical assistance in dying<sup>7</sup>. Should a family member disagree with the decision, there is no legal means by which they can interfere. Remember to

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<sup>4</sup> The term 'service user' is used to refer to a recipient of social work service delivery by a Registered Social Worker or Registered Clinical Social Worker.

<sup>5</sup> BC College of Social Workers, *Standards of Practice*, 1.3, 1.6 (British Columbia, 2009).

<sup>6</sup> The Well, "Medical assistance in dying", (November 2016), online: *Medical Assistance in Dying* <<https://thewellhealth.ca/maid/>>.

<sup>7</sup> Ontario Ministry of Health and Long-Term Care, "Medical assistance in dying", (31 January 2009), online: <<http://health.gov.on.ca/en/pro/programs/>>

continually respect and abide by privacy and confidentiality laws, including after the death of the individual.

Should a registrant be part of an interdisciplinary team involved in the provision of services, feeling emotionally prepared is important. Understanding the role, focusing on the service user's wishes and having a confident knowledge base in grief and loss are needed. A team debrief after is recommended, where the professionals can talk about their feelings can help.

### **WHAT IF A PROFESSIONAL HOLDS CONSCIENTIOUS OBJECTIONS?**

The rights of both the service user and Registrant must be considered and balanced. Should a Registrant hold a conscientious or religious objection, the Registrant has the right to refuse to participate in social work services that are directly related to medical assistance in dying. Registrants are not permitted to discuss their personal beliefs in detail, cannot ask a service user to justify their own position on medical assistance in dying and cannot impede a MAID request from a service user.

In the event a Registrant holds a conscientious objection, the Registrant may either provide a referral to another service provider or inform their supervisor of the service user's wishes. The supervisor would then transfer services to another Registrant. Registrants that hold conscientious or religious objections and are self-employed may suggest that the service user work with another social worker for issues directly related to MAID. This way, the service user will be provided with timely and continuous care while balancing the religious rights and freedoms of the Registrant involved.

### **ON THE REQUEST FOR MAID FORM CAN I ACT AS AN INDEPENDENT WITNESS?**

A request for MAID must be made in writing. At any point in time a person can withdraw their request for MAID. Two independent witnesses are required to complete a portion of the patient request for MAID. These two witnesses cannot be involved directly in the provision of health care services or receive any form of financial or material benefit from the service user's death.

This means that a registrant providing direct health care services or personal care to persons requesting MAID cannot act as an independent witness. A registrant that is not involved with the service user's health care and does not own the healthcare facility in which the service user resides may act as an independent witness. However, some health authorities may have policies in place that limit employees acting in the role of independent witnesses<sup>8</sup>. It is strongly advised that registrants check with their employer and consult a social work supervisor regarding their role in MAID.

### **CONSULTATION**

Each local BC health authority has designated staff to provide information about the process for MAID. The list of contact numbers can be found at the end of this document. Should you have legal concerns about your participation, seek a legal opinion before acting. You may also wish to obtain professional liability insurance for social work services. Seek supervisor or consultation as appropriate. If you are involved in a complex situation and are employed in a health authority, you may wish to request a

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<sup>8</sup> College of Physicians and Surgeons of British Columbia, Professional Standards and Guidelines - Medical Assistance in Dying (British Columbia, 2016).

clinical ethics consultation with an Ethicist. Additionally, please be aware that the BC College of Social Workers offers ethical practice consultations for registrants.

## COMPETENCY & KNOWLEDGE FOR REGISTERED SOCIAL WORKERS

Registrants must be aware of limits to their competency and work within these limits. All registrants must remain current with emerging social work knowledge and engage in ongoing professional development. Given that MAID is a new area, is it essential for registrants to obtain supervision, training and/or education. The College encourages registrants to become knowledgeable on this topic. The following list suggests number of resources to maintain competence:

- Read [Bill C-14](#): an Act to amend the [Criminal Code](#),
- Be familiar with the new [Criminal Code](#) provisions in section 241.1 through 241.4 (understand eligibility, procedural safeguards, witnesses),
- Be familiar with the case of [Carter v. Canada](#)
- Participate in regular self-care and self-reflection, including the examination of personal and religious values,
- Review and adhere to the [Standards of Practice](#) for Social Workers in British Columbia,
- Understand the roles and responsibilities of other health care providers,
- Determine the availability of training for health care professionals aiding in the provision of MAID ,
- Understand and be able to communicate the difference between MAID, palliative care and suicide, and
- Develop an awareness of end of life resources, referrals and medical clinics within the local health care jurisdiction.

## ADDITIONAL RESOURCES

### MAID HEALTH AUTHORITY CONTACT NUMBERS:

Fraser Health: 604-587-7878 or [mccc@fraserhealth.ca](mailto:mccc@fraserhealth.ca)

Interior Health: 250-870-4669 or 1-877-442-2001 or [maid@interiorhealth.ca](mailto:maid@interiorhealth.ca)

Island Health: 250-727-4382 or 1-877-370-8699 or [maid@viha.ca](mailto:maid@viha.ca)

Northern Health: 250-645-6417 or [maid@northernhealth.ca](mailto:maid@northernhealth.ca)

Provincial Health Services Authority: 1-888-875-3256

Vancouver Coastal Health: 1-844-550-5556 or [medicalassistanceindying@vch.ca](mailto:medicalassistanceindying@vch.ca)

### ETHICS CONSULTATION

Fraser Health: 604-587-4486

Interior Health: 250-469-7070 ext. 12197

Island Health Ethics Helpline: 1-866-995-3199

Northern Health: 1-888-233-7005

Providence Health: 604-806-9952

BC Children's and Women's: 604-875-3182

Vancouver Coastal Health:

Richmond and Bella Coola: 604-538-8180

Vancouver: 604-266-6264

Coastal: 778-877-7208

### ADDITIONAL READING:

Government of British Columbia – End-of-life care, MAID:

<http://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>

Government of Canada, Department of Justice Overview:

<http://www.justice.gc.ca/eng/cj-jp/ad-am/index.html>