Guidelines for Medical Assistance in Dying

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Medical assistance in dying (MAID) is permitted in Canada as a result of a decision by the Supreme Court of Canada (SCC). On June 17, 2016, the federal government enacted amendments to the Criminal Code of Canada (the “Criminal Code”). This law permits physicians and nurse practitioners to provide medical assistance in dying and other healthcare providers to aid in medical assistance in dying, provided they follow the rules of the legislation, applicable provincial requirements and professional standards.

The Guidelines for Medical Assistance in Dying are intended to provide guidance on professional expectations and ethical obligations for occupational therapists (OTs) related to medical assistance in dying. The Guidelines also provide direction for OTs who conscientiously object to aiding in the provision of medical assistance in dying. These Guidelines replace the College’s July 2016 Interim Guidelines for Medical Assistance in Dying.

The federal and provincial government continue to monitor cases of medical assistance in dying. The federal government is also obligated to review complex issues, such as requests by mature minors, advanced requests, and requests where mental illness is the sole underlying medical condition, which are not addressed in the current legislation. The College will monitor the situation closely and revise the Guidelines as necessary. If discrepancies arise between these Guidelines and the legislation, the legislation will supersede these Guidelines.

Overview of the Legislation

In accordance with federal legislation, physicians and nurse practitioners are permitted, at an individual’s request, to provide that individual with medical assistance in dying in one of two ways:

1. Directly administer a substance that causes an individual’s death; or,
2. Provide or prescribe a substance for an individual to self-administer to cause their own death.

To be eligible for medical assistance in dying, a person must meet all the criteria set out in the legislation. To meet all the criteria a person must:

- be eligible for publicly funded health-care services in Canada;
- be at least 18 years of age and mentally competent;
- have a grievous and irremediable medical condition;
- voluntarily request medical assistance in dying (not resulting from outside pressure or influence); and,
- give informed consent for medical assistance in dying (advance consent or substitute decision-maker consent is not permitted).
As per federal legislation, to meet all the criteria for a person’s medical condition to be considered grievous and irremediable, a person must:

- have a serious and incurable illness, disease or disability;
- be in an advanced state of irreversible decline in capability;
- have enduring physical or psychological suffering that is intolerable to them and cannot be relieved under conditions they consider acceptable; and,
- be at a point where natural death has become reasonably foreseeable, taking into account all their medical circumstances, without a prognosis necessarily having been made as to the specific length of time they have remaining.

A person with mental illness may be eligible for medical assistance in dying if they meet all the eligibility criteria. People suffering solely from a mental illness, however, may not be eligible.

On May 9, 2017, the provincial government passed the Medical Assistance in Dying Statute Law Amendment Act, 2017 to provide clarity and protection for patients and health care providers. This legislation addresses:

- Benefits coverage to ensure benefits are not denied only on the basis of medically assisted death;
- Protections from civil liability for health care professionals when lawfully providing medically assisted death;
- Protecting the privacy of health care providers and organizations that provide medically assisted death;
- Reporting and monitoring of medical assistance in dying cases;
- Establishing a care coordination service to assist patients and caregivers in accessing additional information and services for medical assistance in dying and other end-of-life options.

**OT Roles and Responsibilities in Assisted Dying**

Under the legislation, OTs are permitted to aid a physician or nurse practitioner in the provision of medical assistance in dying in accordance with federal and provincial legislation and the standards of the profession.

**1. Practice Ethically**

OTs are expected to adhere to the professional Code of Ethics in all practice areas and settings. The Code of Ethics is particularly important in establishing expectations for OTs regarding medical assistance in dying as the fundamental values and principles of occupational therapy inform the position of the College.
As stated in the Code of Ethics, “Occupational therapists are guided by the fundamental values of RESPECT and TRUST. These core values are as important as the laws, regulations, and College standards and guidelines under which occupational therapists are governed. The values of respect and trust give rise to the principles of practice that underpin occupational therapy practice”.

The principles of practice are:

- **Client-centred practice** - determine meaning and purpose for the client and recognize that each client is an individual
- **Respect for Autonomy** - recognize each client’s right to make choices for him or herself and honour the dignity and worth of each individual
- **Collaboration and Communication** - practise as a team member with clients and other professionals
- **Honesty** - truthfulness is a cornerstone of trust
- **Fairness** - practise justice and equity in dealings with others
- **Accountability** - take responsibility for decisions, actions, professional competence and judgement
- **Transparency** - full disclosure ensures integrity in relationships with clients, other professionals and society at large

In dealing with the sensitive nature of medical assistance in dying, OTs are expected to treat all clients with dignity, demonstrate respect for client choice, and remain non-judgmental in all interactions with clients, families and other care providers.

### 2. Know and understand all relevant legislation, practice standards and organizational policies

OTs are expected to know and understand the laws that pertain to medical assistance in dying, the implications for occupational therapy standards of practice, and the application of the legislation in the context of their practice. OTs who encounter medical assistance in dying within their practice, are encouraged to monitor federal and provincial initiatives for any changes that may impact their practice.

Under the legislation, OTs are not permitted to determine client eligibility for medical assistance in dying. However, OTs may have a role in assisting a physician or nurse practitioner in the process of determining eligibility. An OT may also be called upon, after eligibility for medical assistance in dying has been confirmed, to provide occupational therapy services including assessment, treatment and/or consultation.

In addition to the legislation and College expectations, OTs must be aware of their employer’s position on medical assistance in dying and understand any organizational policies or procedures that pertain to medical assistance in dying. OTs are encouraged to seek clarification of organization policies if positions are unclear. Some organizations may decline to provide medical assistance in dying on the
grounds of conscientious or religious beliefs. In these circumstances, OTs must know how to respond and how to manage client requests in alignment with organizational procedures.

3. Know the role of the OT and the limitations of the occupational therapy scope of practice in addressing client questions or requests for medically assisted death

OTs work with diverse client populations in a broad range of practice areas and settings across the province. Given the client-therapist relationship and the nature of occupational therapy interventions, it is possible that an OT will be the first person to whom a client expresses their interest in receiving medical assistance in dying. If this is the case, the OT must understand they are not permitted to determine eligibility for assisted dying and must be aware of the steps to appropriately support the client through the process.

As a first point of contact for a client requesting medically assisted death, the OT must:

- Respect client autonomy, remain client-centred and treat the client with dignity regardless of the OT’s personal beliefs and values;
- Inform the client of the OT’s role in response to the request including that that the OT is not permitted to determine eligibility;
- Obtain consent to refer the client to a health professional legally authorized to determine eligibility for medically assisted death (physician or nurse practitioner); and
- Proceed with the originally agreed upon occupational therapy service plan as appropriate.

4. Understand the role of the OT in aiding an authorized medical practitioner in the determination of eligibility for medically assisted dying

The onus to determine eligibility, including capacity to give consent and making a determination that a client’s condition is grievous and irremediable, rests with the physician or nurse practitioner providing medical assistance in dying. OTs are often relied upon for their knowledge, skill and experience in assessing the functional abilities of clients as it pertains to capacity for decision-making and may be asked to assist in this regard. OTs may also offer assistance in identifying potential measures to decrease or remediate suffering. If asked to provide a professional opinion, the OT must ensure they are practicing within the scope of practice of the profession, have the necessary competence, and apply an assessment process that complies with the Standards for Assessment.

As with any occupational therapy assessment or intervention, the OT is required to obtain informed consent from the client. The client must understand the risks and benefits of proceeding or not proceeding with the occupational therapy assessment, the possible outcomes of the occupational
therapy assessment, and the opportunity to withdraw consent at any time.

5. Clearly define the role of the OT in the treatment of clients eligible for medically assisted dying

Within the occupational therapy scope of practice, there are several treatment options appropriate for clients who have opted for medical assistance in dying (Bernick, Winter, Gordon and Reel, 2015).

Occupational therapy service may include:
- Assisting with concluding lifetime occupational roles
- Assessing capacity and/or cognition
- Exploring options for continued engagement and alternatives
- Creating meaningful memories
- Counselling individuals and families
- Providing education about options and alternatives for end-of-life care, such as palliative care
- Assisting with equipment requirements and comfort measures
- Educating clients and family about available resources

Regardless of the roles assumed by OTs and the occupational therapy interventions implemented, the OT must:
- practice within the scope of the profession;
- ensure he or she is competent to perform the intervention;
- set clear expectations for the client, family and team members; and,
- recognize the limits of his or her abilities related to medical assistance in dying.

For all assessments and interventions, OTs are accountable to meet the standards of practice for the profession and demonstrate the Essential Competencies of Practice for Occupational Therapists in Canada, 3rd Edition.
Conscientious Objection

The legislation on medical assistance in dying respects the personal convictions of health care providers. OTs may elect not to participate or aid in the provision of medical assistance in dying on the grounds of conscience and religion.

OTs who have a conscientious objection to aiding in the provision of medical assistance in dying must do so in a transparent manner that remains client-centred, respects client autonomy and dignity, and meets the responsibilities and accountabilities of the standards of practice.

If an OT conscientiously objects to medical assistance in dying, the OT is expected to:

a. Respect client autonomy, remain client-centred and treat the client with dignity regardless of the OT’s personal beliefs and values;

b. Not withhold information or impede access to medical assistance in dying;

c. Direct the client to available medical assistance in dying services and resources;

d. Obtain consent to refer the client to an alternate service provider who will address the client’s request for medical assistance in dying, as appropriate;

e. Continue with the occupational therapy service components that are not directly related to the request for assisted dying, as appropriate, until care can be successfully transferred to another OT or alternate service provider.

When determining whether it would be appropriate to continue care, the OT must be confident their own personal beliefs and values will not present a conflict of interest that may prevent them from acting in the client’s best interests.

The OT must also ensure that discontinuing care will not compromise client safety or planned intervention outcomes. The discontinuation of needed professional services is addressed under Ontario Regulation 95/07: Professional Misconduct. Discontinuation must be reasonably regarded by OTs as appropriate with respect to:

i. the registrant’s reasons for discontinuing the services,

ii. the condition of the client,

iii. the availability of alternate services, and

iv. the opportunity given to the client to arrange alternate services before the discontinuation.
Resources

OTs who have questions about medical assistance in dying are encouraged to review available government resources, contact the Practice Resource Service at the College, consult with employer representatives and/or seek legal advice.

College Practice Resource Service
practice@coto.org
416-214-1177/1-800-890-6570 ext 240

1. Government of Canada: Medical Assistance in Dying

2. Ontario Ministry of Health and Long-Term Care
   Medical Assistance in Dying – Health Care Professionals


4. University of Toronto Joint Centre for Bioethics
   http://www.jcb.utoronto.ca/news/maid-draft-policy-template.shtml

5. Care Coordination Service – Ontario
   Information about the care coordination service can be found on the Ministry of Health and Long-Term Care website http://health.gov.on.ca/en/pro/programs/maid/.

References


Medical Assistance in Dying Statute Law Amendment Act, 2017


Ontario Regulation 95/07: Professional Misconduct.