

Medical Assistance in Dying

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Introduction

Medical assistance in dying (MAiD) was legalized in Canada in 2016. MAiD allows eligible individuals to voluntarily request and receive assistance in ending their life if they meet eligibility criteria. Occupational therapists who are involved in the MAiD process can play a critical role in supporting clients, families, and healthcare teams. Occupational therapists must understand the legal, ethical, and procedural aspects of MAiD to ensure that safeguards are in place to support vulnerable individuals throughout end-of-life planning.

MAiD is defined as follows:

- (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 of Canada*, s. 241.1)

Physicians and nurse practitioners are permitted to provide an individual with assistance in dying in two ways:

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

This document provides an overview of occupational therapists' legal, ethical, and professional roles related to MAiD. It also provides direction for occupational therapists who conscientiously object to aiding in the provision of this process with clients.

MAiD Legislation

Background

Since the inception of MAiD, the legislation has undergone several amendments. In addition to physicians and nurse practitioners, the *Criminal Code of Canada* (the "Criminal Code") now allows other healthcare providers to aid clients in this process provided that healthcare providers follow the rules of the legislation, applicable provincial requirements, and professional standards. Table 1 provides an overview of the MAiD legislation and its amendments.

Table 1. Legislative Timeline for MAiD in Canada

Date	Legislation/Event	Description
June 17, 2016	Bill C-14 passed (Parliament of Canada, n.d.-a)	Legalized MAiD in Canada. Allowed practitioners to administer or prescribe substances to assist with death upon request.
March 17, 2021	Bill C-7 passed (Parliament of Canada, n.d.-b)	<ul style="list-style-type: none"> Revised MAiD eligibility. Removed the requirement for a person's natural death to be reasonably foreseeable. Extended insurance coverage to ensure that benefits are not denied based only on MAiD. Introduced protections from civil liability for healthcare professionals when lawfully providing MAiD. Protected the privacy of healthcare providers and organizations that give MAiD. Required reporting on and monitoring of MAiD. Established a care coordination service to assist individuals and caregivers in accessing additional information and services for MAiD and other end-of-life options.
January 1, 2024	Reporting data	As part of recent federal updates to MAiD regulations, new reporting requirements have been introduced to better understand who is accessing MAiD and under what conditions. These changes aim to identify and address potential inequities, including systemic discrimination. Occupational therapists play a role in supporting clients through this process, ensuring informed consent, protecting client rights, and promoting equitable access to care.
February 29, 2024	Bill C-62 passed	Postponed eligibility for individuals with mental illness as the sole condition until March 17, 2027.
Ongoing Monitoring	Parliamentary Special Joint Committee review	Reviewing expansion of MAiD to include mature minors, advance requests, and palliative care access and protection for Canadians living with disabilities.

What Are the Legal Safeguards for MAiD?

In Canada, MAiD includes several legal safeguards to ensure that the process is ethical, voluntary, and

College of Occupational Therapists of Ontario

appropriate. For example, in 2021, the MAiD legislation was amended to introduce a two track system, enabling people who are suffering intolerably but whose deaths are not reasonably foreseeable to apply for MAiD. People whose natural deaths are reasonably foreseeable are considered Track 1, Reasonably Foreseeable Natural Death, while those whose natural deaths are not reasonably foreseeable are considered Track 2, Non-Reasonably Foreseeable Natural Death. For an overview of the Track 1 and Track 2 system, see the Appendix.

Other safeguards include confirming that the individual is eligible under the law, which involves meeting specific criteria such as being an adult with a grievous and irremediable medical condition, making a voluntary request that is not the result of external pressure, and providing informed consent. Two independent healthcare professionals must assess the individual and confirm eligibility. Specific procedural steps also exist, including a written request signed by the individual and witnessed by an independent person. If the individual is unable to sign, a proxy may do so under certain conditions. For those whose natural death is not reasonably foreseeable, additional safeguards apply, such as a 90-day assessment period and consultations with experts in the individual's condition.

Additionally, in Ontario, the Office of the Chief Coroner established the MAiD Death Review Committee to examine issues of vulnerability within MAiD in the province. The Committee is tasked with identifying gaps and concerns within the system and making recommendations to improve the MAiD process. To this end, the Committee recently released a report, [*Navigating Vulnerability in Non-Reasonably Foreseeable Natural Deaths* \(n.d.\) \(Link\)](#)

Who Is Eligible for MAiD?

To be eligible for MAiD, a person must meet all the criteria set out in the legislation:

- Be eligible for publicly funded healthcare services in Canada.
- Be at least 18 years of age and mentally competent.
- Have a grievous and irremediable medical condition.
- Voluntarily request MAiD. The request must not result from outside pressure or influence.
- Give informed consent for MAiD. Advance consent or substitute decision-maker consent is **not** permitted. However, MAiD can be administered to a person who has lost the capacity to consent if death is reasonably foreseeable and the person entered into an agreement with the physician or nurse practitioner consenting to MAiD before losing capacity. It can also be administered to a person who has lost capacity to consent because of self-administration of a substance provided by a physician or nurse practitioner for the purpose of MAiD.
- Have one independent witness to the signature of a person on their written request for MAiD. The independent witness can be someone who provides paid health or personal care services to them.

People with mental illness may be eligible if they meet all the eligibility criteria. However, people suffering solely from a mental illness are not eligible at this time and will not be eligible until the legislation is amended.

Occupational Therapists' Involvement in MAiD

Occupational therapists must understand that they are **not permitted** to determine eligibility for MAiD. Under the legislation, occupational therapists are permitted to assist physicians or nurse practitioners in the MAiD process by providing supportive care to clients and families or healthcare teams.

Occupational therapists who may be providing supportive care to clients under Track 2 should refer to the recommendations outlined in the Chief Coroner's MAiD Death Review Committee's Report (n.d.). Occupational therapists working in this capacity should be mindful of the increasing health, social, and intersectional complexities that may influence clients accessing MAiD and should consider how their own clinical knowledge and expertise may address these complexities within their scope of practice.

Practise Ethically

Occupational therapists are expected to practise within their scope and adhere to the College's [Code of Ethics](#) in all practice areas and settings. The Code of Ethics is particularly important in establishing expectations for occupational therapists regarding MAiD because the fundamental values and principles of occupational therapy inform the College's position on MAiD.

In dealing with the sensitive nature of MAiD, occupational therapists are expected to treat all clients with dignity; demonstrate respect for client choice; employ culturally safer practices; and remain non-judgmental about the decision of clients, families, and other care providers.

Understand MAiD Legislation

Occupational therapists are expected to know and understand the national and provincial legislation and regulations that pertain to MAiD, monitor changes to these, and understand and apply the legislation and regulations to the College's standards of practice and service delivery.

Under the legislation, occupational therapists are **not permitted** to determine client eligibility for MAiD but may provide occupational therapy services, including assessment, treatment, and consultation to help determine eligibility.

Follow Organizational Policies

In addition to the legislation and College expectations, occupational therapists must be aware of their employer's position on MAiD and understand any organizational policies or procedures that apply. Occupational therapists are encouraged to seek clarification of organization policies if positions are unclear. Some organizations may decline to provide MAiD on the grounds of conscientious objection or religious beliefs.

Follow Standards of Practice

Following the College's Standards of Practice is critical when supporting individuals who are exploring MAiD. The standards help ensure that occupational therapists maintain professional boundaries, provide accurate and unbiased information, support informed decision-making, and respect client autonomy; allowing for professional, compassionate, non-judgmental care during an emotionally complex and deeply personal time in a client's life.

Understand and Apply the Occupational Therapist's Role

Respond to a Client's Request for MAiD

Occupational therapists who are the first point of contact for clients requesting MAiD must:

- Respect client autonomy, remain client-centred, and treat clients with dignity regardless of the occupational therapist's personal beliefs and values
- Inform clients of the occupational therapist's role in response to the request, including that occupational therapists cannot determine eligibility
- Obtain consent to direct clients seeking information about MAiD to the appropriate professionals, such as a physician, a nurse practitioner, or the local MAiD Care Coordination service
- Proceed with clients' occupational therapy service plan as appropriate

Respond to a Request to Act as an Independent Witness or Proxy

A person who provides healthcare services or personal care as their primary occupation and who is paid to provide that care to the requestor is permitted to act as an independent witness so long as they are not involved in the assessment or provision of MAiD to the requestor. Hence, an occupational therapist may act as a witness for a client completing the Request for Medical Assistance in Dying Application form. They may also sign and date the Patient Request Record as a proxy if the client is physically unable to do so.

An occupational therapist serving in these roles must meet specific legal and procedural requirements. Before acting as a witness or proxy, the occupational therapist must comply with all relevant laws and employer policies.

Contribute to MAiD Assessments

Given the complexity of assessing capacity to consent to MAiD, medical assessors may consult occupational therapists for input on clients' cognitive status or other information pertaining to social or functional abilities. Occupational therapists should remain current in this area of practice by using evidence-informed practices and completing appropriate training to maintain knowledge, skills, and judgement.

In addition, occupational therapists can offer expertise in identifying care or services that may help alleviate suffering. This may be particularly important in complex situations, especially in Track 2 requests.

Provide End-of-Life Planning

Occupational therapists support clients throughout the lifespan, including those receiving end-of-life care.

They provide client-centred, culturally safer services that promote comfort, independence, and dignity. These services may involve:

- Helping clients access their environment and manage discomfort—for example, by assisting with equipment requirements and comfort measures.
- Supporting clients with maintaining relationships and making choices.
- Occupational therapists may help clients participate in valued activities.
- Educating clients and families about other options for end-of life care and available resources.
- Being attentive to the needs of caregivers, who may require strategies for providing care or support with grief and bereavement during the palliative or MAiD process.

Throughout this work, occupational therapists must adhere to standards related to obtaining informed consent, maintaining professional boundaries, protecting client information, and supervising occupational therapy assistants.

Conscientious Objection

The legislation on MAiD respects the personal convictions of healthcare providers. Due to conscience or religion, occupational therapists may elect not to participate or aid in the provision of MAiD.

Occupational therapists who conscientiously object to MAiD are expected to:

- Do so transparently while meeting the responsibilities and accountabilities of the Standards of Practice
- Respect client autonomy, remain client-centered, and treat clients with dignity regardless of the occupational therapist's personal beliefs and values
- Not withhold information or impede access to MAiD
- Direct clients to available services and resources
- Obtain consent to refer clients to an alternative service provider who will address client requests for MAiD, as appropriate
- 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 occupational therapist or alternative service provider

When determining whether continuing care would be appropriate, occupational therapists must be confident in their own beliefs and know that their values will not present a conflict of interest that may prevent them from acting in a client's best interests. Occupational therapists must also ensure that discontinuing care will not compromise client safety or planned intervention outcomes. The discontinuation of the professional services needed is addressed under *Ontario Regulation 95/07: Professional Misconduct* and outlined in the [Discontinuing Services](#) Practice Guidance Document.

Summary

This Practice Guidance Document provides an overview of MAiD legislation in Canada. Although occupational therapists do not determine eligibility for MAiD, they can play a key role in enhancing clients' quality of life, by addressing complex social needs and exploring options for end-of-life care in individuals with complex social factors. Occupational therapists can support client autonomy, ensure that safeguards are in place, and work collaboratively with MAiD care teams. Occupational therapists in any practice area may be asked about MAiD. By understanding the legislation and the process to initiate MAiD, and maintaining ethical and professional standards, occupational therapists can provide client-centred, compassionate care for those navigating the complexities of making end-of-life decisions.

Appendix: MAiD Track 1 and Track 2 Systems

Track 1 Reasonably Foreseeable Natural Death	Track 2 Non-Reasonably Foreseeable Natural Death
<p>Assessment by at least two independent nurse practitioners or physicians is required.</p> <p>The requestor must meet all the following criteria:</p> <ul style="list-style-type: none"> • 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 • Be at a point where natural death has become reasonably foreseeable, considering all their medical circumstances, without a prognosis necessarily having been made as to the length of time they may have remaining <p>The requestor must have one independent witness to their own signature on their written request for MAiD. The independent witness can be someone who provides paid health or personal care services to the requestor.</p> <p>If the requestor is approved for MAiD, there is no wait time. The individual can schedule the procedure with the MAiD provider.</p> <p>The requestor can withdraw the request at any time.</p>	<p>Assessment by at least two independent nurse practitioners or physicians is required. One health practitioner must have expertise in the condition causing the requestor's suffering or must consult with a practitioner who does have expertise and share the results of that consultation.</p> <p>The requestor must meet all the following criteria:</p> <ul style="list-style-type: none"> • 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 <p>The requestor must be informed of available services and offered consultations on available means to relieve suffering, such as counselling services and palliative care. All parties must agree that the requestor has seriously considered those means, although they do not have to follow up with the information given.</p> <p>The requestor must have one independent witness to their own signature on their written request for MAiD. The independent witness can be someone who provides paid health or personal care services to the requestor.</p> <p>The physician or nurse practitioner administering MAiD must consult with another medical practitioner if the first practitioner does not have expertise on the condition of the person seeking MAiD, and ninety days must pass between the first assessment of MAiD eligibility criteria and the day on which it is administered. However, this period can be shortened if the requestor is about to lose the capacity to make healthcare decisions as long as assessments by two independent health practitioners have been completed.</p> <p>The requestor can withdraw the request at any time.</p>

References

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