



# Medical Assistance in Dying Guideline for Respiratory Therapists

January 2017

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## Introduction

In February, 2015 the Supreme Court of Canada ruled in *Carter vs. Canada*, the Criminal Code of Canada must be amended to remove prohibition of medical assistance in dying (MAiD). The Supreme Court gave the government until June 6, 2016 to create a new law.<sup>1</sup>

On June 17, 2016, the Parliament of Canada enacted legislation to amend the Criminal Code of Canada to permit and regulate medical assistance in dying (MAiD).<sup>2</sup>

This guideline was developed to help respiratory therapists understand the changes to the Criminal Code that allow MAiD, and their role in end of life care, and professional responsibilities and accountabilities.

## What is Medical Assistance in Dying

MAiD refers to the process where, on the request of a person (patient), a Physician or a Nurse Practitioner:

1. Directly administers medication that causes death, or
2. Prescribes or provides medication to a patient, so the patient can self-administer the medication that causes their own death.

Patients may be considered eligible for MAiD if they meet the following criteria:

- they are eligible, or, but for any applicable minimum period of residence or waiting period, would be eligible for health services funded by a government in Canada;
- they are at least 18 years of age and capable of making decisions with respect to their health;
- they have a grievous and irremediable medical condition;
- they have made a voluntary request for MAiD that, in particular, was not made as a result of external pressure; and
- they give informed consent to receive medical assistance in dying.

A grievous and irremediable medical condition means:

- they have a serious or incurable illness, disease, or disability;
- they are in an advanced state or irreversible decline in capability;
- that illness, disease or disability or that state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable; and
- their natural death is reasonably foreseeable, taking into account all of their medical circumstances.

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<sup>1</sup> *Carter v. Canada (Attorney General)* 2015, the Carter decision

<sup>2</sup> An Act to amend the Criminal Code, R.S., c. C-46

## Statutory Safeguards

The Criminal Code sets out safeguards that must be met before an eligible client can receive assistance in Dying. Health care professionals need to be aware of these safeguards as well as any additional safeguards outlined in employer or agency policy.

The safeguards in section 241.2(3) of the Criminal Code include, but are not limited to, the following:<sup>3</sup>

- the patient's request must be made in writing and signed and dated by the patient;
- The patient's request must be signed and dated before two independent witnesses;
- Another physician or nurse practitioner has provided a written opinion confirming that the patient meets all of the eligibility criteria set out in section 241.2(1) of the Criminal Code
- There are at least 10 clear days between the day on which the request was signed by the patient and the day on which MAiD is provide – or if both physicians and/or nurse practitioners assessing the eligibility criteria are of the opinion that the patient's death, or the loss of capacity to provide informed consent, is imminent – any shorter period that the physician or nurse practitioner considers appropriate in the circumstances
- Immediately before the provision of MAiD, the physician or nurse practitioner must give the patient an opportunity to withdraw their request and ensure that the patient gives express consent to receive MAiD.

## Purpose of this Guideline

This guideline was developed to inform respiratory therapists of their professional responsibility to perform their duties respecting:

- Current legislation related to MAiD
- Respiratory Therapists Act
- Code of Ethical and Professional Conduct for Respiratory Therapists
- Standards of Practice for Respiratory Therapists
- Employer / agency policies and procedures

## Respiratory Therapists and MAiD

Respiratory Therapists (RTs) care for and support patients and their families through chronic illness and terminal illness. The NSCRT does not anticipate that respiratory therapists will be asked to assist a physician or nurse practitioner to perform MAiD and therefore this guideline does not address the processes involved in delivering or assisting MAiD.

While providing supportive care to patients, respiratory therapists may encounter patients who wish to request assisted dying, are being assessed for eligibility for assisted dying, or are in the waiting period to receive assisted dying. In these circumstances, your professional responsibility is to continue to provide supportive care to the patient and their family. It is your professional responsibility to become familiar with the processes involved so you are appropriately prepared to respond to questions from a patient regarding MAiD or if a patient informs you they want to request MAiD.

The Province of Nova Scotia has developed Frequently Asked Questions guides for physicians and nurse practitioners, healthcare professionals, and the public. You can access FAQ's for healthcare professionals at:

[http://www.nshealth.ca/sites/nshealth.ca/files/faq\\_for\\_care\\_professionals\\_2016\\_07\\_04\\_0.pdf](http://www.nshealth.ca/sites/nshealth.ca/files/faq_for_care_professionals_2016_07_04_0.pdf)

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<sup>3</sup> Criminal Code R.S.C., 1985, c C-46

## Professional Responsibilities and Accountabilities

In providing end of life care respiratory therapists apply their professional knowledge, skills, and judgement in collaboration with physicians and other health care professionals. In doing so, you are bound to apply the Code of Ethics and Professional Conduct for Respiratory Therapists and

- provide care without discrimination, with respect for the rights and dignity of all individuals;
- respect and protect the legal rights of the patient, including the right to informed consent and refusal or withdrawal of treatment;
- shall keep in confidence all privileged information concerning the patient;
- RTs shall perform their duties in accordance with the NSCRT Standards of Practice for respiratory therapy and all other applicable laws and regulations.
- In particular, Standards of Practice related to:
  - Communication: RTs will maintain effective communication with members of the healthcare team regarding the patient's status and progress;
  - Documentation: RTs will document all information relevant to the provision of care as per organizational policies and procedures;
  - Respecting the personal and legal rights of the patient: RTs will inform the patient of the therapy/diagnostic procedure that will be performed, respecting the personal and legal rights of the patient including the right to informed consent and refusal of treatment.

Knowledge of your employer's policies and processes related to MAiD is required so you comply with the NSCRT professional ethics and standards of practice.

The rights of all healthcare professionals to conscientiously object to MAiD continue to be protected in the Charter of Rights and Freedoms and therefore, no health care professional is required to provide MAiD or assist a physician or nurse practitioner who is providing MAiD.

### Counselling:

While providing supportive end of life care, respiratory therapists may encounter patients who wish to discuss MAiD. In this circumstance, you may engage in conversation with the patient within the context of exploring the patient's reasons for the request and discuss all available end of life care options. You may provide objective and accurate information about MAiD in response to patient questions. Be aware, you cannot advise or encourage the patient to choose MAiD as this would be counselling or aiding suicide which is a criminal offence.<sup>4</sup>

Should a patient communicate to you their desire for medical assistance in dying in a hospital setting, you are to inform the attending physician or nurse practitioner. It is also appropriate that you advise your direct manager that a request is under consideration so that appropriate arrangements to support the health care team, the patient and their loved ones can be initiated. If you receive a request and are in a community setting, you are to contact the patient's physician or nurse practitioner, or, if you are unable to reach them, contact the office of NSHAs Vice President of Medicine at 902-491-5892.<sup>NSHA FAQs for Health Care Professionals</sup>

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<sup>4</sup> Criminal Code R.S.C., 1985, c C-46, Section 241

## Privacy and Confidentiality

Assisted dying is a controversial and sensitive issue and the patient's right to privacy must be respected, even in relation to their family members. You should inquire about the patient's desire to communicate their wish to have medical assistance in death, to family members. You must respect the patient's wishes when dealing with family members.

## Documentation

As stated in the Standards of Practice for Respiratory Therapists, "*Respiratory therapists will document all information relevant to the provision of care as per organizational policies and procedures*". When documenting discussions regarding MAiD, you must follow employer policy and clearly document all information related to the conversation. You must promptly communicate the interaction to the patient's physician or nurse practitioner. It is appropriate to inform the patient of your requirement to document the interaction and communicate to other members of their health care team.

## Witnessing a Written Request for MAiD

A patient requesting MAiD must submit a written request to a physician or nurse practitioner. The request must be signed and dated by the patient and signed and dated by two independent witnesses. You may act as a witness, at the patient's request, if you:

- Are aware that the document is a formal request for assisted dying;
- Are not or reasonably believe that you are not a beneficiary under the patient's will or will receive a financial or other material benefit from the patient's death;
- Are not an owner or operator of a health care facility where the patient is being treated or any facility in which the patient resides;
- Are not directly involved with providing health care services or personal care services to the patient making the request

## Conscientious Objection

The Canadian Charter of Rights and Freedoms ensures the freedom of conscience and religion of all individuals and Bill c-14 states that nothing in the Act affects the guarantee of freedom of conscience and religion. Therefore, the rights of respiratory therapists who object to assisted death based in conscience and religion must be honored.

If you object to assisted dying and feel you cannot care for a patient who; is inquiring about, being assessed for, or are in the waiting period to receive MAiD; you must advise your employer of your objection and request an alternate care provider. You must continue to provide safe, supportive care until an alternate care provider is in place.

## Conclusion

The NSCRT will continue to follow the evolution of policy and regulations related to MAiD and will update this guideline to reflect any change that may impact respiratory therapy practice in Nova Scotia. In light of the ongoing policy development underway provincially, we recommend you monitor the NSCRT website for any further updates. We advise you contact the NSCRT at [registrar@nscrt.com](mailto:registrar@nscrt.com) if you are uncertain about anything found within this guideline.