



Medical Assistance in Dying (MAiD) 2019

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The 2022 updates were greatly informed by the work of the College of Occupational Therapists of BC (COTBC); COTM is appreciative of their work on this important matter.

We want to hear from you. This guidance document is part of an ongoing dialogue, and any feedback or questions you bring forward helps COTM improve the materials we develop.

TABLE OF CONTENTS

Guidelines for Medical Assistance in Dying	4
Overview of the Legislation	5
Working with the Provincial Medical Assistance in Dying Clinical Team	7
Having a Conversation	7
Documentation and Use of Technology	9
OT Roles and Responsibilities in Assisted Dying	11
1. Practice Ethically	11
2. Know and Understand All Relevant Legislation, Practice Standards and Organizational Policies.....	11
3. Know the Role of the OT and the Limitations of the Occupational Therapy Scope of Practice in Addressing Client Questions or Requests for a Medically Assisted Death	12
4. Understand the Role of the OT in Aiding an Authorized Medical Practitioner in the Determination of Eligibility for MAiD	13
5. Clearly Define the Role of the OT in the Treatment of Clients Eligible for Medically Assisted Dying .	14
Conscientious Objection	15
Coping and Bereavement.....	16
Resources and Contacts	17
References	18

Guidelines for Medical Assistance in Dying

Medical assistance in dying (MAiD)* is permitted in Canada as a result of a decision by the Supreme Court of Canada (SCC). It is defined as “the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request that causes their death; or the prescribing or providing by a medical professional 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” (Government of Canada, 2016). 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 law exempts health care professionals, from criminal liability where MAiD is legally performed.

This document for Medical Assistance in Dying is intended to provide guidance on professional expectations and ethical obligations for occupational therapists related to medical assistance in dying. It also provides direction for OTs who conscientiously object to aiding in the provision of medical assistance in dying.

The federal government continues 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. COTM will monitor the situation closely and revise this Guidance Document as necessary. If discrepancies arise between this document and the legislation, the legislation will supersede the COTM document.

*Note about the abbreviated title: The federal government uses the abbreviation “MAiD”, however Manitoba Shared Health and many other organizations utilize the abbreviation “MAiD”. COTM has opted to apply the term utilized by the agency when directly referring to that agency’s information. Overall, COTM has adopted the provincial government format of “MAiD”.

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.

Effective March 17, 2021, the law was revised after Bill C-7 enacted amendments to the Criminal Code to modify MAiD eligibility criteria. The law no longer requires a person's natural death to be reasonably foreseeable. While there may still be future changes to the legislation, effective March 17, 2021, persons who wish to receive MAiD must meet all of the following criteria:

1. Be 18 years of age or older and have decision-making capacity with respect to their health.
2. Be eligible for publicly funded health care services by a government in Canada.
3. Make a voluntary request that is not the result of external pressure or influence.
4. Give informed consent to receive MAiD, meaning that the person has consented to receiving MAiD after they have received all information needed to make this decision.
5. Have a serious and incurable illness, disease or disability (Note: persons whose only medical condition is a mental illness, and who otherwise meet all eligibility criteria, will not be eligible for MAiD until March 17, 2023).
6. Be in an advanced state of irreversible decline in capability.
7. Have enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable.

Only a person who is able to directly give consent can be provided MAiD at this time. Consent cannot be provided through an alternative or substitute decision maker, or a personal advance directive.

The Government of Canada published an infographic summarizing the changes enacted as of March 17, 2021, which may be helpful to review. The infographic can be viewed here: https://www.justice.gc.ca/eng/cj-jp/ad-am/docs/MAID_Infographic_EN.pdf

Eligibility Criteria for Persons Suffering from Mental Illness and Other Considerations

Persons whose only medical condition is a mental illness, and who otherwise meet all eligibility criteria, will not be eligible for MAiD until March 17, 2023, in order to provide the Government of Canada with more time to study how MAiD can be safely provided and ensure applicable safeguards are in place.

The eligibility of mature minors, and advance requests are still under Parliamentary review of the MAiD (federal) legislation.

On November 10, 2017, the Manitoba government passed The Medical Assistance in Dying (Protection for Health Professionals and Others) Act.

Under the federal legislation, no one is compelled to participate in medical assistance in dying.

Under this Manitoba statute:

- an individual can, without disciplinary or employment repercussions, refuse to participate in medical assistance in dying because of personal convictions; and
- a professional regulatory body cannot require its members to participate in medical assistance in dying.

Working with the Provincial Medical Assistance in Dying Clinical Team

Occupational therapists are not authorized to autonomously determine an individual's eligibility for medical assistance in dying; however, occupational therapists may participate in eligibility assessments as part of a team (i.e., aiding a physician or nurse practitioner). As an occupational therapist, you are expected to ensure that you are familiar with the relevant Criminal Code provisions and are aware of eligibility criteria and statutory safeguards necessary for a client to undergo medical assistance in dying. In addition, before participating in the medically assisted death, occupational therapists should verify that a physician or nurse practitioner has documented that the eligibility criteria and safeguards have been met. This can be done by:

- reviewing the client's signed, written request for medical assistance in dying, and
- reviewing or discussing the assessment of the eligibility and second opinion, and
- participating as a member of the medical assistance in dying inter-disciplinary team.

Individuals who are seeking further information about medical assistance in dying in Manitoba are directed to talk to their health-care provider or contact the provincial MAiD Services Team at (204) 926-1380 or email: MAiD@sharedhealthmb.ca

Having a Conversation

Good communication is essential for high quality, end of life care. As an occupational therapist, you can be a vital link between the client, the family, the physician and other health-care providers. Currently in Manitoba we have an interdisciplinary provincial clinical team who provides medical assistance in dying. This team also acts as a resource for clients, families, and healthcare professionals.

Every question from a client about assisted death suggests that the client is, or is worried about, suffering and provides an opening for a dialogue with that individual. It is important for occupational therapists to acknowledge the expression of suffering and explore the reasons for the request. This will help occupational therapists understand what supports might be helpful and whether the client has unmet needs. Whether or not an occupational therapist is prepared to be involved in assisting someone to die, they remain a part of the team caring for the client. Professional occupational therapy service unrelated to the request for an assisted death remains within the scope of occupational therapy practice. As an occupational therapist, you are expected to continue to be responsible for the provision of safe, compassionate, competent, and ethical care of every client, whether or not the client

is considering an assisted death.

Any occupational therapist could be asked by a client or family member about assisted death. For some, it might be an exploration of options or simple information-seeking. For others, their questions may indicate intent to pursue an assisted death.

As an occupational therapist, you are expected to:

- practise according to federal and provincial regulations, professional regulatory standards and guidelines and organizational policies related to all aspects of medical assistance in dying. For example, this would include such aspects as understanding care requirements for a client who is undergoing assessment or has been approved for medical assistance in dying;
- participate in conversations about medical assistance in dying with their team to understand the process and how privacy and confidentiality will be maintained within the team;
- acknowledge client questions and requests and explore the reasons for them. This will help the occupational therapist assess for unmet needs and maintain a therapeutic and supportive relationship with the client;
- direct those seeking information on medical assistance in dying directly to the provincial medical assistance in dying clinical team (or adhere to organizational policies that provide alternate directives), and ensure that clients are aware of all additional supports that may be available to them including palliative care or spiritual support;
- know to provide the information on medical assistance in dying; relevant information is available on [Medical Assistance in Dying - Shared Health \(sharedhealthmb.ca\)](https://sharedhealthmb.ca/medical-assistance-in-dying);
- document in the client health record any request for information related to medical assistance in dying including the interactions and care provided, and any resource(s) they provide to the client in accordance with professional standards and organizational policy.

Occupational therapists are urged to:

- communicate with their supervisor to inform of or relay client questions about assisted death;
- contact their occupational therapy regulatory organization with any questions.

As an occupational therapist, you can also:

- act as a witness to a written request; (see next section on Documentation for more details regarding acting as a witness);
- be present for assessments of eligibility;
- be present for the provision of medical assistance in dying.

As an occupational therapist, you are not expected to directly participate in the provision of medical assistance in dying. However, as an occupational therapist, you are expected to continue providing any routine services that is not related to medical assistance in dying. Refusal or failure to provide ongoing occupational therapy services may constitute abandonment and is contrary to an occupational therapist's ethical responsibilities.

As an occupational therapist, you are expected to be aware of your own feelings about assisted death and whether they may be evident to the client. Clients may feel judged or discriminated against if they perceive that the nature of their occupational therapy services has changed after they have indicated an interest in a medically assisted death.

Documentation and Use of Technology

Documentation

Currently (as of January 2022) only MAiD team members can see charting related to MAiD. This limitation is under review in Manitoba with the hopes of change so any health care provider can see the charting.

Documentation Requirements

Specific documentation requirements must be met as part of the MAiD process. In Manitoba, a Patient Request Record form must be completed by the person requesting MAiD, or by their proxy under the person's express direction if the person is unable to physically sign the form. The form is currently available only in English. It can be found at [maid-patient-request-form.pdf \(sharedhealthmb.ca\)](https://sharedhealthmb.ca/maid-patient-request-form.pdf)

Effective March 17, 2021, one independent witness, who must be at least 18 years old and understand the nature of the request for MAiD, must act as a witness for a person's request for MAiD. This was changed from the previous requirement of two independent witnesses.

A witness is not considered independent if they meet any of the following criteria:

- know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from the person's death;
- are an owner or operator of any health care facility at which the person making the request is being treated or any facility in which the person resides;
- are directly involved in providing healthcare services to the person making the request or directly providing personal care to the person making the request. (See note about caregivers / health service providers below).

The new section 241.2(5.1) of the Criminal Code allows caregivers / health service providers to act as a witness if the provision of care is their primary occupation and they are paid to provide that care. However, the change does not permit the physician or nurse practitioner providing MAiD or the physician or nurse practitioner providing the second assessment to act as a witness. As an OT, you can be a witness for a client to whom you are providing professional services.

Use of Communication Technologies

It is useful to consider the use of technology in the request and assessment processes.

Of relevance to occupational therapy practice are:

- The Patient Request Record form can be completed by videoconference. The person requesting MAiD and the independent witness can complete their signed pages separately and submit to create a complete document.
- Both of the two required eligibility assessments can be completed remotely by a physician or nurse practitioner with another regulated health professional in physical attendance with the person requesting MAiD to act as a witness to the assessment, unless one is not reasonably available.

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

As an OT, you are expected to adhere to the COTM 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 COTM's guidance. The values of practice are:

- A. Accountability:** Occupational therapists are fully responsible for their practice and are able to account for their actions.
- B. Individual Autonomy:** Occupational therapists recognize and respect that every client has the right to self-determination.
- C. Competent, Caring and Ethical Services:** Occupational therapists recognize and respect that every client has the right to competent, caring and ethical occupational therapy services that promote health and well-being.
- D. Dignity and Worth:** Occupational therapists recognize and respect that every client is unique and has intrinsic worth.
- E. Trusting and Respectful Practice Environment:** Occupational therapists perform their professional duties in a manner that promotes a trusting and respectful practice environment that supports safe and competent care.
- F. Fairness:** Occupational therapists recognize and respect that every client has the right to quality occupational therapy services in accordance with individual needs.
- G. Confidentiality and Privacy:** Occupational therapists safeguard the confidentiality of information acquired in the context of professional relationships.
- H. Honesty and Transparency:** Occupational therapists communicate openly and honestly in a clear and caring manner, and respect each client's right to comprehensive information regarding occupational therapy services.

In dealing with the sensitive nature of medical assistance in dying, as an OT, you 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

As an OT, you 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. As OTs work across the continuation of the lifespan, including providing OT services for clients who are receiving end of life care, an OT may, in some circumstances, aid a physician or nurse practitioner with MAiD providing that they follow the rules of federal legislation, provincial legislation and requirements, and practice standards. This includes following standards for consent, professional boundaries, managing client information, and supervising support personnel. 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 a 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, as an OT, you are expected to understand OTs are not permitted to determine eligibility for assisted dying and must be aware of the steps to appropriately support the client through the process. OTs are advised to take their lead from the client in conversations around Medical Assistance in Dying in order to respect dignity and autonomy of the client. If the client indicates that information about MAiD may be of value to them in communication with the OT, the OT should provide this information or must, at minimum, ensure the client is provided with the information.

Also, even though the client has not specifically expressed a wish to participate in MAiD or a related service, as an OT, you are expected to be attuned to what the client may be inferring. Clients may not be aware that there is such a program as MAiD or that medical assistance in dying is an option therefore it is critical that the OT listens closely for what the client is

expressing. To enable clients to make informed decisions, OTs must be able to provide accurate, objective information in a respectful and thoughtful manner on the legal provision of MAiD. OTs must clearly document any request for or discussion about MAiD in the client's medical record.

Occupational therapists are permitted to provide the Patient Request Record form and information about MAiD as an end-of-life option but must not encourage or discourage any option for care over another, such as hospice and palliative care. Additionally, occupational therapists must know the limitations of occupational therapy scope of practice in addressing client questions or requests for MAiD. For example, if an occupational therapist is approached by a client asking about MAiD, the occupational therapist may consider saying, "Can you tell me more about what information you are looking for, so I can clarify or direct you to someone who can answer your questions?"

As a first point of contact for a client requesting medically assisted death, as an OT, it is expected that you must:

- a. respect client autonomy, remain client-centred and treat the client with dignity regardless of the OT's personal beliefs and values;
- b. inform the client of the OT's role in response to the request including that the OT is not permitted to determine eligibility;
- c. obtain consent to refer the client to a health professional legally authorized to determine eligibility for medically assisted death (physician or nurse practitioner); and
- d. 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 MAiD

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 and cognitive abilities of clients 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 as an OT, you are expected to ensure you are practising within the scope of practice of the profession, have the necessary competence, and apply an assessment process that complies with the Guidelines for Occupational Therapy Assessment.

As with any occupational therapy assessment or intervention, as an OT, you are expected 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 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, as an OT, you are expected to:

- practise within the scope of the profession,
- ensure you are competent to perform the intervention,
- set clear expectations for the client, family and team members, and
- recognize the limits of your abilities related to medical assistance in dying.

For all assessments and interventions, as an OT, you are expected to be accountable to meet the standards of practice for the profession and to 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-centered, respects client autonomy and dignity, and meets the responsibilities and accountabilities of the standards of practice.

If you conscientiously object to medical assistance in dying, as an OT, you are expected to:

- a. respect client autonomy, remain client-centered 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; and
- 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. Discontinuation must be reasonably regarded by OTs as appropriate with respect to:

- a. the occupational therapist's reasons for discontinuing the services;
- b. the condition of the client;
- c. the availability of alternate services, and
- d. the opportunity given to the client to arrange alternate services before the discontinuation.

Coping and Bereavement

Coping and bereavement are sensitive and important aspects of end-of-life care. Occupational therapists encountering any death, including assisted death, in their clinical practice need to manage their professional responsibilities by recognizing their own personal and professional limits or challenges. If needed, occupational therapists are encouraged to seek support for themselves, as well as guide their colleagues, clients, and clients' families accordingly.

Resources and Contacts

1. **Government of Canada: Medical Assistance in Dying**
[Medical assistance in dying - Canada.ca](https://www.canada.ca/en/health-services/minister-of-health/medical-assistance-in-dying.html)
2. **Manitoba Health and Seniors Care**
[Questions and Answers About Medical Assistance in Dying | Health and Seniors Care | Province of Manitoba \(gov.mb.ca\)](https://www.gov.mb.ca/health/seniors/care/questions-answers-about-medical-assistance-in-dying.html)
3. **Shared Health Manitoba - Medical Assistance in Dying (MAiD).**
[Medical Assistance in Dying - Shared Health \(sharedhealthmb.ca\)](https://www.sharedhealthmb.ca/maid)
4. **Shared Health Manitoba - Medical Assistance in Dying MAiD Patient Request Form.** [maid-patient-request-form.pdf \(sharedhealthmb.ca\)](https://www.sharedhealthmb.ca/maid-patient-request-form.pdf)

CONTACT Guidance for Clients

Individuals who wish to access medical assistance in dying should talk with their health care provider, or to the provincial MAiD clinical team established to support patients who have questions or want to access the medical assistance in dying process. For more information or to contact the team, call 204-926-1380 or e-mail: MAiD@sharedhealthmb.ca.

The provincial MAiD clinical team is also available to support health care providers who are assisting patients accessing MAiD. For more information or to contact the team, call 204-926-1380 or e-mail: MAiD@sharedhealthmb.ca.

For more information on palliative and end-of-life care services and programs visit [Palliative Care | Health and Seniors Care | Province of Manitoba \(gov.mb.ca\)](https://www.gov.mb.ca/health/seniors/care/palliative-care.html)

CONTACT Guidance for Occupational Therapists

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

References

Bernik, A., Winter, A., Gordon, C. & Reel, K. (2015). Could occupational therapists play a role in assisted dying? CAOT Conference Presentation. Winnipeg: Manitoba.

Canada's new medical assistance in dying (MAiD) law (justice.gc.ca)

Government Bill (House of Commons) C-7 (43-2) - Royal Assent - An Act to amend the Criminal Code (medical assistance in dying) - Parliament of Canada

The Medical Assistance in Dying (Protection For Health Professionals And Others) Act, 2017, C.C.S.M. c. M92 (gov.mb.ca)