CEP Providers

Medical Assistance in Dying (MAID) in Ontario Track Two: Natural Death is NOT Reasonably Foreseeable

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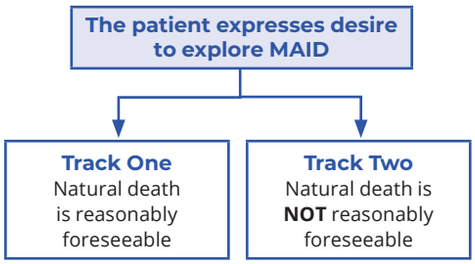
Introduction

On March 17, 2021, changes to the MAID legislation came into force through Bill C-7.[1] These changes allow MAID for eligible persons who wish to pursue a medically assisted death, whether their natural death is reasonably foreseeable (Track One) or not reasonably foreseeable (Track Two).[2]

This resource highlights key considerations and recommends processes for the provision of MAID by Clinicians. It is based on extensive consultations with key stakeholder organizations and regulatory bodies, and it is intended to supplement, not circumvent, existing legal requirements, regulatory body requirements or institutional processes that have been established.

While this resource is based on the best available information, there may be gaps in the process that cannot be addressed at this time. Every effort will be made to incorporate updates as new information becomes available.

High-level clinical pathway for MAID



The revised law creates a two-track approach to procedural safeguards for Clinicians to follow, based on whether or not a person's natural death is reasonably foreseeable.[2]

Track One: Natural death is reasonably foreseeable

The recent legislative changes have not altered the meaning of "reasonably foreseeable natural death." Clinicians can continue to rely on the guidance previously provided by the court and the clinical community to inform their assessment of whether a patient's natural death is reasonably foreseeable or not, and therefore, which procedural safeguards apply.[3] For more information about Track One, see the CEP's resource on Medical Assistance in Dying (MAID) in Ontario Track One: Natural Death is Reasonably Foreseeable.[4]

Track Two: Natural death is NOT reasonably foreseeable

Additional safeguards apply for patients whose natural death is **NOT** reasonably foreseeable. For example, this includes requiring that patients undergo a 90-day assessment period before receiving MAID.[2,3]

Ontario's *Bill 84, the Medical Assistance in Dying Statute Law Amendment Act, 2017*

Bill 84, the Medical Assistance in Dying Statute Law Amendment Act, 2017, amended six existing Ontario statutes.[5] Notably, Bill 84 included an amendment to the *Coroners Act* to ensure effective oversight of MAID.

Definition of Terms*

Medical Practitioner

A physician who is licensed to practice medicine in Ontario.

Nurse Practitioner (NP)

A registered nurse who is licensed to practice as a nurse practitioner in Ontario.

Clinician

For this resource, the term *Clinician* refers to the medical or nurse practitioner that is overseeing the provision of MAID for an individual patient. This role may include, but is not limited to, receiving a patient request for MAID, conducting the first eligibility assessment, and administering or prescribing the drug protocol for the provision of MAID. It is recommended that this Clinician be responsible for ensuring that all relevant documentation is obtained and included in the patient's medical record. In instances where the Clinician responsible for the provision of MAID is not the **Most Responsible Provider (MRP)** (e.g. in cases of conscientious objection and patient referral), the MRP will remain involved to direct the coordination of care for the patient (excluding the provision of MAID).

For this resource, the term Second Clinician refers to the medical or nurse practitioner that conducts the second, independent eligibility assessment of the patient. This role may also include administering or prescribing the drug protocol for the provision of MAID.

A Clinician with "expertise"

For patients whose natural death is **NOT** reasonably foreseeable, it is required that one of the two Clinicians (who confirm the patient's eligibility for MAID) has expertise in the condition causing the patient's suffering or that a Clinician is consulted who has such expertise.[3] The federal government has clarified that the expertise must be in the condition that is causing the patient the greatest suffering.[3]

See Consulting Clinician with "expertise" in the patient's condition for more information.

The Care Coordination Services (CCS)

The CCS supports supports patients, family members/caregivers acting on patients' behalves and Clinicians by providing information about end-of-life options, including MAID, and by helping to connect with MAID services.

- Patients and family members/caregivers acting on their behalves may access the CCS to request being connected to a Clinician who will provide MAID services, including eligibility assessments.
- For Clinicians who are unwilling or unable to provide MAID, the CCS can help to connect their patients to Clinicians who are willing to provide MAID services.
- The CCS will also support patient access to MAID by helping Clinicians connect with a:
  - Clinician who can provide the second assessment needed to confirm that a patient meets all eligibility criteria, as required by the federal MAID legislation
  - Community pharmacist who will dispense the drugs required for MAID; and
  - Clinician who will prescribe or administer the drugs required for MAID, if needed.

INFO: The care coordination service information line is available 24 hours a day, 7 days a week and may be reached toll free at 1-866-286-4023.

"Advance Consent for Failed Self-Administration"

Patients who choose to self-administer MAID may enter into written arrangements allowing for Clinician-administered MAID if self-administration of MAID fails.[3] This applies to either Track One or Track Two. Clinicians may administer MAID to a patient who loses the capacity to consent after self-administering if the patient meets the criteria outlined in "Advance Consent for Failed Self-Administration."[3]

*The MRP and the Clinician OR Second Clinician may have overlapping roles and responsibilities or may be the same individual.

OVERVIEW: Full Track Two Pathway for MAID

Please see Section 4: Checklist for Track Two for a checklist of items to include in the patient's medical record. These records should be on-hand and accessible to support an efficient and effective investigation by the Office of the Chief Coroner. Note: The use of Clinician Aid A, B, and C is voluntary and is used in this Resource as an option for documenting MAID requests and assessing eligibility.

SECTION 1: Patient Inquiry

Patient inquires about MAID

Clinician chooses not to participate in the discussion of MAID

Clinician:
- Informs the patient that they are unwilling to discuss MAID due to conscientious objections
- Refers the patient to another Clinician, institution or agency (e.g. CCS) that is willing and able to provide MAID
- Continue to provide ongoing care to the patient
- Must report all requests for MAID. See federal reporting requirements for more information

Clinician chooses to participate in the discussion of MAID

Clinician discusses and explores the motivation and suffering behind the patient's request for MAID. The Clinician provides information on the available treatments and care options including MAID

Note: Clinicians must report all requests for MAID even if it does not result in death. See federal reporting requirements for more information

Patient chooses to proceed with MAID eligibility assessments

Patient chooses not to pursue MAID eligibility assessments at this time and chooses to explore alternate care options

Clinician:
- Chooses not to participate in eligibility assessments and/or provision of MAID
- Refers the patient to another Clinician, institution or agency (e.g. CCS) that is willing and able to provide MAID

Clinician chooses to participate in eligibility assessments and/or provision of MAID

SECTION 2: Assessment of Patient Eligibility and Procedural Safeguards

INFO: the Ministry has created Clinician Aids to record the patient's request and the results of the eligibility assessments:
- Clinician Aid A - is the formal patient request for MAID and completed by the patient
- Clinician Aid B - is completed by the Clinician assessing/providing MAID to the patient and used to record the patient's eligibility
- Clinician Aid C - is completed by the Second Clinician who is confirming the patient's eligibility

Clinician conducts eligibility assessment for MAID (Clinician Aid B [for the Clinician assessing/providing MAID] and Clinician Aid C [for the Second Clinician]). Eligibility criteria includes:
- ☐ Is 18 years of age or older and has decision-making capacity
- ☐ Is eligible for publicly funded health care services
- ☐ Has made a voluntary request that is not the result of external pressure
- ☐ Has provided informed consent to receive MAID, meaning that the patient has consented to receive MAID after they have received all information needed to make this decision
- ☐ Has a serious and incurable illness, disease or disability*
- ☐ Is in an advanced state of irreversible decline in capability
- ☐ Has enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable

*Patients whose only medical condition is a mental illness will not be eligible for MAID until March 2023

Patient meets ALL eligibility criteria for MAID

Clinician determines what procedural safeguard track the patient is on

Track One: Natural death is reasonably foreseeable

For more information on patients whose natural death is reasonably foreseeable, see the CEP's resource on Track One

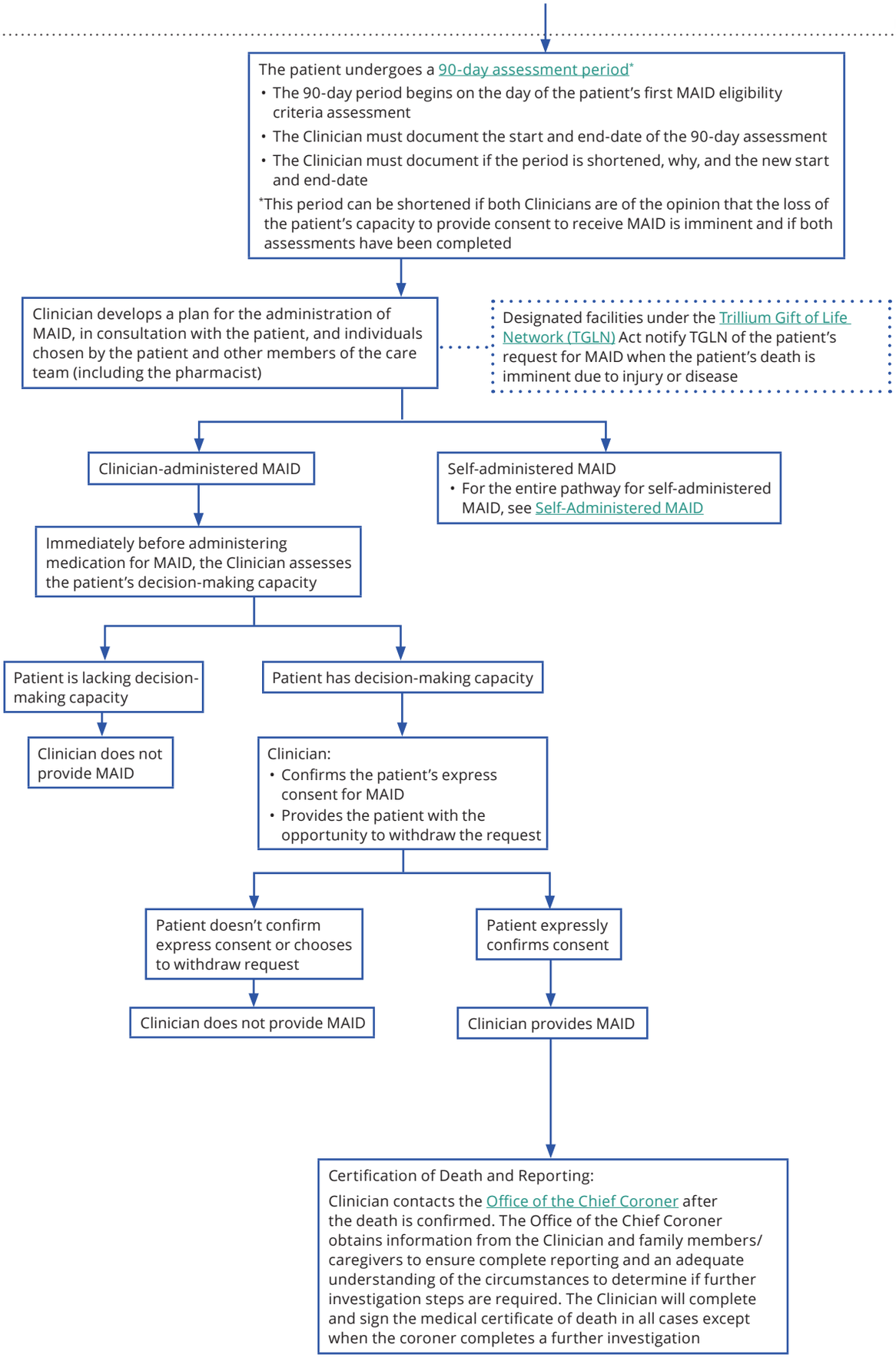
Patient does not meet eligibility criteria for MAID

Communicate ineligibility to the patient and inform the patient of their right to consult a different Clinician to obtain another eligibility assessment

Track Two: Natural death is NOT reasonably foreseeable

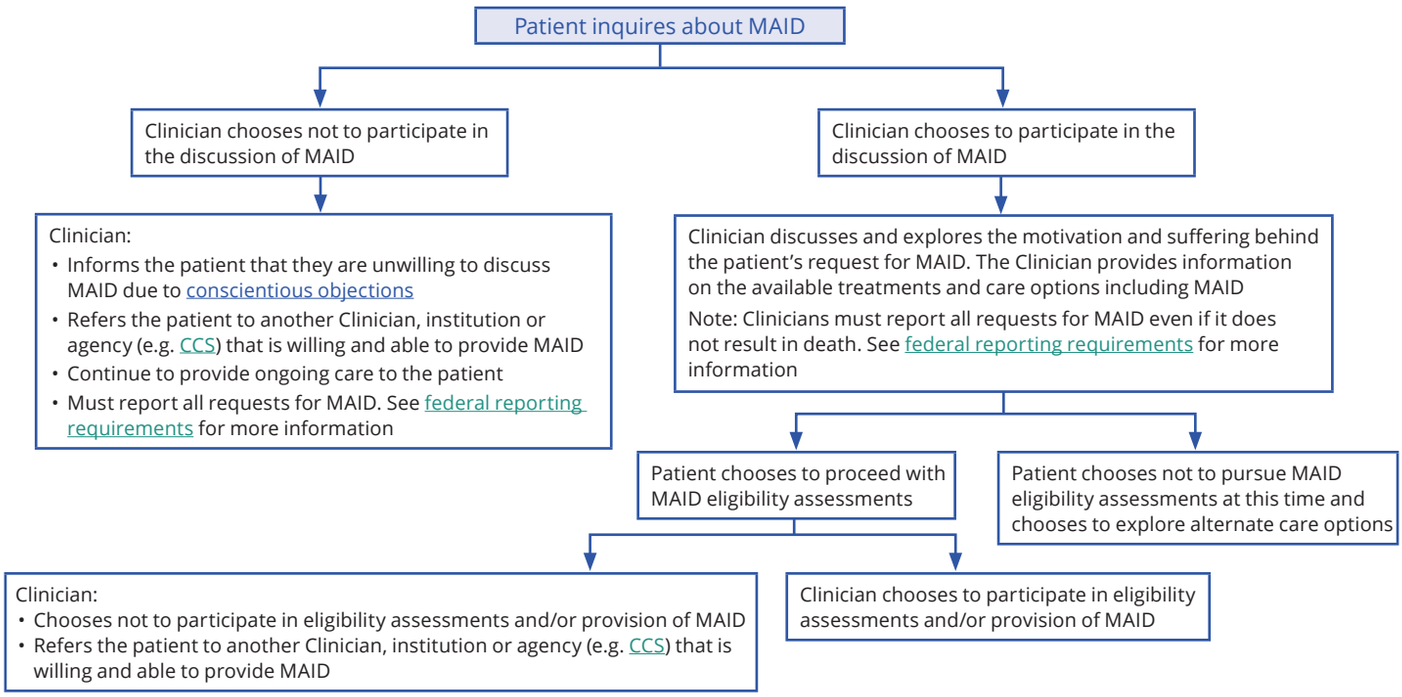
Track Two procedural safeguards for patients whose natural death is **NOT** reasonably foreseeable:
- Request for MAID must be made in writing. A written request must be signed by one independent witness, and it must be made after the patient is informed that they have a "grievous and irremediable medication condition" (Clinician Aid A)
- Two independent Clinicians must provide an assessment and confirm that all eligibility requirements are met
- If neither of the two Clinicians who assesses eligibility has expertise in the medical condition that is causing the patient's suffering, they must consult with a Clinician who has such expertise
- The patient must be informed of available and appropriate means to relieve their suffering, including counselling services, mental health and disability support services, community services, and palliative care, and the patient must be offered consultations with available professionals who provide those services
- The patient and the Clinicians must have discussed reasonable and available means to relieve the patient's suffering and agree that the patient has seriously considered these means
- The patient must be informed that they can withdraw their request at any time, in any manner

SECTION 3:
Provision of MAID



SECTION 1: Patient Inquiry

Track Two



Patient Inquires about MAID

A patient's inquiry about MAID can take many forms:[7]

- An explicit request for MAID;
- A general inquiry of all available options to reduce suffering and expedite death (including MAID);
- An express desire to end their life with the help of a medical or nurse practitioner.

Conscientious Objections and Patient Referral

Clinicians with conscientious objections must respectfully and non-judgementally inform their patients that they will not assess or provide MAID and refer patients to another medical or nurse practitioner, institution or agency that is willing to facilitate the provision of MAID, such as the Ministry's CCS. The referral must be made promptly to ensure that patients are not exposed to unnecessary delays or adverse clinical outcomes (e.g. a decline in capacity). Irrespective of a patient's desire to explore MAID through another non-objecting Clinician, institution or agency (e.g. CCS), Clinicians must continue to provide ongoing care (excluding the provision of MAID) to the patient.[3,8,9]

Clinicians must follow the requirements, policies and guidelines set out by their respective regulatory colleges regarding conscientious objection and patient referral.

Clinicians must adhere to additional directives outlined by their institution or agency (e.g. institutions may implement specific processes and policies to facilitate patient referral and to ensure access to care).

Clinicians who choose not to assess or provide MAID can either make a referral through their professional networks or the Ministry's CCS.

Resources outlining referral guidelines for medical practitioners:
- College of Physicians and Surgeons of Ontario (CPSO) Policy Statement #18 Medical Assistance in Dying
- CPSO's Effective Referrals: What Physicians Need to Know

Resources outlining referral requirements for nurse practitioners:
- College of Nurses of Ontario (CNO) Practice Standard

Resources outlining referral requirements for pharmacists:
- Ontario College of Pharmacists' (OCP) Code of Ethics

INFO: the Ministry has created the CCS to support referrals by Clinicians, patients and family members/caregivers acting on their behalves. The CCS information line (1-866-286-4023) is available 24/7. Referral services are available Monday - Friday, 9 am – 5 pm ET, with voicemail available after hours. Both the information line and referral services are available in English and French (translation for other languages can be requested), and TTY is available at 1-844-953-3350.

Patient Submits Formal Written Request

Patients must submit a formal written request for MAID, signed and dated in the presence of one independent‡ witness (e.g. Clinician Aid A).[10] The formal written request can only be signed and dated by the patient after they have been informed by a Clinician that they have a grievous and irremediable medical condition.

‡To meet the legal conditions for independent witness, the following criteria must be met:[1]

- Person 18 years of age or older;
- Understands the nature of the request for MAID;
- May be an individual who is paid to provide health and personal care as their profession or occupation*[11]
- Must not know or believe that they are a beneficiary under the will of the patient making the request, or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death;
- Must not be an owner or operator of any health care facility at which the patient making the request is being treated or any facility in which the patient resides; and
- Must not be a Clinician who assesses the patient for MAID eligibility or provides MAID to the patient.[11]

*These individuals would also be excluded from acting as a witness if they are a beneficiary of the person's will or if they would receive a financial benefit from the person's death.[11]

Additional considerations:

- For patients who are unable to write, the formal request can be transcribed
- For patients who are unable to sign and date the request, another person — who is at least 18 years of age, who understands the nature of the request for MAID and who does not know or believe that they are a beneficiary under the will of the patient, or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death — may do so in the patient's presence, on the patient's behalf and under the patient's express direction[1]

SECTION 1: Patient Inquiry

Discussion To Understand Motivation Behind Patient's Inquiry About MAID

An express desire to end one's life through MAID requires a careful exploration to understand the patient's suffering, as well as inducements that may arise from psychosocial or non-medical conditions and circumstances. If psychosocial factors (e.g. grief, loneliness, stigma, shame) or lack of resources (e.g. barriers to accessing medical care, assistive devices, psychological supports) motivates the patient's request, then efforts should be made to alleviate these concerns.

This is an opportunity for the Clinician to:

- Assess the patient's motivations for the request;
- Discuss the patient's concerns and unmet needs; and
- Explore with the patient all alternate treatment or management options (e.g. comfort/palliative care, pain/symptom control, assistive devices, psychological support), including MAID.

Patients are not required to undergo any procedure or treatment that is not acceptable to them.

Federal Reporting Requirements

Federal MAID legislation:[1]

- Physicians, nurse practitioners and pharmacists provide information for monitoring MAID

The federal reporting requirements capture MAID deaths and written requests for MAID, even if a MAID death never occurs (e.g. if the patient dies beforehand, if they were deemed ineligible, if they change their mind).

A patient's written request for MAID may take any form, including a text message or an email. The patient does not have to provide a formal written request (i.e. signed, dated, and witnessed) for it to be reported. As long as it is an explicit request for MAID, regardless of written format, Clinicians are to report this. The Most Responsible Provider (MRP) would report a patient's written request for MAID. **If there is no MRP identified with respect to the receipt of a written request, the Clinicians involved (or the CCS or administrative body, where applicable) must determine which Clinician will be responsible for reporting. Note: Neither the federal legislation nor the Regulations allow for delegation of reporting on MAID to other individuals or administrative staff.**[12] It is also possible for multiple Clinicians to receive a written request for MAID from a patient and be unaware that the same patient requested MAID from other Clinicians. In this scenario, each Clinician is required to report. The Canadian MAID Data Collection Portal will be able to discern multiple independent reports related to one patient through common data points that are reported (i.e. date of birth and health card number).[13]

Ontario has taken on a hybrid approach to federal reporting, in that:

- All Clinician-administered and self-administered MAID cases that result in death are reported to the Office of the Chief Coroner; and
- All other reporting requirements that do not result in a MAID death are reported to Health Canada.

Clinicians will report to Health Canada via the Canadian MAID Data Collection Portal in the following situations when a written request for MAID has been received:

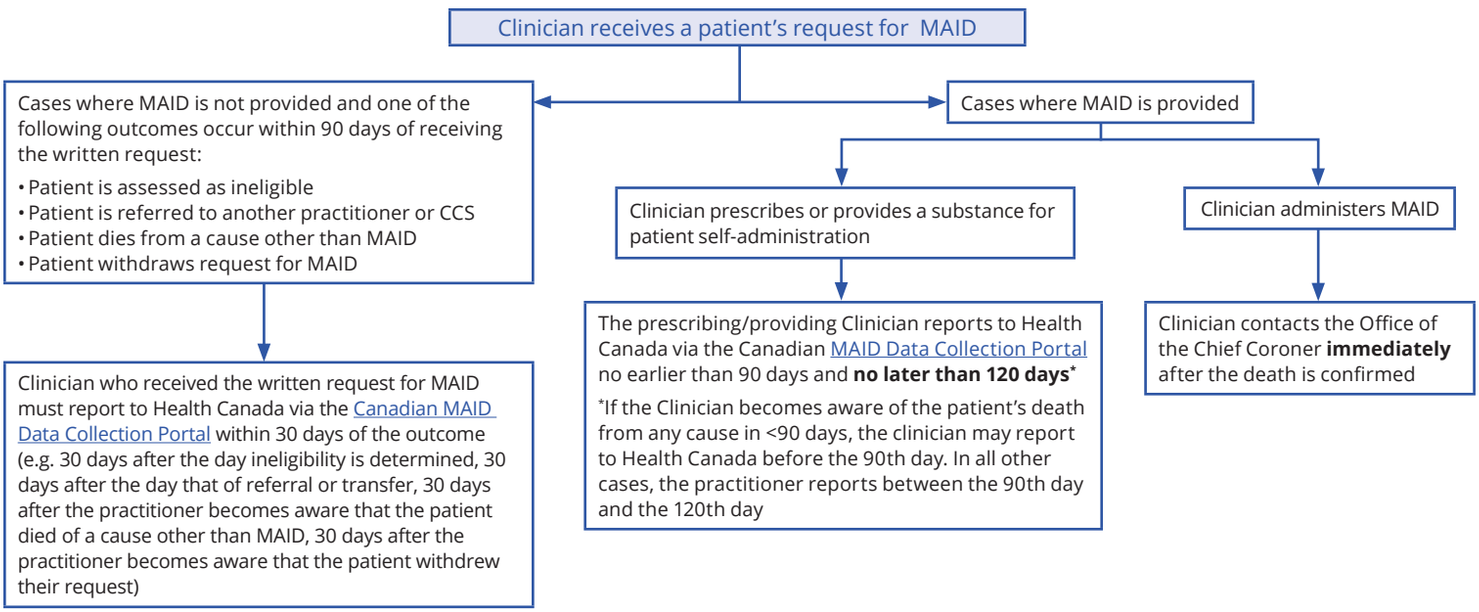
- Patient is assessed as ineligible;
- Patient is referred to another practitioner or CCS;
- Patient dies from a cause other than MAID; or
- Patient withdraws request for MAID.

Reporting timelines are shown in the flowchart below.

Note: The reporting requirements are subject to change once Health Canada completes the update to the MAID monitoring regulations. The information here will be updated as the new regulations are published.

Resources outlining the deadlines and rules relating to the federal reporting requirements can be accessed here

Health Canada's Canadian MAID Data Collection Portal: Access the Portal



Note: Reporting is always required when MAID is provided, regardless of the time passed since the receipt of the written request. For all other outcomes, reporting is only required if the outcome occurs within 90 days.

SECTION 2: Assessment of Patient Eligibility and Procedural Safeguards

Track Two

INFO: the Ministry has created Clinician Aids to record the patient's request and the results of the eligibility assessments:

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- ☐ Is eligible for publicly funded health care services
- ☐ Has made a voluntary request that is not the result of external pressure
- ☐ Has provided informed consent to receive MAID, meaning that the patient has consented to receive MAID after they have received all information needed to make this decision
- ☐ Has a serious and incurable illness, disease or disability*
- ☐ Is in an advanced state of irreversible decline in capability
- ☐ Has enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable

*Patients whose only medical condition is a mental illness will not be eligible for MAID until March 2023

Patient meets ALL eligibility criteria for MAID

Clinician determines what procedural safeguard track the patient is on

Patient does not meet eligibility criteria for MAID

Communicate ineligibility to the patient and inform the patient of their right to consult a different Clinician to obtain another eligibility assessment

Track One: Natural death is reasonably foreseeable

For more information on patients whose natural death is reasonably foreseeable, see the CEP's resource on Track One

Track Two: Natural death is NOT reasonably foreseeable

Track Two procedural safeguards for patients whose natural death is **NOT** reasonably foreseeable:

- Request for MAID must be made in writing. A written request must be signed by one independent witness, and it must be made after the patient is informed that they have a "grievous and irremediable medication condition" (Clinician Aid A)
- Two independent Clinicians must provide an assessment and confirm that all eligibility requirements are met
- If neither of the two Clinicians who assesses eligibility has expertise in the medical condition that is causing the patient's suffering, they must consult with a Clinician who has such expertise
- The patient must be informed of available and appropriate means to relieve their suffering, including counselling services, mental health and disability support services, community services, and palliative care, and the patient must be offered consultations with available professionals who provide those services
- The patient and the Clinicians must have discussed reasonable and available means to relieve the patient's suffering and agree that the patient has seriously considered these means
- The patient must be informed that they can withdraw their request at any time, in any manner

The patient undergoes a 90-day assessment period*

- The 90-day period begins on the day of the patient's first MAID eligibility criteria assessment
- The Clinician must document the start and end-date of the 90-day assessment
- The Clinician must document if the period is shortened, why, and the new start and end-date

*This period can be shortened if both Clinicians are of the opinion that the loss of the patient's capacity to provide consent to receive MAID is imminent and if both assessments have been completed

SECTION 2: Assessment of Patient Eligibility and Procedural Safeguards

Track Two

Competent Adult and Assessing Capacity

- Federal legislation requires that a patient be at least 18 years of age and capable of making decisions with respect to their health to be eligible to receive MAID.[1]
- Since capacity is specific to time and treatment:
  - The patient's capacity must be assessed specifically for consenting to MAID; and
  - The patient must be capable immediately before MAID is provided.

The requirements for capacity to undergo MAID are the same as the requirements for any health care treatment. The use of existing procedures for capacity assessments are encouraged.[14]

Two-part question to assess capacity:[15]

1. Is the patient able to understand the information relevant to deciding to consent or refusing to consent to MAID?
2. Is the patient able to consider and appreciate the reasonably foreseeable consequences of a decision or lack of decision?

The following resources may be helpful to Clinicians when assessing capacity:

- Aid to Capacity Evaluation (ACE)
  Helps to systematically evaluate capacity when a patient is facing a medical decision
- Assessment of Capacity to Consent to Treatment (ACCT) Interview
  Assesses four decisional abilities and can be used to assess consent capacity in patients with neurocognitive or neuropsychiatric illness
- CPSO - Consent to Treatment
- CNO - Practice Guideline: Consent

Voluntary Request and Informed Consent to MAID

A patient's request for MAID must be voluntary and not result from external pressure.[1,8,14]

Reasonable measures should be taken to assess if the patient's decision has been made freely, without coercion or undue influence from family members/caregivers, health care providers or others.

A patient must provide informed consent to receive MAID, after being informed of alternate care options available to alleviate suffering, including access to devices, specialists and palliative care.[1]

For consent to be informed, a patient must understand the six components of informed consent, as outlined in the *Health Care Consent Act, 1996*:[15]

- The nature of the treatment;
- The expected benefits of the treatment;
- The material risks of the treatment;
- The material side effects of the treatment;
- Alternative courses of action; and
- The likely consequences of not having the treatment.

The patient must understand that consent can be withdrawn at any time before undergoing MAID, without negative consequences on the Clinician-patient relationship or the care provided to the patient.

The Clinician must take reasonable steps to ensure that a patient understands the information provided about their health status and MAID. If a patient has difficulty communicating, the Clinician must take necessary measures to provide a reliable means for the patient to understand the information provided and communicate their decision.[1,8,14]

The following resource may be helpful to Clinicians when assessing voluntariness and informed decision-making for patients from vulnerable populations:

- Vulnerability Assessment

Clinicians should consider the following to determine if their patient meets the criteria for informed consent.

The patient:

- ☐ Consents specifically to MAID and understands the likelihood of death upon being given or taking the lethal medication;[2]
- ☐ Is fully informed of the process for the provision of MAID, including time, place and method of administration;
- ☐ Understands their health status, diagnosis, prognosis and the likelihood of death upon taking the lethal medication;
- ☐ Is aware of potential complications related to the provision of MAID, including medication failure;
- ☐ Is fully informed of alternative treatments and courses of action, such as: rehabilitation services, access to additional medical care, palliative and hospice care, pain and symptom control, and psychological or spiritual counselling;
- ☐ Is informed that upon death, their body may be transferred by the Office of the Chief Coroner for examination. The extent of the investigation by the coroner cannot be predicted in advance and, while unlikely, may include an autopsy.* If the Coroner determines that the death has to be investigated and investigates, the Coroner will complete and sign the MCOD. If the Coroner determines that the death does not have to be investigated, the Clinician will complete and sign the MCOD; and
- ☐ Is provided with answers to all questions and requests for additional information about MAID or any of the above items.

*A total of 52 cases have proceeded to full or external post-mortem examination since the legalization of MAID in 2016. Of the 52 cases, 45 occurred in 2016, before Ontario's *Medical Assistance in Dying Statute Law Amendment Act, 2017* came into force and amended the *Coroners Act, R.S.O. 1990, c. C.37*. As of 2017, all MAID cases are reviewed by the Office of the Chief Coroner (OCC) but do not necessarily meet the criteria for investigation under the amended *Coroners Act, R.S.O. 1990, c. C.37*, resulting in few post-mortem examinations. Since the amendments, there have been a total of 7 post-mortem examinations from 2017-2021.[16]

Grievous and Irremediable Medical Condition

A patient's condition is grievous and irremediable if ALL of the following criteria are met:[17]

- Serious and incurable illness, disease or disability;
- Advanced state of irreversible decline in capability; and
- Enduring physical or psychological suffering due to the illness, disease or disability that is intolerable to them and that cannot be relieved under conditions that the patient considers acceptable.

The following resources may be helpful to Clinicians when assessing a patient's condition:

- Clinical Frailty Scale: A judgement-based tool to screen for frailty and to broadly stratify degrees of fitness and frailty. It is not a questionnaire, but a way to summarize information from a clinical encounter
- Sheehan Disability Scale (SDS): A brief self-report tool that patients use to rate the extent to which work/school, social life, home life or family responsibilities are impaired by their symptoms
- 36-Item Short Form Survey Instrument (SF-36): A set of easily administered quality-of-life measures that relies on patient self-reporting
- QMortality-2017: A calculator that helps patient's work out their risk of dying by answering some simple questions. This calculator is for patient's >65 years

SECTION 2: Assessment of Patient Eligibility and Procedural Safeguards

Procedural Safeguards

The following are Track Two procedural safeguards from the law:

- The written request for MAID must be signed by one independent witness;[2]
- The use of "advanced consent for failed self-administration" written arrangement;
- Two independent Clinicians must provide an assessment and confirm that all eligibility requirements are met;
- If neither of the two Clinicians (who assesses eligibility) has expertise in the medical condition causing the patient's suffering, they must consult with a Clinician who has such "expertise";[2]
- The patient must be informed of available and appropriate means to relieve their suffering, including counselling services, mental health and disability support services, community services, and palliative care, and the patient must be offered consultations with available professionals who provide those services;[2]
- The patient and the Clinicians must have discussed reasonable and available means to relieve the patient's suffering and agree that the patient has seriously considered these means;[2] and
- The eligibility assessments must take at least 90 days. This period can be shortened if the patient is about to lose the capacity to make health care decisions, as long as both assessments have been completed.[2]

Assessment by Two Independent Clinicians

Two independent* Clinicians (e.g. two medical practitioners, two NPs, or one medical practitioner and one NP) must separately conduct an assessment to ensure that a patient meets ALL criteria required to be eligible for MAID and provide their opinion in writing to confirm a patient's eligibility.[1,8,9,14]

*To meet the legal conditions for independence, each Clinician must ensure that they:[1]

- Are not a mentor to the Second Clinician or responsible for supervising their work;
- Do not know or believe that they are a beneficiary under the will of the patient making the request or a recipient, in any other way, of a financial or other material benefit resulting from the patient's death, other than standard compensation for their services relating to the request; and
- Do not know or believe that they are connected to the Second Clinician or to the patient requesting MAID in any other way that would affect their objectivity.

Consulting Clinician with "expertise" in the patient's condition[3,18]

The Clinician with "expertise" does not need to have a specialty designation or certification to have expertise in the patient's condition. Expertise regarding the condition could be obtained through education, training or experience (e.g. treating patients with a similar condition).

The Clinician with expertise would not be assessing the patient's eligibility for MAID. They are expected to conduct a thorough assessment of the patient's status and treatment options, as it relates to options to reduce suffering, and they provide advice regarding the reasonable and available services and treatment options that might relieve the patient's suffering. This may include advising on the nature or stage of the patient's condition or the status of the patient's state of decline based on their knowledge of the trajectory associated with the condition.

The information provided by the Clinician with expertise enables the Clinicians who are assessing the patient's eligibility for MAID to complete a fully-informed assessment of the patient. This information must be provided in writing to the Clinician requesting the consult. It also must be shared with the other Clinician, so both Clinicians assessing the patient's eligibility for MAID have access to it in its entirety. Clinicians must retain the consultation report provided by the Clinician with expertise as part of the patient's medical record.

90-day assessment period[3,11,18,19]

For patients whose natural death is **NOT** reasonably foreseeable, it is required that a minimum of 90-days be taken for the assessment of the patient's eligibility. This period can be shortened if both Clinicians are of the opinion that the loss of the patient's capacity to provide consent to receive MAID is imminent and if both assessments have been completed.[1] This assessment will ensure that enough time is devoted to exploring all relevant aspects of the patient's situation, including whether some treatments or services could help to reduce their suffering, such as counselling services, mental health and disability support services, community services and palliative care.

The 90-day period begins on the day of the patient's first MAID eligibility criteria assessment (e.g. the day on which the Clinician first considers or reflects on information that forms part of a MAID assessment, such as reviewing the patient's file or meeting with the patient).

To comply with the law, Clinicians must document the start and end-date of the 90-days. They must also document if the period is shortened in accordance with the law, the reasons for doing so and the new start and end-dates.

The following resource may be helpful for Clinicians to understand better the eligibility criteria for MAID:

- Canada's New Medical Assistance in Dying (MAID) Law

Inclusion of Family Members, Caregivers and Friends

There is no formal notification process to inform family members/caregivers of a patient's decision to pursue MAID. Clinicians can ask their patient if they would like their family members/caregivers involved. However, the patient is not obligated to inform their family members/caregivers of their decision to pursue MAID. With the patient's consent, discussions between the Clinician and family members/caregivers can occur either before or after a formal request for MAID has been made. It is also important to note that family members/caregivers cannot override the patient's request for MAID.

Care Team

To provide MAID will require a collaborative care team, including allied health care providers, support care personnel and administrators, depending on the clinical practice setting. Early in the process, Clinicians are encouraged to identify and engage the appropriate individuals and to discuss the roles and responsibilities of each team member in the provision of MAID (e.g. pharmacist).

It is encouraged that a care team review and debrief after MAID has been provided to a patient. The process can be an overwhelming and emotional experience for the Clinician and care team. The use of wellness resources and supports is encouraged to promote self-care.

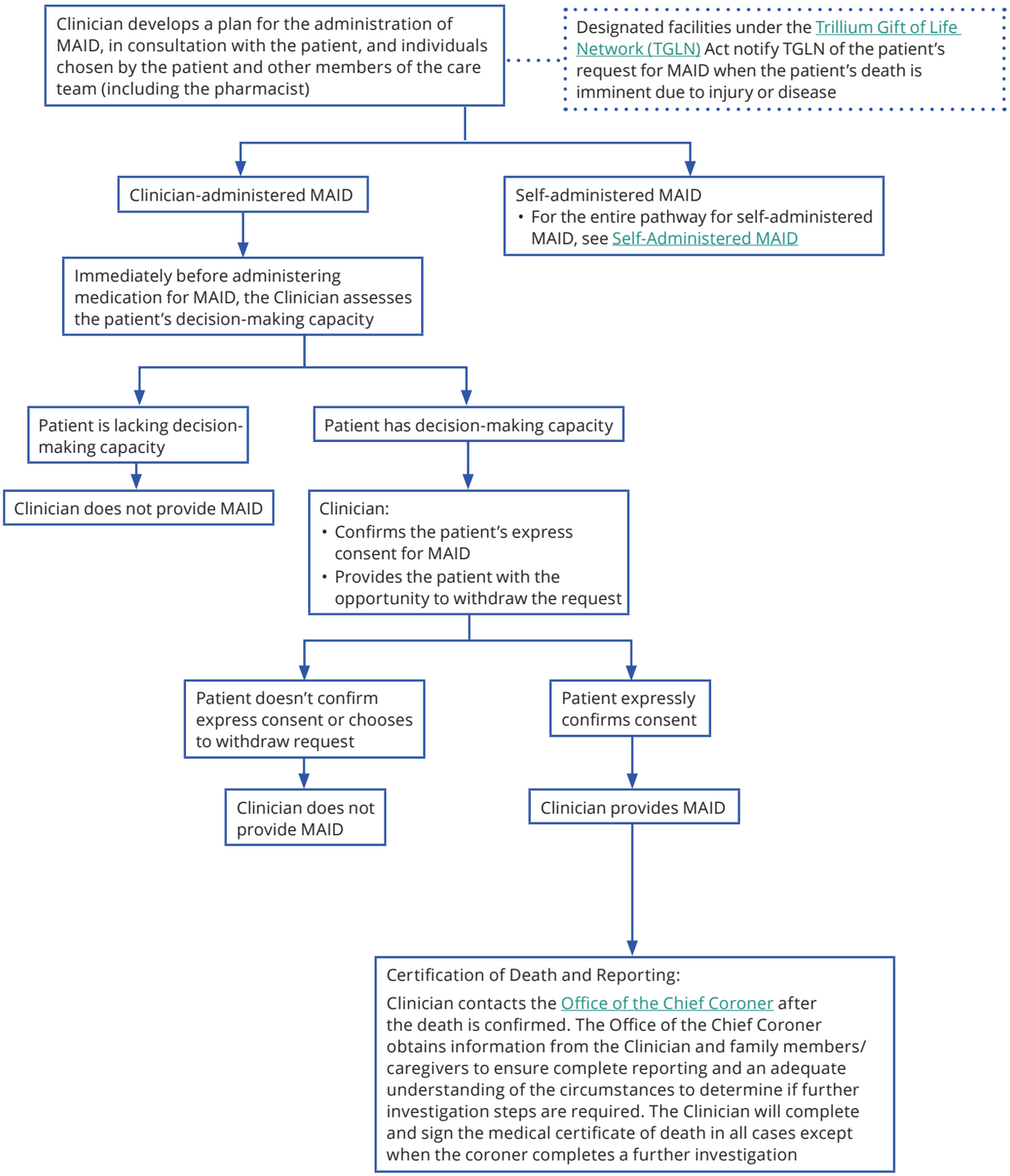
Resource for medical practitioners mental health:

- OMA Physician Health Program

CALL: Confidential Toll-free Line: 1-800-851-6606

SECTION 3: Provision of MAID

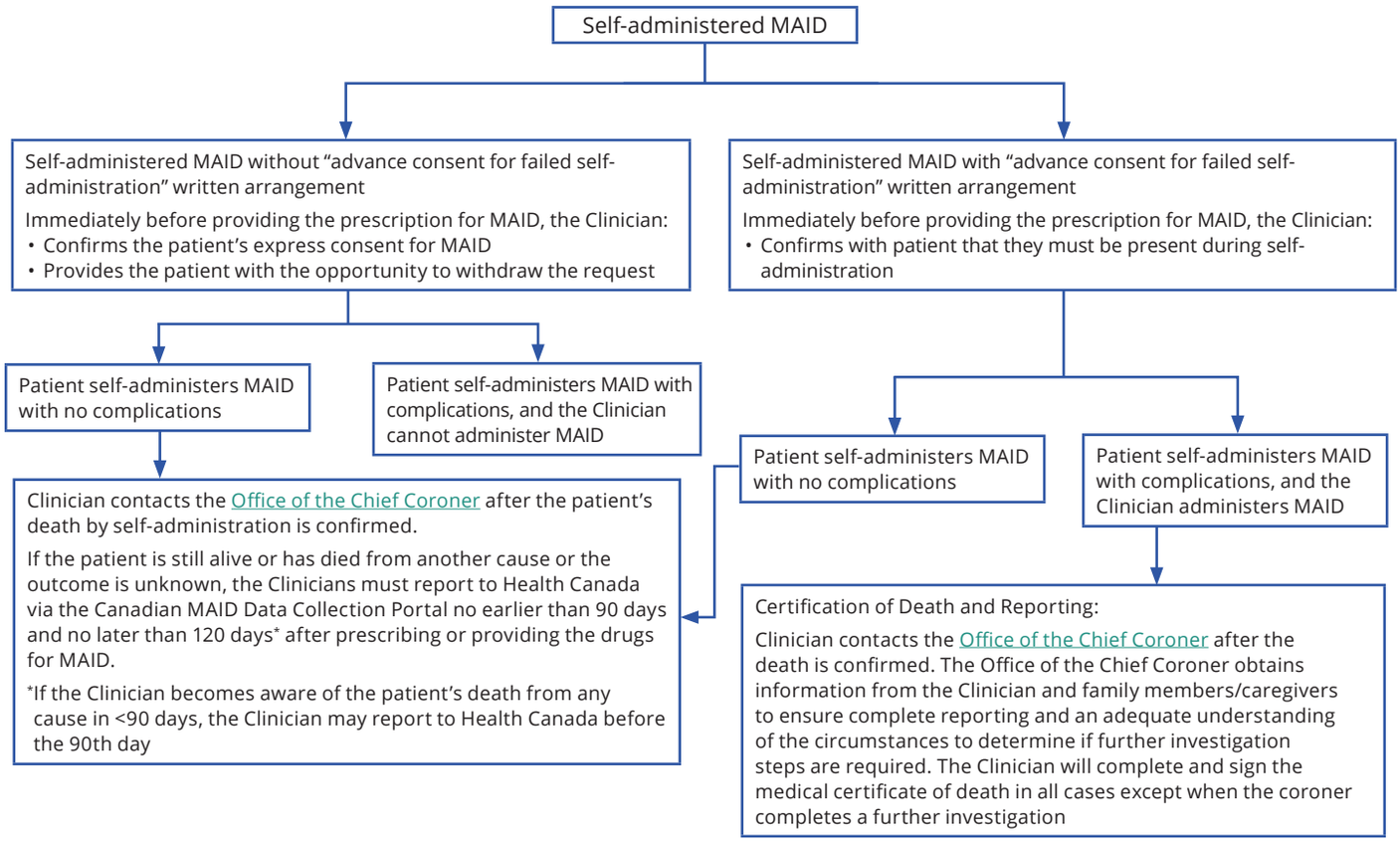
Clinician-Administered MAID



SECTION 3: Provision of MAID

Track Two

Self-Administered MAID



Clinician Develops Care Plan for the Provision of MAID

The Clinician develops a care plan for the provision of MAID through discussions with the patient, individuals chosen by the patient and other care team members.

Care Plan Considerations:

- Determine the method of providing MAID that is most appropriate for the patient given their wishes, health status and available supports;
- If the patient plans to self-administer the medication for MAID at home: Clinicians should help the patient and the individuals chosen by the patient assess whether this is a manageable option. If so, the patient can create a written arrangement with their Clinician to attend and intervene if self-administration fails (for more information, see "Advance Consent for Failed Self-Administration")
- Ensure that the care team is briefed of the agreed process to provide MAID for the patient;
- Inform the pharmacist that the prescription will be used for MAID; and
- Ensure appropriate arrangements are made for drug protocols (e.g. ensure that you have access to IVs prior to MAID, identify a member on your team that knows how to set up IVs and it is done correctly, care team is aware of their roles).

Clinicians must ask their patient's for consent before contacting their family members/caregivers during this time. The following resource may be helpful to Clinicians to help their patients and family members/caregivers prepare for end-of-life care:

- Planning for and Providing Quality End-of-Life Care

Organ and Tissue Donations

Trillium Gift of Life Network (TGLN)

Patients may be eligible to donate tissue and organs after MAID. Offering the opportunity for donation is part of providing high-quality end-of-life care. Through collaboration with the Clinician and TGLN, this conversation should occur early enough for patients to include their decision to donate into their plans for MAID.

Designated facilities and sites are required to notify TGLN of all patients whose death is imminent due to injury or disease as per section 8.1 of the TGLN Act.[20]

The following link provides a list of TGLN designated facilities and sites:

- Designated Facilities and Sites

CALL: Toll-free (1-877-363-8456)
GTA (416-363-4438)

SECTION 3: Provision of MAID

Preparing for Self-Administration

- Family members/caregivers can legally help the patient self-administer the lethal medication for MAID, provided that the patient explicitly requests the individual's help
- Ensure that the patient or family members/caregiver can store the medication safely and securely so that others can not access it
- Develop plan for the return of unused medication, in the event that patient chooses not to proceed with MAID
- Ensure that the patient and family members/caregivers are informed and prepared for what to expect once the patient has taken the lethal medication and their death is imminent
- Ensure that the family members/caregivers are prepared for what to expect and what to do when the patient has died (e.g. reporting the death to the Office of the Chief Coroner)
- The Clinician does not need to be present unless they have entered into a written arrangement that permits the Clinician to provide MAID if the patient does not die within a specified period after self-administering a substance and has lost the capacity to provide consent.[3] If the patient has a written arrangement for the Clinician to intervene if complications arise from self-administered MAID, the Clinician must be in attendance in order to intervene. See "Advance Consent for Failed Self-Administration" for more information
- The Clinician may want to encourage the patient to include them during the self-administration even if there is no written arrangement. However, the Clinician must explain that if there is no written arrangement, they cannot intervene and administer another substance that will cause death if self-administration is prolonged or fails, unless the patient is capable and can provide consent immediately before the Clinician administers MAID[3]

"Advance Consent for Failed Self-Administration"

Patients who choose to self-administer MAID may enter into a written arrangement allowing for Clinician-administered MAID if complications follow self-administration. Clinicians may administer MAID to a patient who loses the capacity to consent after self-administering if:[3]

- Before the patient proceeds with self-administration of MAID the written arrangement states that:
  - The Clinician will be present when the patient is self-administering MAID;
  - Consent has been provided for the Clinician to administer another substance that will cause death if self-administration fails (i.e. if the patient does not die within a specified period and loses their capacity to consent); and
  - After a set time, the Clinician may administer the second substance, if self-administration has failed;
- The patient loses capacity after self-administering MAID and does not die within the time period specified in the written arrangement; and
- The Clinician administers MAID to the patient in accordance with the terms of the written arrangement.[21]

Informing the Pharmacist

The Clinician who prescribes or obtains a substance to provide MAID must inform the pharmacist that the substance is intended for MAID, before a pharmacist dispenses the substance.

It is encouraged that pharmacists are engaged as early as possible, once the Clinician is aware that the patient is eligible for MAID.[9]

Collaboration at an early stage will ensure that eligible patients can access the required medications and supplies promptly.

Discussions with the pharmacist should include:[9]

- The drug protocol selected;
- The scheduled time and location for Clinician-administered MAID;
- The time required to prepare (or obtain) the pharmaceutical agent(s);
- Whether there is a specific date after which the prescription should not be dispensed;
- Procedures for returning unused drugs to the pharmacy for safe disposal; and
- Any other relevant information required by the pharmacist.

Within 30 days of dispensing the drugs, the dispensing pharmacist is required to report to Health Canada via the Canadian MAID Data Collection Portal.

Drug Protocols

Clinicians must exercise their clinical judgment to determine the appropriate drug protocol to follow for the provision of MAID.

Irrespective of the chosen drug protocol for MAID, Clinicians should ensure that the patient is comfortable and that pain and anxiety are controlled. The cost of drugs, including the backup kit, for all eligible patients is covered regardless of the mode of administration.

The following resource may be helpful to medical practitioners for additional information on drug protocols:
Drug Protocols (available to CPSO members only)

Notification of the Coroner

Under the current law, all Clinician-administered and self-administered MAID deaths must be reported to the Office of the Chief Coroner. Once a death is reported, the Office of the Chief Coroner will speak with Clinicians and family members/caregivers. Clinicians must be prepared to provide the required information to make the process as efficient, effective and appropriate as possible. It is recommended that Clinicians who provide MAID have complete medical records on-hand and accessible to share information that the Coroner needs for complete reporting and to determine if further investigation of the death is required. The Clinician will complete and sign the death certificate in all cases except for occasions when the coroner completes further investigation.

Office of the Chief Coroner:
1-855-299-4100

NOTE: Upon the patient's death, it is recommended that the Clinician be present to support family members/caregivers (e.g. notification of the Coroner's Office), if the patient provides consent, even in cases of self-administration.

SECTION 4: Checklist for Track Two

The following is a checklist of items to include in the patient's medical record. These records should be on-hand and accessible to support an efficient and effective investigation by the Office of the Chief Coroner.

Checklist for Track Two	Date and Initial (completed)
Patient Inquiry ☐ Date of the patient's initial inquiry ☐ Date and details of the discussion to understand the motivation and suffering behind the patient's request for MAID ☐ Patient is informed of all available alternate treatment and care options ☐ Report patient written requests for MAID to Health Canada	
Conscientious Objection and Patient Referral (if applicable) ☐ Report patient written request for MAID to Health Canada even though Clinician did not proceed with discussions and provision of MAID	
Patient Consent Obtained to Discuss MAID with Family Members/Caregivers and Next of Kin (only check the box below that applies) ☐ Patient consent gained ☐ Patient consent not gained	
Eligibility Assessments: Completed Separately by Two Clinicians ☐ The following forms are complete: ☐ Clinician Aid B ☐ Clinician Aid C ☐ Document all consults (e.g. psychiatric, neurological, capacity assessments) ☐ Confirmation that the criteria for independence have been met	
Procedural Safeguards ☐ Written request is completed, signed and dated by the patient (Clinician Aid A) ☐ Written request is signed and dated by one independent witness (confirm criteria for independent witness has been met) ☐ Request is transcribed on patient's behalf (if unable to write) ☐ Request is signed and dated on the patient's behalf (if unable to sign) ☐ Clinician with expertise was consulted (if applicable) ☐ Consultation report provided by Clinician with expertise is documented in patient record ☐ The patient is informed that they can withdraw their request at any time, in any manner	
90-Day Assessment Period ☐ Start and end-date of 90-day assessment ☐ Document if the 90-day assessment period is shortened, the reason for doing so and the new start and end-date	
Routine Notification for Donation Eligibility (mandatory for designated facilities and sites) ☐ Document notification of Trillium Gift of Life Network (TGLN) **CALL:** 1-877-363-8465	
Details of MAID Care Plan – Clinician-Administered (if applicable) ☐ Members of the MAID care team are identified and briefed ☐ Document if consent is provided for the inclusion of family members/caregivers/individuals chosen by the patient ☐ Time and place for Clinician-administered MAID ☐ Drug protocol selected ☐ Other relevant considerations, please specify: _____	
Details of MAID Care Plan – Self-Administered (if applicable) ☐ Document consent provided for inclusion of family members/caregivers/individuals chosen by the patient ☐ Document if patient chooses to create an "advance consent for failed self-administration" written arrangement for Clinician-administered MAID if self-administration fails and the details of the written arrangement ☐ Time and place for self-administration of MAID with "advance consent for failed self-administration" written arrangement for the Clinician to attend ☐ Plan for safe disposal of any leftover medication ☐ Other relevant considerations, please specify: _____	
Meeting with the Patient before MAID Procedure ☐ Discussion with the patient and individuals chosen by the patient to prepare them for provision of MAID	

SECTION 4: Checklist for Track Two (Continued)

Checklist for Track Two	Date and Initial (completed)
Documentation Related to Clinician-Administered MAID ☐ Method of administration is documented (in hospital/practice setting) ☐ MAID procedure note ☐ Any other additional documents as required by the Clinician's institution (e.g. completed and signed order set for MAID, pharmacy dispensing records, MAID medication administration record) ☐ Where MAID is provided, Clinicians must document: ☐ the analysis that was undertaken to determine whether the patient's natural death was or was not reasonably foreseeable; ☐ the steps taken to satisfy themselves that the relevant procedural safeguards were met; ☐ the medication protocol used [i.e. drug type(s) and dosages] ☐ the time of the patient's death; and ☐ any additional information needed to comply with the Clinician's reporting obligations to the Office of the Chief Coroner when MAID is provided.	
Documentation Related to Self-Administered MAID ☐ Method of administration is documented ☐ MAID procedure note ☐ Any other additional documents as required by the Clinician's institution (e.g. completed and signed order set for MAID, pharmacy dispensing records, MAID medication administration record) ☐ Where MAID is self-administered, Clinicians must document: ☐ the analysis that was undertaken to determine whether the patient's natural death was or was not reasonably foreseeable; ☐ the steps taken to satisfy themselves that the relevant procedural safeguards were met; ☐ the medication protocol used [i.e. drug type(s) and dosages]; and ☐ any additional information needed to comply with the Clinician's reporting obligations to the Office of the Chief Coroner when MAID is provided.	
Reporting of Death to the Office of the Chief Coroner ☐ Office of Chief Coroner is notified: Call 1-855-299-4100 to report a death due to MAID ☐ Patient's complete medical record is provided to the Office of the Chief Coroner for investigation if required	

SECTION 5: Supporting Material*

[i] CPSO Policy Statement #18: Medical Assistance in Dying
https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Medical-Assistance-in-Dying

[ii] CPSO Fact Sheet: Ensuring Access to Care – Effective Referral
https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights/Advice-to-the-Profession-Professional-Obligations#:~:text=Physicians%20make%20an%20effective%20referral,a%20health%2Dcare%20professional%20who

[iii] CNO Guidance on Nurses' Roles in Medical Assistance in Dying
http://www.cno.org/globalassets/docs/prac/41056-guidance-on-nurses-roles-in-maid.pdf

[iv] OCP Code of Ethics
http://www.ocpinfo.com/library/council/download/CodeofEthics2015.pdf

[v] Clinician Aid A – Patient Request for Medical Assistance in Dying
http://bit.ly/29Sovs0

[vi] Clinician Aid B - (Primary) "Medical Practitioner" or "Nurse Practitioner" Medical Assistance in Dying Aid
http://bit.ly/2a9M8Pf

[vii] Clinician Aid C - (Secondary) "Medical Practitioner" or "Nurse Practitioner" Medical Assistance in Dying Aid
http://bit.ly/2eyjexk

[viii] Guidance for reporting on medical assistance in dying – Summary
https://www.canada.ca/en/health-canada/services/medical-assistance-dying/guidance-reporting-summary.html

[ix] Health Canada's Canadian MAID Data Collection Portal
https://surveys-enquetes.statcan.gc.ca/goc-gdc/q/en/eqgsfb3ef044b2af440fb50545161ef99dd1/p0

[x] Aid to Capacity Evaluation (ACE)
https://www.cmpa-acpm.ca/static-assets/pdf/education-and-events/resident-symposium/aid_to_capacity_evaluation-e.pdf

[xi] Assessment of Capacity to Consent to Treatment (ACCT): Challenges, the "ACCT" Approach, Future Directions
https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3074108/

[xii] College of Physicians and Surgeons of Ontario Policy Statement #5: Consent to Treatment
https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Consent-to-Treatment

[xiii] CNO Practice Guideline: Consent
http://www.cno.org/globalassets/docs/policy/41020_consent.pdf

[xiv] Vulnerable Persons Standard
http://www.vps-npv.ca/read-the-standard-20

[xv] Clinical Frailty Scale
https://www.dal.ca/sites/gmr/our-tools/clinical-frailty-scale.html

[xvi] Sheehan Disability Scale (SDS)
https://medfam.umontreal.ca/wp-content/uploads/sites/16/Sheehan-Disability-Scale-anglais.pdf

[xvii] 36-Item Short Form Survey Instrument (SF-36)
https://www.rand.org/health-care/surveys_tools/mos/36-item-short-form/survey-instrument.html

[xviii] QMortality-2017
https://qmortality.org/

[xix] Canada's new medical assistance in dying (MAID) law
https://www.justice.gc.ca/eng/cj-jp/ad-am/bk-di.html

[xx] Ontario Medical Association: Physician Health Program
https://php.oma.org/

[xxi] CPSO Policy Statement #25: Planning for and Providing Quality End-of- Life Care
https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Planning-for-and-Providing-Quality-End-of-Life-Car

[xxii] TGLN: Public Reporting (List of Designated Facilities and Sites)
https://www.giftoflife.on.ca/en/publicreporting.htm#donors-cal

[xxiii] CPSO Drug Protocols – Member Login
https://www.cpso.on.ca/

Additional supporting materials and resources that may be useful for Clinicians:

[xxiv] Canadian Association of MAiD Assessors and Providers
https://camapcanada.ca/resources/

[xxv] Canadian Nurses Protective Society: Medical Assistance in Dying: What Every Nurse Should Know
http://cnps.ca/MAID

[xxvi] College of Nurses of Ontario Medical Assistance in Dying - FAQS
https://www.cno.org/en/trending-topics/medical-assistance-in-dying/medical-assistance-in-dying--faqs/

[xxvii] Questions about the Vulnerable Persons Standard
http://www.vps-npv.ca/questions

[xxviii] OCP: Medical Assistance in Dying: Guidance to Pharmacists and Pharmacy Technicians
https://www.ocpinfo.com/library/practice-related/download/PhysicianAssistedDeath.pdf

[xxix] TGLN: Routine Notification for Designated Hospitals FAQ
https://www.giftoflife.on.ca/resources/pdf/Routine%20Notification.pdf

[xxx] CMA Medical assistance in dying (MAiD) Online Course
https://shop.cma.ca/products/00002166

Additional resources regarding community deaths and palliative care:

[xxxi] Cancer Care Ontario's Palliative Care Toolbox: The CCOs Palliative Care Toolbox includes links to best-practice tools from around the world to support primary care providers in the delivery of palliative care.
https://www.ontariopalliativecarenetwork.ca/resources/palliative-care-toolkit

[xxxii] Symptom Response Kits: System response kits are developed for patients receiving palliative care at home who may require unanticipated symptom management or for those with rapidly escalating symptoms
http://hpcconnection.ca/symptom-response-kits/

[xxxiii] Hospice Palliative Care Ontario (HPCO): HPCO's website includes a number of links to education resources from clinicians, patients, and families/caregivers
http://www.hpco.ca

*These supporting materials are hosted by external organizations, and as such, the accuracy and accessibility of their links are not guaranteed. CEP will make every effort to keep these links up to date.

SECTION 5: References

[1] An Act to amend the Criminal Code (medical assistance in dying) (Bill C-7), 2nd Sess, 43rd Leg, Canada, 2021 (assented to March 17, 2021).

[2] Government of Canada Department of Justice. Canada's new medical assistance in dying (MAID) law. 2021. [cited 2021 April 5]. Available from: https://www.justice.gc.ca/eng/cj-jp/ad-am/bk-di.html

[3] College of Physicians and Surgeons of Ontario. Advice to the Profession: Medical Assistance in Dying. 2021. [cited 2021 April 20]. Available from: https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Medical-Assistance-in-Dying/Advice-to-the-Profession-Medical-Assistance-in-Dyi#:~:text=This%20criminal%20prohibition%20applied%20to,the%20request%20of%20the%20patient.

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[8] College of Nurses of Ontario: Guidance on Nurses' Roles in Medical Assistance in Dying. 2021. [cited 2016 June 27]. Available from: https://www.cno.org/globalassets/docs/prac/41056-guidance-on-nurses-roles-in-maid.pdf

[9] Ontario College of Pharmacists: Medical Assistance in Dying - Guidance to Pharmacists and Pharmacy Technicians. 2021. [cited 2021 April 30]. Available from: http://www.ocpinfo.com/library/practice-related/download/PhysicianAssistedDeath.pdf

[10] Ontario Central Forms Repository. Clinician Aid A - Patient Request for Medical Assistance in Dying. 2021. [cited 2021 May 3]. Available from: http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=1&ENV=WWE&TIT=3889&NO=014-3889-22E

[11] Government of Canada Department of Justice. Legislative Background: Bill C-7: Government of Canada's Legislative Response to the Superior Court of Québec Truchon Decision - Part III – Safeguards for MAID. 2021. [cited 2021 April 10]. Available from: https://www.justice.gc.ca/eng/csj-sjc/pl/ad-am/c7/p4.html

[12] Government of Canada. Guidance for reporting on medical assistance in dying. 2021. [cited 2021 June 15]. Available from: https://www.canada.ca/en/health-canada/services/medical-assistance-dying/guidance-reporting-summary/document.html#2.0

[13] Health Canada Expert.

[14] College of Physicians and Surgeons of Ontario Policy Statement #4-16: Medical Assistance in Dying. 2016. [cited 2016 June].

[15] Health Care Consent Act, 1996, S.O. 1996, c. 2, Sched. A

[16] Ontario Ministry of Health Expert.

[17] Government of Canada. Grievous and irremediable medical condition. 2021. [cited 2021 April 10]. Available from: https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html#grievous

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[19] Downie J. MAiD in Canada 2021 From C-14 to C-7. [PowerPoint presentation]. 2021. [cited 2021 April 10].

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