

Appendix 1 (as supplied by the authors): Details of Canada’s MAID Legislation, Process and Oversight.

Under Canadian law¹, a person is eligible for MAID if they are eligible for government-funded health services; are at least 18 years old; have a “grievous and irremediable medical condition”; have made a voluntary request that was not the result of external pressure; and have been informed of means that are available to relieve their suffering, including palliative care. A person has a “grievous and irremediable medical condition” if:

- (a)** they have a serious and incurable illness, disease or disability;
- (b)** they are in an advanced state of irreversible decline in capability;
- (c)** 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
- (d)** their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining. (The glossary of the bill clarifies that “‘Natural death has become reasonably foreseeable’ means that there is a real possibility of the patient’s death within a period of time that is not too remote.”)

Quebec was the first province in Canada to pass legislation regarding MAID, legalizing only clinician-administered but not self-administered MAID in December 2015². Although federal MAID legislation permits both physicians and nurse practitioners (NPs) to provide MAID to eligible patients, it was not until April 2017, following an amendment to Ontario government

regulations, that NPs in Ontario were enabled to prescribe the medications used in the provision of MAID³.

Canada's legislation was informed by the experience of other jurisdictions that had legalized MAID⁴, but there are some important aspects of eligibility, process, and oversight that distinguish MAID in Canada from the rest of the world. Broadly speaking, eligibility for MAID in other jurisdictions has followed one of two patterns. Either patients need to have an incurable condition and intolerable suffering without any specific prognostic limitation (as in Belgium, the Netherlands and Luxemburg), or they need to have an incurable illness and short prognosis without specifying intolerable suffering (as in the US). Canada's eligibility criteria combine elements of both- patients must have intolerable suffering, but also be at the "end of life" (Quebec) or at a point where their "natural death had become reasonably foreseeable" (the rest of Canada). Furthermore, while other jurisdictions have chosen to formally allow or prohibit MAID for incapable patients who requested MAID by advance consent, patients under the age of 18, and those with incurable mental illness as the sole underlying condition, the Canadian government committed to study each of these situations before deciding whether they should be eligible for MAID in the future. These studies have now been reported⁵, but the government has not yet indicated how it will respond to them.

The Centre for Effective Practice has published an overview of the eligibility, process and oversight for MAID in Ontario⁶, which is relevant for most of Canada except for the province of Quebec. Briefly, a patient must sign a written and witnessed request for MAID, and two physicians or nurse practitioners must assess the patient to ensure that they meet eligibility criteria. Ideally, one finding of eligibility should precede the written request, to ensure that the

patient is informed of their condition, prognosis and alternative options at the time of the request. The law mandates a 10-day reflection period between the written request and the provision of MAID, although this can be shortened if both assessors agree that the patient is at risk of dying naturally or losing capacity before the reflection period is complete. The patient must be capable to make the decision at the time of both assessments, and at the time MAID is administered.

In terms of oversight, Canada left each province to collect and report its own data during the period covered by this study, but since November 2018, there has been a national oversight mechanism for reporting requests and completed cases of MAID, which included reporting obligations for physicians, nurse practitioners, and pharmacists who are involved⁷. The purpose of this national mechanism is to study the overall practice of MAID and the experience of those who request and receive it. This should be distinguished from regulatory oversight, which is concerned with ensuring that individual cases comply with the law. The latter is handled at the provincial level and involves the provincial regulatory bodies as appropriate.

Conscientious objection is handled differently in each province. In Ontario, there is an obligation for conscientious objector physicians to make a referral to “a non-objecting, available, and accessible physician, other health-care professional, or agency”⁸, and the Ontario Ministry of Health has a care coordination service to answer questions or facilitate access to MAID services⁵. Faith-based institutions are legally permitted in Ontario to not offer MAID on their premises. During the study period, some faith-based facilities prohibited both MAID provision and MAID assessment.

References.

1. An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying). Criminal Code of Canada 2016.
2. Bill 52: An act respecting end-of-life care. 1 ed. Quebec National Assembly- 40th Legislature (2013).
3. Medical Assistance in Dying. College of Nurses of Ontario. (Accessed November 18, 2019, at [http://www.cno.org/en/trending-topics/medical-assistance-in-dying/.](http://www.cno.org/en/trending-topics/medical-assistance-in-dying/))
4. Emanuel EJ, Onwuteaka-Philipsen BD, Urwin JW, Cohen J. Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada, and Europe. JAMA 2016;316:79-90.
5. Medical Assistance in Dying. Ontario Ministry of Health. (Accessed July 20, 2019, at [http://health.gov.on.ca/en/pro/programs/maid/#accessing.](http://health.gov.on.ca/en/pro/programs/maid/#accessing))
6. Medical Assistance in Dying (MAID) Resource. Centre for Effective Practice, 2017. (Accessed December 2, 2018, at [https://cep.health/clinical-products/medical-assistance-in-dying//.](https://cep.health/clinical-products/medical-assistance-in-dying//))
7. Guidance for reporting on medical assistance in dying - Summary. Health Canada. (Accessed July 20, 2019, at [https://www.canada.ca/en/health-canada/services/medical-assistance-dying/guidance-reporting-summary.html.](https://www.canada.ca/en/health-canada/services/medical-assistance-dying/guidance-reporting-summary.html))
8. Professional Obligations and Human Rights. College of Physicians and Surgeons of Ontario. (Accessed July 20, 2019, at [https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights.](https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights))