

Mount Sinai Hospital  
Sinai Health System  
Joseph & Wolf Leibovitz Health Complex

Bridgepoint Active Healthcare  
Sinai Health System

May 2020



Medical Assistance in Dying

HEALTH AGING 101: MAiD

MAiD: Present & Future

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Conflict of Interest

- No CoI
- Not a member of advocacy group
- Member of Provincial MAiD CoP
  - Providing MAiD
  - Not providing MAiD
- MAiD Presentation
  - Not recommending or condemning MAiD

*Presenting current literature/research etc.*

INTRODUCTION

Overview


1. Present Situation  
LAW
2. Q&A
3. Proposed Legislation  
PROPOSED
4. Q&A

GERIATRICS 101

Mount Sinai Hospital  
Sinai Health System  
Joseph & Wolf Leibovitz Health Complex

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Sinai Health System

Part 1



MAiD: PRESENT SITUATION

Current Practice

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Part 1. Outline

- What has **NOT** changed
- What has been clarified
- What remains uncertain
- Who is requesting MAiD?

INTRODUCTION

~~Changed~~

WHAT HAS NOT CHANGED

What remains the same

**Divisive**

Always has been

Always will be

WHAT HAS NOT CHANGED

**Aiding and abetting suicide remains illegal**

MAiD Legal

MAiD is an EXEMPTION under the CCC

WHAT HAS NOT CHANGED

**Medical Assistance In Dying**

a) The **administering** by a **medical practitioner** or **nurse practitioner** of a substance to a person, at their request, that causes their death;

or

b) The **prescribing** or **providing** by a **medical practitioner** or **nurse practitioner** of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.

**Not Delegable**

CRIMINAL CODE OF CANADA PROVISIONS

Criminal Code, RSC 1985, c C-46, s241.1 (1) <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-46/latest/rsc-1985-c-46.html>

**Eligibility Criteria**

- Eligible for health services funded by a government of Canada
  - Health card
- Competent adult
  - They are at least **18 years of age** and capable of making decisions with respect to their health
- Informed consent
  - They give informed consent to receive medical assistance in dying
- Grievous and irremediable
  - They have a grievous and irremediable medical condition
- Voluntary request
  - They have made a voluntary request for medical assistance in dying that, in particular, was **not made as a result of external pressure**.

CRIMINAL CODE OF CANADA PROVISIONS

Criminal Code, RSC 1985, c C-46, s241.2 (1) <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-46/latest/rsc-1985-c-46.html>

**Grievous and irremediable medical condition**

A person has a grievous and irremediable medical condition if they meet all the following criteria:

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

CRIMINAL CODE OF CANADA PROVISIONS

Criminal Code, RSC 1985, c C-46, s241.2 (2) <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-46/latest/rsc-1985-c-46.html>

**MAiD Process**

10 Clear Days

CRIMINAL CODE OF CANADA PROVISIONS

### Shortening the 10 Day Reflection Period

Acceptable criteria

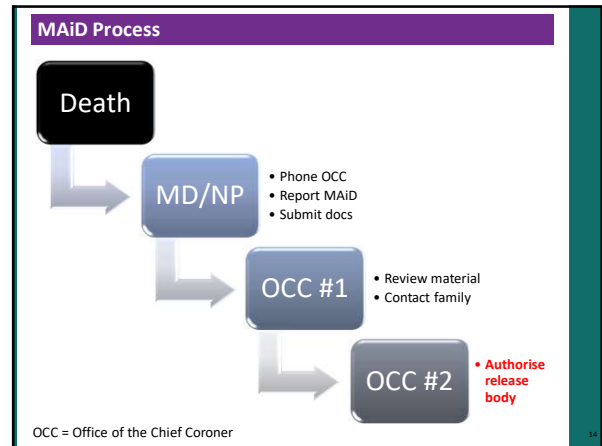
**Both** Imminent loss of DMC  
**MDs/NPs** Patient at risk of **Imminent death**  
**Agree** **Both**

Criminal Code, RSC 1985, c C-46, s241.2 (3) <http://www.canlii.org/en/ca/laws/stat/rsc-1985-c-c-46/latest/rsc-1985-c-c-46.html>

Unacceptable criteria<sup>1</sup> ★

- Misinterpretation/Miscalculation
- Suffering
- Pressure from the patient and/or their family members
- Logistics/Resources/Scheduling

1. Roxanne Halko, Team Lead (MAiD), Office of the Chief Coroner for Ontario.



### WHAT HAS BEEN CLARIFIED

What a MAiD Request is about; Medical Certificate of Death

### MAiD Request

82-year-old cancer patient

1. Downer, S. Physicians' role in MAiD is not a failure of palliative care. *Canadian Family Physician* December 2015, vol 61 no. 12: 1039-40. <http://www.cfp.ca/content/61/12/1039.full>

2. Canadian Society of Palliative Care Physicians states "Palliative care does not include physician-hastened death." <http://www.cspcp.ca/wp-content/uploads/2015/10/CSPCP-Key-Messages-FINAL.pdf>

### MAiD is less about death

**IT IS ABOUT CHOICE AND CONTROL**<sup>1,2</sup>

Dignity **AND** Respect

Patient Centred Care<sup>2</sup>

1. Downer, J. Sunday Edition, CBC.  
 2. Buchman, S. Why I decided to provide assistance in dying: it is truly patient centred care. *BMJ* 2019;364:1412. doi:10.1136/bmj.1412

### Medical Certificate of Death<sup>1</sup>

Prior to May 10, 2017

- Medical Certificate of Death **completed by coroner**
- Cause of Death: **Combined drug toxicity**
- Manner of Death: **Suicide**

As of May 10, 2017

- Medical Certificate of Death completed by **MAiD provider**
- Cause of Death: The **illness, disease or disability** leading to the request for MAiD (this condition will be selected as the cause of death for vital statistics)
- Manner of Death: **Natural**
- No reference to MAiD or drugs administered for the purpose of MAiD


Roxanne Halko, Team Lead (MAiD), Office of the Chief Coroner for Ontario.

**This dying is:**

Patient	Family
WAY TO S READY to die	WAY TO S NOT ready for death

Way too s Patient Family fast

Ethical Principles



**EFFECTIVE REFERRAL POLICY**

Conscientious objection respected but...

Ethical Principles

Conscientious Objection	Conscientious Practice
When a health care professional (HCP) refuses to partake in a legal practice, which falls within their scope of practice and professional competence on the basis of a deeply held moral or ethical belief the action or inaction is wrong.	The action that comes of respecting one's own moral beliefs while at the same time respecting the moral beliefs of others. <sup>1</sup>

"... nothing in the declaration of invalidity which we propose to issue would compel physicians to provide assistance in dying."<sup>1</sup>

1. Carter v Canada (Attorney General) 2015 SCC 5

Effective Referral Policy

**Effective Referral - CPSO**

Taking **positive action** to ensure the patient is connected to a

- Non-objecting
- Available and
- Accessible
  - Physician, other health-care professional, or agency.

CPSO, Policy Statement #2-15 Professional Obligations and Human Rights, March 2015. <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Professional-Obligations-and-Human-Rights>

Effective Referral Policy

**Challenges to CPSO Policies**

CMDS and others

Challenged CPSO policies

- Policy #4-16 Medical Assistance in Dying<sup>1</sup>
- Policy #2-15 Professional Obligations and Human Rights<sup>2</sup>

Ontario Superior Court of Justice, Divisional Court


CMDS v CPSO 2018 ONSC 579


**Jan 31, 2018**

Unanimous decision

Applications dismissed in their entirety<sup>4</sup>

An effective referral does not guarantee a patient will receive a treatment, or signal that the objecting physician endorses or supports the treatment. It ensures access to care and demonstrates respect for patient autonomy.<sup>3</sup>





1. CPSO Policy #4-16 Medical Assistance in Dying. <http://www.cpso.on.ca/Policies-Publications/Policy/Medical-Assistance-in-Dying>  
 2. CPSO Policy #2-15 Professional Obligations and Human Rights. <http://www.cpso.on.ca/Policies-Publications/Policy/Professional-Obligations-and-Human-Rights>  
 3. FACT SHEET: Ensuring Access to Care: Effective Referral. <http://www.cpso.on.ca/CPSO/media/documents/Policies/Policy-Items/MAiD-Effective-Referral-FactSheet.pdf>  
 4. CMDS v CPSO 2018 ONSC 579 <https://www.canlii.org/en/on/onsc/doc/2018/2018onsc579/2018onsc579.pdf>

Effective Referral Policy

**Challenges to CPSO Policies cont.**

Court of Appeal For Ontario


Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario, 2019 ONCA 393

**May 15, 2019**

Appeal dismissed


3 judges in agreement

"Ordinarily, where a conflict arises between a physician's interest and a patient's interest, the interest of the patient prevails."



Christian Medical and Dental Society of Canada v. College of Physicians and Surgeons of Ontario, 2019 ONCA 393 (187) (CanLII), <<http://canlii.ca/z/08wp>>, retrieved on 2019-10-02

Effective Referral Policy




**WHAT REMAINS UNCERTAIN**

Best Practice???




**VOLUNTARINESS #1**

Coercion v Coercion

Voluntary – Criminal Code	
Having MAiD	Not Having MAiD
(d) they have made a <b>voluntary request</b> for medical assistance in dying that, in particular, was <b>not made</b> as a result of <b>external pressure</b> . <sup>1</sup>	


WHAT REMAINS UNCERTAIN – VOLUNTARINESS

1. Criminal Code (R.S.C., 1985, c. C-46)CCC241.2 (1) (d) <https://laws-lois.justice.gc.ca/eng/acts/C-46/page-52.html#h-79>

Voluntary – CPSO Policy	
Having MAiD	Not Having MAiD
... voluntary and not made as a result of <b>external pressure</b> or <b>coercion</b> .	
... has been made freely, <b>without undue influence</b> from family members, healthcare providers, or others.	

WHAT REMAINS UNCERTAIN – VOLUNTARINESS

CPSO, Policy Statement: Medical Assistance in Dying. <https://www.cpso.on.ca/CPSO/media/documents/Policies/Policy-Items/medical-assistance-in-dying.pdf?ext=.pdf>




**VOLUNTARINESS #2**

Couples Wanting MAiD Together

Kay & Ernie Sievewright	Shirley & George Brickenden
<p>55 yrs. Marriage</p>  <p>Home</p> <p>Duncan, B.C. Jan 11, 2017; Jan 15, 2017</p>	<p>73 yrs. Marriage</p>  <p>Home</p> <p>Toronto, ON March 27, 2018</p>
Francois Boucher & Francine Messier	Others
<p>50 yrs. Marriage</p>  <p>Hospital</p> <p>Laval, QC Oct. 31, 2019</p>	

WHAT REMAINS UNCERTAIN – VOLUNTARINESS



**Dr. Matt Kutcher**  
*"I don't think MAiD should be something that we whisper about or something that we hide anymore. I think the more we speak about it and normalize it, the better."*

**WHO SHOULD RAISE MAiD?**

Canadian Medical Association. Medical Assistance in Dying. <https://www.cma.ca/medical-assistance-dying>

**Who should raise the issue?**


WTHD  
 "Is there anything?"

MD/NP  
 "This is no quality of life."  
 "Your treatment options are..."

Patient  
 "Consent Process"

**Is there a duty to inform?**

MAiD CRITERIA: CLINICAL UNCERTAINTIES



**ONTARIO STATISTICS: DR. DIRK DUYER, CHIEF CORONER**

June 7, 2016 →

Cumulative Statistics

**Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data**

Statistics as of April 30, 2020:

- Total number of cases completed in Ontario: 5,066
- Type:
  - Clinician-administered: 5,064
  - Patient-administered: 2
- Setting of death:
  - Hospital: 46%
  - Private Residence: 44%
  - LTC Facility/Nursing Home: 6%
  - Retirement Home/Seniors Residence: 4%
- Number of Unique MAiD Providers:
  - Clinicians: 528
    - Physicians: 490
    - Nurse Practitioners: 38
  - Hospitals: 137
- Sex:
  - Female: 50%
  - Male: 50%
- Age:
  - Average Age: 75
  - Youngest: 22
  - Oldest: 106
- Underlying conditions:
  - Cancer-Related: 63%
  - Circulatory/Respiratory: 18%
  - Neurodegenerative: 11%
  - Other: 8%
- Total # of cases with organ donation: 42

**Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data**

Statistics as of April 30, 2019:

- Clinician Specialty:
  - Family Medicine: 62%
  - Internal Medicine: 9%
  - General Practitioner: 9%
  - Emergency/Critical Care Medicine: 7%
  - Anesthesiology: 7%
  - Surgery: 2%
  - Oncology: 2%
  - Other: 2%
- Reflection Period:
  - % Cases with < 10 clear days: 25%
  - Rationale:
    - Imminent Loss of Capacity: 14%
    - Imminent Death: 3%
    - Both: 8%

**Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data**

County	MAiD Cases	MAiD Cases	MAiD Cases
Algonia County	44	Hastings County	6
Brant County	37	Middlesex County	311
Bruce County	55	Muskoka District Municipality	48
Chatham - Kent Division	48	Niagara Regional Municipality	140
Cochrane District	35	Nipissing District	109
Dufferin County	20	Northumberland County	77
Durham Regional Municipality	134	Ottawa Division	420
Elgin County	44	Oxford County	55
Essex County	121	Parry Sound District	24
Frontenac County	137	Peel Regional Municipality	291
Greater Sudbury Division	33	Perth County	79
Grey County	69	Peterborough County	115
Halimand-Norfolk Regional Municipality	41	Prescott & Russell United Counties	55
Haldimand County	14	Prince Edward Division	18
Huron Regional Municipality	230	Rainy River District	19
Hamilton Division	360	Renfrew County	20
Hastings County	75	Simcoe County	213
Huron County	29	Stormont, Dundas & Glengarry United Counties	56
Kawartha Lakes Division	55	Sudbury District	< 5
Kenora District	35	Thunder Bay District	78
Lambton County	27	Timiskaming District	22
Lanark County	65	Toronto Division	605
Leeds & Grenville United Counties	107	Waterloo Regional Municipality	302
Lennox & Addington	23	Wellington County	93
		York Regional Municipality	168

Ontario

### Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data

Statistics as of March 31, 2020:

- Total number of cases completed in Ontario: 4,888
- Sex:
  - Female: 50%
  - Male: 50%
- Type:
  - Clinician-administered: 4,886
  - Patient-administered: 2
- Age:
  - Average Age: 75
  - Youngest: 23
  - Oldest: 106
- Setting of death:
  - Hospital: 47%
  - Private Residence: 43%
  - LTC Facility/Nursing Home: 6%
  - Retirement Home/Seniors Residence: 4%
- Underlying conditions:
  - Cancer-Related: 63%
  - Circulatory/Respiratory: 17%
  - Neurodegenerative: 11%
  - Other: 9%
- Number of Unique MAiD Providers:
  - Clinicians: 519
  - Physicians: 481
  - Nurse Practitioners: 38
  - Hospitals: 137
- Total # of cases with organ donation: 41

Ontario

### Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data

Statistics as of March 31, 2019:

- Clinician Specialty:
  - Family Medicine: 61%
  - Internal Medicine: 10%
  - General Practitioner: 9%
  - Emergency/Critical Care Medicine: 7%
  - Anesthesiology: 7%
  - Surgery: 2%
  - Oncology: 2%
  - Other: 2%
- Reflection Period:
  - % Cases with < 10 clear days: 24%
  - Rationale:
    - Imminent Loss of Capacity: 14%
    - Imminent Death: 3%
    - Both: 7%


Ontario

### Office of the Chief Coroner/Ontario Forensic Pathology Service MAiD Data

County	MAiD Cases	County	MAiD Cases
Algoma County	41	Manitoulin District	6
Brant County	37	Middlesex County	298
Brant County	52	Muskoka District Municipality	48
Chatham - Kent Division	67	Niagara Regional Municipality	113
Cochrane District	32	Nipissing District	107
Dufferin County	18	Northumberland County	74
Durham Regional Municipality	130	Ottawa Division	410
Elgin County	43	Oxford County	53
Essex County	114	Ferry Sound District	24
Frontenac County	134	Peel Regional Municipality	277
Greater Sudbury Division	30	Ferri County	70
Grey County	65	Peterborough County	111
Haldimand-Norfolk Regional Municipality	40	Prescott & Russell United Counties	53
Halliburton County	12	Prince Edward Division	17
Haltim Regional Municipality	218	Rainy River District	17
Hamilton Division	158	Renfrew County	20
Hastings County	73	Simcoe County	202
Huron County	29	Stormont, Dundas & Glengarry United Counties	56
Kawartha Lakes Division	53	Sudbury District	< 5
Kenora District	34	Thunder Bay District	76
Lambton County	27	Timiskaming District	21
Lanark County	63	Toronto Division	881
Leeds & Grenville United Counties	104	Waterloo Regional Municipality	57
Lennox & Addington	27	Wellington County	89
		York Regional Municipality	183

Questions

Part 1



Part 1

Comments