

Frequently Asked Questions about Medical Assistance in Dying for RNs and NPs

What is Medical Assistance in Dying?

Medical assistance in dying (MAID) is defined in Bill C-14 241.1 as:

“medical assistance in dying means

- (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.”

Can I administer the medications for medical assistance in dying?

Registered Nurses

Registered nurses cannot administer any medication for the purpose of medical assistance in dying.

CNPS (June 6, 2016, updated June 17, 2016) states the following:

“First, there appears to an important **limitation** to the role of the RN in Bill C-14, in that it expressly requires that the physician or nurse practitioner administer the substance. This would mean that while registered nurses could assist by arranging IV access, or preparing the medication, for instance, they could not administer the substance pursuant to a prescription. Failure to comply with this requirement could nullify the exemption for both the physician or nurse practitioner who issued the prescription and the nurse who administered the substance. Similarly, a court could find that if a patient is given a prescription to self-administer, the person would have to be the one to physically take the medication.

Second, Bill C-14 currently stipulates that MAID will have to be provided in accordance with “reasonable knowledge, care and skill and in accordance with any applicable provincial laws, rules or standards.” This means that failure to comply with any provincial law, rule or the standard of care could nullify the exemption. There are several other conditions outlined in section 241.2 of Bill C-14, which nurses should carefully review.

Nurses should ensure that all of the necessary conditions set out in section 241.2 of the *Criminal Code* have been met before participating in the process. For the most part, this can occur by:

- Reviewing the chart to determine whether documentation clearly indicates that all requirements have been met; or
- Inquiring directly with the physician or NP providing MAID.

In either scenario, the nurse should carefully document in the client’s chart that he or she has verified that all legal conditions for MAID have been satisfied.”

It is important for nurses to be aware of employer policies and guidelines. The NWT Department of Health and Social Services has written Interim Guidelines. These guidelines are posted on our website www.rnantnu.ca .

Can I administer the medications for medical assistance in dying?

Nurse Practitioners

Bill C14 exempts nurse practitioners if they provide medical assistance in accordance with the requirements stipulated in the Bill. These requirements include eligibility criteria and specific safeguards that **must** be followed. There is no territorial legislation to prohibit nurse practitioners from administering the medications. The administration of medical assistance in dying falls within the scope of practice of a nurse practitioner in the Northwest Territories and Nunavut provided the nurse practitioner possesses the necessary knowledge, skill and judgment to fulfill his or her responsibilities.

It is equally important for nurse practitioners to be aware of employer policies and guidelines. The NWT Department of Health and Social Services have written Medical Assistance in Dying Interim Guidelines for the Northwest Territories. These guidelines are posted on our website www.rnantnu.ca .

Should a nurse practitioner elect to participate in the provision of MAID, CNPS (June 6, 2016, updated June 17, 2016) advises “it would be prudent to:

- Familiarize themselves with the wording of the new *Criminal Code* provisions, including the requirements for eligibility, independence of the physicians or NP, informed consent, and conditions to be satisfied at the time of administration.
- Ensure that the NP role contemplated in the provision of MAID, such as administering the substance that causes death, prescribing the substance that causes death, etc., falls within the NP’s scope of practice and that the NP possesses

the necessary knowledge, skill and judgment to fulfill his or her responsibilities in the provision of MAID;

- Ascertain that MAID can be provided in the employment setting and review any applicable policies, guidelines, procedures and/or processes in place to guide the NP's practice in the provision of MAID;
- Review any guiding documents from their regulatory body;
- Ensure that the provision of MAID is also in accordance with the applicable provisions of any provincial legislation or regulation, and in compliance with any applicable standard of care;
- Thoroughly document Their patient care provided before, during, and after MAID has been executed;
- Ensure they maintain, within the patient record, all of the documents specified in the relevant provisions of the *Criminal Code* for the provision of MAID, such as the written request for MAID, written opinion from another medical practitioner or NP confirming that the person has met all the criteria, and any other relevant document that could be required under the regulations;
- Proceed with the necessary assessment, if the NP undertakes to provide a written opinion confirming that the patient meets the eligibility criteria; and
- **Seek legal advice to understand the relevant provisions of the *Criminal Code*.**

An NP should become aware of the resources their regulatory body and employer has in place for NPs who are not prepared to participate in MAID. Bill C-14 does not impose a positive obligation on the NP to refer a patient to a medical practitioner or NP who will assist the patient with MAID, in the event the NP refuses to participate. Currently, the NP has a legal duty to care for their patient, a duty to not abandon their patient, and a duty to refer a patient to another health care provider in certain circumstances. It would be prudent for NPs to seek direction from their regulatory body and legal representative if they decline to participate in MAID because it does not fall within their scope of practice, for conscientious objection or because they are concerned about legal risk.”

Can I prescribe?

Nurse Practitioners

Bill C14 exempts nurse practitioners if they provide MAID in accordance with the requirements stipulated in the Bill. This includes prescribing or providing a medication to a person, at their

request, so that they may self-administer the medication(s) and in doing so cause their own death. Prior to prescribing the nurse practitioner must determine eligibility criteria and follow the safeguards outlined in Bill C14. There is no territorial legislation to prohibit nurse practitioners from administering the substances.

The prescribing of MAID falls within the scope of practice of a nurse practitioner in the NT and NU provided the nurse practitioner possesses the necessary knowledge, skill and judgment to fulfill his or her responsibilities. It is equally important for you to be aware of employer policies and guidelines. The NWT Department of Health and Social Services has written Medical Assistance in Dying Interim Guidelines for the Northwest Territories. These guidelines are posted on our website www.rnantnu.ca .

Should a nurse practitioner elect to participate in the provision of MAID, CNPS (June 6, 2016, updated June 17, 2016) “advises it would be prudent to:

- Familiarize themselves with the wording of the new *Criminal Code* provisions, including the requirements for eligibility, independence of the physicians or NP, informed consent, and conditions to be satisfied at the time of administration.
- Ensure that the NP role contemplated in the provision of MAID, such as administering the substance that causes death, prescribing the substance that causes death, etc., falls within the NP’s scope of practice and that the NP possesses the necessary knowledge, skill and judgment to fulfill his or her responsibilities in the provision of MAID;
- Ascertain that MAID can be provided in the employment setting and review any applicable policies, guidelines, procedures and/or processes in place to guide the NP’s practice in the provision of MAID;
- Review any guiding documents from their regulatory body;
- Ensure that the provision of MAID is also in accordance with the applicable provisions of any provincial legislation or regulation, and in compliance with any applicable standard of care;
- Thoroughly document their patient care provided before, during, and after MAID has been executed;
- Ensure they maintain, within the patient record, all of the documents specified in the relevant provisions of the *Criminal Code* for the provision of MAID, such as the written request for MAID, written opinion from another medical practitioner or NP confirming that the person has met all the criteria, and any other relevant document that could be required under the regulations;

- Proceed with the necessary assessment, if the NP undertakes to provide a written opinion confirming that the patient meets the eligibility criteria; and
- **Seek legal advice to understand the relevant provisions of the *Criminal Code*.**

An NP should become aware of the resources their regulatory body and employer has in place for NPs who are not prepared to participate in MAID. Bill C-14 does not impose a positive obligation on the NP to refer a patient to a medical practitioner or NP who will assist the patient with MAID, in the event the NP refuses to participate. Currently, the NP has a legal duty to care for their patient, a duty to not abandon their patient, and a duty to refer a patient to another health care provider in certain circumstances. It would be prudent for NPs to seek direction from their regulatory body and legal representative if they decline to participate in MAID because it does not fall within their scope of practice, for conscientious objection or because they are concerned about legal risk.”

Am I legally protected?

Registered Nurses

Bill C-14 Subsection 227 (2):

No person is a party to culpable homicide if they do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying in accordance with section 241.2.

A registered nurse can participate by providing nursing care and aiding a nurse practitioner or medical practitioner with assistance in dying within their scope of practice. **A registered nurse is not legally permitted to administer medication for the purpose of medical assistance in dying.**

CNPS (June 6, 2016, updated June 17, 2016) provides the following advice:

“First, there appears to an important **limitation** to the role of the RN in Bill C-14, in that it expressly requires that the physician or nurse practitioner administer the substance. This would mean that while registered nurses could assist by arranging IV access, or preparing the medication, for instance, they could not administer the substance pursuant to a prescription. Failure to comply with this requirement could nullify the exemption for both the physician or nurse practitioner who issued the prescription and the nurse who administered the substance. Similarly, a court could find that if a patient is given a prescription to self-administer, the person would have to be the one to physically take the medication.

Second, Bill C-14 currently stipulates that MAID will have to be provided in accordance with “reasonable knowledge, care and skill and in accordance with any applicable provincial laws, rules or standards.” This means that failure to comply with any provincial law, rule or the

standard of care could nullify the exemption. There are several other conditions outlined in section 241.2 of Bill C-14, which nurses should carefully review.

Nurses should ensure that all of the necessary conditions set out in section 241.2 of the *Criminal Code* have been met before participating in the process. For the most part, this can occur by:

- Reviewing the chart to determine whether documentation clearly indicates that all requirements have been met; or
- Inquiring directly with the physician or NP providing MAID.

In either scenario, the nurse should carefully document in the client's chart that he or she has verified that all legal conditions for MAID have been satisfied."

A registered nurse must act in accordance with section 241.2 to be legally protected. It is important to review Bill C-14 along with employer policies. Registered nurses in the Northwest Territories must be familiar with the NWT Medical Assistance in Dying Interim Guidelines for the Northwest Territories. These guidelines are posted on our website www.rnantnu.ca. CNPS advises it is prudent for registered nurses who choose to participate in MAID to seek legal advice to understand the relevant provisions of the Criminal Code. CNPS offers legal advice to all its members. All active practicing members of RNANT/NU are members of CNPS.

Am I legally protected?

Nurse Practitioners

Bill C-14 Subsection 227 (1):

No medical practitioner or nurse practitioner commits culpable homicide if they provide a person with medical assistance in dying in accordance with section 241.2.

Bill C-14 Section 241.2 contains:

- specific eligibility criteria for MAID (see below answer to "What is eligibility criteria?");
- criteria for a grievous and irremediable medical condition;
- safeguards a nurse practitioner must follow;
- what must be done if the person requesting medical assistance is unable to sign a consent;
- criteria for who can act as an independent witness;
- who are independent medical practitioners and nurse practitioners;
- requirements that provision of care must meet provincial laws, rules or standards; and
- the requirement to inform the pharmacist dispensing the medication(s) of the intended purpose.

A nurse practitioner must act in accordance with section 241.2 to be legally protected. It is important to review Bill C-14 along with employer policies. Nurse practitioners in the Northwest Territories must follow the NWT Medical Assistance in Dying Interim Guidelines for the Northwest Territories. These guidelines are posted on our website www.rnantnu.ca. CNPS advises it is prudent for nurse practitioners who choose to participate in MAID to seek legal advice to understand the relevant provisions of the Criminal Code. CNPS offers legal advice to all its members. All active practicing members of RNANT/NU are members of CNPS.

What is the eligibility criteria for MAID?

Bill C-14 Subsection 241.2 (1):

A person may receive medical assistance in dying only if they meet all of the following criteria:

- (a) they are eligible—or, but for any applicable minimum period of residence or waiting period, would be eligible—for health services funded by a government in Canada;*
- (b) they are at least 18 years of age and capable of making decisions with respect to their health;*
- (c) they have a grievous and irremediable medical condition;*
- (d) they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and*
- (e) they give informed consent to receive medical assistance in dying after being informed of the means that are available to relieve their suffering, including palliative care.*

Bill C-14 Subsection 241.2 (2):

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

- (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.

Can I offer this option?

Registered Nurses

Registered nurses can provide information on MAID but you must be careful not to encourage or favour this option.

CNPS (June 6, 2016, updated June 17, 2016) notes:

“The provision of objective information is not prohibited by the *Criminal Code*. Further, Bill C-14 currently incorporates a clarification that permits health care professionals to provide information about the lawful provision of MAID to a patient.

However, subsection 241(a) of the Criminal Code will continue to make it a criminal offence to “counsel” a person to commit suicide. For the purposes of the Criminal Code, “counsel” means encourage, solicit or incite. Due to the criminal significance of the word “counsel,” a nurse must be mindful not to encourage or incite a patient to seek MAID.

It remains available for nurses to refer a patient’s inquiries about MAID to their physician, NP or health institution personnel who may be in a better position to respond to questions about services available at the institution.”

For registered nurses practicing in the Northwest Territories, The Medical Assistance in Dying Interim Guidelines for the Northwest Territories www.rnntnu.ca note a health care provider **must** provide an information package to the patient if the patient requests information on medical assistance in dying. Health care providers include registered nurses. The health care provider is not required to review the contents of the information package with the patient. An information package has been developed by the Department of Health and Social Services.

Can I offer this option?

Nurse Practitioners

Yes, nurse practitioners can discuss information about and eligibility for MAID as an option in the context of health care.

CNPS (June 6, 2016, updated June 17, 2016) notes:

“Yes. The provision of objective information is not prohibited by the *Criminal Code*. In addition, Bill C-14 currently incorporates a clarification that permits NPs and other health-care professionals to provide information about the lawful provision of MAID to a patient.

However, subsection 241(a) of the *Criminal Code* will continue to make it a criminal offence to “counsel” a person to commit suicide. For the purposes of the *Criminal Code*, “counsel” means encourage, solicit or incite. Due to the criminal significance of the word “counsel,” an NP must be mindful not to encourage or incite a patient to seek MAID.”

What do I need to document?

Registered Nurses

Should a patient wish to discuss or request MAID the conversation and information provided should be documented along with any follow up action such as providing an information package or advising the patient’s medical or nurse practitioner of the request.

If a registered nurse aids or assists in the provision of MAID, they must ensure all the necessary conditions in the Criminal Code have been met. This can be done by reviewing the chart or speaking directly with the practitioner providing MAID. A registered nurse should document the chart review and/or conversation. In addition, as with any other patient, a registered nurse must document any care they provide or procedures they perform (e.g. started an I.V.).

What do I need to document?

Nurse Practitioners

Should a patient wish to discuss or request MAID or a nurse practitioner discusses MAID as an option for end of life care, the conversation should be documented along with information provided and any follow up actions. Specific additional documentation is required when determining if a patient meets eligibility criteria and ensuring legislated safeguards are followed.

- **Written Request**

Bill C14 Subsection 241.2 (3) (b):

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must ensure that the person’s request for medical assistance in dying was

- (i) made in writing and signed and dated by the person or by another person under subsection (4), and*
- (ii) signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;*

Bill C14 also requires the written request be signed before two independent witnesses who also sign and date the request. Nurse practitioners practicing in the Northwest Territories should refer to the Medical Assistance in Dying Interim Guidelines for the Northwest

Territories. Nurse practitioners in Nunavut should contact their employer and/or Department of Health to ensure they are aware of any required forms/documentation.

- **Assessment and Second Opinion**

Bill C14 Subsection 241.2 (3) (e):

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in subsection (1)” [see answer to “What is the eligibility criteria?”]

The medical practitioner performing the initial assessment to ensure the patient meets the eligibility criteria for MAID must also provide a written opinion.

Nurse practitioners practicing in the Northwest Territories should refer to the Medical Assistance in Dying Interim Guidelines for the Northwest Territories. Nurse practitioners in Nunavut should contact their employer and/or Department of Health to ensure they are aware of any required forms/documentation.

- **Withdrawal of Consent**

Bill C14 Subsection 241.2 (3) (d):

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must ensure that the person has been informed that they may, at any time and in any manner, withdraw their request;

The practitioner must document they have advised the patient they may withdraw consent at anytime.

Bill C14 Subsection 241.2 (3) (h):

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive medical assistance in dying; and

A nurse practitioner must document they provided the patient with the opportunity to withdraw and consent was received.

Nurse practitioners practicing in the Northwest Territories should refer to the Medical Assistance in Dying Interim Guidelines for the Northwest Territories. For example, there is currently a specific Express Consent Form (#NWT8913). The content of this form includes consent withdrawal.

Nurse practitioners in Nunavut should contact their employer and/or Department of Health to ensure they are aware of any required forms/documentation.

- **Waiting Period**

Bill C14 Subsection 241.2 (3) (g):

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioners must ensure that there are at least 10 clear days between the day on which the request was signed by or on behalf of the person and the day on which the medical assistance in dying is provided or — if they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the person’s death, or the loss of their capacity to provide informed consent, is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;

A nurse practitioner must document their opinion with supporting rationale or confirm opinion of first practitioner.

Nurse practitioners practicing in the Northwest Territories should refer to the Medical Assistance in Dying Interim Guidelines for the Northwest Territories. Nurse practitioners in Nunavut should contact their employer and/or Department of Health to ensure they are aware of any required forms/documentation.

- **Prescription/Order**

Bill C14 Subsection 241.2 (8):

The medical practitioner or nurse practitioner who, in providing medical assistance in dying, prescribes or obtains a substance for that purpose must, before any pharmacist dispenses the substance, inform the pharmacist that the substance is intended for that purpose.

This should be documented in writing.

- **Communication Challenges**

Bill C14 Subsection 241.2 (3) (i)

Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision.

A nurse practitioner must document if the patient has difficulty communicating and what measures they took to ensure the patient understood the information provided to them and document their decision.

- **Administration of Medication**

A nurse practitioner must document administration of medication.

- **Death Certificate**

Check if medical assistance in dying is a reportable death in your territory. Per the *Medical Assistance in Dying Interim Guidelines for the Northwest Territories*, MAID is a reportable death under the NWT's *Coroners Act*. The Coroner is responsible for completing the Medical Certificate of Death portion of the Death Registration Statement.

Should you have any questions or concerns, please do not hesitate to contact RNANT/NU and/or CNPS.