

INFORMATION SHEET

Medical Assistance in Dying

I. Intention

The intention of this Information Sheet is to provide accurate and current information to social workers regarding recent changes to the law in the area of medical assistance in dying.

II. Background

The Federal Government's Bill C-14 received Royal Assent in June 2016 bringing into force the law relating the Medical Assistance in Dying. The Criminal Code has been amended to exempt from criminal liability medical practitioners and nurse practitioners who provide medical assistance in dying. There is also an exemption for "any other person" who would do anything in order to help a physician or nurse practitioner provide such assistance.

(Excerpts from Publication titled: Legislative Background, Medical Assistance in Dying: Bill C-14, Department of Justice, Government of Canada)

III. Legislative Objectives

The objectives of the new Criminal Code provisions are expressly stated in the preamble of Bill C-14 and include:

- recognizing the autonomy of persons who have a grievous and irremediable medical condition that causes them enduring and intolerable suffering to seek medical assistance in dying;
- recognizing that robust safeguards, which reflect the irrevocable nature of ending a life, are essential to prevent error and abuse in the provision of medical assistance in dying;
- affirming the inherent and equal value of every person's life and avoiding encouraging negative perceptions of the quality of life of persons who are elderly, ill or disabled;
- protecting vulnerable persons from being induced, in moments of weakness, to end their lives;
- recognizing that suicide is a significant public health issue that can have lasting and harmful effects on individuals, families and communities;
- recognizing that those who wish to access medical assistance in dying should be able to do so without adverse legal consequences on their families;
- respecting the personal convictions of health care providers; and,
- recognizing that a consistent approach to medical assistance in dying across Canada is desirable.

The legislative objectives in the preamble speak to the circumstances under which medical assistance in dying is available. They also address the policy and ethical reasons for limiting access. For example, the objective of recognizing that suicide is a public health issue helps to explain why medical assistance in dying is not presently being contemplated for people who are not approaching natural death. To permit it in circumstances where a person is not approaching a natural death could be seen as undermining suicide prevention initiatives and normalizing death as a solution to many forms of suffering.

IV. **Bill C-14 amends the *Criminal Code***

Culpable Homicide

It is a crime to intentionally cause the death of another person, even if they consent to die (section 14 of the *Criminal Code*). Bill C-14 exempts from criminal liability medical practitioners and nurse practitioners who provide medical assistance in dying in the form of what is commonly called voluntary euthanasia, (i.e., the administration of medication to a person, at their request, that causes their death (new section 227(1) of the *Criminal Code*, in clause 2 of the Bill)). The Bill also creates an exemption for **any other person** who would do anything in order to help a physician or nurse practitioner provide such assistance. The latter category would include a social worker who is asked to meet with the patient to help assess the voluntariness of their request, a lawyer to a hospital who is asked to review the documents to verify compliance with the law, or a pharmacist who fills the prescription for the medication to be administered by a medical practitioner or nurse practitioner to the patient.

Eligibility Criteria

Bill C-14 subsections 241.2(1) and 241.2(2) set out the eligibility criteria for medical assistance in dying in Canada. The criteria include:

- being an adult (at least 18 years old) who is mentally competent (“capable”) to make health care decisions for themselves;
- having a grievous and irremediable medical condition (as defined under subsection 241.2(2));
- making a voluntary request for medical assistance in dying which does not result from external pressure;
- giving informed consent to receive medical assistance in dying; and,
- being eligible for health services funded by a government.

A grievous and irremediable medical condition is defined as (subsection 241.2(2)):

- having a serious and incurable illness, disease or disability; and,
- being in an advanced state of irreversible decline in capability; and,
- experiencing enduring physical or psychological suffering, due to the illness, disease, disability or state of decline, that is intolerable to the person and cannot be relieved in a manner that they consider acceptable; and,

- where the person's natural death has become reasonably foreseeable taking into account all of their medical circumstances, without requiring a specific prognosis as to the length of time the person has left to live.

V. CASW Code of Ethics & ACSW Standards of Practice and the Social Work Role with Medical Assistance in Dying

The CASW Code of Ethics and the ACSW Standards of Practice provide foundational guidance for all social workers. These governance documents must be used to inform social work practice with clients and families who are considering or pursuing medical assistance in dying. Specifically:

1. CASW Code of Ethics provide guidance with respect to medical assistance in dying:
 - Respect for the Inherent Dignity and Worth of Persons – social workers uphold each person's right to self-determination and respect the client's right to make choices based on voluntary, informed consent.
 - Pursuit of Social Justice – Social workers uphold the right of all persons to be provided with appropriate social, psychological and medical resources at the end phase of life. The provision of these resources in a fair and equitable way ensures that people are given the opportunity to die with dignity and support the client's right to choose
 - Service to Humanity – social workers use their knowledge and skills in bringing about fair resolutions to conflict and in assisting those affected by conflict.
 - Competence in Professional Practice – social workers uphold the right of clients to be offered the highest quality of service possible and demonstrate due care for client's interests and safety by limiting professional practice to areas of demonstrated competence
2. ACSW Standards of Practice – the following standards of practice, among others, may be relevant to the practice of social work in the area of medical assistance in dying
 - Referral – social workers who choose not to provide services around medical assistance in dying on the basis of conscientious objection must facilitate the referral of the client and family to another qualified provider
 - Cultural Competence – a social worker will acknowledge and respect the impact that their own heritage, values, beliefs and preferences can have on their practice and on clients whose background and values may be different from their own. A social worker will also obtain a working knowledge and understanding of their clients' racial and cultural affiliations, identities, values, beliefs and customs and will be able to apply this knowledge in the provision of services.
 - Dignity of Client – a social worker will use reasonable advocacy and other intervention activities to ensure that the dignity, individuality and rights of their clients are safeguarded.

VI. Frequently Asked Questions

As a social worker working in a health care setting is it illegal for me to have a conversation with a patient about medical assistance in dying?

- No, the Criminal Code has been amended to exempt from criminal liability “any other person” who would do anything in order to help a physician or nurse practitioner provide medical assistance in dying.

As a social worker working in a non-health care setting, is it illegal for me to have a conversation with a client about medical assistance in dying?

- Conversations with clients about the possibility of accessing medical assistance in dying are not illegal. For greater clarity, the Criminal Code provides at section 241(5.1) that no social worker, psychologist, psychiatrist, therapist, medical practitioner, nurse practitioner or other health care professional commits an offence if they provide information to a person on the lawful provision of medical assistance in dying.

Am I required to have conversations with patients about medical assistance in dying if it goes against my conscience?

- No, the amendments of the Criminal Code are permissive not prescriptive. It is a best practice in any field to ensure the appropriate services are available from someone else if you are not able/willing to provide them.

What does a professional conversation about medical assistance in dying with a patient look like?

- While the ACSW does, from time to time, develop best practice guidelines in certain areas of practice, the ACSW is not in a position to provide specific practice advice on medical assistance in dying at this time. Social Workers are encouraged to review their Standards of Practice and Code of Ethics to inform their practice. In addition, please consult with your employer regarding organizational practices.

For additional questions regarding the practice and law in the area of medical assistance in dying, contact the offices of the ACSW at 780-421-1167.