

# Medical Assistance in Dying in Canada

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# Roadmap

& Background

& Ontario statistics

& Legal History: legislation & *Carter*  
ruling

& Process overview in hospital

& Conscientious objection

& FAQs

& Q&A

# Conflict of Interest Disclosure

⌘ I have no financial conflicts of interest to disclose.

⌘ Information shared is not intended to provide legal advice.

# My Working Presumptions:

- ⌘ There are likely a range of values and perspectives in the room about Medical Assistance in Dying (MAiD) and all are welcome
- ⌘ Respectful dialogue is key
- ⌘ MAiD is a deeply personal individual decision
- ⌘ Health care providers and health institutions may interpret the legal requirements differently, or have institution-specific procedures.
  - ⌘ Consult your health care provider or team if you have questions about MAiD as an end of life option for you or a loved one.

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

Statistics as of October 31, 2018:

- Total number of cases completed in Ontario: 2,241
- Sex:
  - Female: 50%
  - Male: 50%
- Type:
  - Clinician-administered: 2,240
  - Patient-administered: 1
- Age:
  - Average Age: 74
  - Youngest: 22
  - Oldest: 105
- Setting of death:
  - Hospital: 50%
  - Private Residence: 42%
  - LTC Facility/Nursing Home: 4%
  - Retirement Home/Seniors Residence: 4%
- Underlying conditions:
  - Cancer-Related: 63.6%
  - Circulatory/Respiratory: 15.9%
  - Neurodegenerative: 11.8%
  - Other: 8.7%
- Number of Unique MAiD Providers:
  - Clinicians: 378
    - Physicians: 357
    - Nurse Practitioners: 21
  - Hospitals: 119

# Criminal Code

⌘ 242.1 “Medical assistance in dying means



⌘ Physician or nurse practitioner administered

⌘ (a) the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that caused their death; or

⌘ Patient self-administered

⌘ (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.”



# Supreme Court of Canada's *Carter* Ruling:

⌘ Unanimous 9-0 ruling

⌘ “...[P]rohibition on physician-assisted dying is void insofar as it deprives a **competent adult** of such assistance where (1) the **person affected clearly consents to the termination of life;** and (2) **the person has a grievous and irremediable medical condition** (including an illness, disease or disability) that **causes enduring suffering that is intolerable to the individual** in the circumstances of his or her condition.”

⌘ *Carter v. Canada* (Attorney General) 2015 SCC 5, at [4]

# *Carter* Criteria

## *Criteria:*

- ⌘ be a competent adult;
- ⌘ have a grievous and irremediable medical condition;
- ⌘ have enduring suffering that is intolerable;
- ⌘ consent to the termination of life with the assistance of a physician

# Criminal Code

## Exemptions:

- ⌘ Medical or Nurse practitioner exempted from prosecution if provided to eligible person
- ⌘ Exemption for any person aiding medical or nurse practitioner

## Procedural Requirements & Safeguards

- ⌘ Patient (or with assistance of authorized third party) must make a written request for assisted dying
- ⌘ Independence requirements
  - ⌘ Witnesses for patient written request
  - ⌘ Practitioner confirming eligibility
- ⌘ Primary physician/NP must assess re: eligibility
- ⌘ Required second assessment from an independent practitioner confirming eligibility
- ⌘ 10 “clear days” reflection period unless patient death or loss of capacity to provide informed consent is imminent

# *Criminal Code*

To be eligible, an individual will have to:

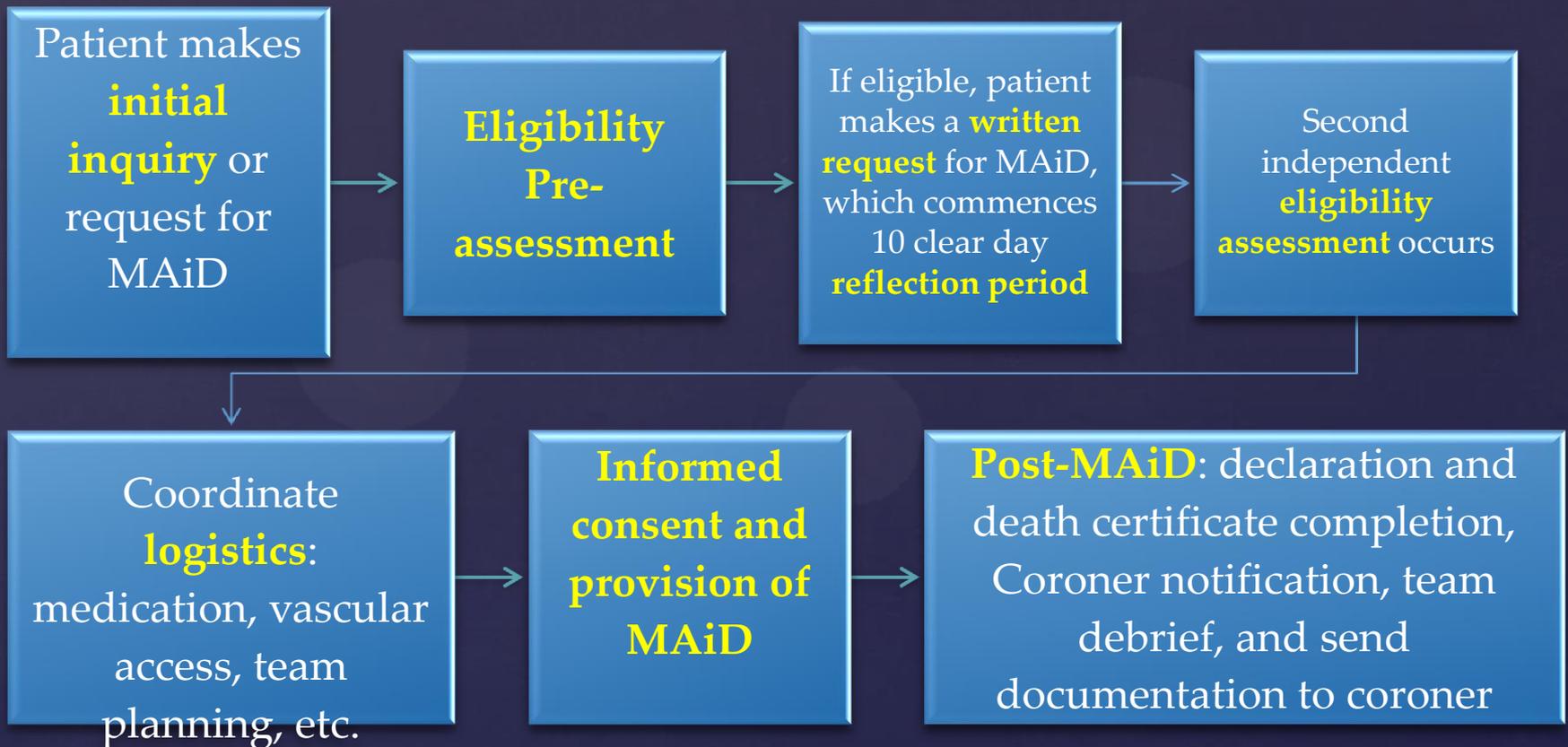
- ⌘ Eligible for health card
- ⌘ be at least 18 years of age;
- ⌘ be capable to make their own healthcare decisions;
- ⌘ have a grievous and irremediable medical condition;
- ⌘ make a voluntary request; and
- ⌘ consent to MAID.

# *Criminal Code*

The legislation further defined a “grievous and irremediable condition” to mean that an individual must:

- ⌘ have a serious and incurable illness, disease or disability;
- ⌘ be in an advanced state of irreversible decline in capability;
- ⌘ experience enduring physiological or psychological suffering that is intolerable to them and cannot be relieved under conditions they consider acceptable; and
- ⌘ their natural death has become reasonably foreseeable.
  - ⌘ This last requirement functionally excludes most people that are seeking MAiD due primarily to a psychiatric illness

# General MAiD Process Overview



# Patient Access Infrastructure

- ⌘ Conscientious objection may arise at the level of the institution (i.e. faith-based)
  - ⌘ Institutional conscientious objection falls to Provinces/ Territories to regulate
  - ⌘ Ontario, for example, has allowed faith-based institutions to conscientiously object
  
  - ⌘ Or
  
- ⌘ Individual
  - ⌘ Clinicians who are unwilling to provide MAID can either make a referral using their own professional networks; or
  - ⌘ institutional policies; or
  - ⌘ can call a referral service (options vary by Province and Territory).

# Institution-Based MAID Delivery Models:

## ⌘ “Parachute in”

- ⌘ Identified interprofessional team that assesses and provides MAID to eligible patients

## ⌘ Wraparound

- ⌘ MAID provided to patient by local care team, with support from identified individuals as needed, wherever the patient request arises

## ⌘ Blended model

- ⌘ Comprised of elements of both parachute in and wraparound

## ⌘ Faith-Based Institutional Opt-Out

- ⌘ Transfer of care

# Role of case pre-briefs & debriefs

- ⌘ Each patient has a rich story and experiences that have culminated in their MAiD request
- ⌘ Pre-briefs: a case walkthrough with the local team of what the process entails and confirming details and accountabilities of those that will be participating
- ⌘ Debriefs: A safe space for after a MAiD case for the interprofessional team to meet and reflect
  - ⌘ Remind team of patient's journey
  - ⌘ Reflect on what worked well and what could have been improved

# Initiating a Request:



Ministry of Health  
and Long-Term Care

## Clinician Aid A Patient Request for Medical Assistance in Dying

**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.

An **Independent witness** is any person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying may act as an Independent witness, except if they (a) know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death; (b) are an owner or operator of any health care facility at which the person making the request is being treated or any facility in which that person resides; (c) are directly involved in providing health care services to the person making the request; or (d) directly provide personal care to the person making the request.

**Authorized third person** in accordance with ss. 241.2(4) of the Criminal Code, is a person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying and who does not know or believe that they are a beneficiary under the will of the person making the request, or a recipient, in any other way, of a financial or other material benefit resulting from that person's death may sign and date the request in the presence and on behalf of the person requesting medical assistance in dying.

**Grievous and Irremediable** is a serious and incurable illness, disease or disability in an advanced state of irreversible decline in capability. The illness, disease or disability or state of decline causes enduring physical or psychological suffering that is intolerable to the Patient and that cannot be relieved under conditions the Patient considers acceptable. The Patient's 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 they have remaining.

The use of this aid is voluntary. It is being provided to assist you in making a written request for medical assistance in dying that complies with the legal requirements.

Once you complete this request, you should provide it to your doctor or nurse practitioner. The completed aid may be included in your medical records and may be used by your doctor or nurse practitioner to provide health care to you.

### Section 1 - Patient Information

Last Name		First Name	
Gender	Date of Birth (yyyy/mm/dd)	Ontario Health Insurance Plan (OHIP) Number	Version Code
<input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Other			
Proof of other publicly-funded health insurance (For non-OHIP patients only)			Postal Code

### Section 2 - Request for Medical Assistance in Dying

You must personally complete this section unless you are unable to sign. If you are unable to sign, you may ask an authorized third person to complete this section for you.

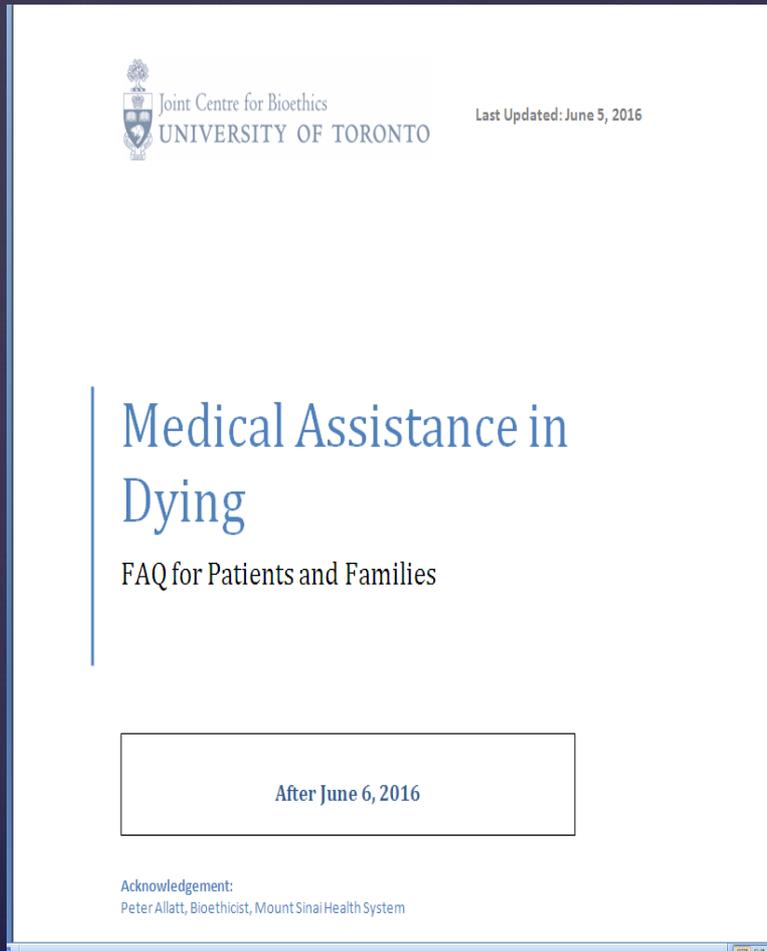
I, \_\_\_\_\_  
(Last Name, First Name)

request that a doctor or nurse practitioner help me to die. I confirm that:

- I am eligible for health services funded by a government in Canada (i.e., I have a valid OHIP card or proof of other Canadian publicly-funded health insurance – e.g., from another province) or, but for any applicable minimum period of residence or waiting period, I would be eligible for health services funded by a government in Canada.
- I am at least 18 years of age.
- I have been informed by my doctor or nurse practitioner that I have a **grievous and irremediable** condition.
- I am asking for help to die voluntarily and not as a result of pressure from others.
- I am giving my informed consent to receive medical assistance in dying, and have been informed of the means that are available to me to relieve my suffering, including palliative care.

& Clinician Aid A:  
⌘ Patient request for  
Medical Assistance in  
dying

# Patient & Family FAQ's



The image shows a document cover page with a white background and a blue border. At the top left is the logo of the Joint Centre for Bioethics at the University of Toronto. To the right of the logo, it says 'Last Updated: June 5, 2016'. The main title 'Medical Assistance in Dying' is written in a large, blue, serif font. Below the title, it says 'FAQ for Patients and Families'. At the bottom, there is a box containing the text 'After June 6, 2016'. At the very bottom, there is an 'Acknowledgement' section mentioning Peter Allatt, Bioethicist, Mount Sinai Health System.

Joint Centre for Bioethics  
UNIVERSITY OF TORONTO

Last Updated: June 5, 2016

## Medical Assistance in Dying

FAQ for Patients and Families

After June 6, 2016

Acknowledgement:  
Peter Allatt, Bioethicist, Mount Sinai Health System

## Illustrative Questions:

- ⌘ Who is eligible for MAID?
- ⌘ What does a grievous and irremediable condition mean?
- ⌘ How is MAID different than stopping or not starting treatment?
- ⌘ Do I have to inform my family?
- ⌘ Can I have family & friends with me when I die?

Acknowledgment: FAQ adapted from one created by  
Peter Allatt, Mt. Sinai Health System

**Question:**

**Can I write down my wishes in case I cannot make my own decisions?**

⌘ No. You must be capable, and be able to consent for MAiD at the moment you wish to receive it. You cannot write your wishes for MAiD in an advance care plan (e.g., living will).

# Question:

**If I choose MAiD, will it affect my family's ability to receive my life insurance benefits?**

- ⌘ No. Under Ontario law, the fact that a patient received MAiD cannot be used to deny a right or refuse a benefit or any other sum which would otherwise be provided under a contract or statute. In other words, your insurance benefits will not be negatively impacted if your death was the result of MAiD.

# Question:

## Will MAiD be listed on the death certificate?

& No. The physician or nurse practitioner who provides MAiD will complete the death certificate. The cause of death will be the condition(s) that qualified the individual for MAiD, e.g. cancer, ALS, congestive heart failure, etc.

# Question:

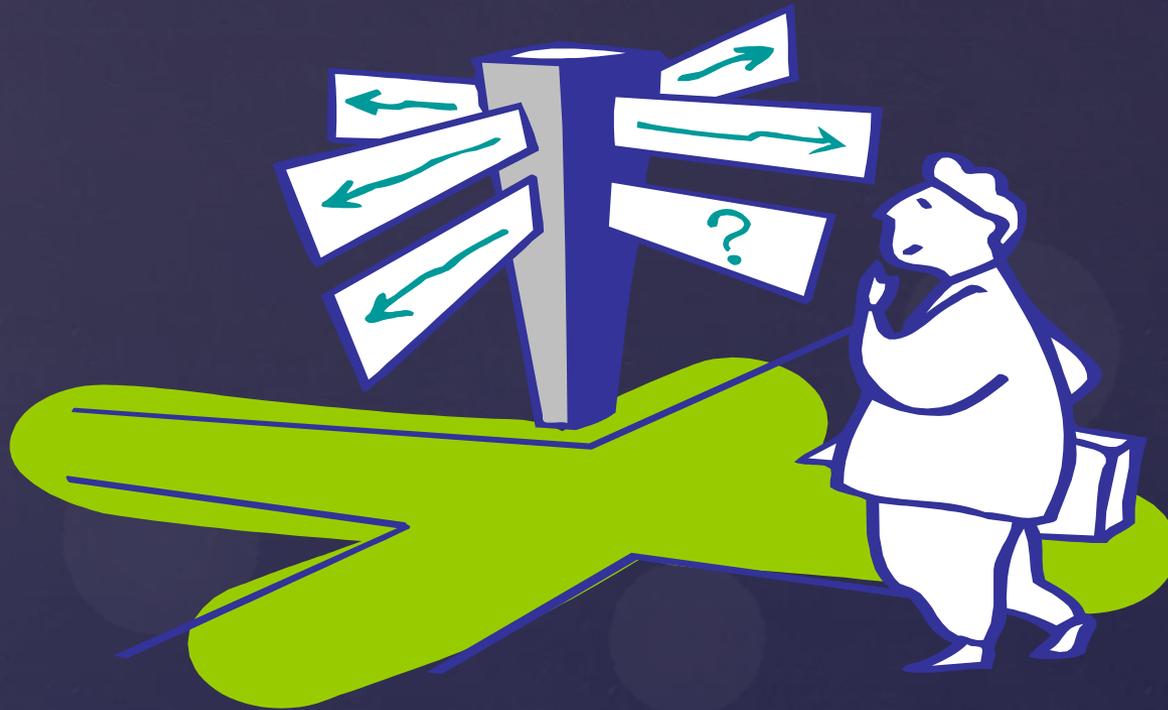
## What if I want to be an organ or tissue donor?

- ⌘ It depends on a number of factors. If you are considering MAiD and you would like to be an organ and/or tissue donor, please speak with your health care team or Trillium Gift of Life Network <http://www.giftoflife.on.ca/en/> or 1-800-263-2833.
- ⌘ If you receive MAiD in hospital your health care team will coordinate your request to be an organ or tissue donor with the Trillium Gift of Life Network.

# Question:

What if a family member is having difficulty coping with MAiD and wants help?

- ⌘ There is help available for family members who are distressed and troubled. Depending on the urgency and severity of the distress a variety of options are available.
- ⌘ There are now MAiD specific bereavement supports available online through Bridge C-14:  
<https://www.bridgec14.org/>



Questions?

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# Available External Resources:

# Available MAID Resources:

- ⌘ Clinician Aid Forms
  - ⌘ MOHLTC: <http://health.gov.on.ca/en/pro/programs/maid/>
- ⌘ Responding to a patient request
  - ⌘ Virtual Hospice: [Assessing & Managing a Patient's Request for Hastened Death](#)
- ⌘ Ontario Hospital Association:
  - ⌘ <http://www.oha.com/CurrentIssues/LegalProfessional/Pages/End-of-life%20care.aspx>
- ⌘ Patient & Family Information:
  - ⌘ MOHLTC: <http://health.gov.on.ca/en/pro/programs/maid/>
- ⌘ CNO MAID Policy:
  - ⌘ <http://www.cno.org/globalassets/docs/prac/41056-guidance-on-nurses-roles-in-maid-july-4-vfinal.pdf>
- ⌘ CPSO MAID Policy:
  - ⌘ <http://www.cpso.on.ca/CPSO/media/documents/Policies/Policy-Items/medical-assistance-in-dying.pdf?ext=.pdf>
- ⌘ Joint Centre for Bioethics (policy template & other resources):
  - ⌘ <http://www.jcb.utoronto.ca/>
- ⌘ Alberta Health Services (checklists, medication protocols, etc.):
  - ⌘ <http://www.albertahealthservices.ca/info/page13497.aspx>
- ⌘ Centre for Effective Practice MAID Resource Tool
  - ⌘ <https://thewellhealth.ca/maid/>