

Medical Assistance in Dying: What Social Workers Need to Know

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Medical Assistance in Dying (MAID): What Social Workers Need to Know

Social work is one of the largest health professions in Newfoundland and Labrador with over 1500 Registered Social Workers (RSW's) practicing throughout all regions.

As a profession, social work has kept current on the legislative developments and national and international dialogue on medical assistance in dying (MAID). The NLASW has been extensively involved in discussions and planning for the implementation of MAID legislation in Newfoundland and Labrador and clarifying the role of social work in this area. While previously referred to as physician assisted dying, the terminology currently used is medical assistance in dying. This is reflective of the team based approach to care.

While medical assistance in dying was prohibited in Canada up until the 2015 Supreme Court of Canada's decision of *Carter v Canada (AG)*, this service was available in other international jurisdictions. As national dialogue began to grow, the Canadian Association of Social Workers (CASW) produced a *Statement of Principles on Physician Assisted Dying* in 1994 and a discussion paper on physician-assisted death in 2016. The principles outlined by the CASW address the importance of a robust palliative care system and the need for strong safeguards to be put in place to ensure that people do not pursue medical assistance in dying due to the lack of palliative or end of life care options. At the same time, these documents outline the role that social workers could have in medically assisted dying given their unique perspective and expertise, and highlight the need for more training and support for social workers in this area.

Following the *Carter v Canada (AG)* Supreme Court of Canada decision, the federal government was given a 12 month deadline to pass legislation on physician assisted dying; of which an additional extension was given. Bill C-14, the Canadian legislation on medical assistance in dying, received royal assent on **June 17, 2016**, and is now law.

Medical Assistance in Dying

Medical assistance in dying, as defined in legislation 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.

Section 241.2 of the act outlines the criteria an individual must meet to receive medical assistance in dying. These criteria include:

- a) they are 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 having been informed of the means that are available to relieve their suffering, including palliative care.

Assessing whether a person meets the criteria for medical assistance in dying is quite rigorous and there are many safeguards put in place as outlined in the legislation. Not all individuals seeking this service will receive it. However, since becoming law, numerous individuals throughout Canada, including Newfoundland and Labrador, have sought medical assistance in dying and received it.

Social Work Role

The CASW Code of Ethics (2005) outlines the values and principles that guide social work practice. Social workers support an individual's right to self-determination (consistent with their capacity and with the rights of others) and to make decisions based on voluntary, informed consent. With the passing of Bill C-14, individuals have a legal right to seek medical assistance in dying.

So what does this legislation mean in terms of social work practice? Social workers have always been involved in end of life care. Social workers work with individuals and families in acute care settings, palliative care, and long term care in providing support around issues such as end of life, grief and loss and advance health care planning. As members of interdisciplinary teams, within their current scope of practice, social workers may be involved in the care of individuals who request and receive medical assistance in dying (MAID). Social workers may also be working with the individual's family and loved ones during this process. Whether or not an individual who requests medical assistance in dying is able to receive this service, social workers will continue to be part of the care and provide on-going support. Although social workers will not be administering medication as part of MAID, social workers may also be in the room with the individual and family at the time of death as a health care team member. It is understandable that social workers may have concerns about their role in MAID. Two issues that have been highlighted include legal considerations and freedom of conscience and religion.

- **Legal Considerations: An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) S.C. 2016, c. 3)**

Bill C-14 amended the Criminal Code to create exemptions from criminal prosecution for health care providers involved in the lawful provision of information pertaining to MAID. Section 5.1 of Bill C-14 states:

For greater certainty, 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.

However, it remains a criminal offense to ‘counsel’ a person to die by suicide as outlined in the Criminal Code, subsection 241(1). It is therefore important that social workers are familiar with the legislative aspects of MAID and are able to distinguish between the word counsel as it is related to the criminal code and counselling within the therapeutic social work relationship. Counsel in the criminal code means to ‘procure, solicit and incite’, while counsel in the therapeutic relationship covers activities related to communication, information sharing, the provision of psychosocial support and referrals. Within the context of therapeutic counselling, social workers may provide information on the lawful provision of MAID when requested by clients, including where to access this service. Social workers follow the NLASW Standards for Social Work Recording (2014) and ensure this information is documented in the client file.

The legislation on medical assistance in dying is evolving and many health care organizations are developing policies and practices related to MAID to which social workers must be attuned in their practice. It is therefore important that social workers who are involved, or may become involved in MAID, seek consultation within their organizations and legal advice as needed.

- **Freedom of Conscience & Religion**

Social workers may also be concerned about how their own personal values and beliefs will be considered in the provision of MAID. While social workers respect and uphold a client’s right to make choices based on voluntary, informed consent, the legislation on medical assistance in dying does recognize and uphold people’s freedom of conscience and religion as outlined in the Canadian Charter of Rights and Freedoms. Therefore, health care providers are not compelled under the legislation to provide or assist in MAID. Social workers do however have an ethical responsibility to strive for impartiality in practice and refrain from imposing their values, views and preferences on clients. Social workers who are personally and/or morally opposed to MAID, and believe that their values and beliefs will negatively impact their ability to provide ethical and competent services related to MAID, must inform their employer and take steps to refer clients seeking MAID to another social work colleague or appropriate health care provider.

Continuing Professional Development & Competence in Practice

Social workers have an ethical responsibility to strive to “maintain and increase their professional knowledge and skill” (CASW Code of Ethics, 2005, p. 8). Given that social workers will be involved in the provision of support for those seeking or availing of medical assistance in dying, members must continue to explore continuing professional development opportunities pertaining to the role of social work in MAID, seek to

understand the legislation, policies and programs concerning MAID, and be familiar with relevant organizational/employer guidelines pertaining to the delivery of MAID services. It is also important that social workers seek supervision and consultation pertaining to their role in MAID.

Self-care is an important concept related to professional competence. MAID may invoke strong emotional reactions amongst health care professionals including social workers. It is therefore important that social workers continue to engage in critical reflection and seek opportunities to focus on their own self-care while maintaining professionalism and the respect for the best interests of clients. Seeking guidance from supervisors/managers is a helpful strategy.

Future Considerations & Research

As Bill C-14 was being developed, a Special Joint Committee on Physician Assisted Dying was established to examine this issue in detail. There were other complex issues addressed by the committee that are not captured in the current legislation that require further consideration and research. These include requests for medical assistance in dying by:

- Mature minors,
- Individuals wanting to make advance requests for when they are no longer able to consent or make health care decisions,
- Individuals whose mental illness is the sole underlying medical condition causing intolerable suffering.

The new legislation stipulates that the Federal government examine these issues further and conduct independent reviews. This will help inform necessary changes/updates to the legislation. NLASW will continue to keep apprised of any changes in legislation and update social workers accordingly.

Conclusion

As Newfoundland and Labrador continues to implement the federal legislation on medical assistance in dying, social workers must ensure that they are familiar with a) the legislation pertaining to MAID, including any changes, b) the role of social work in the MAID process, c) organizational policies and procedures, and d) the CASW Code of Ethics and best practice standards and how they related to MAID. Social workers must also continue to assess their own personal values and beliefs and seek appropriate supervision and guidance on their role in MAID. Social workers are also encouraged to seek organizational and legal advice as appropriate prior to engaging in MAID.

References/Resources

- An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying). (2016, c.3). Retrieved from the Parliament of Canada website: <http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=1&DocId=8384014>
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