



RISK NOTE

SUBJECT: Medical Assistance in Dying HCPP Coverage for Nurses, Nurse Practitioners and Pharmacists Employed by an HCA

HCPP has received many inquiries from covered Health Care Agencies (HCAs) with respect to coverage for nurses, nurse practitioners and pharmacists who are employed by an HCA and participate in Medical Assistance in Dying (MAiD). This Risk Note is primarily intended to clarify the coverage available under HCPP in these circumstances. HCA employees are encouraged to contact their HCA risk management staff for risk management advice and guidance related to MAiD.

BACKGROUND and ROLES

On February 6, 2015 the Supreme Court of Canada decision in *Carter v Canada (Attorney General)*, 2015 SCC5, [2015] 1 S.C.R. 331 struck down provisions in the *Criminal Code* that prohibited MAiD, in certain limited circumstances. Because of the *Carter* decision, amendments to the *Criminal Code*, RSC 1985, c.C-46 were necessary and on June 17, 2016 federal Bill C-14 was passed into law. This means that it is now legal in Canada for an individual to request and receive a substance intended to end their life, subject to the parameters set out in Bill C-14¹.

Accordingly, MAiD is permitted only by the administering by a physician or nurse practitioner of a substance to a person, at their request, that causes their death; or by the prescribing or providing by a physician 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. In BC, the College of Physicians and Surgeons of BC released Professional Standards and Guidelines effective June 23, 2016 for physicians to follow when providing MAiD. Also effective June 23, 2016 both registered nurses and nurse practitioners were able to aid in the provision of MAiD as set out by the College of Registered Nurses of BC (CRNBC) in its revised RN Scope of Practice standard. Although within the parameters of Bill C-14, nurse practitioners in BC were initially unable to determine eligibility of a person for MAiD or to provide MAiD since a practice standard for this was not in place. Effective July 27, 2016 the CRNBC board approved and put into immediate effect standards, limits and conditions related to the role of nurse practitioners in determining eligibility for and providing MAiD and as such, MAiD can now be provided by nurse practitioners in BC while acting in accordance with the standard. In BC, the vast majority of nurse practitioners are employed by a BC health authority and therefore covered by HCPP.

Pharmacists dispense substances that have been prescribed by a physician or nurse practitioner for Medical Assistance in Dying. The College of Pharmacists of BC has updated its Code of Ethics, amended its practice standards and developed guidelines for pharmacists choosing to participate in MAiD. Physicians or nurse practitioners who, in providing MAiD prescribe or obtain a substance from a pharmacist for that purpose must inform the pharmacist that the substance is intended for MAiD before the pharmacist dispenses the substance.

¹ <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=8177165>

HCPP COVERAGE

HCPP will respond to allegations or legal actions related to MAiD subject to the terms and conditions of its coverage agreements. HCPP extends to cover employees of a covered Health Care Agency while acting within the scope of their employment, including employed nurses, nurse practitioners and pharmacists.

In the case of MAiD, HCPP will consider coverage for allegations of a criminal offence up until the time formal charges against an employee are laid by the Crown, provided the employee is acting in good faith that he/she is in compliance with Bill C-14 parameters. Note that on June 8, 2016 the BC Criminal Justice Branch issued a statement and Guidelines for Prosecutors Dealing With Physician-Assisted Death to clarify that *“when the conditions of Carter are met, there is no substantial likelihood of a conviction for charges against physicians or other healthcare professionals involved in carrying out a physician-assisted death, including nurses and pharmacists, nor would the public interest test be met.”*²

RISK MANAGEMENT

If an employee of a HCA is asked about or approached to participate in MAiD, HCPP recommends contacting the HCA’s risk management department or MAiD co-ordination office for guidance and support. Any allegations or legal action related to an employee’s role in MAiD should be reported immediately to the HCA’s risk management department for handling and referral to HCPP where appropriate.

RESOURCES

- College of Registered Nurses of BC MAiD Resource Centre: <https://www.crnbc.ca/Standards/resources/casestudies/beinganurse/MAID/Pages/Default.aspx>
- College of Pharmacists of BC Resources: <http://www.bcpharmacists.org/medical-assistance-dying>
- College of Physicians and Surgeons of BC Standards and Guidelines for MAiD: <https://www.cpsbc.ca/files/pdf/PSG-Medical-Assistance-in-Dying.pdf>
- BC Ministry of Health MAiD Resource webpage: <http://www2.gov.bc.ca/gov/content/health/accessing-health-care/home-community-care/care-options-and-cost/end-of-life-care/medical-assistance-in-dying>
- Government of Canada MAiD Resource Centre: <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html>
- Canadian Association of MAiD Assessors and Providers: <http://camapcanada.ca/>

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² <http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/media-statements/2016/16-12-physician-assisteddeath.pdf>

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It should be clearly understood that this document and the information contained within is not legal advice and is provided for guidance from a risk management perspective only. It is not intended as a comprehensive or exhaustive review of the law and readers are advised to seek independent legal advice where appropriate. If you have any questions about the content of this Risk Note please contact your organization’s risk manager or chief risk officer to discuss.