YUKON MEDICAL COUNCIL

STANDARD OF PRACTICE

Medical Assistance in Dying (MAID)

YMCS-3.6

Medical Practice

Contents

Standards of Practice of the Yukon Medical Council ("the Council") are the minimum standards of professional behavior and ethical conduct expected of all physicians registered in Yukon. Standards of Practice will be referenced in the management of complaints and in discipline

Preamble

Medical assistance in dying (MAID) has been legal in Québec since 2015 and in the rest of Canada since 2016. Since then, the law with respect to eligibility for MAID has continued to evolve.

In 2021 the criminal code was amended to provide for two distinct categories of individuals with a grievous and irremediable medical condition who may be eligible to request Medical Assistance in Dying (MAID). They include:
the patient's death is reasonably foreseeable. (Track 1)
the patient's death is not reasonably foreseeable. (Track 2)

This Standard reflects the current state of Canadian law with respect to MAID (as established by the *Criminal Code*). This Standard applies to **all** MAID cases.

Throughout the Standard, the terms 'must' and 'should' are used to articulate the regulatory authority's expectations. 'Must' indicates a mandatory requirement. 'Should' indicates that physicians can use reasonable discretion when applying this expectation to practice.

This Standard must be interpreted in the context of federal legislation relating to MAID. Nothing in this Standard reduces a physician's obligation to comply with any and all applicable laws.

This Standard should be read in conjunction with the Advice to the Profession: Medical Assistance in Dying (MAID) and Canadian Medical Association Code of Ethics and Professionalism. It should also be read in conjunction with other relevant YMC Standards of Practice outlined in Section 17.

Physicians are encouraged to consult with the resources available through the Canadian Medical Protective Association, the Canadian Association of MAID Assessors and Providers, the Yukon Medical Association and the Yukon Registered Nurses Association, especially as it relates to Nurse Practitioners.

1. Purpose

1.1. This Standard has been established:

1.1.1. to provide information that will assist physicians and the public in understanding the eligibility criteria, procedural safeguards, and reporting requirements that must be met regarding MAID;

1.1.2. to set the professional expectations of physicians who are involved with MAID; and

1.1.3. to outline the specific legal requirements for MAID assessors and providers.

2. Reasonable Knowledge, Care, and Skill

2.1. MAID must be provided with reasonable knowledge, care, and skill and in accordance with any applicable territorial laws, rules, or standards.

3. Scope of Practice

3.1. Physicians must practice only within a scope for which they are appropriately trained, licensed, and competent.

3.2. Physicians who choose to assess eligibility for or provide MAID, must have sufficient training, experience, and qualifications to safely and competently do so in the circumstances of each case. This should include training in capacity assessment, trauma-informed care, and cultural safety and humility.

4. Responsibilities of Physicians Unable or Unwilling to Participate in MAID

4.1. No physician can be compelled to prescribe or administer substances for the purpose of MAID.

4.2. Physicians who are unable or unwilling to participate in MAID practice as set out in this Standard:[1]

4.2.1. must complete an effective referral and/or transfer of care for any person seeking to make a request, requesting, or eligible to receive MAID;

4.2.2. must advise the person that they are not able or willing to assist with the making of a request for an assessment for MAID or the provision of MAID;

4.2.3. must provide all relevant and necessary health records to the physician or program providing services related to MAID;

[1] Conscientious objection may be case specific. Some physicians are conscientiously opposed to all MAID. Some to only certain kinds of MAID (e.g., Track 2). Some to only specific cases given the specific circumstances. The same rules apply no matter the scope of objection – physicians cannot be compelled to participate but they must follow the steps laid out in 5.2 if they are unwilling to participate.

4.2.4. must continue to provide care and treatment not related to MAID if the person chooses; and

4.2.5. should make an effective referral and/or transfer of care to another physician or nurse practitioner if the person does not wish to remain in their care.[1]

4.3. Physicians with an existing therapeutic relationship with a person requesting MAID (independent of the MAID request) must not discharge the person from their care on the grounds that a MAID request has been made or the person is also receiving services from a MAID team or centralized process

5. Duties to Persons Potentially Eligible for MAID

5.1. Physicians must take reasonable steps to ensure persons are informed of the full range of treatment options available to relieve suffering.

5.2. Physicians must not assume all persons potentially eligible for MAID are aware that MAID is legal and available in Canada.

5.3. Upon forming reasonable grounds to believe that a person may be eligible for MAID, a physician must determine whether MAID is consistent with the person's values and goals of care and:

5.3.1. If consistent,
- a. advise the person of the potential for MAID; or
- b. provide an effective referral or transfer of care to another physician,
- c. nurse practitioner, or program known to be willing to discuss eligibility for MAID;

5.3.2. if not consistent, do not advise the person of the potential for MAID;

5.3.3. whether consistent or not, document what action was taken and the rationale for it.

5.4. Physicians must respond to all reasonable questions from persons regarding MAID or make an effective referral or transfer of care to another physician or nurse practitioner or program known to be willing to discuss eligibility for MAID.

5.5. When advising persons on their potential eligibility for MAID, physicians must take reasonable steps to ensure the person does not perceive coercion, inducement, or pressure to pursue or not pursue MAID. Advising persons of potential eligibility for MAID is distinct from counselling persons to consider MAID.

6. Involvement of Medical Trainees

6.1. Postgraduate medical trainees can participate in the MAID process, but must only do so within the terms, conditions, and limitations of their certificate of registration.

6.2. Postgraduate medical trainees and other physicians involved in assessing a person's eligibility for

MAID must ensure that there is independence between the provider and the assessor. Specifically, the requirement for independence between the provider and assessor is not satisfied if one is a mentor or supervisor to the other.

6.3. Medical students must not act as assessors or providers. They may observe assessments and provisions but only with the express consent of the person.

7. Duties of Assessors and Providers

General

7.1. At least two practitioners must be involved in the assessment of eligibility of a person requesting MAID.

7.2. Assessors and providers must:

7.2.1. be independent practitioners;[2]

7.2.2. act consistently with the Canadian Medical Association Code of Ethics and Professionalism [3] regarding treating family members or anyone with whom they have a close personal or emotional involvement; and

7.2.3. complete all the required documentation and reporting as set out in section 16.0 below.

7.3. Assessors and providers must not disclose that a person has requested a MAID assessment or provision without the consent to do so from the person.

Duties of the Providers

7.4. Physicians must not provide MAID on the direction of anyone other than the person requesting MAID.

7.5. Before providing MAID, providers must assess eligibility (see section 9.0) and ensure that all procedural safeguards are met (see section 10.0).

7.6. The provider who prescribes or obtains a substance for the purpose of MAID must, before the pharmacist dispenses the substance, inform the pharmacist that the substance is intended for that purpose.

2 See glossary for definition of this term in the context of this Standard. *Note to users*: This is a distinct requirement from the *Criminal Code*.

3 CMA Code states " 7. Limit treatment to yourself, your immediate family or anyone with whom you have a similarly close relationship to minor or emergency interventions and only when another physician is not readily available; there should be no fee for such treatment."

7.7. Providers must ensure safe prescribing, use, storage, and return of substances related to the

provision of MAID.

Duties of the Assessor

7.8. Physicians must not conduct an assessment for MAID on the direction of anyone other than the person requesting MAID.

7.9. Assessors must provide a written opinion attesting to whether the person requesting MAID meets the eligibility criteria for MAID.

7.10. Where natural death is **not reasonably foreseeable** (Track 2), assessors must discuss with the person requesting MAID the reasonable and available means to relieve the person's suffering and determine whether the person has given serious consideration to those means.[4]

7.11. Where natural death is **not reasonably foreseeable** (Track 2) and a reduction in the 90-day period is being considered by the provider, assessors must provide an opinion as to whether the loss of the person's capacity to provide consent to receive MAID is imminent.

8. Eligibility for MAID

Eligibility Criteria

8.1. Physicians must only provide MAID to a person requesting MAID where all the following eligibility criteria are met:

8.1.1. the person is 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;

8.1.2. the person is at least 18 years of age and capable of making decisions with respect to their health;

8.1.3. the person has made a voluntary request for MAID that, in particular, was not made as a result of external pressure;

8.1.4. the person has given informed consent to receive MAID after having been informed of the means that are available to relieve their suffering, including palliative care;

8.1.5. the person has a grievous and irremediable medical condition. These criteria are met only where the provider and assessor are of the opinion that:

(a) the person has a serious and incurable illness, disease, or disability;
(b) the person is in an advanced state of irreversible decline in capability; and

4 While an assessor may discuss the means available to relieve the person's suffering for persons under Track 1, it is only a *Criminal Code* requirement that both the assessor and the provider do so for persons under Track 2.

(c) the illness, disease, or disability or that state of decline causes the person enduring physical or psychological suffering that is intolerable to the person and cannot be relieved under conditions that the person considers acceptable.

8.2. Physicians must only apply the criteria for MAID eligibility set out in this Standard.

Assessing Eligibility

8.3. Capacity

8.3.1. To find a person eligible for MAID, the provider and assessor must be of the opinion that the person requesting MAID has capacity to make decisions with respect to MAID at the time of the MAID assessment.

8.3.2. When assessing for capacity to make decisions with respect to MAID, the provider and assessor must determine whether the person has the capacity to understand and appreciate:

(a) the history and prognosis of their medical condition(s);
(b) their treatment options and their risks and benefits; and
(c) that the intended outcome of the provision of MAID is death.

8.3.3. As capacity is fluid and may change over time, physicians must be alert to potential changes in a person's capacity. Where appropriate, assessors and providers should undertake serial assessments of a person's decision-making capacity.

8.3.4. Where appropriate, assessors and providers should consult with clinicians with expertise in the assessment of decision-making capacity.

8.3.5. All capacity assessments must be conducted in accordance with clinical standards and legal criteria.

8.3.6. Assessors and providers must document the reasoning and evidence upon which their assessment of capacity was based.

8.4. Grievous and irremediable medical conditions [5]

8.4.1. To find a person eligible for MAID, the provider and assessor must be of the opinion that the person has 'a grievous and irremediable medical condition.'

8.4.2. A person has a 'grievous and irremediable medical condition' if:

(a) they have a serious and incurable illness, disease, or disability;
(b) they are in an advanced state of irreversible decline in capability; and,

[5] 'Grievous and irremediable medical condition' is not standard clinical terminology, however, it is defined in the *Criminal Code* and explained below and in the document 'Advice to the Profession.' appended to this Standard.

(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

8.5. Serious and incurable illness, disease, or disability

8.5.1. To find a person has a grievous and irremediable medical condition, the provider and assessor must be of the opinion that the person has a serious and incurable illness, disease, or disability.

8.5.2. 'Incurable' means there are no reasonable treatments remaining where reasonable is determined by the clinician and person together exploring the recognized, available, and potentially effective treatments in light of the person's overall state of health, beliefs, values, and goals of care.

8.6. An advanced state of irreversible decline in capability

8.6.1. To find a person has a grievous and irremediable medical condition, the provider and assessor must be of the opinion that the person is in an advanced state of irreversible decline in capability.

8.6.2. Capability refers to a person's functioning (physical, social, occupational, or other important areas), not the symptoms of their condition. Function refers to the ability to undertake those activities that are meaningful to the person.

8.6.3. 'Advanced state of decline' means the reduction in function is severe.

8.6.4. 'Irreversible' means there are no reasonable interventions remaining where reasonable is determined by the clinician and person together exploring the recognized, available, and potentially effective interventions in light of the person's overall state of health, beliefs, values, and goals of care.

8.7. Enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable.

8.7.1. To find that a person has a grievous and irremediable medical condition, the provider and assessor must be of the opinion that the person's illness, disease, or disability or state of decline causes the person enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable.

8.7.2. For the purposes of forming the opinion that the suffering criterion for MAID is met, assessors and providers:

(a) must explore all dimensions of the person's suffering (physical, psychological, social, existential) and the means available to relieve them;
(b) must explore the consistency of the person's assessment of their suffering with the

person's overall clinical presentation, expressed wishes over time, and life narrative;
(c) must be of the opinion that it is the person's illness, disease, or disability and/or state of decline in capability that is the cause of the person's suffering;
(d) must be of the opinion that the suffering is enduring; and
(e) must respect the subjectivity of suffering.

Voluntariness

8.8. To find a person eligible for MAID, assessors and providers must be satisfied that the person's decision to request MAID has been made with full free and informed consent and without undue influence (contemporaneous or past) from family members, health care providers, or others.

Informed Consent

8.9. Providers must obtain informed consent directly from the person requesting MAID, not the substitute decision-maker of an incapable person.

8.10. When seeking informed consent, providers must:

8.10.1. discuss all reasonable, accepted, and available treatment options with the person requesting MAID, including the associated benefits, risks, and side effects, which include informing the person of the means that are available to relieve their suffering, including palliative care;

8.10.2. inform the person whose natural death is not reasonably foreseeable of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services, and palliative care and offer consultations with relevant professionals who provide those services or that care;

8.10.3. inform the person that they may, at any time and in any manner, withdraw their request for MAID, and that they will be given an opportunity to withdraw their request immediately before MAID is provided (except where there is a valid final consent waiver – see section 13.0 below);

8.10.4. inform the person requesting MAID of any possible complications associated with provider-administered and self-administered MAID, including the possibility that death may not occur; and

8.10.5. inform the person who is indicating a preference for self-administered MAID that if the person's death is prolonged or not achieved, it will not be possible for the provider to intervene and administer a substance causing their death unless the person is capable and can provide consent immediately prior to administering, or the person has entered into a written arrangement providing advance consent for physician administered MAID (see section 14.0 below).

9. Procedural Safeguards

Procedural Safeguards

9.1. Before providing MAID to a person **whose natural death is reasonably foreseeable** (Track 1), 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, the provider must:

9.1.1. be of the opinion that the person meets all of the eligibility criteria for MAID;

9.1.2. ensure that the person's request for MAID was:

(a) made in writing and signed and dated by the person (or by another person as permitted by law); and

(b) signed and dated after the person was informed by a physician or nurse practitioner that the person has a grievous and irremediable medical condition;

9.1.3. be satisfied that the request was signed and dated by the person, or by another person as permitted by law, before an independent witness who then also signed and dated the request. [6]

9.1.4. ensure that the person has been informed that they may, at any time and in any manner, withdraw their request;

9.1.5. ensure that another physician or nurse practitioner has provided a written opinion confirming that the person meets all of the eligibility criteria for MAID;

9.1.6. be satisfied that they and the assessor are independent of each other.

9.1.7. 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; and

9.1.8. unless the conditions for a waiver of final consent or advance consent – self-administration have been met (see sections 13.0 and 14.0), immediately before providing MAID, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive MAID.

9.2. Before providing MAID to a person **whose natural death is not reasonably foreseeable** (Track 2) taking into account all of their medical circumstances, the provider must:

9.2.1. be of the opinion that the person meets all of the eligibility criteria for MAID;

[6] If the person requesting MAID is unable to sign and date the request, another person — who is at least 18 years of age, who understands the nature of the request for MAID 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 do so in the person's presence, on the person's behalf and under the person's express direction.

9.2.2. ensure that the person's request for MAID was:

(a) made in writing and signed and dated by the person or by another person as permitted by law; and
(b) signed and dated after the person was informed by a physician or nurse practitioner that the person has a grievous and irremediable medical condition;

9.2.3. be satisfied that the request was signed and dated by the person — or by another person as permitted by law — before an independent witness who then also signed and dated the request;

9.2.4. ensure that the person has been informed that the person may, at any time and in any manner, withdraw their request;

9.2.5. ensure that another physician or nurse practitioner has provided a written opinion confirming that the person meets all of the eligibility criteria for MAID;

9.2.6. if neither they nor the assessor has expertise in the condition that is causing the person's suffering, ensure that they or the assessor consults with a physician or nurse practitioner who has that expertise and shares the results of that consultation with the other practitioner (see section 10.3.7 for further content on 'expertise');

9.2.7. be satisfied that they and the assessor are independent of each other;

9.2.8. ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services, and palliative care and has been offered consultations with relevant professionals who provide those services or that care;

9.2.9. ensure that they and the assessor have discussed with the person the reasonable and available means to relieve the person's suffering and they and the assessor agree with the person that the person has given serious consideration to those means;

9.2.10. **ensure that there are at least 90 clear days** between the day on which the first eligibility assessment for the current request begins and the day on which MAID is provided to them or — if the assessments have been completed and they and the assessor are both of the opinion that the loss of the person's capacity to provide consent to receive MAID is imminent — any shorter period that the provider considers appropriate in the circumstances;

9.2.11. 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; and

9.2.12. unless the conditions for an advance consent – self-administration have been met (see section 14.0), immediately before providing MAID, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive MAID.

Implementing Procedural Safeguards

9.3. Being of the opinion (Tracks 1 and 2 unless otherwise noted):

9.3.1. Before a physician provides MAID, they must be of the opinion that the person meets all of the eligibility criteria set out in the *Criminal Code* and the assessor must have provided a written opinion confirming the person meets the eligibility criteria.

9.3.2. Assessors and providers must only provide opinions on MAID eligibility that are within their scope of practice.

9.3.3. When providing opinions on MAID eligibility, physicians should respect existing ethical norms as found for example, in the *Canadian Medical Association's Code of Ethics;*

9.3.4. Forming an opinion about MAID eligibility may require the provider or assessor to undertake certain actions:

9.3.4.1. Obtaining health records

(a) Assessors and providers must attempt to obtain all health records and personal data that is necessary for the completion of a MAID assessment.

(b) Where a capable person refuses consent to obtaining health record and personal data necessary for the completion of a MAID assessment, the assessors and providers must explain that, without such information, the assessment cannot be completed and therefore the person cannot be found to be eligible.

9.3.4.2. Gathering collateral information (including from treating team, family members, and significant contacts)

(a) Assessors and providers must attempt to obtain all collateral information necessary for the completion of a MAID assessment. This may include information known to the current or previous treating team and/or family members and/or significant contacts.

(b) The provider and assessor must have received consent from the capable person prior to gathering collateral information.

(c)Where a capable person refuses consent to obtaining collateral information necessary for the completion of a MAID assessment, then the assessors and providers must explain that without such information, the assessment cannot be completed and therefore the person cannot be found to be eligible.

9.3.4.3. Involvement of other healthcare professionals

(a) Assessors and providers should involve medical specialists, subspecialists, and other healthcare professionals for consultations and additional expertise where

necessary and with the consent of the person requesting MAID.

(b) Where a capable person refuses consent to the involvement of other health care practitioners that is necessary for the completion of a MAID assessment, then the assessors and providers must explain that without such involvement, the assessment cannot be completed and therefore the person cannot be found to be eligible.

9.3.5. Means available to relieve suffering (only Track 2)

9.3.5.1. Before a physician provides MAID, they must ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services, and palliative care and has been offered consultations with relevant professionals who provide those services or that care.

9.3.5.2. 'Community services' must be interpreted as including housing and income supports.

9.3.5.3. 'Means available' must be interpreted as available means that are reasonable and recognized.

9.3.5.4. Informing and offering of consultations may be achieved by the physician or by others with relevant knowledge (e.g., social workers, the person's family physician or most responsible provider) about the means of relieving suffering (e.g., community services). The provider must confirm that the requester has been informed of the means available and consultations with the relevant professionals have been offered.

9.3.6. Serious consideration of the reasonable and available means to relieve the person's suffering (only Track 2)

9.3.6.1. Before a physician provides MAID, they must ensure that they and the assessor have discussed with the person the reasonable and available means to relieve the person's suffering and they and the assessor agree with the person that the person has given serious consideration to those means.

9.3.6.2. Serious consideration must be understood to mean:
a) exercising capacity, not merely having it;
b) exhibiting careful thought; and
c) not being impulsive.

9.3.7. Practitioner with expertise – consulting (where neither assessor has expertise in the condition causing suffering) (only Track 2)

9.3.7.1. If neither the provider nor the assessor has expertise in the condition that is causing the person's suffering, the provider must ensure that they or the assessor consult with a physician or nurse practitioner who has that expertise and share the

results of that consultation with the other practitioner.

9.3.7.2. A 'practitioner with expertise' is not required to have a specialist designation. Rather, expertise can be obtained through physician or nurse education, training, and substantial experience in treating the condition causing the person's suffering.

9.3.7.3. Physicians must ensure that they have the expertise necessary to provide the consultation. In doing so, they must work within their scope of practice.

9.3.7.4. The 'practitioner with expertise' under this provision of the *Criminal Code* is providing a consultation to the assessor and provider, not a MAID eligibility assessment.

9.3.7.5. A review of the requester's prior health records (including past specialist consultation reports) can be an important part of a complete MAID eligibility assessment. However, such a review does not constitute 'consultation' for the purposes of section 10.2.6 as that requires direct contemporaneous communication with the practitioner with expertise.

10. Additional Considerations Relating to Eligibility Assessment and Procedural Safeguards

Suicidality

10.1. Assesors and providers must take steps to ensure that the person's request for MAID is consistent with the person's values and beliefs, and is unambiguous and enduring. They must ensure it is rationally considered during a period of stability, and not during a period of crisis. This may require serial assessments

10.2. A request for MAID by a person with a mental disorder in the absence of any criteria for involuntary admission as enumerated in territorial mental health legislation, is not grounds for involuntary psychiatric assessment or admission (see Advice to the Profession for more detail).[7]

10.3. Assessors and providers must consider making a referral for suicide prevention supports and services for persons who are found to be ineligible for MAID if, in the opinion of the assessor, the finding increases the individual's risk of suicide.

[7] "Advice to the Profession" is provided as an Appendix to this Standard.

Challenging Interpersonal Dynamics

10.4. Assessors and providers must be alert to challenging interpersonal dynamics such as threatening behaviours of MAID requesters or their family members. If these challenging dynamics compromise the ability to carry out the assessment in accordance with professional norms, assessors and providers should seek information and/or advice from mentors and colleagues, and/or discontinue involvement in the assessment process (see Advice to the Profession for more details).[8]

11. Virtual / Remote Care

11.1. Physicians may assess a person's request for MAID and obtain consultations in relation to MAID virtually.

11.2. When assessing a person for MAID eligibility virtually, physicians must:

11.2.1. confirm the person agrees with the assessment proceeding virtually;

11.2.2. determine that a valid conclusion can be drawn about the person's eligibility for MAID; and

11.2.3. ensure that the assessment is conducted only under circumstances where the individual is able to engage in video conferencing that allows simultaneous visual and oral communication in real time.

11.2.4. comply with other relevant Standards especially the Yukon Standard of Practice addressing Telemedicine.

12. Waiver of Final Consent

12.1. Physicians caring for a patient whose death is **reasonably foreseeable** (Track 1) and has provided a waiver of final consent for MAID must:

12.1.1. be satisfied that before the patient loses capacity to consent to receiving MAID,

12.1.1.1. they met all of the applicable criteria and safeguards in this Standard;

12.1.1.2. they entered into an arrangement in writing with the provider that the provider would administer a medication to cause their death on a specified day;

12.1.1.3. they were informed by the provider of the risk of losing capacity to consent to receiving MAID prior to the day specified in the arrangement;

12.1.1.4. they consented in the written arrangement to the provider administering MAID on or before the day specified in the arrangement if they lose their capacity prior to that day.

[8] "Advice to the Profession" is provided as an Appendix to this Standard.

12.1.2. be satisfied that at the designated time the patient has lost the capacity to consent to receive MAID;

12.1.3. ensure that the patient does not demonstrate, by words, sounds or gestures, refusal to have the medication administered or resistance to its administration;

12.1.3.1. involuntary words, sounds or gestures made in response to contact are not considered a demonstration of refusal or resistance;

12.1.3.2. if the patient uses words, sounds or gestures to demonstrate a refusal, MAID can no longer be provided on the basis of the absence of consent.

12.1.4. ensure the medication is administered in accordance with the terms of the arrangement.

13. Advanced Consent – Self-Administration

13.1. A provider may administer MAID to a patient who loses capacity to consent after self-administering MAID, if:

13.1.1. before the patient loses the capacity to consent to receiving MAID, they and the provider entered into a written arrangement that the provider would:

13.1.1.1. be present at the time the patient self-administers the first medication; and

13.1.1.2. administer a second medication to cause the patient's death if, after self-administration of the first medication, the patient lost the capacity to consent to receiving MAID and did not die within a specified period.

13.1.2. the patient self-administers the first medication, does not die within the specified period, and loses the capacity to consent to receiving MAID; and

13.1.3. the second medication is administered to the patient in accordance with the terms of the arrangement.

13.2. A physician who has entered into a written arrangement with a self-administering patient must attend the administration in person and remain until the patient's death is confirmed.

14. Provision of MAID

14.1. Prescribing: MAID can be clinician-administered by the practitioner or self-administered by the patient.

14.1.1. Physicians must exercise their professional judgment in determining the appropriate drug protocol for MAID. The physician should notify the pharmacist as early as possible that

medications for MAID will likely be required in order to provide the pharmacist with sufficient time to obtain the required medication.

14.1.2. The goals of any drug protocol for MAID include ensuring the patient is comfortable, and that pain and anxiety are controlled.

14.1.3. A physician prescribing for either clinician-administered or self-administered MAID must inform the pharmacist of the purpose for which the medication is intended before the pharmacist dispenses the medication.

14.1.4. Drug protocols for MAID will only be dispensed to the prescriber, and only from the Whitehorse General Hospital pharmacy. Pre-printed orders/protocols are available at Whitehorse General Hospital.

14.1.5. A prescriber writing a prescription for a drug protocol for MAID must confirm the pharmacist's willingness to dispense. The prescriber and pharmacist must together:

(a) determine the appropriateness of the prescribed drug protocol (adjusting dosages if necessary) and supportive care medication(s);

(b) discuss issues related to medication counselling by the physician for the patient;

(c) make arrangements for the release of the medication(s) to the physician; and

(d) arrange a process for the physician to return any unused medication(s) to the pharmacist.

14.2. Providing: Immediately before providing MAID, the provider must give the patient a final opportunity to withdraw their request. The provider must also obtain express consent from the patient to receive MAID. This rule may be modified in two distinct circumstances described above in Sections 13 and 14.

15. Documentation and Reporting

15.1. Documentation (Health Record Keeping)

15.1.1. Physicians must document the following information in the patient's medical record. The physician must also provide the patient with a copy of the following information in the medical record:

(a) the patient's diagnosis and prognosis;
(b) feasible alternatives (including comfort care, palliative care and pain control);
(c)confirmation that the patient meets all eligibility criteria, as outlined in this Standard;
(c) confirmation that the patient has given serious consideration to other means to relieve their suffering;
(e) the patient's option to rescind the request for MAID at any time; and
(f) the risk of taking the prescribed lethal medications.

15.1.2. The following information must also be retained in the patient's medical record:

(a) copies of all relevant medical records from other practitioners involved in the patient's care, including all records supporting the diagnosis and prognosis of the patient's grievous and irremediable condition, disease or disability;
(b) in cases where death is not reasonably foreseeable, this includes a record demonstrating that a practitioner with appropriate expertise has provided a diagnosis and prognosis, including treatment recommendations, and that this has been discussed with the patient. The practitioner with appropriate expertise can be one of the two assessors if they possess the appropriate expertise;
(c) all written and oral requests for MAID and a summary of the discussion;
(d) confirmation that the two assessors have discussed and determined which assessor will be the provider prescribing and/or administering the substance used for MAID;
(e) confirmation that after the completion of all documentation, the patient was offered the opportunity to rescind the request; and
(f) confirmation by the provider that all the requirements have been met including the steps taken and the medication prescribed.

15.2. Certification of Death: The provider must register the death with the manner of death identified as MAID (Box 29). The cause of death is the underlying medical condition(s) (Box 25).

15.2.1. The registration of death form must be completed in accordance with the *Vital Statistics Act*.

15.2.2. A completed sample registration of death form can be accessed here.

15.3. Reporting: Specific requirements and timeframes for reporting MAID were implemented bythe federal government in order to maintain adequate oversight:

15.3.1. In the Yukon, practitioners and pharmacists report directly to Health Canada through the federal online Portal or through paper forms.

15.3.2. The federal requirements may change from time to time and physicians providing MAID must know the current reporting requirements in the Criminal Code (Canada) and the federal Regulations of the Monitoring of Medical Assistance in Dying.

15.3.3. Physicians are responsible for understanding updates in federal or territorial laws related to MAID, including the revised Federal Guidance for Reporting Summary. These Guidelines are provided on the Yukon Medical Council Website under 'Medical practice' and on the Health Canada website and at Guidance for reporting requirements by Health Canada.

15.4. Forms: The following forms are not mandatory. They may assist providers in ensuring compliance with legislation and regulations, as well as the federal reporting requirements.

Government of Yukon FORMS:

available directly from Yukon Government site: https://yukon.ca/en/health-and-wellness/find-information-about-medical-assistance-dying#resources

Most responsible practitioner record – Eligibility assessment for medical assistance in dying
Most responsible medical practitioner record – Patient safeguards and administration for medical assistance in dying
Secondary assessor record for medical assistance in dying
Patient request for medical assistance in dying form
Care Consent Act
Health Information Privacy and Management Act and *Regulations*
Memo on the protocol for completion of a death certificate using medical assistance in dying
Example of completed registration of death certificate for medical assistance in dying
Yukon Palliative Care Framework

16. Relevant YMC Standards of Practice

Records Content
Records Management
Collaboration in Patient Care
Assessing the Mental Capacity of a Patient
Moral or Religious Beliefs Affecting Medical Care
Informed Consent
Telemedicine
The referral consultation process

Important Links:

Health Canada:
Medical assistance in dying information page
Department of Justice:
Medical assistance in dying information page

17. Appendix # 1: Advice to the Profession (Health Canada)

https://www.canada.ca/en/health-canada/services/publications/health-system-services/advice-profession-medical-assistance-dying.html

18. Glossary

90 day period: for requesters whose natural death is not reasonably foreseeable, this refers to the minimum 90 clear days that must have passed between the day on which a Track 2 assessment by a provider or assessor begins and the day on which MAID is provided.

Advance consent — self-administration: consent to receive MAID given by a person with capacity before the loss of capacity in the context of self-administered MAID.

Assessor: A physician or nurse practitioner who provides a written opinion as to whether the person requesting MAID meets the eligibility criteria for MAID.

Capacity: the legal status of being able to provide informed consent for or refusal of healthcare interventions (i.e., having decision-making capacity).

Clinical Practice Guidelines, or "Guidelines": documents typically developed by healthcare professional associations that summarize knowledge about a particular practice area and offer recommendations based on that knowledge to support clinician decision-making in specific circumstances.

Collateral information: information provided about a person by the person's treating team, family members, or significant contacts.

Cultural safety: an outcome based on respectful engagement that recognizes and strives to address power imbalances inherent in the health care system. It results in an environment free of racism and discrimination including intersections with for example, gender, where people feel safe when receiving health care.[9]

Cultural humility: a process of self-reflection to understand personal and systemic biases and to develop and maintain respectful processes and relationships based on mutual trust. Cultural humility involves humbly acknowledging oneself as a learner when it comes to understanding another's experience.[10]

Effective referral: taking positive action to ensure the person requesting MAID is connected in a timely manner to a non-objecting, available, and accessible physician or nurse practitioner, that provides the health service (eligibility assessments for, and provision of, MAID) or connects the person directly with a health-care professional who does. 'Timely manner' means such that the person will not experience an adverse clinical outcome or prolonged suffering due to a delay in making the connection.

[9] https://www.fnha.ca/Documents/FNHA-Creating-a-Climate-For-Change-Cultural-Humility-Resource-Booklet.pdf

[10] ibid.

Effective transfer of care: a transfer made by one physician or nurse practitioner in good faith to another physician or nurse practitioner who is available to accept the transfer, accessible to the person requesting MAID, and willing to provide MAID to that person if the eligibility criteria are met.
Eligibility criteria: the criteria set out in section 9.0 of this Standard which must be met by a person in order to access MAID. 'Eligible' and 'eligibility' have similar meanings.

Guidance Document: A document prepared by an organization (professional society, regulator or other) that offers non-binding recommendations on a specific topic.

Health Professional association: a non-governmental organization representing specific types or groups of professionals. Depending on their mandate, health professional associations may seek to advance the professional interests of their members, advocate for patients, develop clinical practice guidelines, and support research and educational activities for their members.

Independent practitioner: a physician or nurse practitioner who:
is not a mentor to the other practitioner or responsible for supervising their work;
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, other than standard compensation for their services relating to the request; and
does not know or believe that they are connected to the other practitioner or to the person making the request in any other way that would affect their objectivity.

Independent witness: an individual who is at least 18 years of age, who understands the nature of the request for MAID, and who is not excluded from acting as a witness to a person's request for MAID for any reason, including the limitations set out in s.241.2 of the *Criminal Code* or any other legislative requirement.

Informed consent: consent provided by a person who has the capacity to make the decision and has been given an adequate explanation about the nature of the proposed intervention and its anticipated outcome(s) as well as the potential benefits and material risks involved and alternatives available.

Medical Assistance in Dying (MAID): an umbrella term that includes clinician-administered MAID and self-administered MAID. These practices include what is sometimes called euthanasia (clinician-administered), assisted suicide (self-administered), or voluntary assisted dying in other jurisdictions.

Nurse practitioner: a registered nurse who, under the laws of a province or territory, is entitled to practise as a nurse practitioner – or under an equivalent designation.

Physician: a person who is entitled to practise medicine under the laws of a province or territory.

Provider: the physician or nurse practitioner who assesses whether the person requesting MAID meets the eligibility criteria for MAID, ensures that the procedural safeguards have been met and, if so, provides MAID.

Provider-administered MAID: the administering by a physician or nurse practitioner of a substance to a person, at their request, that causes their death.

Reasonably foreseeable natural death:

According to the only Canadian court to opine on the interpretation of 'natural death has become reasonably foreseeable':

> … natural death need not be imminent and that what is a reasonably foreseeable death is a person-specific medical question to be made without necessarily making, but not necessarily precluding, a prognosis of the remaining lifespan.
> … in formulating an opinion, the physician need not opine about the specific length of time that the person requesting medical assistance in dying has remaining in his or her lifetime.[11]

The interpretation of 'natural death has become reasonably foreseeable' remains the same under Bill C-7 as it was under Bill C-14 [12]

Safeguards: refers to protective legislative measures enacted through the *Criminal Code*.

Self-administered MAID: 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.

Track 1: refers to the procedural safeguards applicable to a request for MAID made by a person whose natural death is reasonably foreseeable.

Track 2: refers to the procedural safeguards applicable to a request for MAID made by a person whose natural death is not reasonably foreseeable.

Trauma-informed services: integrate an understanding of trauma and prioritize the individual's safety, choice, and control in service delivery. Such services create a treatment culture of nonviolence, learning, and collaboration. Utilizing a trauma-informed approach does not necessarily require disclosure of trauma. Rather, services are provided in ways that recognize the need for physical and emotional safety, as well as choice and control in decisions affecting one's treatment. A key aspect of trauma-informed services is to create an environment where service users do not experience re-traumatization and where they can learn coping or self-regulation skills and make decisions about their treatment needs at a pace that feels safe to them.[13]

[11] *2017 ONSC 3759, par. 79-80. AB c. Canada.*

[12] https://www.ctvnews.ca/politics/lametti-sows-uncertainty-over-meaning-of-foreseeable-death-in-assisted- dying-bill-1.4836211

[13] https://cewh.ca/wp-content/uploads/2018/06/Opioid-TIP-Guide_May-2018.pdf.

Virtual care: encompasses all means by which healthcare providers remotely interact with their patients using communications and digital technology.

Waiver of final consent: an arrangement in writing between the person (on Track 1) requesting MAID and their provider that the provider would administer substances to cause their death after they have lost decision-making capacity.

Standard of Practice History

Version	Description	YMC Meeting Minute Approval	In Force Date
Original	Creation of policy	16-5-2.4	July 15, 2016
Revision 1		17-1-2.5	January 20, 2017
Revision 2		n/a	September 22, 2017
Revision 3	The inclusion of Federal reporting requirements	18-08-2.2	November 16, 2018
Revision 4	Amendments re new 2021 legislation		May 21, 2021
Revision 5	Updated reporting requirement information and links		2023.01.01
Revision 6	Updated date for mental Health as sole reason eligibility to March 17, 2024 as per Bill C-39		2023.03.17
Revision 7	Adaptation of National Standard	2024.04.19	2024.04.19