

Ontario Medical Association Submission

CPSO Preliminary Policy Consultation – Medical Assistance in Dying (MAID)

May 2021



The Ontario Medical Association (OMA) welcomes the opportunity to provide comments to the CPSO regarding its current Medical Assistance in Dying (MAID) policy. Below is the OMA's preliminary feedback on the existing policy. The OMA recognizes that this policy may be substantially revised given the recent changes to federal legislation as well as other stakeholder feedback received. We look forward to providing additional feedback when the revised policy is available for consideration.

We have conducted a review of the draft policy and consulted with members. Members were asked to: (1) identify areas of the policy where additional clarification is needed, (2) identify ideas that are missing from the policy and (3) identify which actions might be considered appropriate when providing an effective referral (based on the CPSO's interest in this area). The feedback received is summarized below.

Areas Where Additional Clarity/Additional Information is Requested:

Definitions:

Additional clarity is requested regarding the term "Effective Referral". Confusion exists between this term and the generally used clinical term "referral". While the footnote differentiates between the two, the use of a different phrase or expression that does not contain the word "referral" would be preferable to avoid further misunderstanding.

Other definitions to be added to the policy include:

- grievous and irremediable
- reasonably foreseeable
- informed consent
- Ontario Care Coordination Service (CCS) (with clear contact information included).

While the policy contains a section entitled Conscientious Objection, it is requested that this term be added to the list of definitions, albeit in a briefer format.

Conscientious Objection

Under the Conscientious Objection section of the policy, it states that "Physicians must make the effective referral in a timely manner and must not expose patients to adverse clinical outcomes due to a delay in making the effective referral." Some respondents indicated that this expectation may be difficult to meet in rural or underserved areas where there are few MAID healthcare providers. Consideration of this fact is requested, especially in relation to discipline matters dealing with MAID. It is also recommended that CPSO expectations for physicians who object to MAID be outlined clearly and separately from other physician expectations to avoid confusion. More detail about this point is included under "Medical Record Keeping" below.

Reporting Obligations

At point 14 under Reporting Obligations, it states, "Physicians who provide MAID must report medically assisted deaths to the OCC." Participants indicated that there is some confusion about whether this refers to the provider who administers MAID, or to any provider who is involved in the process, including the physician who completes the Clinician Aid C form but who may not provide the physical act of MAID. Other participants indicated that it would be helpful to explain the respective reporting requirements of assessors and providers, as these roles are not always fulfilled by the same physician.

As well, clarification is requested regarding physician reporting requirements (what must be reported, and to whom) when patients ask about MAID and they are referred to another healthcare provider or to

the CCS. Confirmation is requested as to whether this only pertains to requests in writing as opposed to oral requests. As well, participants indicated that it would be helpful to have a standardized form to complete for this type of report, as well as contact information imbedded in the policy or Advice to the Profession document.

Medical Record Keeping

Under the Medical Record Keeping section, the policy states: "... physicians must: document each physician-patient encounter in the medical record, including encounters relating to MAID, which will include:

- i. a focused relevant history;
- ii. documentation of an assessment and appropriate focused physical exam (where indicated);
- iii. a provisional diagnosis (where indicated); and
- iv. a management plan."

While the policy is clear that physicians who object to MAID do not have to provide this service, nor are they required to complete a patient assessment to determine patient eligibility for MAID, the language in this section may be confusing. Participants indicated that the text seems to imply that it is necessary for a physician to complete an assessment and physical exam for patients requesting MAID, to determine their suitability, regardless of whether the physician objects to MAID.

The same confusion arose in relation to the following text under Medical Record Keeping: "Physicians must: a. document all oral and written requests for MAID, the dates they were made, and include a copy of the patient's written request in the medical record; b. document each element of the patient's assessment in accordance with the criteria for MAID; and c. include a copy of their written opinion in the medical record."

Clarification regarding the documentation requirements and other expectations for physicians who object to MAID is requested.

Completion of Death Certificate

Regarding the completion of death certificates, links to reach the coroner are requested as is guidance regarding how to complete the death certificate. Examples of completed death certificates and other forms pertaining to MAID are suggested.

Process Map for Medical Assistances in Dying

Participants indicated that a simpler process map with graphics, a care path diagram, and a checklist are recommended as the current Process Map section is too long and wordy. As well, it was indicated that the policy should have clear options/directions for conscientious objectors and that this should be reflected in a process map.

As well, participants indicated that a list of up-to-date resources on issues such as assessment of competency, frailty scores, and other tools to aid in assessment of potential MAID recipients, such as groups or categories of illnesses that would qualify for MAID would be helpful. Perhaps the policy or Advice to the Profession document could contain links to other sites that provide this type of information.

Appropriate Actions for an Effective Referral

Through its consultation process, the CPSO expressed an interest in identifying which actions might be considered appropriate when providing an effective referral. Responses from the survey of members are as follows:

- 25% of participants indicated that a physician or designate could tell the patient they cannot help them, and the patient could look for a non-objecting physician or non-objecting healthcare professional who is willing to provide MAID.
- 31% indicated the physician or designate could provide the patient with the contact information for a non-objecting physician or non-objecting healthcare professional and leave it to the patient to get in touch.
- 47% indicated that the physician or designate could contact a non-objecting physician or non-objecting healthcare professional and arrange for the patient to be seen or transferred.
- 66% indicated that physician or designate could provide the patient with the contact information for Ontario's Care Coordination Services (CCS).
- 44% indicated that the physician or designate could contact Ontario's Care Coordination Services (CCS) on the patient's behalf.
- 53% indicated that a practice group in a hospital, clinic or family practice model could identify patient queries or needs through a triage system, matching the patient directly with a non-objecting physician in the practice group.
- 43% indicated a practice group in a hospital, clinic or family practice model could identify a point person who will provide the healthcare to the patient or will take positive action to connect the patient to a non-objecting physician or non-objecting healthcare professional or agency. The objecting physician or their designate connects the patient with that point person.
- 2% indicated none of the above.

Additional Comments

MAID is a complex topic with very diverse perspectives. Some respondents indicated that physicians should not be required to have a role in MAID and should not be targeted/penalized for this position. Moving the Conscientious Objection section up in the policy, including a definition for conscientious objection, clarifying reporting and assessment requirements for conscientious objectors, and/or providing a process map outlining clear expectations for conscientious objectors would be helpful in clarifying the CPSO's support for physicians who choose not to provide MAID services for reasons of conscience.

Some participants indicated that participation in MAID should be voluntary for healthcare providers and that training and certification in MAID should be provided.

Some participants indicated that clinical competence may be a consideration when deciding to provide MAID services. Some physicians do not have an ethical or religious objection to MAID, but they may not feel competent to provide an assessment for MAID suitability if the medical condition is outside their specialty, or to provide the MAID service itself. It is suggested that a Clinical Competence section like the one in the Professional Obligations and Human Rights policy be added to the MAID policy.

Other participants expressed concern about lack of access to MAID services in rural and underserved communities where there are fewer physicians or Nurse Practitioners to provide them. Some patients may have to travel long distances to meet with a MAID healthcare provider, a less than ideal situation when the patients are gravely ill. This may put tremendous pressure on the healthcare provider and the patient. It may also make it challenging for physicians to make an effective referral in a timely manner as required in the CPSO policy.

The OMA acknowledges the efforts the CPSO has made to reduce the length and complexity of its policies. The OMA received feedback that the current MAID policy is still rather lengthy, and that it contains too much legal language that could be simplified into plain language.

The OMA appreciates the opportunity to provide feedback regarding the CPSO's Medical Assistance in Dying policy. Please contact us if you have questions or require additional feedback while revising the policy.