Medical Assistance in Dying: Interim Guidance for Nursing in Ontario

May 3, 2016
Introduction

This document provides nurses with interim guidance about their professional accountabilities related to medical assistance in dying during the period before legislation comes into effect. It is intended to support nurses until the federal and provincial governments provide direction through an established legislative and policy framework.

As described in the case of Carter v. Canada, physician-assisted death refers to when a client requests aid to terminate his or her life, and a physician, with clear consent from the client, provides or administers medication that intentionally brings about the client’s death.

A Nurse’s Accountability in Medical Assistance in Dying

All nurses are accountable for providing safe and ethical nursing care as outlined in the client’s care plan, regardless of the context in which care is being provided. Clients who ask about or request medical assistance in dying should be referred to a physician for further consultation and follow-up.

Participating in Medical Assistance in Dying

Currently, no health care professional may provide medical assistance in dying in Ontario except by order from the Ontario Superior Court of Justice.

If a nurse is asked, and is willing to participate in medical assistance in dying before June 6, 2016, they should do the following:

- ask to see the authorizing order of the Ontario Superior Court of Justice for the particular client involved,
- review the order carefully, and
- seek legal counsel, if necessary.

If a nurse participates in medical assistance in dying in accordance with an order from the Ontario Superior Court of Justice, they must still do the following:

1. practise in accordance with the nursing scope of practice statement, which says that: The practice of nursing is the promotion of health and the assessment of, the provision of care for and the treatment of health conditions by supportive, preventive, therapeutic, palliative and rehabilitative means in order to attain or maintain optimal function (Nursing Act, 1991).
2. use their individual knowledge, skill and judgment to provide care
3. practise according to the College’s standards and guidelines
4. collaborate with clients and the team
5. respect client wishes
6. act in the client’s best interest, and
7. keep up-to-date with changes in legislation.

The College continues to watch for updates about medical assistance in dying from the federal and provincial governments. Updates will be posted on www.cno.org.

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1 The term Medical Assistance in Dying (MAID) is adopted throughout this document to reflect terminology used in Bill C-14 as introduced by the federal government. If passed, this legislation would allow for medical assistance in dying from a nurse practitioner as well as a medical practitioner; however, please note that this legislation is not in effect. Currently, in Ontario, only physician-assisted death is available by way of a court order from the Ontario Superior Court of Justice.
Additional Information and Resources

The following Q&A addresses more detailed information on medical assistance in dying:

Q: What is included in a court order from the Ontario Superior Court of Justice?
A: The Ontario Superior Court of Justice outlines the procedure for applications for authorization of medical assistance in dying in Ontario. The application to the Ontario Superior Court of Justice should include an identified physician who is proposed to be the physician authorized to assist death.

Where the involvement of a nurse is required with medical assistance in dying, it is anticipated that the court order should include an explicit exemption from criminal liability for the nurse in addition to the physician.

Q: Without authorization from the Ontario Superior Court of Justice, can a nurse still participate in any aspect of the medical assistance in dying process?
A: No, they cannot participate.

This includes activities of care such as (but not limited to) the following:
- injecting or administering medication to the client that will cause death, or
- pronouncing the death of a client whose death has been physician-assisted.

In addition, NPs must not:
- prescribe a medication for the purpose of ending a client’s life, or
- complete the death certificate of a client whose death was physician-assisted.

Clients who ask about or request medical assistance in dying should be referred to a physician for further consultation and follow-up.

Q: Can I conscientiously object to medical assistance in dying?
A: The College recognizes a nurse’s freedom of conscience. A nurse may have beliefs and values that differ from those of a client’s and may not be comfortable participating in medical assistance in dying. In such cases, it is recommended that health care professionals who conscientiously object refer or transfer a client who has made a request for medical assistance in dying to another health care provider. All clients who ask about or request medical assistance in dying should be referred or transferred to a physician for further consultation and follow-up. Until a replacement caregiver is found, a nurse should continue to provide routine nursing care as per a client’s care plan that is not related to activities associated with medical assistance in dying.

Q: What is the current legal status of medical assistance in dying?
A: The federal and provincial governments have until June 6, 2016 to create laws related to medical assistance in dying in Ontario.

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2 Both the Special Joint Committee on Physician-Assisted Dying of the Parliament of Canada and the Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying have recommended that health care professionals who have conscientious objections should refer or transfer a client to another health care provider.
Until then, individuals may apply to the Ontario Superior Court of Justice for permission to proceed with medical assistance in dying. For more information about the application process, read the practice advisory released by the Superior Court.

**Q:** What are the current legal criteria for medical assistance in dying?

**A:** On February 6, 2015, the Supreme Court of Canada in Carter v. Canada ruled that physician-assisted death should not be prohibited as a crime in Canada if the individual meets the following criteria:

- is a competent adult
- clearly consents to the termination of life
- has a grievous and irremediable medical condition (including an illness, disease or disability), and
- is experiencing enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

The Supreme Court of Canada postponed the application of this decision to give the government time to make appropriate legislation. It is expected that this legislation will be in place by June 6, 2016.

In the meantime, a court order from the Ontario Superior Court of Justice is required in order for medical assistance in dying to be legal in a particular case.

**ADDITIONAL COLLEGE RESOURCES:**

- Professional Standards
- Ethics
- Decisions About Procedures and Authority (Decision Tree on page 10)
- Therapeutic Nurse-Client Relationship
- Refusing Assignments and Discontinuing Nursing Services
- Conflict Prevention and Management
- Consent
REFERENCES

NOTE: Information in these sources may not be legally binding, so refer to the order from the Superior Court of Justice in your particular case and seek independent legal advice as necessary.


