

Consultations on medical assistance in dying (MAID) eligibility criteria and request process

Medical assistance in dying (MAID) became legal in Canada in June 2016. Canada's *Criminal Code* now exempts doctors and nurse practitioners who provide, or help to provide, medical assistance in dying.

How to complete and submit this questionnaire

Complete the questionnaire by checking your preferred answer for each question and submitting your comments in appropriate boxes if desired.

Once completed, submit your questionnaire by:

1. Sending an email to AD-AM@justice.gc.ca

This option does not allow you to submit your questionnaire anonymously. All submitted information (including your email address) remains confidential.

OR

2. Mailing in your questionnaire to:

Medical Assistance in Dying, Criminal Law Policy Section
Department of Justice Canada
284 Wellington Street (5048 East Memorial Building)
Ottawa, ON K1A 0H8

You are not required to identify your questionnaire or envelope with any personal information or return address. Submissions that are not identified with a return address cannot be sent back to you if they fail to be delivered by the postal service.

Questionnaires **must be submitted individually** (only one questionnaire per email or mailed submission). All questionnaires must be emailed or mailed to the Department of Justice Canada by **January 27, 2020**.

“Medical assistance in dying” currently includes:

- the use of medication by a physician or nurse practitioner to directly cause a person's death at their request
- the prescription or provision of medication by a physician or nurse practitioner that a person can use to cause their own death

The law currently sets out eligibility criteria for those who wish to apply for MAID. It also sets out safeguards that doctors and nurse practitioners must follow when deciding if a patient qualifies for MAID, in particular to make sure that the patient requesting MAID is fully informed and has given their consent freely.

Visit the Government of Canada's medical assistance in dying webpage (<https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html>)

for more information on:

- Eligibility criteria
- Process for obtaining MAID
- Roles of the provinces and territories
- How Health Canada monitors and reports on MAID
- Independent reviews
- How Health Canada supports palliative and end-of-life care

Evolution of MAID in Canada

During the development and implementation of MAID (Bill C-14) in 2016, many Canadians voiced their support for broader access to MAID. As a result, the Government of Canada committed to study a wider variety of medical circumstances where a person may want to access MAID.

Specifically, the Government of Canada asked the Council of Canadian Academies to study three complex issues including requests for MAID by mature minors, advance requests, and requests for people where mental illness is the only reason for requesting MAID. The reports and a summary are available on the CCA's website (<https://cca-reports.ca/reports/medical-assistance-in-dying/>).

As legalizing medical assistance in dying was a significant step for Canada, Parliament committed to review the law five years after it was passed. This review will provide the opportunity to hear from Canadians about how MAID is working, and to see if any changes should be made. It is expected that this review will start in 2020.

Context and objectives of the questionnaire

On September 11, 2019, the Superior Court of Québec found (*Truchon v. Attorney General of Canada*) that it was unconstitutional to limit access to MAID to people nearing the end of life. The case was brought by two persons living with disabilities, Mr. Truchon, who has lived with cerebral palsy since birth, and Ms. Gladu, who has lived with paralysis and severe scoliosis as a result of poliomyelitis. Practitioners who assessed them were of the view that they met all eligibility criteria for MAID, with the exception of nearing the end of life. The Court declared the "reasonable foreseeability of natural death" criterion in the federal *Criminal Code*, as well as the "end-of-life" criterion in Quebec's provincial law on medical assistance in dying, to be unconstitutional.

The Court's ruling will come into effect on **March 11, 2020**, unless an extension is granted by the Court. While this ruling only applies in the province of Quebec, the Government of Canada has accepted the ruling and has committed to changing the MAID law for the whole country.

Since MAID has been legalized, more than 6,700 Canadians who were suffering unbearably chose to die peacefully with the help of a physician or nurse practitioner. Over the past four years, our health care systems have become more familiar and comfortable with providing MAID, and Canadians have also learned a lot about circumstances where MAID is not allowed.

As we prepare to launch the full review of the MAID law this summer, the Government of Canada is moving quickly in the shorter term to help inform our response to the recent Quebec court ruling. Updating Canada's MAID law will expand eligibility for MAID beyond people who are nearing the end of life, and could possibly result in other changes once the review is complete. This questionnaire offers Canadians the opportunity to share their views with the Government of Canada on this deeply personal and very important issue.

To learn how we will protect your privacy during this consultation, read our privacy statement at the end of this questionnaire.

This consultation closes on Monday, January 27, 2020 at 11:59 p.m. (PST).

QUESTIONNAIRE

A. Demographic Information

Province or Territory

Urban

Rural

B. Eligibility to receive medical assistance in dying

This section provides background information on eligibility to medical assistance in dying in Canada, and will help you complete the following questionnaire.

A person's "**eligibility**" for medical assistance in dying (MAID) is determined by a doctor or nurse practitioner using the following list of criteria. In Canada, to legally receive MAID, a person must:

- Be 18 years of age or older
- Be eligible for health services funded by the federal government, or a province or territory (or during the minimum period of residence or waiting period for eligibility)
 - Most visitors to Canada are not eligible for medical assistance in dying
- Be able to make health care decisions for themselves
- Make a voluntary request for MAID that is not the result of outside pressure or influence (for example from a health care professional, family member, etc.)
- Give informed consent after they have received all of the information they need to make their decision, including their medical diagnosis, available forms of treatment, and available options to relieve suffering (including palliative care)
- Have a "grievous and irremediable medical condition", meaning that a person:
 - has a serious illness, disease or disability
 - is in an advanced state of decline that **cannot** be reversed
 - experiences unbearable physical or mental suffering from an illness, disease, disability or state of decline that **cannot** be relieved under conditions that the person considers acceptable
 - is at a point where their natural death has become reasonably foreseeable, taking into account all medical circumstances, and not requiring a specific prognosis as to how long they have left to live

A person does **not** need to have a fatal or terminal condition to be eligible for MAID.

C. Safeguards to protect against misuse or abuse of medical assistance in dying

“Safeguards”, in the context of medical assistance in dying (MAID), are conditions put in place to guide doctors and nurse practitioners in assessing eligible applicants for MAID and providing MAID in a way that protects people from abuse or misuse.

The following safeguards are currently in place in Canada for anyone making a request for MAID:

- The request for MAID must be made in writing. This written request must be signed by 2 independent witnesses
- Two independent doctors or nurse practitioners must provide an assessment and confirm that the person is eligible to legally receive MAID
- The main doctor or nurse practitioner must confirm that the request has been made freely, without outside pressure or influence
- A 10-day reflection period must elapse between the submission of the written request and when the person receives MAID, unless death or loss of decision-making capacity are fast approaching
- The person requesting MAID must be informed of the right to withdraw consent at any time
- The person must be given an opportunity to withdraw consent and must expressly confirm their consent immediately before receiving MAID
- If the person has difficulty communicating, the doctor or nurse practitioner must take measures to provide a reliable way for the person to understand the information being communicated to them, and communicate their decision

1.	Do you think the current safeguards would prevent abuse, pressure or other kinds of misuse of MAID after eligibility is broadened to people whose deaths are not reasonably foreseeable?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
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2.	<p>The following list contains potential safeguards that are not currently in place in Canada, as well as potential revisions to some existing safeguards. These are safeguards that apply under the MAID laws of some other countries.</p> <p>In your opinion, when a person is not at a point where their natural death has become reasonably foreseeable, how important is it to require the following safeguards for those who meet all other eligibility criteria for MAID?</p>
A	<p>A different reflection period (currently a 10-day reflection period) between the submission of a person’s written request for MAID and receiving MAID</p> <p><input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion</p>
B	<p>MAID should be available only when the practitioner and the patient both agree that reasonable treatments and options to relieve the person’s suffering have been tried without significantly improving the person’s situation</p> <p><input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion</p>

2.	C	A mandatory psychological or psychiatric assessment to evaluate the person's capacity to consent to receiving MAID
	<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion	
	D	Making sure the person requesting MAID is aware of all the means available to potentially relieve their suffering, including health and social support services (for example counseling, disability support, palliative care)
	<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion	
	E	Mandatory consultation with an expert in the person's medical condition and circumstances (for example a gerontologist, psychiatrist, or social worker), in addition to the already mandatory 2 medical assessments
	<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion	
	F	Retrospective review of MAID cases by a committee to verify that the eligibility criteria and safeguards were satisfied and in place
	<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion	
G	Special training and tools to assist doctors and nurse practitioners to assess areas of potential vulnerability (for example mental health issues, or potential outside pressures or influences)	
<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion		
H	An obligation for the physician and nurse practitioner to offer to discuss their patient's situation with their family members or loved ones with the patient's consent	
<input type="checkbox"/> Not important at all <input type="checkbox"/> Slightly Important <input type="checkbox"/> Important <input type="checkbox"/> Fairly Important <input type="checkbox"/> Very Important <input type="checkbox"/> No Opinion		
3.	Do you have any other comments you want to share about possible safeguards for people who are eligible for MAID, but not at the end of life?	
Comments:		

D. Final consent and advance requests for MAID

The current law requires that a person eligible for MAID give their **final consent**, immediately before the procedure. This safeguard allows the doctor or nurse practitioner to confirm that a person has not changed their mind about wanting MAID. However, it also means that doctors and nurse practitioners are currently not allowed to provide MAID if a person is **not** able to confirm their consent right before the procedure.

For some people, this requirement is a concern as their condition may worsen to the point where they lose their capacity to confirm their consent before they receive MAID. This may lead people to access MAID earlier than they want to.

In the context of MAID, an **“advance request”** would be created before a loss of decision-making capacity. In practice, that means a person would set the conditions under which they want to receive MAID and provide advance consent for receiving MAID once those conditions are met. This would replace the need to give consent immediately before the procedure.

In December 2018, the Council of Canadian Academies (CCA) published a report entitled “The State of Knowledge on Advance Requests for Medical Assistance in Dying” (<https://cca-reports.ca/wp-content/uploads/2019/02/The-State-of-Knowledge-on-Advance-Requests-for-Medical-Assistance-in-Dying.pdf>). This report explores the risks, benefits, complexities, gaps in knowledge, and possible safeguards in relation to legalizing advance requests for MAID. A summary of the report can also be found on the CCA’s Medical Assistance in Dying webpage (<https://cca-reports.ca/wp-content/uploads/2018/12/MAID-Summary-of-Reports.pdf>).

Advance requests for MAID may be possible in a range of situations, including:

- a. The person has already requested and been approved for MAID, and they want to protect their eligibility in case they lose decision-making capacity;
- b. The person has already been diagnosed with a serious and capacity-limiting condition, but has not yet been found eligible for MAID. An advance request would outline the conditions under which the person wants to receive MAID, if they are unable to provide consent at that time.

1.	Imagine that a person makes a request for MAID, is found to be eligible, and is awaiting the procedure. A few days before the procedure, the person loses the capacity to make health care decisions, and can not provide final consent immediately before the procedure. In your opinion, should a physician or nurse practitioner be allowed to provide MAID to a person in these circumstances?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
2.	Imagine that a person is diagnosed with a medical illness that, over time, will affect their mind and take away their decision-making capacity, such as Alzheimer’s disease. The person prepares a document that says they consent to receive MAID if specific circumstances arise at a later date, after they no longer are able to consent. In your opinion, should a physician or nurse practitioner be allowed to provide MAID to a person in this situation once the circumstances in their document have arisen and they otherwise meet the MAID criteria, even if they can no longer consent?	YES <input type="checkbox"/>	NO <input type="checkbox"/>

3.	Do you have any other comments you want to share about allowing MAID to be provided to a person who has an advance request but is not able to consent to MAID at the time of the procedure?
Comments:	

E. Additional comments

1.	Do you have any other comments you want to share that have not been covered in the discussion so far?
Comments:	

Privacy statement

The Department of Justice Canada takes the privacy of the respondents to this questionnaire very seriously. By submitting a completed questionnaire through email or postal mail, you are consenting to the Department of Justice Canada using information it collects about your views on Canada's medical assistance in dying legislation. The collection, use and disclosure of your personal information is regulated by the *Personal Information Protection and Electronic Documents Act (Canada)*, and similar privacy legislation applicable in your province. To learn more about your privacy rights, please visit the Office of the Privacy Commissioner of Canada's website (<https://www.priv.gc.ca/en/>).

All information entered into the questionnaire is owned and controlled by the Department of Justice Canada and could be shared with other departments within the Government of Canada for research purposes.

What information is collected?

Basic information

The Department of Justice Canada collects some of your information when you complete this questionnaire, notably:

- your province or territory of residence
- whether you live in a rural or urban area
- your email address (if you submit a PDF version of this questionnaire through email)
- your mailing address (if you submit your questionnaire through postal mail and provide a return address)

User-generated information

The Department of Justice Canada collects the information you feed into the questionnaire including:

- any comments you provide
- questions with voting responses (e.g. yes/no, agree/disagree, etc.)

Why do we collect this information?

To collect your feedback to inform better policy

The Department of Justice Canada is collecting this information to help inform the development of better policy. The information is therefore reviewed by the Government of Canada for analysis and interpretation at their discretion.

Who has access to this information?

The Research and Statistics Division at the Department of Justice Canada has access to this information.

Information available to the researchers includes:

- basic information described above
- your comments
- your voting responses

Do we disclose any information to third parties outside of the Government of Canada?

We do not sell, trade, or otherwise transfer your information to outside parties. We may release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect our or others' rights, property or safety.

Your consent

By responding to the questionnaire, you indicate that you have read, understood and consent to this Privacy Policy.