

## Corporate Standard Operating Procedure

### Medical Assistance in Dying

#### Purpose Statement:

As a compassionate provider of patient-centered care, The Ottawa Hospital (TOH) is committed to providing high quality care to all patients suffering from serious illnesses, including patients at the end-of-life. In addition to supporting robust Palliative Care services, TOH recognizes the right of patients who meet relevant legislative criteria to request Medical Assistance in Dying (MAID).

All requests for MAID require a comprehensive process of screening, oversight and accountability to ensure that patients meet eligibility criteria and provide clear Informed Consent. At TOH, Physicians and Nurse Practitioners (NP) may assess eligibility for, and ultimately provide, MAID. Other Health Care Professionals may only support provision of MAID as permitted by their clinical scope of practice. Patients seeking information about or requesting MAID should be referred to the MAID program.

Physicians, NPs and Other Health Care Professionals are expected to use clinical judgment when informing patients of their options for care, including MAID. If a patient seeks information on MAID, or if a patient discusses a persistent wish or desire for death because of enduring and intolerable suffering arising from a Grievous and Irremediable Medical Condition, Physicians, NPs and Other Health Care Professionals are expected to ensure that the patient has access to information about MAID.

TOH also recognizes the right of Physicians, NPs and Other Health Care Professionals to Conscientiously Object to participating in the provision of MAID but expects that individuals who refuse will provide an Effective and Timely Referral. All patients requesting MAID must be treated with respect and compassion and be offered available supports.

#### Scope:

This policy is applicable to all cases where a patient inquires about or makes a request for MAID. For greater clarity, current legislation excludes individuals whose sole medical condition is a mental illness. This policy does not apply to the withholding or withdrawal of life-sustaining interventions, or palliative sedation.

#### Definitions:

The following terms and definitions are specific to this policy, and do not necessarily apply in other policies.

**Authorized Third Person:** A person who is at least 18 years of age and 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 sign and date the request for MAID in the presence and under the clear direction of the person requesting MAID.

**Capable Patient:** A patient is Capable with respect to a treatment if they are able to understand the information that is relevant to making a decision about the treatment and appreciate the reasonably foreseeable consequences of a decision or lack of decision. Patients are presumed to have capacity unless there is evidence to suggest otherwise. MAID legislation does not allow initiation of a MAID request by a substitute decision-maker or through an advance care plan when the patient is not capable.

**Conscientious Objection:** The right of Physicians and Other Health Care Professionals to decline to provide or assist in providing MAID for reasons of moral or religious conscience without fear of recrimination or discrimination. When Conscientiously Objecting, Physicians, NPs and Other Health Care Professionals must not abandon the patient and must make an Effective and Timely Referral to the MAID Program.

**Effective and Timely Referral:** A referral made in good faith, to a non-objecting, available, and accessible Physician or NP. The referral must be made in a timely manner to allow patients to access care. Patients must not be exposed to adverse clinical outcomes due to a delayed referral.

**Independence of Physicians:** The Physician or who provides MAID and the Physician who provides a written second opinion are independent if they:

- a) are not a mentor to the other Physician or responsible for supervising their work
- b) do not know or believe that they are a beneficiary under the will of the patient making the request for MAID, or a recipient of a financial or other material benefit resulting from that patient's death, other than standard compensation for their services, and,
- c) do not believe that they are connected to the other Physician or to the patient making the request for MAID in any way that would affect their objectivity.

**Independent Witness:** A person who is at least 18 years of age and who understands the nature of the request for MAID. A person may not act as an independent witness if they:

- a) know or believe that they are a beneficiary under the will of the patient making the request, or a recipient of a financial or other material benefit resulting from that patient's death,
- b) are an owner or operator of any health care facility at which the patient making the request is being treated or any facility in which that patient resides,
- c) Are an unpaid caregiver

**Informed Consent:** For Informed Consent to be valid, it must relate to the treatment in question, be informed, be given voluntarily, and not be obtained through misrepresentation or fraud. Patients must receive information that a reasonable person would require in order to make a decision, as well as responses to requests for additional information. Patients must be informed of the nature of the treatment, the expected benefits, material risks, side effects, alternative courses of action, and the likely consequences of not having the treatment. Patients may withdraw their consent at any time, and their care must not be negatively impacted by a withdrawal.

**Grievous and Irremediable Medical Condition:** 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,

- c) their condition causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable

**Medical Assistance in Dying (MAID):** The act of knowingly and intentionally ending the life of a Capable and Consenting adult patient, with a Grievous and Irremediable Medical Condition. At TOH, MAID will only refer to situations where a Physician or NP directly administers a lethal dose of medications.

**Medical Assistance in Dying (MAID) Program:** Inter-professional team of TOH Physicians, NPs, Other Health Care Professionals and administrators who provide or support assessments of eligibility for, and provision of, MAID.

**Nurse Practitioner (NP):** A Nurse Practitioner is a registered nurse with an extended class license who has met additional educational, experience and exam requirements. Only NPs who are an employee of TOH with a current extended class license may participate in MAiD assessments and provision for TOH patients when it relates to their TOH role.

**Other Health Care Professional:** A regulated health care professional who is not a Physician or NP but is a member of a regulatory College.

**Palliative Care:** Care for individuals and families who are living with a life-limiting illness that is usually at an advanced stage. An important objective of Palliative Care is relief of pain and other symptoms. Palliative Care meets not only physical needs, but also psychosocial, social, cultural, emotional and spiritual needs of each person and family. Palliative Care does not aim to hasten death.

**Physician:** A person entitled to practice medicine in Ontario and credentialed at TOH. For the purposes of this policy, this includes medical residents who are appropriately supervised through the MAID Program.

**Waiver of Final Consent:** Only for patients whose natural death is reasonably foreseeable, the patient may enter into a written agreement with the physician that MAID can be provided on a specific day and provide consent to the administration of MAID if the lose capacity to consent prior to that day. If the patient does lose capacity, MAID can only be provided if the patient does not demonstrate refusal by words, sounds or gestures.

## **Procedure(s):**

### **Eligibility for MAID**

Patients are required to follow different pathways depending on whether their natural death is reasonably foreseeable or not.

To be eligible for MAID, a patient must:

- a) Be eligible for health services funded by a government in Canada.
- b) Be 18 years or older.
- c) Have a Grievous and Irremediable Medical Condition.
- d) Make a voluntary request for MAID that was not made as a result of external pressure.
- e) Make a written request that is signed, dated, and witnessed by one Independent Witnesses, after having been informed by a Physician that they have a Grievous and Irremediable Medical Condition.

- f) Be assessed by two Independent Physicians or Nurse Practitioners who agree that eligibility criteria have been met.
- g) Provide Informed Consent and be made aware of alternative options
- h) Be Capable throughout the process, including the moments immediately preceding provision of MAID. For patients whose natural death is reasonably foreseeable, there may be a Waiver of Final Consent.
- i) Additionally, for patients who do not have reasonably foreseeable natural death:
  - If neither of the assessors have expertise in the condition that is causing the patient's suffering, another practitioner with expertise in that medical condition must be consulted and the results of that consultation must be shared with both assessors.
  - The patient must be informed of available and appropriate means to relieve their suffering, including counselling services, mental health and disability support services, community services, and palliative care, and they must be offered consultations with professionals who provide these services. The assessors must agree that the patient must give serious consideration to these alternative means to relieve their suffering.
  - There must be 90 clear days between the day on which the first assessment is completed and the day that MAID is provided, unless the assessments have been completed and assessors are both of the opinion that the patient is at immediate risk of losing your capacity to consent.
  - They cannot complete a Waiver of Final Consent
  - The case may be referred to a working group of physicians for review prior to determining a plan for the patient

### **The MAID Program:**

1. The MAID Program is responsible for oversight of all MAID-related activity at TOH, including intake and triage of referrals, patient and staff education, and coordination of clinical care. All inquiries and requests for MAID at TOH must be communicated to the MAID Program, including referrals made by Conscientiously Objecting Physicians or NPs.
2. The MAID Program will be responsible for collecting data on cases where MAID is requested and / or administered.
3. Only medical residents who are formally supervised through the MAID Program may participate in assessments of eligibility for, or provision of, MAID.

### **Physicians and Nurse Practitioners**

1. Physicians and NPs are expected to inform patients with Grievous and Irremediable Medical Conditions of all options for care. In some cases, providers may be required to explain that MAID exists as an option for patients under specific circumstances. These providers are expected to exercise clinical judgement and compassion when considering the timing and content of these discussions and should not be seen to encourage or recommend MAID.

2. Willing Physicians and NPs who are a part of – or acting under the guidance of – the MAID Program are responsible for assessing eligibility and providing MAID. The procedure itself should be provided by one of the Physicians or NPs who provided an assessment of eligibility for MAID. In exceptional cases where a third Physician or NP becomes involved to provide MAID for logistical reasons, that provider must review all relevant documentation, have a discussion with the patient, and agree with the finding of eligibility.
3. No Physician or NP will be required to provide or assist in providing MAID. Any Physician or NP who Conscientiously Objects will be expected to make an Effective and Timely referral to the MAID Program.
4. The MAID Program will support Physicians and NPs when requests are made to ensure that all necessary policies, procedures, and regulations have been followed before MAID is provided.

### **Other Health Care Professionals**

1. While it is the responsibility of a willing Physician or NP to assess eligibility and ultimately provide MAID, Other Health Care Professionals who are a part of the MAID Program are expected to support assessments of eligibility and provision of MAID as permitted by their clinical scope of practice. Only Physicians and NPs will administer any MAID medications.
2. Regulated health professionals are expected to practice within their scope of practice as determined by their regulatory body.
3. No Other Health Care Professional will be required to provide or assist in providing MAID if they feel it violates their moral or religious conscience. Any Other Health Care Professional Who Conscientiously Objects will be expected to make an Effective and Timely referral to the MAID Program.

### **Requests for MAID**

1. All patients who wish to discuss or make a request for MAID must be treated with respect and compassion. All referrals must be directed to the TOH MAID program.
2. Relevant support services will be made available to all patients requesting MAID.
3. The request for MAID must be made in writing, appropriately witnessed by one Independent Witness, and signed and dated after the patient has been informed by a Physician that they have a Grievous and Irremediable Medical Condition. If the patient is physically unable to make a written request, an Authorized Third Person may do so on their behalf. A person may not act simultaneously as an Authorized Third Person and an Independent Witness.
4. Two independent Physicians or NPs must provide written assessments of eligibility for MAID. A patient is only eligible for MAID if two independent physicians or NPs provide these formal assessments.
5. Informed Consent for MAID must be obtained during one assessment of eligibility. While written consent is preferable, this may not be possible with every patient. In these cases, verbal consent should clearly be documented by the Physician or NP conducting the assessment
6. All patients must be given the opportunity to withdraw their Informed Consent immediately before MAID is provided. For patients with a reasonably foreseeable natural death who lose the capacity to provide

Informed Consent immediately before the provision, MAiD can still be provided if there is a written Waiver of Final Consent.

7. If the patient has difficulty communicating, all necessary measures must be taken to provide a reliable means by which the patient may understand the information that is provided to them and communicate their decision.

### **Mandatory Reporting**

1. In cases where MAiD is provided, Physicians and NPs must report to the Office of the Chief Coroner of Ontario. The Office of the Chief Coroner of Ontario will then complete mandatory Health Canada reporting. Physicians and NPs must advise patients that MAiD procedures will be reported to the Coroner's office, and that the extent of any investigation cannot be determined in advance.
2. In cases where a written request is received but MAiD is not provided, Physicians and NPs must complete relevant Health Canada reporting through the Canadian MAiD Data Collection Portal. For the purposes of this reporting, a written request can be a formal request document (i.e. Clinician Aid A), text message, or e-mail, and does not have to be in the format required by the Criminal Code.
3. In cases where a Pharmacist dispenses a substance in connection with the provision of MAiD, they must report to Health Canada through the Canadian MAiD Data Collection Portal.

### **Organ and Tissue Donation**

1. Unless a discussion is initiated by the patient, the decision to pursue MAiD should be made prior to offering the option of organ and tissue donation.
2. Approval to receive MAiD at TOH requires mandatory notification to Trillium Gift of Life Network for the purposes of exploring and potentially obtaining consent for organ and tissue donation. The patient will be informed of their option to donate organs and tissue as part of the assessment process. When appropriate, notification will occur after the first assessment of eligibility, provided that eligibility is confirmed. Notification at this stage provides time for a Trillium Gift of Life Network representative to contact the patient, if indicated.
3. Physicians and NPs must advise patients that Trillium Gift of Life Network will be notified of their case, and that a representative may contact them for further discussion.
4. Cases where organ and/or tissue donation occurs will be managed in accordance with TOH policies 00297 (Organ and Tissue Donation from a Deceased Person) and 00298 (Organ Donation After Cardiac Death).

### **Related Documents:**

- Consent to Treatment
- CPR – End of Life Care and Plan of Treatment
- Organ and Tissue Donation from a Deceased Person

- Organ Donation After Cardiac Death

**Regulatory or Legislative References:**

- Bill C-7. An act to amend the Criminal Code (Medical Assistance in Dying). 2021.
- Bill 84: Medical Assistance in Dying Statute Law Amendment Act (2017). Retrieved from the Legislative Assembly of Ontario website:  
[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=4460](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=4460)
- Regulations for the Monitoring of Medical Assistance in Dying: SOR/2018-166
- Bill C-14. An act to amend the Criminal Code and to make related amendments to other Acts (Medical Assistance in Dying). 2016.