



# ONA Position Statement

## Medical Assistance in Dying

On June 17, 2016, the federal government's legislation with respect to medical assistance in dying (MAID) received royal assent. Bill C-14 (*An Act to Amend the Criminal Code and to Make Related Amendments to other Acts [medical assistance in dying]*) is now in force. It exempts health practitioners, including registered nurses and nurse practitioners, from criminal liability for participating in MAID, as long as certain conditions are met.

Under Bill C-14, MAID is now available to individuals who have "grievous and irremediable" medical conditions. In the legislation, this means meeting four criteria: (1) they have a serious and incurable illness, disease or disability; (2) they are in an advanced state of irreversible decline in capability; (3) they are experiencing enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable; and (4) their natural death has become reasonably foreseeable, without a prognosis necessarily having been made as to the specific length of time they have remaining.

### Important Role of Nurses in MAID

Nurses will play an important role in MAID. As front-line health care providers, nurses spend significant time at patient bedsides. They provide information and support to patients and their families, advocate for patients, monitor their conditions and administer treatment. Nurses have one-on-one relationships with patients and their families, often involving many hours of care. In this context, and considering the importance of inter-professional collaboration in patient care, nurses are expected to have a significant role, which will include providing information on, as well as assisting with, the implementation of MAID.

Bill C-14 recognizes the important roles of both registered nurses (RNs) and nurse practitioners (NPs) in MAID. It authorizes NPs to provide MAID, meaning that NPs can administer a substance to a person that causes their death and can provide a substance to a person so that the person may self-administer it to cause their own death. Bill C-14 also exempts from criminal liability any person, including nurses, for aiding an NP or medical practitioner to provide MAID. In addition, Bill C-14 exempts health practitioners, including NPs and RNs, from criminal liability for providing information to a patient on MAID.

ONA notes that NPs in Ontario currently are not authorized to prescribe controlled substances that would be used in MAID. ONA encourages the Ontario government to make legislative change such that NPs are authorized to prescribe these substances, thus allowing NPs to work to their full scope of practice in providing MAID.

### Need for Clear Policies and Guidelines

Given the central role they are expected to play in MAID, nurses will require clear and detailed guidance regarding MAID, prepared with ONA's input. Ontarians, including ONA members, will require guidance regarding any provincial policies pertaining to MAID and any legislative and regulatory amendments. In addition, all health organizations and facilities should put in place policies and guidelines with respect to MAID. These must address issues affecting the role of nurses, such as, for example: protocols when a nurse objects to participating in MAID; requirements for responding to an initial request for MAID; documentation requirements; requirements for disposing of additional medication used in MAID; and other issues.

### **Right to Object to Participation in MAID**

Bill C-14 expressly sets out that individuals are not compelled to provide or assist in providing MAID. Nurses, therefore, cannot be compelled to participate in MAID and are entitled to object to doing so should the issue arise in their workplace. ONA is committed to ensuring that these members' individual rights (for example, to religion, conscience, and privacy) are protected. Nurses must not be subject to adverse employment consequences for objecting to participating in MAID.

In addition, health organizations and facilities should have clear policies and guidelines setting out the steps to be taken when a nurse objects to participating in MAID. Given the need for careful steps and planning in advance of MAID, health organizations and facilities will have the opportunity to ensure that nursing assignments do not include any nurse who objects to his/her participation.

ONA's position is that it is incumbent on the organization or facility, and not on individual nurses, to arrange appropriate nursing patient care related to MAID from nurses who do not object to participating. Health organizations and facilities also should ensure they have in place protection for the privacy of nurses who do assist in MAID, such that their identity is not disclosed except where legally required.

### **Education and Support to Avoid Liability**

ONA is aware and concerned that, while Bill C-14 protects NPs and RNs from criminal liability for participating in MAID, it only does so as long as prescribed requirements are met. Specifically, NPs who choose to assist their patients with MAID may be subject to criminal penalty if they knowingly fail to comply with the detailed safeguards set out in Bill C-14. For example, Bill C-14 sets out detailed requirements for ensuring informed and written consent to MAID, for obtaining a second opinion that the criteria for MAID are met, and requiring a waiting period before providing MAID.

In addition, Bill C-14 states that MAID must be provided “with reasonable knowledge, care and skill and in accordance with any applicable laws, rules or standards.” Given the detailed safeguards which must be met, at the risk of criminal liability, as well as the wide-ranging reference in Bill C-14 to “applicable laws, rules and standards,” it is incumbent on health organizations and facilities, as well as the College of Nurses of Ontario (CNO), to ensure that NPs and RNs receive comprehensive education with respect to their legal obligations under MAID.

NPs also will require education and support to determine when an individual qualifies for MAID, given that the criteria in the legislation (outlined above) may be open to interpretation. In other words, ONA's position is not only that nurses require clear guidelines regarding MAID, but also that health organizations and facilities, as well as the College, should provide proactive education and support, in consultation with ONA, to ensure that nurses do not expose themselves to liability.

This education should include clearly advising nurses that they have the right to object to providing MAID.

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