

## Medical Assistance in Dying (MAID) – Mandatory Federal Reporting Frequently Asked Questions (FAQs)

**NOTE:** The following FAQs are for informational purposes only. Please refer to the federal regulations and Health Canada's website and/or seek independent legal advice if you have questions about how the federal requirements may apply to you.

Federal Regulations: <http://gazette.gc.ca/rp-pr/p2/2018/2018-08-08/html/sor-dors166-eng.html>

Health Canada Website: <https://www.canada.ca/en/health-canada/services/medical-assistance-dying/reporting-requirements.html>

### 1. Who is required to report?

Physicians and nurse practitioners who have received a request for MAID **in writing** will need to report in most circumstances. Pharmacists who have dispensed a substance in connection with the provision of MAID are always required to report.

### 2. What constitutes a written request?

The regulations require written requests to be reported in certain situations. A patient's written request may take any form including Clinician Aid A, a text message or an e-mail. It must, however, be more than an inquiry or a request for information about MAID. The request **does not have to be** in the format required by the Criminal Code as a safeguard when MAID is provided (i.e., duly signed, dated and witnessed) to require reporting.

### 3. If a clinician performs an assessment before the patient has completed a written request and the patient is not considered eligible, do they still need to report to Health Canada?

According to Health Canada, the requirement to provide information for monitoring purposes is triggered by the receipt of a written request for MAID. The request must:

- be in writing (in any form);
- be for MAID (not, e.g., for information about MAID); and,
- originate with a patient (e.g., may include a dictated request).

As a safeguard, the legislation requires the written request be dated and signed by the person (or a third party on their behalf) after they were informed by a physician or nurse practitioner that they have a grievous and irremediable medical condition. It must also be signed and dated by two independent witnesses.

If the written request that is first received by the practitioner meets the criteria for a written request required by the legislation, then there would be no distinction between the two. If a practitioner receives a written request that is informal or incomplete, it would still trigger the reporting requirement. If MAID is eventually provided, the duly signed, dated and witnessed request would be required at a later stage, as per the safeguards required by the legislation.

Clinician Aid A is not required as the "written request" document; it is an optional tool for providers to use should they so choose. However, a written request must be provided in some form.

The federal *Criminal Code* does not prescribe a specific sequence for every safeguard required before MAID is provided. However, clinicians should not delay the acceptance of a written request to avoid a reporting requirement.

**4. In cases of a MAID death, to whom is a practitioner required to report to and by when?**

In cases of a MAID death, physicians and nurse practitioners are required to report to the Chief Coroner for Ontario immediately in order for the coroner to determine if the death ought to be investigated. The following table provides scenarios where a written request is received and MAID has been provided.

Scenario	Whom to Report to	Deadline to report
<b>Clinician-Administered MAID</b> You provided MAID by administering a substance to a patient	Chief Coroner for Ontario	Immediately after confirming the patient has died.
<b>Patient-Administered MAID</b> You provided MAID by prescribing or providing a substance for self-administration by the patient	Chief Coroner for Ontario	Immediately after becoming aware the patient has died.

**5. In cases of a MAID death, does both the first assessor and second assessor have to report to the Chief Coroner for Ontario?**

In cases of a MAID death, only the clinician who provides MAID must report to the Chief Coroner for Ontario. In most scenarios this is the first assessor. If the first assessor is not the clinician providing MAID, they may need to report a referral to Health Canada.

**6. In cases where a MAID death has not occurred, to whom is a practitioner required to report to and by when?**

In cases of where a MAID death has not occurred, physicians and nurse practitioners are required to report to Health Canada via the Canadian MAID Data Collection Portal. After a referral, finding of ineligibility, or a practitioner becoming aware of the patient withdrawing their request or dying of another cause, the practitioner then has up to 30 calendar days to file a report. Note that the 30 days begins after one of those four events, not as soon as the written request is submitted to the practitioner.

The following table provides scenarios where a written request is received and a MAID death has not occurred.

Scenario	Whom to Report To	Deadline to report	Related rules
<b>Patient Referred</b> You referred a patient to another practitioner or a care coordination service or transferred their care as a result of the request	Health Canada	Within 30 days after the day of referral/transfer	<ul style="list-style-type: none"> <li>You do not need to report if you refer or transfer a patient more than 90 days after the day you receive the written request.</li> <li>If you report with respect to a referral or transfer of care, you are not required to report again for the same written request unless you later provide MAID.</li> </ul>

<p><b>Patient Ineligible</b> You found a patient to be ineligible for MAID</p>	Health Canada	Within 30 days after the day ineligibility is determined	<ul style="list-style-type: none"> <li>You do not need to report if you find a patient ineligible more than 90 days after the day you receive the written request.</li> <li>If you report on a finding of ineligibility, you are not required to report again for the same written request unless you later provide MAID.</li> </ul>
<p><b>Request Withdrawn</b> You became aware that the patient withdrew the request for MAID</p>	Health Canada	Within 30 days after the day you became aware of the withdrawal	<ul style="list-style-type: none"> <li>You do not need to report if you become aware, more than 90 days after the day you receive the written request, that a patient has withdrawn their request.</li> <li>If you report on the withdrawal of a request, you are not required to report again for the same written request unless you later provide MAID.</li> <li>If the patient has not contacted you after the initial written request, you are not required to actively seek out information about whether the patient has withdrawn the request, whether or not you have assessed them. In such a situation, you do not need to report.</li> </ul>
<p><b>Death – Other Cause</b> You became aware of the death of the patient from a cause other than MAID</p>	Health Canada	Within 30 days after the day you became aware of the patient's death.	<ul style="list-style-type: none"> <li>You do not need to report if you become aware, more than 90 days after the day you receive the written request, that a patient has died of a cause other than MAID.</li> <li>If the patient has not contacted you after the initial written request, you are not required to actively seek out information about whether the patient has died of a cause other than MAID, whether or not you have assessed them. In such a situation, you do not need to report.</li> </ul>

**7. In cases where a MAID death has not occurred, when do reporting timelines begin?**

After a referral, finding of ineligibility, or a practitioner becoming aware of the patient withdrawing their request or dying of another cause, the practitioner then has up to 30 calendar days to file a report. The 30 days starts running **after** one of those four events, not as soon as the written request is submitted to the practitioner.

**8. Are there any scenarios where I need to report to both Health Canada and the Chief Coroner for Ontario?**

Under Ontario's hybrid approach, there will be duplicative reporting for only a small fraction of self-administered MAID cases that result in a MAID death. Duplicative reporting would only occur if a MAID death occurs after the 90th day from when the substance for self-administration was prescribed and the physician or nurse practitioner had already reported to Health Canada. In this scenario, a physician or nurse practitioner would be required to report to Health Canada between the 90-120 day period stipulated in federal regulations, and then to the Office of the Chief Coroner immediately after the self-administered MAID death.

Duplicative reporting is expected to be minimal as there has only been one case of self-administered MAID in Ontario since June 2016.

## **9. When do a practitioner's reporting requirements to Health Canada cease?**

Health Canada recognized the need to put a time limit on the requirement to report when MAID is not provided. If none of the events listed below has happened within 90 calendar days of the practitioner receiving the written request, the practitioner is not required to report to Health Canada at all. These events are as follows:

- The practitioner referred the patient to another practitioner or care coordination service or transferred their care as a result of the request.
- The practitioner found the patient to be ineligible for MAID.
- The practitioner became aware that the patient withdrew the request for MAID.
- The practitioner became aware of the death of the patient from a cause other than MAID.

For example, if a practitioner received a written request on February 1st, and conducted an assessment and found the patient ineligible on March 15th, a report would be required within 30 calendar days after the finding of ineligibility on March 15th. However, if an assessment on this same written request occurred only on May 10th and the patient was found ineligible, a report would not be required, as more than 90 days had elapsed since receipt of the written request.

## **10. In cases where a MAID death has occurred, what information are physicians and nurse practitioners required to report?**

In cases where a MAID death has occurred, the process for reporting a MAID death will remain the same. Physicians and nurse practitioners will be required to report to the Office of the Chief Coroner and provide the coroner with any information necessary to determine whether an investigation ought to occur. However, this will now include the collection of new information, as required by federal regulations, which was not typically or consistently collected by the Office of the Chief Coroner.

Information that is now required by the federal monitoring regulations and that will need to be reported to the Office of the Chief Coroner includes the following:

- province or territory that issued the patient's health insurance number;
- postal code associated with the patient's health insurance number;
- practitioner's work email address;
- physician's specialty;
- whether the patient was referred by the provincial Care Coordination Service;
- whether the patient consulted the practitioner prior to the assessment for a reason other than seeking MAID;
- whether the patient received palliative care;
- whether the practitioner consulted other health care professionals;
- whether the patient required and received disability support services; and,
- whether the practitioner took all necessary measures to provide a reliable means by which the patient could have understood the information that was provided to them and communicated their decision.

The Ministry of Health and Long-Term Care will be updating the Clinician Aids to reflect the additional information required.

**11. In cases where a MAID death has not occurred, what information are physicians and nurse practitioners required to report?**

Information that must be reported in all cases:

- Date you received the written request;
- From whom you received the written request, i.e., from the patient directly, a practitioner, a care coordination service, or another third party
- Patient’s date of birth, sex, health insurance number and province of issuance, postal code
- Your name, province or territory of practice, license or registration number, mailing address, and e-mail
- If you are a physician, your area of specialty (dropdown menu available)
- Whether the patient consulted you for another reason before you received the request for MAID

Additional information required when patient eligibility has been assessed:

- Assessment of eligibility criteria and related information:
  - Which of the eligibility criteria as required by the Criminal Code were assessed and whether the patient met those criteria (checklist provided)
  - Whether other health care professionals or social workers were consulted (dropdown menu available)
  - Reason(s) why you are of the opinion that the request was voluntary (dropdown menu available)
  - The type of serious and incurable illness, disease or disability experienced by the patient (dropdown menu available)
  - A description of the patient’s suffering (dropdown menu available)
  - Whether the patient received palliative care<sup>1</sup>; if yes, for how long (if known) and, if not, whether it was accessible (if known)
  - Whether the patient required and received disability support services<sup>2</sup> (if known); If yes, for how long (if known) and, if not, whether they were accessible (if known) (dropdown menu available)

Scenario	Information to be Reported
<p><b>Patient Referred</b> If you referred the patient or transferred their care elsewhere in response to their request for MAID</p>	<ul style="list-style-type: none"> <li>• Information reported “in all cases”</li> <li>• Date on which you referred or transferred the care of the patient</li> <li>• Reason for the referral or transfer of care (dropdown menu available)</li> <li>• Whether an eligibility assessment was done prior to referring or transferring the care of the patient</li> </ul>
<p><b>Patient Ineligible</b> If you found the patient ineligible</p>	<ul style="list-style-type: none"> <li>• Information reported “in all cases” and eligibility assessment information</li> <li>• If the patient had originally been found to be eligible and later was found to be ineligible, whether the reason for the change was due to a loss of capacity or becoming aware that the patient’s request was not voluntary</li> </ul>

<sup>1</sup> Palliative care is an approach that improves the quality of life of patients and their families facing life-threatening illness, through the prevention and relief of pain and other physical symptoms, and psychosocial and spiritual suffering. It may be provided in any setting, by specialists or by others who have been trained in the palliative approach to care.

<sup>2</sup> Disability support services could include but are not limited to assistive technologies, adaptive equipment, rehabilitation services, personal care services and disability-based income supplements.

<p><b>Request Withdrawn</b> If the patient withdrew their request for MAID</p>	<ul style="list-style-type: none"> <li>• Information reported “in all cases” and, if eligibility was assessed, eligibility assessment information</li> <li>• Patient’s reasons for withdrawing the request (if known)</li> <li>• Whether the patient withdrew their request after being given the opportunity to do so immediately before MAID was to be provided</li> </ul>
<p><b>Patient has died from another Cause</b> If you’re aware that the patient died of another cause before MAID was provided</p>	<ul style="list-style-type: none"> <li>• Information reported “in all cases” and, if eligibility was assessed, eligibility assessment information</li> <li>• Date of death (if known)</li> <li>• If you completed the medical certificate of death, the immediate and underlying causes of death on the certificate</li> </ul>

\* Please note that for some required information, a drop down menu from which to select the appropriate response will be available when using the Canadian MAID Data Collection Portal.

## 12. Who does a pharmacist report to and by when?

Pharmacists who have dispensed a substance in connection with the provision of MAID are required to report to Health Canada via the Canadian MAID Data Collection Portal within 30 days after the day of dispensing.

## 13. What information is required from pharmacists?

Pharmacists will need the following pieces of information to fulfill their reporting obligations:

- Patient’s date of birth, health insurance number and province of issuance
- Your name, province or territory of practice, licence or registration number, mailing address and e-mail
- Name and licence or registration number for the practitioner who prescribed or obtained the substance
- The date that the substance was dispensed and where it was dispensed (hospital or community pharmacy)

## 14. Is a delegate able to do the reporting on behalf of a clinician (i.e., an administrative staff, a program director, etc.)?

A delegate is not able to report a death to the Office of the Chief Coroner (OCC) on behalf of a clinician; the clinician must directly contact the OCC. The legislation requires that *“a medical practitioner or nurse practitioner who receives a written request ... **must ... provide the information required by those regulations to the recipient designated in those regulations ...**”*, and likewise for a pharmacist who dispenses a substance in connection with the provision of MAID.

In other words, the reporting information must go directly from the clinician to the designated recipient, and cannot be provided by an intermediary (e.g., a care coordination service that has access to the same information). An individual clinician could involve his or her employees (e.g., administrative staff) in the process of providing information, but the law makes the practitioner or pharmacist responsible for providing the information to the designated recipient, and he or she ultimately bears the risk of non-compliance.

## 15. For practitioners who receive MAID requests via the Care Coordination Service, will the Care Coordination Service be keeping statistics and fulfilling the federal reporting requirements?

No, the reporting obligations are exclusively for clinicians or the Office of the Chief Coroner who will be acting as a designated recipient on behalf of clinicians under certain circumstances (i.e. when a MAID death has occurred). The Care Coordination Service (CCS) will have no reporting obligations.