



**RNAO Submission on Bill 84:
*Medical Assistance in Dying Statute
Law Amendment Act, 2016***

Submission to the Standing Committee
on Finance and Economic Affairs

March 23, 2017



Summary of RNAO Recommendations

Recommendation 1. For RNs to be included in the language of the Bill to protect their participation in MAID by amending all sections of the various Acts, including section 2(1) and 13.8(1)(2) of the *Excellent Care for All Act, 2010*.

Recommendation 2. Proceed with giving nurse practitioners the authority to prescribe all controlled substances in accordance with federal regulations to ensure access to MAID.

Recommendation 3. That a section be added to include the duty to refer by physicians and nurse practitioners who have a conscientious objection

Introduction

The Registered Nurses' Association of Ontario (RNAO) is the professional association representing registered nurses (RN), nurse practitioners (NP), and nursing students in all roles and sectors across Ontario. Since 1925, RNAO has advocated for healthy public policy, promoted excellence in nursing practice, increased nurses' contributions to shaping the health system, and influenced decisions that affect nurses and the public they serve. RNAO appreciates the opportunity to provide feedback to the Standing Committee on Finance and Economic Affairs on *Bill 84, an Act to amend various Acts with respect to medical assistance in dying (MAID)*.

Role of Registered Nurses and Nurse Practitioners in MAID

In today's health environment, interprofessional care is the norm. Medical assistance in dying (MAID) is a process that involves a number of health professionals, including registered nurses (RN) and nurse practitioners (NP). Nurses work across all sectors in health care and have a unique therapeutic relationship with individuals and their families. With this unique position, nurses can ensure continuity of care that is responsive to the needs of individuals with life-limiting illness.¹ Furthermore, due to the frequency of interactions with individuals, nurses are likely to play a key role in assisting patients in their end-of-life journey.

The College of Nurses of Ontario (CNO) outlines how registered nurses currently participate in MAID by "providing nursing care and aiding an NP or physician to provide a person with medical assistance in dying in accordance with the law".² Under Federal Bill C-14, which received royal assent and became law on June 17, 2016, RNs and NPs have distinct roles in MAID. Bill C-14 permits RNs to "...do anything for the purpose of aiding a medical practitioner or nurse practitioner to provide a person with medical assistance in dying." (s.241(3))³. Although the criminal code does not permit RNs to administer the medications for MAID, RNs can assist physicians and NPs in the process provided they have ensured the eligibility and process safeguards for MAID have been met.⁴

Under Bill C-14, NPs are permitted to administer medications for the purposes of MAID provided the client is eligible and the guidelines have been followed.⁵ In addition, NPs are authorized to prescribe medications to a client to self-administer. It may not be appropriate for an NP to provide MAID if he/she is not competent to perform the procedure or if an NP is not authorized to prescribe any controlled substances required for the procedure. In Ontario, NPs are authorized to prescribe all medications appropriate for patient care, except controlled substances.⁶ Federal regulations were amended in 2012 to permit NPs to prescribe controlled substances,⁷ however, the relevant provincial regulations in Ontario under the Nursing Act, 1991 have not yet been changed. This leaves Ontario as the only jurisdiction in Canada where NPs are not authorized to prescribe controlled drugs and substances. On Oct. 24, 2016, Minister of Health and Long-Term Care Eric Hoskins informed CNO that he "would like to see nurse practitioners in a position to prescribe controlled drugs and substances as soon as possible and no later than March 2017."^{8,9} On March 8, 2017, CNO announced that they are moving ahead with regulatory and by-laws changes to enable NPs to prescribe controlled drugs and substances as soon as possible. Enabling NPs to prescribe controlled substances will increase access to comprehensive primary health care and key areas such as end-of-life care including medical assistance in dying.

RNAO's submission to the federal expert panel on assisted dying made several recommendations to enhance the provision of medical assistance in dying. RNAO urged the government of Canada and provincial/territorial

governments to enact policy that is reflective of health professional-assisted death, involving registered nurses (RN) and nurse practitioners (NP) in addition to enacting legislation which protects physicians, RNs, NPs, and other health professionals from criminal prosecution when acting within their scope of practice and providing assisted death services.¹⁰ RNs and NPs are leaders in the delivery of palliative and end-of-life care and their full utilization can transform access to quality services for Ontarians. However, access to palliative care continues to be a challenge across the province. The Canadian Hospice Palliative Care Association reports that only 16-30 percent of Canadians who die have access to, or receive, hospice palliative and end-of-life-care services.¹¹ Access to adequate symptom control can be a challenge in the community, as visiting nurses are unable to access medical directives for controlled substances, and must rely on physician orders. Utilizing RNs and NPs to their full scopes of practice is a strategy that can substantially improve access to palliative care services. NPs are able to certify an expected death, and enabling RNs to do the same would improve the palliative and bereavement process for Ontarians and their families.

The government of Ontario has the ability to enact policy that recognizes the role that many health professionals play when it comes to medical assistance in dying. Since registered nurses represent the largest regulated health workforce in Canada,¹² and given their role in MAID as stated above, RNs should be included in the language of the proposed Bill.

Recommendation 1. For RNs to be included in the language of the Bill to protect their participation in MAID by amending all sections of the various Acts, including section 2(1) and 13.8(1)(2) of the *Excellent Care for All Act, 2010*.

- Amend section 2.(1) of the *Excellent Care for All Act, 2010* to include a definition of registered nurse
- Amend section 13.8(1)(2) [of the *Excellent Care for All Act* to include registered nurses in order to protect them from actions or other proceedings, damages and/or negligence claims when they assist in MAID

Recommendation 2. Proceed with giving nurse practitioners the authority to prescribe all controlled substances in accordance with federal regulations to ensure access to MAID.

Equitable Access

Nurses want to ensure that all Ontarians have access to quality publicly funded and not-for-profit palliative and end-of-life care. RNAO believes that no health professional or institution should be forced into providing assisted death services. However, RNAO insists that in cases of conflict of beliefs, health professionals and institutions must respect the law of the nation and have an obligation to make appropriate referral arrangements. Current federal legislation does not address how conscientious objections of physicians, nurse practitioners, or other health-care providers are managed. RNAO believes that health-care professionals who have a conscientious objection have a duty to refer patients to ensure equitable and timely access.

In their policy statement on medical assistance in dying, the College of Physicians and Surgeons of Ontario have outlined expectations for those who have a conscientious objection to providing medical assistance in dying. This includes:

- “Where a physician declines to provide medical assistance in dying for reasons of conscience or religion, the physician must do so in a manner that respects patient dignity. Physicians must not impede access to medical assistance in dying, even if it conflicts with their conscience or religious beliefs”
- “The physician must communicate his/her objection to medical assistance in dying to the patient directly and with sensitivity. The physician must inform the patient that the objection is due to personal and not clinical reasons. In the course of communicating an objection, physicians must not express personal moral judgments about the beliefs, lifestyle, identity or characteristics of the patient”
- “In order to uphold patient autonomy and facilitate the decision-making process, physicians must provide the patient with information about all options for care that may be available or appropriate to meet the patient’s clinical needs, concerns, and/or wishes. Physicians must not withhold information about the existence of any procedure or treatment because it conflicts with their conscience or religious beliefs”
- “Where a physician declines to provide medical assistance in dying for reasons of conscience or religion, the physician must not abandon the patient. An effective referral must be provided. An effective referral means a referral made in good faith, to a non-objecting, available, and accessible physician, nurse practitioner or agency. The referral must be made in a timely manner to allow the patient to access medical assistance in dying. Patients must not be exposed to adverse clinical outcomes due to delayed referrals”¹³

Recommendation 3. That a section be added to include the duty to refer by physicians and nurse practitioners who have a conscientious objection

Conclusion

RNAO is pleased to provide input to the Standing Committee on Finance and Economic Affairs regarding amendments to the various Acts with respect to medical assistance in dying under Bill 84. We believe that the practical and achievable recommendations described above will strengthen the bill and advance health service delivery that gives all Ontarians equitable and timely access to medical assistance in dying while protecting the health-care providers who administer and assist in MAID from litigation.

Thank you to the Standing Committee on Finance and Economic Affairs for giving us this opportunity to present our perspective and considering these recommendations.

References

- ¹ Registered Nurses' Association of Ontario (2011). End-of-life-Care During the Last Days and Hours. http://rnao.ca/sites/rnao-ca/files/End-of-Life_Care_During_the_Last_Days_and_Hours_0.pdf
- ² College of Nurses of Ontario. (2016). *Guidance on Nurses' Roles in Medical Assistance in Dying*. July 29. <http://cno.org/globalassets/docs/prac/41056-guidance-on-nurses-roles-in-maid-july-4-vfinal.pdf>
- ³ Parliament of Canada. (2016). *Bill C-14 An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)* <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=8183660>.
- ⁴ Ryder Wright Blair & Holmes LLP (2016). Medical Assistance in Dying Presentation #1. July. http://rnao.ca/sites/rnao-ca/files/LAP_webcat_-_MAID_1_1_0.pdf
- ⁵ libd
- ⁶ College of Nurses of Ontario. (2014). *NP Diagnostic and Prescriptive Authority*. Toronto: Author. <http://www.cno.org/en/learn-about-standards-guidelines/list-of-all-publications/amended-drug-laboratory-and-diagnostic-test-lists/>.
- ⁷ Government of Canada (2012). *New Classes of Practitioners Regulation*. <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2012-230/page-1.html>.
- ⁸ Hoskins, E. (2016). *Letter to the College of Nurses of Ontario*. Toronto: Author. October 24, 2016. <http://www.cno.org/globalassets/standard-online/ministerletter.pdf>.
- ⁹ Registered Nurses' Association of Ontario. (2017). *RNAO Feedback to the College of Nurses of Ontario: Nurse Practitioners' Authority to Prescribe Controlled Substances*. Toronto: Author. <http://rnao.ca/policy/letters>.
- ¹⁰ Registered Nurses' Association of Ontario. (2015). *Federal Consultation on Legislative Options for Assisted Dying. Submission to the Expert Panel for a Legislative Response to Carter v. Canada*. October 19. http://rnao.ca/sites/rnao-ca/files/RNAO_Submission_to_Federal_Assisted_Dying_Panel_-_FINAL.pdf
- ¹¹ Canadian Hospice Palliative Care Association: http://www.chpca.net/media/7622/fact_sheet_hpc_in_canada_march_2013_final.pdf
- ¹² College of Nurses of Ontario. Membership Totals at a Glance. <http://www.cno.org/en/what-is-cno/nursing-demographics/membership-totals-at-a-glance/>
- ¹³ College of Physicians and Surgeons of Ontario. (2016). *Policy Statement #4-16: Medical Assistance in Dying*. June. <http://www.cpso.on.ca/CPSO/media/documents/Policies/Policy-Items/medical-assistance-in-dying.pdf?ext=.pdf>