



The Nova Scotia College of Nursing (NSCN) is the regulatory body for licensed practical nurses (LPNs), registered nurses (RNs) and nurse practitioners (NPs) in Nova Scotia. Our mandate is to protect the public by promoting the provision of safe, competent, ethical and compassionate nursing services by our registrants. The term nurse in this document refers to LPNs, RNs and NPs unless otherwise stated.

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Introduction

The Nova Scotia College of Nursing is the regulatory body for licensed practical nurses (LPNs), registered nurses (RNs) and nurse practitioners (NPs) in Nova Scotia. Our mandate is to protect the public by promoting the provision of safe, competent, ethical and compassionate nursing services by its registrants.

This document provides guidance to nurses with respect to their accountabilities in providing or caring for persons who request medical assistance in dying (MAID).

The Criminal Code of Canada allows eligible clients to request that an NP or physician provide MAID by:

- (a) administering a substance that causes their death; or
- (b) prescribing or providing a substance so that they may self-administer the substance to cause their own death.

The Criminal Code defines eligibility requirements for persons requesting MAID and outlines the safeguards that nurses must follow when providing MAID. In addition to following the provisions in the Criminal Code, nurses are accountable to follow their standards of practice and code of ethics.

This updated document reflects the federal legislative changes that came into effect on March 17, 2021.

Nurses' Role in MAID

Only a NP or physician may administer, prescribe or provide a substance which causes death to an eligible person who is requesting MAID. RNs and LPNs may assist an NP or physician in providing care to a person requesting MAID but may not administer, prescribe or provide the substance that causes death.

Criminal Code Requirements for Providing MAID

1. DETERMINING ELIGIBILITY

Nurse practitioners who provide MAID are responsible for establishing the client's eligibility for MAID. The NP must ensure that a person who wishes to receive MAID meets all of the following eligibility criteria:

- be 18 years of age or older, and have decision-making capacity with respect to their health
- be eligible for government funded health care services (or would be eligible, but for any applicable minimum period of residence or waiting period)
- make a voluntary request for MAID that is not the result of external pressure
- give informed consent to receive MAID after having been informed of the means that are available to relieve their suffering, including palliative care
- have a grievous and irremediable medical condition, which is defined as:
 - having a serious and incurable illness, disease or disability, excluding a mental illness;
 - be in an advanced state of irreversible decline in capability; and
 - that the illness, disease or disability or that state of decline causes them enduring and intolerable physical or psychological suffering that cannot be alleviated under conditions the person considers acceptable

According to the Government of Canada, Canadians whose only medical condition is a mental illness, and who otherwise meet all eligibility criteria, will not be eligible for MAID until March 17, 2023. This includes conditions that are primarily within the domain of psychiatry, such as depression and personality disorders. It does not include neurocognitive and neurodevelopmental disorders, or other conditions that may affect cognitive abilities.

This temporary exclusion will provide the Government of Canada with more time to study how MAID on the basis of a mental illness can safely be provided and to ensure appropriate safeguards are in place to protect those persons.

Other outstanding important questions related to MAID—such as eligibility of mature minors, advance requests, mental illness, palliative care and the protection of Canadians living with disabilities—will be considered during a Parliamentary review of the MAID legislation that would commence by April 2021.

The Criminal Code of Canada requires that all clients requesting MAID need to have an assessment to determine if they have capacity to give informed consent to request and receive this intervention. Under this federal legislation, NPs and physicians have the authority to complete the capacity assessments required to confirm a client's eligibility for MAID. In addition, NP practice is further defined by provincial legislation set out in the [Personal Directives Act](#) that authorizes NPs to conduct capacity assessments.

2. ENSURING SAFEGUARDS ARE MET

The Criminal Code of Canada (section 241.2) has created a two-track approach to procedural safeguards based on whether or not a person's natural death is reasonably foreseeable.

The primary provider of MAID (either an NP or physician), must ensure that the following safeguards have been met prior to administering MAID:

	Natural Death is Foreseeable	Natural Death Not Reasonably Foreseeable
Eligibility Criteria	Be of the opinion that the person meets all of the eligibility criteria to obtain MAID	Be of the opinion that the person meets all of the eligibility criteria to obtain MAID
Written Request	Ensure that the person's request for MAID was: <ol style="list-style-type: none">1. Made in writing, and signed and dated by the person requesting MAID, and2. Signed and dated after the person was informed by a NP or physician that the person has a grievous and irremediable medical condition;3. Signed and dated before an independent witness who then also signed and dated the request.	Ensure that the person's request for MAID was: <ol style="list-style-type: none">1. Made in writing, and signed and dated by the person requesting MAID, and2. Signed and dated after the person was informed by a NP or physician that the person has a grievous and irremediable medical condition;3. Signed and dated before an independent witness who then also signed and dated the request;

	Natural Death is Foreseeable	Natural Death Not Reasonably Foreseeable
Independent Witness	<p>An independent witness is:</p> <p>Any person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying may act as an independent witness, except if they:</p> <ol style="list-style-type: none"> 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; are an owner or operator of any health care facility at which the person making the request is being treated or any facility in which that person resides; are directly involved in providing health care services to the person making the request; or directly provide personal care to the person making the request. <p>However, persons, such as physicians, NPs, nurses and other persons who provide health care services or personal care for their primary occupation and who are paid to provide care to the person requesting MAID ARE permitted to act as an independent witness, except for:</p> <ul style="list-style-type: none"> the NP or physician who will provide MAID to that person; and the NP or physician who provided a opinion that a person meets the eligibility criteria for receiving MAID 	<p>An independent witness is:</p> <p>Any person who is at least 18 years of age and who understands the nature of the request for medical assistance in dying may act as an independent witness, except if they:</p> <ol style="list-style-type: none"> 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; are an owner or operator of any health care facility at which the person making the request is being treated or any facility in which that person resides; are directly involved in providing health care services to the person making the request; or directly provide personal care to the person making the request. <p>However, persons, such as physicians, NPs, nurses and other persons who provide health care services or personal care for their primary occupation and who are paid to provide care to the person requesting MAID ARE permitted to act as an independent witness, except for:</p> <ul style="list-style-type: none"> the NP or physician who will provide MAID to that person; and the NP or physician who provided a opinion that a person meets the eligibility criteria for receiving MAID
Written Request – if client is unable to sign	<p>If the person is unable to sign and date their request for MAID, another person may do so in the client's presence and under the client's express direction if the other person:</p> <ul style="list-style-type: none"> is at least 18 years of age, who understands the nature of the request for medical assistance in dying and; does not know or believe that they are a beneficiary under the will of the person making the request, or is a recipient, in any other way, of a financial or other material benefit resulting from that person's death 	<p>If the person is unable to sign and date their request for MAID, another person may do so in the client's presence and under the client's express direction if the other person:</p> <ul style="list-style-type: none"> is at least 18 years of age, who understands the nature of the request for medical assistance in dying and; does not know or believe that they are a beneficiary under the will of the person making the request, or is a recipient, in any other way, of a financial or other material benefit resulting from that person's death

	Natural Death is Foreseeable	Natural Death Not Reasonably Foreseeable
Withdrawal of Request	Ensure that the person has been informed that they may, at any time and in any manner, withdraw their request.	Ensure that the person has been informed that they may, at any time and in any manner, withdraw their request.
Independent Second Opinion	<p>Ensure that another independent NP or physician has provided a written opinion confirming that the person meets all of the eligibility criteria to obtain MAID;</p> <p>Independent means they:</p> <ul style="list-style-type: none"> • are not a mentor to the other practitioners or responsible for supervising their work; • do 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, other than standard compensation for their services relating to the request; and • do not know or believe that they are connected to the other practitioner or to the person making the request in any other way that would affect their objectivity 	<p>Ensure that another independent NP or physician has provided a written opinion confirming that the person meets all of the eligibility criteria to obtain MAID;</p> <p>Independent means they:</p> <ul style="list-style-type: none"> • are not a mentor to the other practitioners or responsible for supervising their work; • do 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, other than standard compensation for their services relating to the request; and • do not know or believe that they are connected to the other practitioner or to the person making the request in any other way that would affect their objectivity
Expertise in Condition	N/A	If neither the NP or primary physician or the NP or independent physician has expertise in the condition that is causing the person’s suffering, ensure that the NP or primary or independent physician consult with an NP or physician who has that expertise and share the results of that consultation with the other practitioner.

Natural Death is Foreseeable		Natural Death Not Reasonably Foreseeable
Means available to relieve suffering	N/A	<p>Ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care, and has been offered consultations with relevant professionals who provide those services or that care.</p> <p>Ensure that they and the NP or independent physician have discussed with the person the reasonable and available means to relieve the person's suffering and they and the NP and the independent physician agree with the person that the person has given serious consideration to those means.</p>
Waiting Period	N/A	<p>Ensure that there is at least 90 clear days between the day on which the first assessment under this section of whether the person meets the eligibility criteria for MAID begins and the day on which MAID is provided to them, OR if the assessments have been completed and they and the independent NP/physician are both of the opinion that the loss of the person's capacity to provide consent to receive MAID is imminent - any shorter period that the first NP/physician considers appropriate in the circumstances.</p>
Difficulty Communicating	If the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information provided to them and communicate their decision.	If the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information provided to them and communicate their decision.
Opportunity to withdraw request and ensure Final Consent	Immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive MAID.	Immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person gives express consent to receive MAID.

	Natural Death is Foreseeable	Natural Death Not Reasonably Foreseeable
Final Consent Waiver	<p>An NP or physician may administer MAID to a person without obtaining final consent if:</p> <ul style="list-style-type: none"> (a) Before the person loses the capacity to consent to receiving MAID, <ul style="list-style-type: none"> a. They meet all of the eligibility criteria to receive MAID and all safeguards were met; b. They entered into a written arrangement with the NP or physician that the NP or physician would administer MAID on a specified day; c. They were informed by the NP/physician of the risk of losing the capacity to consent to receiving MAID prior to the day specified in the arrangement; and d. In the written arrangement, they consented to the administration by the NP/physician of a substance to cause their death on or before the day specified in the arrangement if they lost their capacity to consent to receiving MAID prior to that day. (b) The person has lost the capacity to consent to receiving MAID; (c) The person does not demonstrate, by words, sounds or gestures, refusal to have the substance administered or resistance to its administration; and (d) The substance is administered to the person in accordance with terms of the arrangement <p>For greater clarity, involuntary words, sounds or gestures made in respect to contact do not constitute a demonstration of refusal or resistance.</p>	N/A

Waiver of Final Consent in the Context of Self-administration

Eligible persons who choose to pursue MAID through self-administration are allowed to make arrangements with their practitioner to waive the need for final consent, to allow for an NP or physician to follow through with providing MAID to the person should self-administration produce complications and cause the individual to lose decision-making capacity. This type of waiver of final consent is available for all eligible persons, regardless of their prognosis.

The NP may administer a substance to cause the death of that person if:

- (a) Before the person loses the capacity to consent to receiving MAID, they and the NP enter into a written arrangement providing that the NP would:
 - a. Be present at the time the person self-administered the first substance, and
 - b. Administer a second substance to cause the person's death if, after self-administering the first substance, the person lost the capacity to consent to receiving MAID and did not die within a specified period;
- (b) The person self-administers the first substance, does not die within the period specified in the arrangement and loses the capacity to consent to receiving MAID; and
- (c) The second substance is administered to the person in accordance with the terms of the arrangement.

Accountabilities in Foreseeable and Not Reasonably Foreseeable Death

The Criminal Code requires that MAID must be provided with reasonable knowledge, care and skill and in accordance with any applicable provincial laws, rules or standards. Nurses who fail to comply with the legal requirements of the Criminal Code may be convicted of a criminal offence.

Nurses are required to follow agency and employer policies for MAID.

It is important to keep in mind that NPs are accountable to both the RN Standards of Practice and the NP Standards of Practice.

The LPN Standards of Practice that are applicable to MAID include:	The RN Standards of Practice that are applicable to MAID include:	The NP Standards of Practice that are applicable to MAID include:
<ul style="list-style-type: none">• Standard 1: Professional Accountability and Responsibility• Standard 2: Knowledge- Based Practice• Standard 3: Service to the Public and Self-Regulation• Standard 4: Ethical Practice	<ul style="list-style-type: none">• Standard 1: Responsibility and Accountability• Standard 2: Knowledge- Based Practice• Standard 3: Client –Centered Relationships• Standard 4: Professional Relationships and Leadership• Standard 5: Individual Self-Regulation	<ul style="list-style-type: none">• Standard 1: Responsibility and Accountability• Standard 3: Assessment and Diagnosis• Standard 4: Client Care Management• Standard 5: Individual Self-Regulation

Nurses always have and will continue to have a major role in providing care to clients and their families at end of life, including for those clients that have chosen MAID. As with any other nursing care, nurses must ensure they have the knowledge, skills and abilities to provide safe, competent, ethical and compassionate care to clients whether the client's death is foreseeable or not reasonably foreseeable.

In order for LPNs and RNs to meet their standards of practice requirements it is important to consider their accountabilities related to MAID in compliance with Criminal Code of Canada.

The following section provides an overview of the nurse's accountabilities when working with clients inquiring about MAID and the respective nursing standards that apply please refer to these standards in relation to the nursing accountabilities.

Client Discussions and Confidentiality (LPN Standard 2, 3 and 4, RN Standard 3)

- Provide information about the lawful provision of MAID when requested by a client.
- Share information and engage in discussions about the clients request for MAID in the context of a conversation about all other end of life care options including palliative care.
- Be aware that counselling suicide, in the sense of encouraging, soliciting or inciting suicide, is a criminal offence.
- Ensure client-centered conversation when answering questions
- Refer the client to the NP or Physician
- Promptly inform the client's primary care provider (NP or physician) and other appropriate members of the health care team as appropriate of the client's requests
- Document the encounter in the client's record
- Ensure client confidentiality is maintained in providing all aspects of nursing care for clients receiving MAID

Client Eligibility (LPN Standard 1, RN Standard 4)

- LPNs and RNs who are assisting in MAID as a member of the health care team are not permitted to determine the client's eligibility
- Nurses role in providing care to persons receiving MAID;
 - Discuss the client's request for assisted dying with other members of the healthcare team
 - Review the client record
 - Review the client's written request for assisted dying
 - Follow any employer or agency policy regarding your participation in MAID
- If you know or reasonably believe that, the client does not meet the eligibility criteria you must immediately raise your concerns with the healthcare team, your manager or others as necessary.

Administration of MAID Medication (LPN Standard 1, RN Standard 5)

- LPNs and RNs **are not authorized** to administer the medication that causes the client's death under any circumstances, even if requested by the providing NP/Physician and/or the client
- LPNs and RNs may assist in the administration of the medication, including engaging in the following activities, at the direction of the NP/Physician where the safeguards have been met:
 - insert an intravenous line that will later be used to administer the medication
 - be present during the administration of the medication to provide holistic nursing interventions to meet the needs of the client and their family during the dying process
- In the case of the client seeking to self-administer the medication, passing oral medication to the client, so long as the client explicitly asks for your assistance. In this scenario, you should refrain from any activities that may be viewed as the actual administration of the medication, such as placing oral medication in the client's mouth or pushing the medication into the client's intravenous line.

Witnessing a Written Request for MAID (LPN Standard 1, RN Standard 2)

- Clients wishing to receive MAID submit a written, signed and dated request to their providing NP or physician after they have received their diagnosis and condition. Clients may ask nurses to witness their signature and you may act as a witness as long as you:
 - recognize that the document is a formal request for MAID
 - are not or reasonably believe that you are not a beneficiary under the client's will or will receive a financial or other material benefit from the client's death
 - are not an owner or operator of a health care facility where the client is being treated or any facility in which the client resides
 - are paid to provide nursing care

Documentation of Nursing Discussions and Care Provided (LPN Standard 1, RN Standard 2)

- Clear and comprehensive documentation while following agency policy and applicable documentation guidelines are required and, in addition, should include:
 - who initiated the conversation;
 - questions asked and information provided;
 - the identity of the persons present;
 - the name of the provider that administers the medication, where applicable

Conscientious Objection (LPN Standard 4, RN Standard 5)

- All nurses have the responsibility to recognize ethical conflicts that may arise over the course of providing nursing services. Nurses have the obligation to fully understand the employer obligations in providing services to clients that may be a moral conflict to the nurse and addressing these with your employer.
- If MAID is in conflict with your moral beliefs and values, you may decline to participate in any aspect of client care connected to MAID. If you chose not to participate on these grounds, you must promptly inform your employer or your client if you are self-employed.
- You must continue to provide safe, competent, ethical and compassionate care until alternative arrangements can be made to meet the client's needs or wishes.

In order for NPs to meet their standards of practice requirements it is important to consider their accountabilities related to MAID in compliance with the Criminal Code of Canada.

The following section provides an overview of the NP's accountabilities when working with clients requesting MAID and the respective standards that apply please refer to these standards in relation to the nursing accountabilities.

Client Discussions (RN Standard 3, NP Standard 1 and 3)

- Share information and engage in discussions about the lawful provision of MAID with their clients
- Clients that have difficulty communicating require that all necessary measures are provided as a reliable means by which the client may understand the information that is provided and communicate their decision
- Be aware that counselling suicide, in the sense of encouraging, soliciting or inciting suicide, is a criminal offence
- You cannot act on a MAID request set out in a personal directive or similar document
- You cannot act on a MAID request on the direction of anyone other than the client, including a substitute decision maker

Client Eligibility (RN Standard 4, NP Standard 3)

- Ensure the client meets the required eligibility criteria and complete any checklists as required
- If you know or reasonably believe that, the client does not meet the eligibility criteria you must immediately raise your concerns with the healthcare team, your manager or others as necessary
- Follow any employer or agency policy regarding MAID

Administration of MAID Medication (NP Standard 1 and 4)

- NPs are authorized to prescribe and administer MAID medications
- The MAID medication may be prescribed or administered by either the first or the second MAID provider at the client's request. The MAID provider who prescribes or obtains medication for the purpose of providing medical assistance in dying must, before any pharmacist dispenses the medication, confirm in writing to the pharmacist that:
 - the medication is for a specified client;
 - the medication is intended for MAID for that specified client; and
 - the specified client meets the eligibility criteria
- A MAID provider must give a pharmacist reasonable notice that a prescription for MAID medication will be requested
- The MAID provider must also plan for proper disposal or return of unused MAID medications
- Follow relevant employer and/or agency policy regarding the prescription, use, storage and return of MAID medications

Assessment and Diagnosis (NP Standard 3)

- NPs complete a comprehensive client assessment prior to prescribing MAID, including all client health conditions when developing a diagnosis and discussing treatment options with clients, including if the client pursues MAID as a possibility.

Competencies (NP Standard 1)

- NPs are accountable to attain the knowledge, skill and judgement to provide MAID services to clients. Once the required competencies are gained, they are able to provide care for the client including capacity assessments, administering the MAID medication and reporting according to federal and provincial legislation.

Confidentiality (NP Standard 3)

- NPs are responsible to advocate for their clients privacy and dignity as they seek/ receive MAID as their choice for their end of life care.
- NPs have an ethical and legal responsibility to respect a client's informed choice and to support that choice as they provide care.

Documentation (NP Standard 1)

- NPs must document in the client record that all steps in this guideline have been met. In addition, they must comply with the [Documentation Guidelines](#) and should be familiar with any applicable agency or employer policy.
- NPs must comply with guidelines established by the federal Minister of Health respecting information to be included on death certificates in cases where MAID has been provided, as well as related requirements from Nova Scotia Vital Statistics and the Nova Scotia Medical Examiner Service.
- NPs must comply with all documentation and reporting requirements set out in any federal regulations.

Consent (NP Standard 4)

- NPs are authorized to assess clients to determine their eligibility to receive MAID as per eligibility guidelines outlined in the Criminal Code of Canada (241.2).
- Ensuring clients are receiving the proper information to answer their questions that enable them to make an informed decision is imperative prior to obtaining the clients consent.

Conscientious Objection (RN Standard 5)

- All nurses have the responsibility to recognize ethical conflicts that may arise over the course of providing nursing services. Nurses have the obligation to fully understand the employer obligations in providing services to clients that may be a moral conflict to the nurse and addressing these with your employer.
- If MAID is in conflict with your moral beliefs and values, you may decline to participate in any aspect of client care connected to MAID. If you chose not to participate on these grounds you must promptly inform your employer or your client if you are self-employed.
- You must continue to provide safe, competent, ethical, and compassionate care until alternative arrangements can be made to meet the client's needs or wishes.

Monitoring Regulations

The revised Criminal Code of Canada (241.31 (3) regulations for the monitoring of MAID outline the reporting requirements for health care providers, including NPs, who participate in any aspect of MAID and include:

- Allowing for the collection of data on all assessments following a person's request for MAID; and
- Modifying the Minister of Health's regulation-making power to:
 - expand data collection related to race, Indigenous identity and disability
 - seek to determine the presence of individual or systemic inequality or disadvantage in the context of or delivery of MAID

Conclusion

Nurses are required to follow agency and employer policies for MAID. If nurses have a practice concern related to legalities and interpretation of the MAID provisions in the Criminal Code, they are encouraged to reach out to their liability providers. Licensed practical nurses can contact [Lloyd Sadd](#) and RNs and NPs may contact the [Canadian Nurses Protective Society](#).

Nurses who fail to comply with their standards of practice and/or code of ethics could be subject to a regulatory complaint and be subject to disciplinary sanctions by NSCN. If you would like to speak with an NSCN Practice Consultant related to MAID or your accountabilities under the standards of practice and/or code of ethics, please contact us at practice@nscn.ca.