

Medical Assistance in Dying (MAID) Federal Monitoring

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Monitoring of Medical Assistance in Dying

Presentation Overview

- Legislation on Medical Assistance in Dying (MAID)
- Value of Monitoring
- Context for the development of regulations for monitoring medical assistance in dying
- Federal consultation activities and issues raised
- Timelines for final regulations and implementation
- How reporting would work
- When and what to report
- Other federal activities

Presenter Disclosure

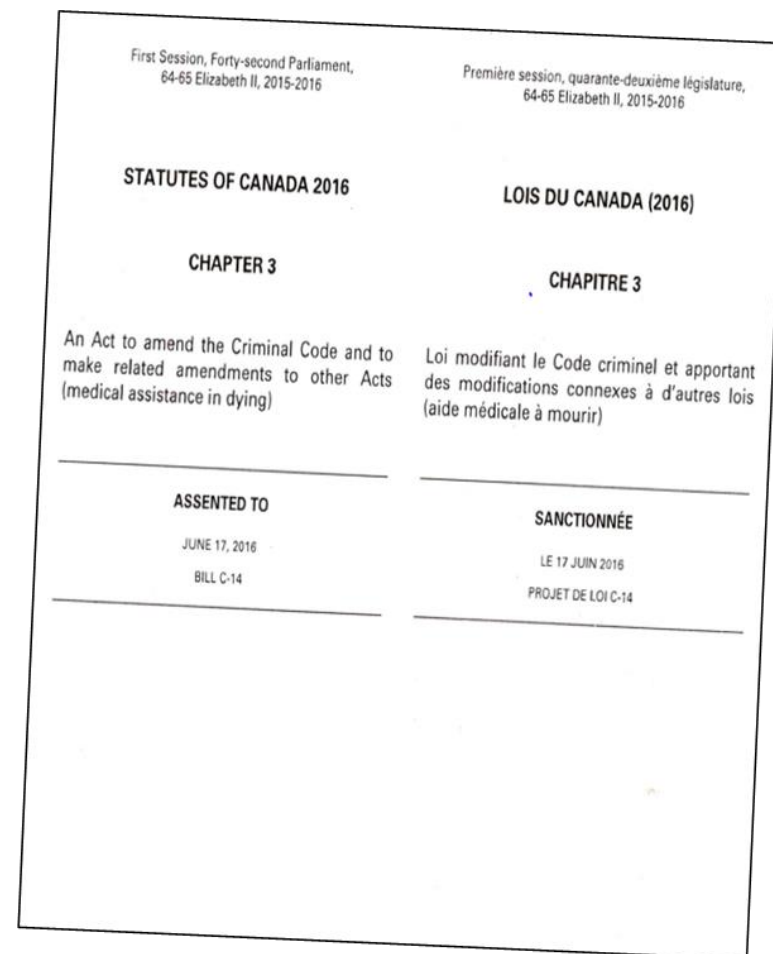
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Medical Assistance in Dying Legislation

An Act to amend the Criminal Code (medical assistance in dying) was passed in June 2016 allowing MAID to be provided by a medical practitioner (physician) or nurse practitioner for patients who meet the eligibility requirements, and allowing pharmacists to dispense a substance for the purpose of MAID.

The practitioner may provide MAID by administering a substance to a person (“clinician-administered”) or by prescribing or providing a substance to a person so they may “self-administer”.

The *Act* requires the federal Minister of Health to make regulations for the purpose of monitoring MAID across Canada.



The value of monitoring

Throughout the judicial and legislative processes preceding the passage of the legislation, a robust, pan-Canadian monitoring system was seen as essential to permitting MAID.

Monitoring refers to the collection and analysis and public dissemination of data to provide insight into the implementation of the *Criminal Code* exemptions which permit MAID in Canada. The pan-Canadian monitoring regime will support:

- Public accountability and transparency
- Reporting on the application of the eligibility criteria and procedural safeguards set out in the legislation
- Identification of trends in requests for, and the provision of, MAID
- Insight into whether the legislation is meeting its objectives
- Access to data by researchers for independent analysis and research

Oversight refers to the review of individual cases to determine whether applicable laws have been complied with. This is generally a provincial/territorial responsibility.

Context for regulation development - federal legislation

Establishes the scope of the regulations:

- provision of information relating to requests for, and provision of, MAID
- filing obligations for medical practitioners/nurse practitioners, and pharmacists

Requires the regulations to clearly indicate:

- Who is required to provide information
- The information to be provided, in what circumstances, and when
- To whom information must be provided
- The use of the information

Establishes criminal offences specific to health care professionals for:

- Knowingly failing to comply with safeguards in providing MAID
- Knowingly failing to provide information for the purpose of monitoring MAID

Context for regulation development - other considerations

Constitutional division of responsibility

- Federal government responsible to monitor Criminal Code exemptions; monitoring health care delivery is provincial/territorial jurisdiction
- Professional discipline and law enforcement are primarily provincial

Provider perspective

- Potential duplication with provincial/territorial reporting
- Federal reporting is rare
- Implications for failing to report

Public policy issue

- MAID is new, uniquely sensitive and complex
- Importance of protecting the privacy of patients and providers
- Spans law, medicine, ethics, etc.

Consultation on draft regulations

- Pre-regulatory consultation (Spring 2017)
- Public Consultation (December 16, 2017 – February 13, 2018)
- Canadian Association of MAID Assessors and Providers – CAMAP (Winter 2018)
- Ongoing discussions between the federal government and provinces and territories

Issues raised through the consultation activities

Burden on providers reporting similar information to multiple authorities

- Provincial and territorial governments were given the option of nominating a designated recipient (DR) for their individual jurisdictions

Amount and complexity of the information requested

- Striking a balance between minimizing reporting burden and the need for information
- Limiting the number of questions
- Looking to other sources of data

Concerns about the use and protection of information

- Federal monitoring activities are subject to the provisions of the federal Privacy Act
- Privacy impact assessment will be conducted

Length and alignment of timelines for reporting

- Reporting timelines extended in some cases
- Timelines aligned as much as possible depending upon the reporting scenarios

Issues raised (continued)

Clarity on compliance with reporting requirements

- Developing guidance materials to help practitioners and pharmacists fulfill their reporting obligations; where it is the designated recipient, Health Canada to follow-up on incomplete reports in fulfilling its monitoring function
- Determining compliance with, and enforcing legislation, are the responsibility of local law enforcement

Clear and timely information for providers on what and how to report

- Development of guidance documents
- Collaborative efforts to communicate requirements and processes
- Health Canada, in collaboration with Statistics Canada, is developing an electronic portal for the collection of MAID data

Timelines for final regulations and implementation



- Publication of the proposed regulations in CGI (December)
- Ongoing collaboration with Statistics Canada to develop an online electronic portal for data collection and analysis



- 60-day comment period on proposed regulations (Dec 2017 – Feb 2018)
- Technical briefings / targeted meetings with groups representing key stakeholders



- Regulations are revised based on stakeholder/public feedback
- A secure online data collection portal is developed and tested
- Development of guidance documents and education materials for providers

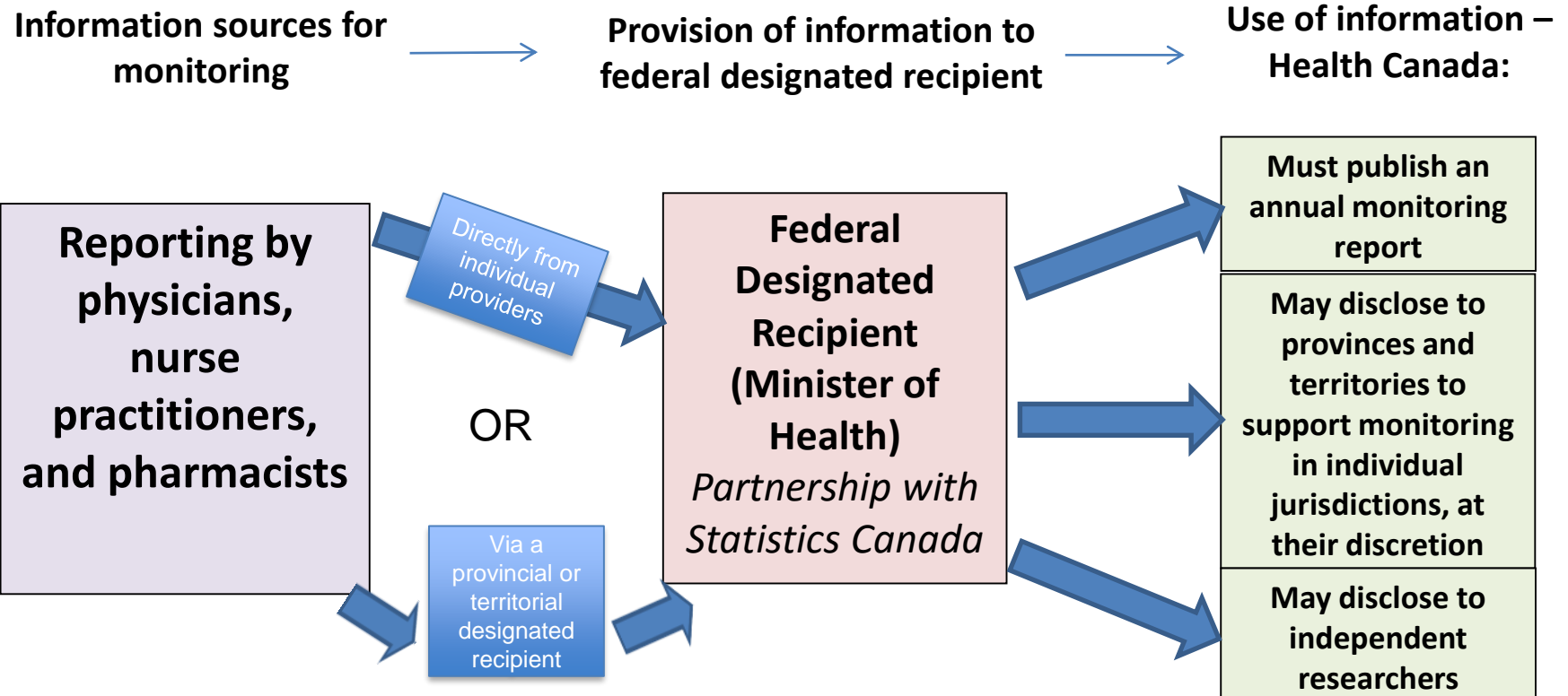


- Final regulations are published in Canada Gazette II
- Provider engagement and education



- Reporting requirements for providers come into force
- Data collection pursuant to the regulations begins

How will it work?



Jurisdictions with Federal Designated Recipient	Jurisdictions requesting a Provincial or Territorial Designated Recipient
Manitoba, New Brunswick, Prince Edward Island, Nova Scotia, Yukon, Newfoundland and Labrador, Ontario (hybrid)	British Columbia - > Ministry of Health Alberta - > Ministry of Health Saskatchewan - > Saskatchewan Health Authority Quebec - > Commission sur les soins de fin de vie Northwest Territories - > Ministry of Health & Social Services Nunavut - > Ministry of Health Ontario - > Ontario Chief Coroner

Practitioners: When to report

Practitioner receives a patient's written request for MAID

Receiving a written request for MAID

Any written request asking for the provision of MAID can trigger reporting, as long as it:

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

Unlike the written request that is required as a safeguard under the legislation, the written request that triggers the monitoring requirement does not necessarily need to be signed, dated, or witnessed.

PRACTITIONER DID NOT PROVIDE MAID

Reporting is required if any of the following outcomes occurs within 90 calendar days of the receipt of the request

A. Practitioner refers patient elsewhere

B. Practitioner finds the patient ineligible

C. Practitioner becomes aware of withdrawal of request

D. Practitioner becomes aware of the patient's death from a cause other than MAID

In the event of outcome A, B, C or D, the practitioner would report the outcome within 30 calendar days of its occurrence

PRACTITIONER PROVIDED MAID

Reporting is ALWAYS required, regardless of time elapsed since receipt of the request

E. Practitioner administers a substance

F. Practitioner prescribes or provides a substance for self-administration

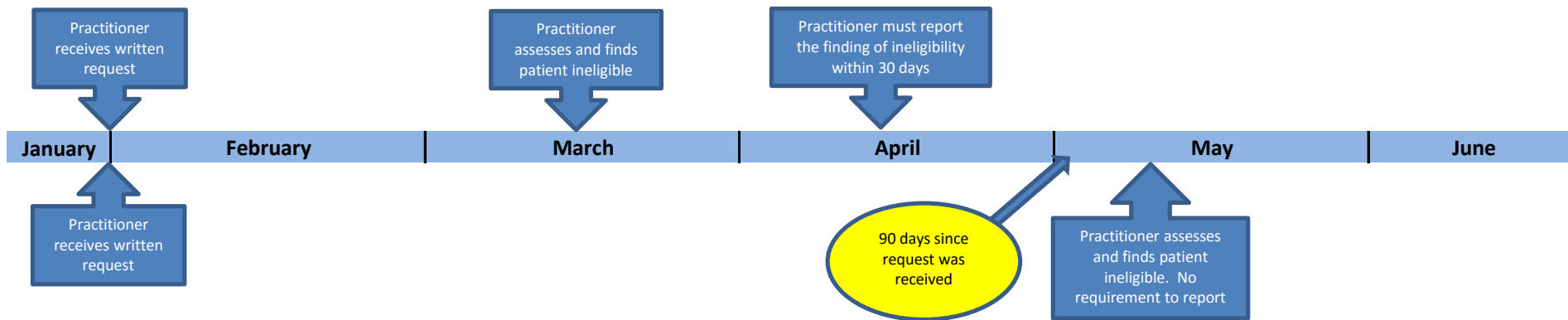
E. Would report within 30 calendar days of administering a substance

F. Would report between 90-120 calendar days of prescribing or providing a substance (may be fewer than 90 days if the patient has died, of any cause)

Timelines for reporting when MAID is not provided - example

A practitioner receives a written request for MAID on February 1, 2019

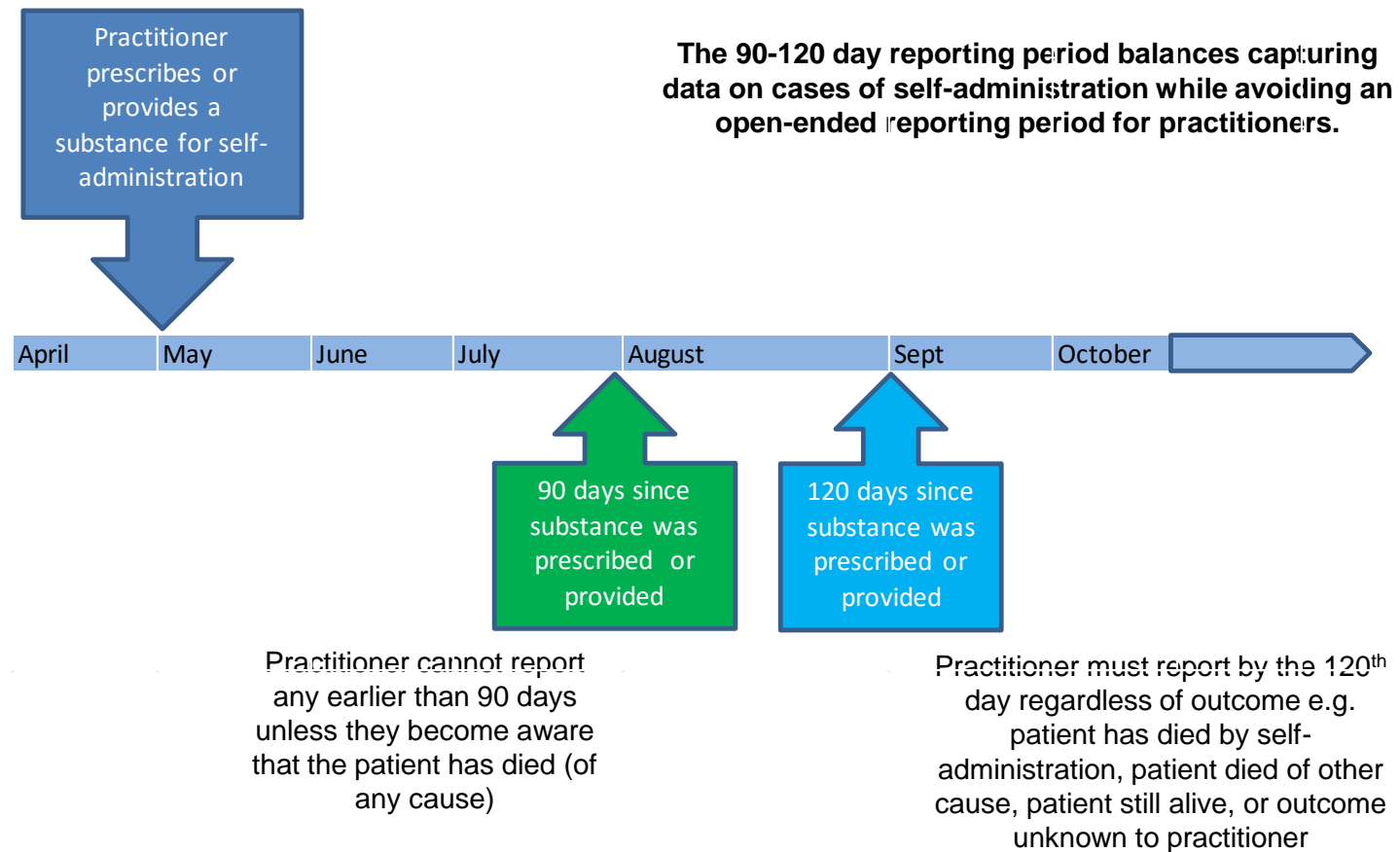
Scenario A: the practitioner assesses the patient on March 15 and finds the patient ineligible. Reporting is required within 30 days (by April 14).



Scenario B: the practitioner assesses the patient on May 10th and finds the patient ineligible. No reporting is required, as more than 90 days have elapsed since receipt of the request.

Timelines for reporting when a practitioner prescribes or provides a substance for self-administration* - example

A practitioner prescribes or provides a substance for self-administration on May 1, 2019



* Timelines differ for Ontario practitioners reporting to the Ontario Chief Coroner

Practitioners – what to report

OUTCOME <i>Following receipt of the patient's written request</i>	<i>Basic information regarding the patient, practitioner, and request</i>	<i>Application of eligibility criteria and related information</i>	<i>Application of procedural requirements</i>	<i>Provision of MAID — administering substance</i>	<i>Provision of MAID — prescribing/ providing substance</i>	<i>Other information</i>	<i>Timeline to provide information</i>
<i>Provision of medical assistance in dying by administering a substance</i>	✓	✓	✓	✓	—	—	Within 30 days of administering a substance
<i>Provision of medical assistance in dying by prescribing or providing a substance for self-administration</i>	✓	✓	✓	—	✓	—	90–120 days after prescribing or providing a substance, unless the practitioner becomes aware of death from any cause in <90 days
<i>Determination of ineligibility</i>	✓	✓	—	—	—	Whether patient became ineligible after previously being found eligible	Within 30 days of the determination of ineligibility
<i>Withdrawal of request by the patient</i>	✓	✓ If patient had been found eligible prior to withdrawal	—	—	—	Reasons for withdrawal, if known; whether withdrawal occurred after having been given an opportunity to do so per the <i>Criminal Code</i>	Within 30 days of becoming aware of the patient's withdrawal of the request
<i>Referral or transfer of care in response to the written request</i>	✓	—	—	—	—	Information on referral	Within 30 days of referring or directing the patient
<i>Death of patient from another cause</i>	✓	✓ If patient had been found eligible prior to death from another cause	—	—	—	Date and cause of death (immediate and underlying), if known	Within 30 days of practitioner becoming aware of the patient's death from another cause

Pharmacists: When and what to report

Pharmacists would report within 30 days of dispensing a substance for the purpose of providing MAID. Information requested on the:

Patient

- date of birth; health insurance number and issuing province

Pharmacist

- name; licence number and issuing province; contact information

Prescriber

- name; licence number and issuing province

Date and type of pharmacy

- e.g., hospital, community in which substance was dispensed

Federal activities beyond regulatory development

Completed

- Established guidelines on the information to be included on death certificates in cases where MAID has been provided.

Current

- Ongoing collaboration with the provincial/territorial governments regarding implementation
- Publishing interim reports on MAID using information provided from the provinces and territories until regulations for the monitoring of MAID are in force
- Council of Canadian Academies is conducting independent reviews of issues relating to:
 - Requests by mature minors
 - Requests where mental illness is the sole underlying medical condition
 - Advance requests(Federal Ministers of Health and Justice to table reports on independent reviews in Parliament by December 2018)

Upcoming

- Parliamentary review of the provisions of the legislation (and the state of palliative care in Canada), to commence five years after coming into force.

Key sources of information

Government of Canada webpage on medical assistance in dying:

<http://www.canada.ca/en/health-canada/services/medical-assistance-dying.html>

Legislation amending the *Criminal Code* (medical assistance in dying)

http://laws-lois.justice.gc.ca/eng/AnnualStatutes/2016_3/FullText.html

Backgrounder on the legislation

<http://www.justice.gc.ca/eng/rp-pr/other-autre/ad-am/>

Draft regulations for monitoring of medical assistance in dying (Canada Gazette I):

<http://www.gazette.gc.ca/rp-pr/p1/2017/2017-12-16/html/reg6-eng.html>

Federal guidelines for the completion of death certificates in cases where MAID is provided

<https://www.canada.ca/en/health-canada/services/publications/health-system-services/guidelines-death-certificates.html>

2nd interim report on medical assistance in dying (data on MAID deaths, January– June 2017)

<https://www.canada.ca/en/health-canada/services/publications/health-system-services/medical-assistance-dying-interim-report-sep-2017.html> (3rd report to be published in May 2018)

Independent Reviews (Council of Canadian Academies website):

<http://www.scienceadvice.ca/en/assessments/in-progress/medical-assistance-dying.aspx>

Volunteers for testing questions to be included in reporting portal?

Thank you

For inquiries, contact:

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