

End of Life Planning: Medical Assistance in Dying

On June 17, 2016, medical assistance in dying (“MAiD”) was legalized across Canada. MAiD is not a legal process; it is a health care procedure.

Methods

There are two different methods of obtaining MAiD that are available to eligible persons:

1. Voluntary euthanasia: A medical practitioner or a nurse practitioner administers a substance to a person at the person’s request that causes the person’s death; and
2. Assisted dying: A medical practitioner or a nurse practitioner prescribes or provides a substance to a person at the person’s request so that the person may self-administer the substance that causes the person’s death.



Eligibility

In order to access MAiD, a person must meet all of the following eligibility criteria:

1. Be eligible for health services funded by a government in Canada, including a person who would be eligible but for any applicable minimum period of residence or waiting period (this requirement is intended to prevent death tourism in Canada);
2. Be at least 18 years of age and capable of making decisions with respect to their health;
3. Have a grievous and irremediable medical condition;
4. Have made a voluntary request for MAiD that was not made as a result of external pressure; and
5. Give informed consent to receive MAiD after having been informed of the means available to relieve their suffering, including palliative care.

Grievous and Irremediable Condition

In order for a person’s condition to be considered “grievous and irremediable”, all of the following criteria must be met:

- a. The person must have a serious and incurable illness, disease, or disability;
- b. The person must be in an advanced state of irreversible decline in capability;
- c. The illness, disease or disability, or the state of decline, must cause the person enduring physical or psychological suffering that is intolerable to them and cannot be relieved under conditions the person considers acceptable; and
- d. The person’s natural death must have become reasonably foreseeable, taking into account all of the person’s medical circumstances (though it is not necessary that a medical prognosis has been made as to the specific length of time the person will continue to live).

Most importantly, anyone seeking to access MAiD must be capable of making health care decisions at the time they request MAiD and also at the time MAiD is administered.

For further information regarding MAiD, please refer to the Government of Canada website at <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html> and contact your local health care providers.

If you have questions about your end of life planning, please do not hesitate to contact one of our lawyers in our [Wills, Estates + Trusts Practice Group](#).