Providing MAID During COVID-19

Ethical Issues

Thaddeus Mason Pope
April 21, 2020

1

Disclosures

2

Not a MAiD assessor or provider

Not a physician or NP

Not Canadian

No other disclosures

3

U.S. law professor

EOL law, policy, ethics

VSED, MAID

4

FULBRIGHT CANADA

5

Macro issues

Clinician- Pt issues

6

Macro issues

7


Medical assistance in dying services being cancelled in Ottawa, Hamilton areas

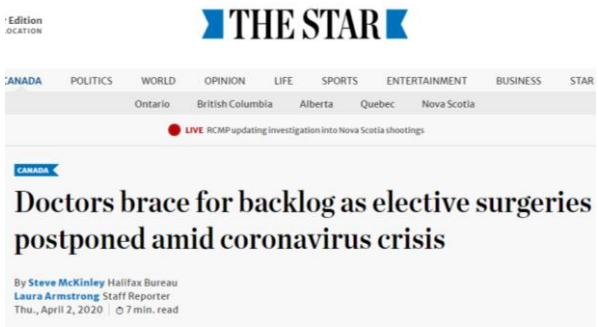
KELLY GRANT › HEALTH REPORTER
PUBLISHED MARCH 27, 2020

THE GLOBE AND MAIL

8

Makes sense to **reallocate** resources to COVID-19

9


THE STAR

CANADA POLITICS WORLD OPINION LIFE SPORTS ENTERTAINMENT BUSINESS STAR
Ontario British Columbia Alberta Quebec Nova Scotia
LIVE RCMP updating investigation into Nova Scotia shootings

CANADA

Doctors brace for backlog as elective surgeries postponed amid coronavirus crisis

By Steve McKinley Halifax Bureau
Laura Armstrong Staff Reporter
Thu., April 2, 2020 | 7 min. read

10

"ramping down … **non-emergent** clinical activity"

11

BUT

12

Is MaiD really **non**-essential?

13

"grievous & irremediable medical condition"

14

"physical or psychological **suffering that is intolerable**"

15

16

17

3 solutions

18

1

19

20

Early experience with medical assistance in dying in Ontario, Canada: a cohort study

James Downar MDMC MHSc, Robert A. Fowler MDCM MS(Epi), Roxanne Halko RN MPH, Larkin Davenport Huyer MPH, Andrea D. Hill PhD, Jennifer L. Gibson PhD

■ Cite as: *CMAJ* 2020 February 24;192:E173-81. doi: 10.1503/cmaj.200016; early-released February 12, 2020

"10-day reflection period was **shortened** in 26.6% of all cases."

21

Others **can** wait

22

Some do not **want** to wait

23

24

June 22, 2020

25

26

2

27

Expand access
by relaxing rules

28

29

30

"Allowing and/or encouraging **both** assessments of eligibility for MAiD to be **completed virtually**"

31

32

Reduces risks

- Patient
- Clinician
- Those in contact with patient or clinician

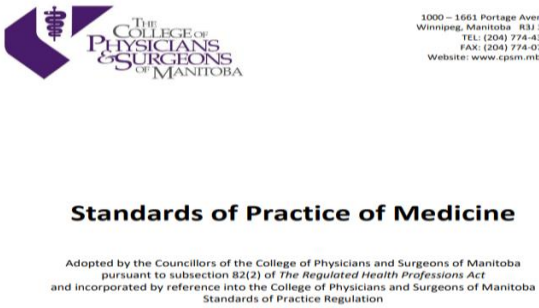
33

Clinician/Pt issues

34

Assess patient **voluntariness**

35



36

II. Specific Requirements for Assessing Patient Eligibility for MAID

Federal legislation requires that to be eligible for MAID, the patient must meet all of the following criteria:

a) be eligible for publicly funded health services in Canada

b) be at least 18 years of age and capable of making decisions with respect to their health;

c) have a grievous and irremediable medical condition (including an illness, disease or disability); and

d) make a voluntary request for medical assistance in dying that is not the result of external pressure; and

e) provide informed consent to receive MAID after having been informed of the means that are available to relieve the patient's suffering, including palliative care.

37

How?

38

"Each physician who obtains informed consent from the patient … **must** …"

39

"meet **with the patient alone** at least once to confirm that his/her decision … is voluntary"

40

family-ectomy

41

Not unique to Manitoba

42

43

"Confirm that … request does not arise from coercion or undue influence …"

44

How?

45

"by discussing with the qualified individual, **outside the presence** of any other persons"

46

47

Is the patient **alone**?

48

49

Increased risk of

undue influence

50

51

52

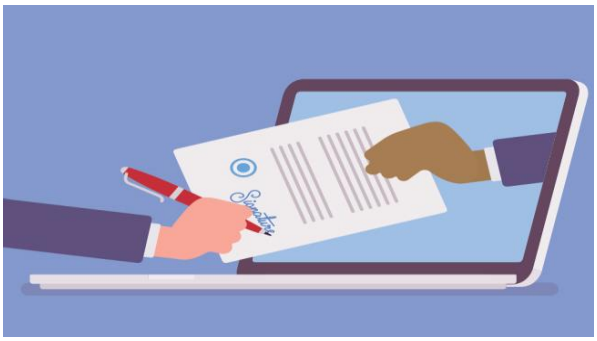
BUT

53

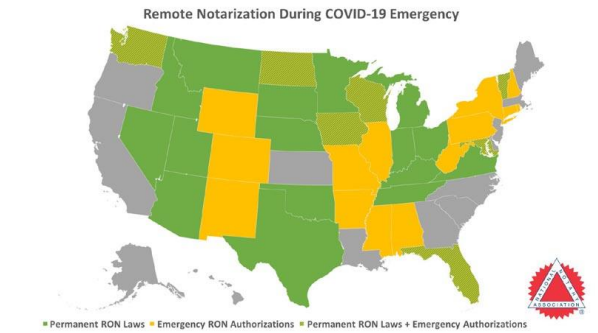
Risk **justified** by benefits

54

55



56



57

NOTARY PRO CANADA
NOTARY PUBLIC & COMMISSIONER

"willingness to sign without duress or intimidation"

58

59

U.S. CAMAP

60

March 25

Telemedicine Policy

61

First verbal requests to consider medical aid in dying can effectively and legitimately be **taken by telemedicine** . . .

Second verbal requests . . . **by telemedicine**

62

Mitigate the risk

63

Ask patient to **move the camera** around the room, so you can observe who else might be present

64

That's **enough** on telemedicine

65

Transfers

66

CBO facility

↓

Non-CBO

67

Macro level

68

Bigger problem in Canada

69

70

LOCATION	TOTAL	
	No.	%
Home (patient, family of friend)	1,181	93%
Long-term care, assisted living or foster care facility	68	5%
Hospital	4	0%
Other	16	1%
Unknown	6	0%
Total	**1,275**	**100%**

71

LOCATION	TOTAL	
	No.	%
Home (patient, family of friend)	1,181	93%
Long-term care, assisted living or foster care facility	68	5%
Hospital	4	0%
Other	16	1%
Unknown	6	0%
Total	**1,275**	**100%**

72

73

Settings in which MAID occurred[†]				
Hospital	249 (50%)	368 (42%)	440 (41%)	1148 (44%)
Patient's home	182 (37%)	350 (40%)	470 (43%)	1107 (42%)
Long-term care facility or nursing home	30 (6%)	78 (9%)	58 (5%)	140 (5%)
Hospice	-[δ]	-[δ]	32 (3%)	103 (4%)
Other[‡]/Unknown[‡]	37 (7%)	79 (9%)	86 (8%)	114 (4%)

74

The NEW ENGLAND JOURNAL of MEDICINE

April 9, 2020

growing institutional CBO

75

Call for transparency

76

Choose non-CBO in the 1st place

(not always possible in rural areas)

77

Clinician level

78

creativity

& zeal

tonight's cases

79

Analog in medical ethics

Advocate when insurance company denies coverage

80

Code of Medical Ethics

of the American Medical Association

81

"physicians **must advocate** for any care they believe will materially benefit their patients."

82

"physician's duty as patient advocate **requires . . . challenge** to denials of treatment"

83

84

Thaddeus Mason Pope, JD, PhD
Director, Health Law Institute
Mitchell Hamline School of Law
875 Summit Avenue
Saint Paul, Minnesota 55105
T 651-695-7661
C 310-270-3618
E Thaddeus.Pope@mitchellhamline.edu
W www.thaddeuspope.com
B medicalfutility.blogspot.com

85

85

Sharing MAiD Cases

April 21, 2020

86

Disclosure of Financial Support

- **This program has received no financial support**
- **This program has received in-kind support from** Dying with Dignity Canada **in the form of** technical and administrative support
- **Potential for conflict(s) of interest**:
  - All presenters receive in kind support from Dying with Dignity Canada by one-on-one IT support and software use prior to the Webinar
  - Dying with Dignity Canada benefits from hearing from individual clinicians about the current realities of MAID that will be discussed in this program

87

Mitigating Potential Bias

- An agreement of responsibilities has been signed between CAMAP and Dying with Dignity Canada
- Dying with Dignity Canada ensures that any staff participating in the Webinar for technical support protect the confidentiality of MAID clinicians and the details of cases presented

88