BACKGROUND

The Supreme Court of Canada (SCC) declared that as of February 6, 2016 it is legal for a physician to assist a competent adult person to die where that person:

- clearly consents to the termination of life; and
- has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to that person. ¹

The SCC also found that:

- Nothing in its declaration compels physicians to provide assistance in dying.
- The Charter rights of patients and physicians need to be reconciled in any legislative or regulatory regime in which physician assisted dying is permitted.
- Physicians are capable of reliably assessing patient competence and it is possible to detect vulnerability, coercion, undue influence, and ambivalence as part of the assessment process for informed consent and medical decision making capacity.
- Informed consent can apply to a patient seeking physician assisted dying, so long as care is taken to ensure the patient is properly informed of his/her diagnosis and prognosis and the treatment options offered to the patient include all reasonable palliative care interventions.

SCOPE

This Statement applies to all physicians.

DEFINITIONS

The following definitions apply in this Statement and do not necessarily apply in other contexts.

Physician Assisted Dying - medical intervention that involves a physician providing or administering medication that intentionally causes the patient's death at the patient's request.

Grievous and Irremediable Medical Condition - a medical condition, including an illness, disease or disability, which meets all of the following criteria in accordance with the requirements of this Statement:

1. it has been confirmed by a clinical diagnosis made by at least two physicians; and
2. it is grievous in that it is serious and the current or impending associated symptoms are constant or enduring and cause severe physical or psychological pain or suffering; and
3. it is irremediable in that:
   a) there are no medical treatments to cure the condition or alleviate the associated symptoms which make it grievous; or
   b) medical treatments which are available to cure the condition or alleviate the associated symptoms which make it grievous are not acceptable to the patient.

Patient - the person making a request for physician assisted dying and whose well-being must be the primary concern of any physician involved in providing assistance in dying.

Physician - A member of the College who is registered on the Manitoba Medical Register and who is licensed to practice medicine, excluding a member who is only practicing within a residency training program.

Consulting Physician – a physician who is consulted to conduct an assessment or provide advice or an opinion relevant to one or more of the requirements of this Statement.

Administering Physician – the physician who provides or administers medication that intentionally brings about the patient's death.

(Note: The same physician can be a consulting and the administering physician provided that at least two physicians are involved as required by this Statement.)

REQUIREMENTS

I. Minimum Requirements of All Physicians

A. Physicians must not impede patients' access to physician assisted dying or impose their moral or religious beliefs about physician assisted dying on patients.

B. A physician who elects not to provide or participate in physician assisted dying for any reason is not required to provide it or participate in it or to refer the patient to a physician who will provide physician assisted dying to the patient.

C. When a physician receives a request from a patient to provide or participate in providing physician assisted dying to that patient or to be referred to another physician who will, if that physician elects not to provide or participate in providing physician assisted dying to the patient that physician must:
   1. disclose his/her objection to providing or participating in physician assisted dying to the patient; and
   2. provide the patient with timely access to another member or resource that will provide accurate information about physician assisted dying; and
   3. continue to provide care unrelated to physician assisted dying to the patient until that physician’s services are no longer required or wanted by the patient or until another suitable physician has assumed responsibility for the patient; and
   4. make available the patient's chart and relevant information (i.e., diagnosis, pathology, treatment and consults) to the physician(s) providing physician assisted dying to the patient when authorized by the patient to do so; and
   5. provide a copy of this Statement to the patient.

2 Resources may include but are not limited to other health care providers, counsellors and publicly available resources for physician assisted dying.

3 CPSM Statement 181 Members Moral or Religious Beliefs not to Affect Medical Care
II. General Requirements of All Physicians Involved in Providing Physician Assisted Dying:

A. Knowledge and Qualifications

1. A physician involved in providing physician assisted dying to a patient must be:
   a. fully informed of that patient’s individual circumstances which are relevant to that physician’s role in providing assistance in dying to that patient; and
   b. qualified by specialty, training or experience to meet the specific requirements of this Statement which apply to that physician’s role.

B. Documentation:

1. A physician involved in providing physician assisted dying to a patient must:
   a. document in the patient’s medical record details as to the physician’s involvement in relation to each of the specific requirements of this Statement which apply to that physician; and
   b. otherwise meet the specific requirements for documentation of this Statement.

III. Specific Requirements for Assessing Patient Eligibility for Physician Assisted Dying

A. Physicians who conduct this assessment must:

1. be fully informed of the current relevant clinical information about the patient and his/her condition; and

2. be qualified to render a diagnosis and opine on the patient's medical condition or be able to consult with a consulting physician who is so qualified; and

3. use appropriate medical judgment and follow a reasonable plan of assessment.

B. At least two physicians must be satisfied that the following criteria have been met before providing physician assisted dying to that patient:

1. The patient seeking physician assisted dying is an adult, having reached the age of 18 years, which is the age of majority in Manitoba.

2. The patient has a grievous and irremediable medical condition which has been verified by:
   a. a clinical diagnosis of the patient’s medical condition; and
   b. a thorough clinical assessment of the patient which includes consideration of all relevant, current and reliable information about the patient’s symptoms and the available medical treatments to cure the condition or alleviate the associated symptoms which make the condition grievous, including, where appropriate, consultation with another qualified physician; and

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4 The Age of Majority Act, C.C.S.M. c. A7
c. confirmation by the physicians that the patient's medical condition is:
   i. grievous in that it is serious and the current or impending associated symptoms are constant or enduring and cause severe physical or psychological pain or suffering; and
   ii. irremediable in that:
      • there are no medical treatments to cure the condition or alleviate the associated symptoms which make it grievous; or
      • the medical treatments which are available to cure the condition or alleviate the associated symptoms which make it grievous are not acceptable to the patient.

C. When physicians assess whether the available treatments are acceptable to the patient and whether the patient's suffering is enduring and intolerable to the patient, they must ensure that:
   1. the unique circumstances and perspective of the patient, including his/her personal experiences and religious or moral beliefs and values have been seriously considered; and
   2. the patient is properly informed of his/her diagnosis and prognosis in relation to the current or impending associated symptoms; and
   3. treatment options described to the patient include all reasonable medical treatments to cure the condition or alleviate the associated symptoms which make it grievous or, if the patient is terminal, palliative care interventions; and
   4. the patient adequately understands the:
      a. current and anticipated course of physical symptoms, ability to function and pain and suffering specific to that patient; and
      b. the effect that any progression of physical symptoms, further loss of function or increased pain may have on that specific patient; and
      c. available treatments to manage the patient's symptoms or loss of function or to alleviate his/her pain or suffering.

D. Where the patient requesting physician assisted dying:
   1. has not been diagnosed with a terminal illness (prognosis of less than 6 months); or
   2. is not suffering from:
      a. a catastrophic physical injury; or
      b. intractable physical pain; or
      c. an advanced state of irreversible significantly impaired function or a predictable and imminent decline to that state; or
   3. appears to be experiencing suffering which is disproportionate to the patient’s diagnosis or related symptoms,

the determination that the patient has a grievous and irremediable medical condition must be supported by an independent psychiatric assessment which rules out a treatable psychiatric disorder/illness that is distorting the patient’s ability to tolerate or assess his/her suffering or whether available treatment options are acceptable to the patient.
IV. Specific Requirements for Assessing Medical Decisional Capacity

A. **Physicians** who conduct this assessment must be:

1. fully informed of the current relevant clinical information about the patient and his/her mental and physical condition; and

2. qualified to assess medical decisional capacity in the specific circumstances of the patient whose capacity is being assessed or be able to consult with a consulting physician who is so qualified.

B. At least two physicians must determine that the patient has the medical decisional capacity to provide his/her informed consent to receive medication that will intentionally cause the patient's death and confirm that the patient's decision to terminate his/her life by physician assisted dying is voluntary in accordance with the requirements of this Statement.

C. Where any one of the at least two physicians involved in providing assistance to the patient in dying has a reasonable doubt as to the patient's medical decisional capacity, the physician who conducts any additional assessments required by this Statement must be enrolled on the Specialist Register as a psychiatrist.

V. Specific Requirements for Obtaining Informed Consent:

A. **Physicians** who obtain informed consent from the patient must have sufficient knowledge of the patient's condition and circumstances to ensure that:

1. the patient is properly informed of his/her diagnosis and prognosis in relation to the current or impending associated symptoms; and

2. the treatment options described to the patient include all reasonable medical treatments to cure the condition or alleviate the associated symptoms which make it grievous and/or palliative care interventions where the patient is terminal; and

3. the patient is offered counseling resources which are available to assist that patient; and

4. the patient fully understands that:
   a. death is the intended result of taking the lethal medication; and
   b. the potential risks and complications associated with taking the lethal medication.

B. At least two physicians, one of whom must be the administering physician, must each meet separately with the patient and obtain informed consent from the patient in accordance with the requirements of this Statement.

C. Each physician who obtains informed consent from the patient for physician assisted dying must:

1. have either conducted his/her own assessment or be fully informed of the assessments conducted by other physicians of the patient’s medical condition and the patient’s medical decisional capacity; and
2. meet the legal requirements of informed consent, including informing the patient of:
   a. material information which a reasonable person in the patient’s position would want to have about physician assisted dying; and
   b. the material risks associated with the provision/administration of the medication that will intentionally cause the patient’s death; and

3. ensure that the patient has been informed of his or her right to rescind the request at any time, in circumstances which the physician has taken reasonable steps to ensure that the patient has understood the information that has been provided to the patient throughout the process; and

4. meet with the patient alone at least once to confirm that patient’s decision to terminate his/her life by physician assisted dying is voluntary in that the patient has:
   a. made the request him/herself thoughtfully and repeatedly; and
   b. has a clear and settled intention to end his/her own life after due consideration; and
   c. has made the decision freely and without coercion or undue influence from family members, health care providers or others.

5. confirm that the patient has consistently expressed the intent to terminate his/her life through physician assisted dying over a reasonable period of time. What is a reasonable period of time will depend on the patient’s medical condition and other circumstances:
   a. In the case of a patient whose death is imminent (anticipated within 14 days or less) there are no additional time requirements in relation to confirming a consistent intent and final decision on the part of the patient after the patient has provided his/her informed consent to terminate his/her life through physician assisted dying in accordance with the requirements of this Statement
   b. In all other cases, after the patient has provided his/her informed consent to terminate his/her life through physician assisted dying in accordance with the requirements of this Statement, at least two physicians, one of whom must be the administering physician, must again each meet separately with the patient and the patient must again provide his/her informed consent to terminate his/her life through physician assisted dying after at least 14 days has passed from the date that the patient last provided his/her informed consent.

D. Before the medication that intentionally brings about the patient’s death can be provided or administered, the patient must first complete the prescribed form (Appendix A – to be created once Statement is finalized) confirming that the patient:
   1. has been advised of and understands the legal consequences of dying by physician assisted dying, including the potential for denial of life insurance or other benefits that may accrue to the patient’s estate or beneficiaries on death; and
   2. is aware of the requirements of this Statement.

Where a patient is physically incapable of completing the form, the patient may direct another person to complete it on his/her behalf, in which case it must be completed and signed in the presence of the patient and a witness; and
   (a) neither the person completing the form or the witness can be a physician who provided assistance in dying or a family member, and
   (b) the patient must acknowledge the signature on the form in the presence of the witness, who must sign as witness in the patient’s presence.
VI. Specific Requirements of the Administering Physician

A. The administering physician must:

1. have appropriate knowledge and technical competency to provide/administer the medication in the appropriate form and/or dosage that will terminate the patient's life in the manner in which the patient was informed that it would terminate his/her life at the time the patient provided his/her consent; and

2. be qualified to provide appropriate instructions to the patient as to how to administer the medication that will terminate the patient's life in the manner in which the patient was informed that it would terminate his/her life at the time the patient provided his/her consent in circumstances where the patient elects to administer the medication to him/herself; and

3. be readily available to care for the patient at the time the medication that intentionally brings about the patient's death is administered by the physician or taken by the patient until the patient is declared dead by a physician; and

4. notify the Office of the Chief Medical Examiner of the date, time and location where the location is not a health care institution; and

5. certify, in writing, on the prescribed form (Appendix B – to be created once Statement is finalized) that he/she is satisfied on reasonable grounds that all of the following requirements have been met:
   a. The patient is at least 18 years of age;
   b. The patient’s medical decision making capacity to consent to receiving medication that will intentionally cause the patient's death has been established in accordance with the requirements of this Statement;
   c. All of the requirements of this Statement in relation to obtaining and documenting informed consent have been met; and

6. ensure that the requirements of physicians set out in The Fatality Inquiries Act, C.C.S.M. c. F52 and The Vital Statistics Act, C.C.S.M. c. V60 in respect to reporting and/or registering the cause and manner of the patient's death, including completing all required forms specified by the legislation or regulations, are met in a timely fashion.

This Statement comes into force and effect on February 6, 2016 and is subject to any relevant legislation then in force.

A statement is a formal position of the College with which members shall comply.