

## LEGISLATIVE UPDATE

April 2017

### Backgrounder

*Amendments to Bill 84: Medical Assistance in Dying Statute Law Amendment Act, 2016*

#### Context

On April 12, 2017, the Standing Committee on Finance and Economic Affairs (Standing Committee) concluded its review of Bill 84, the [Medical Assistance in Dying Statute Law Amendment Act, 2016](#).

As [previously outlined](#), this bill proposes a series of legislative provisions on provincial issues related to medical assistance in dying (MAID). It follows the [passage of federal legislation on MAID in June 2016](#), which set out eligibility requirements for patients, and established safeguard measures around the provision of MAID.

The Standing Committee introduced a number of changes to Bill 84, as detailed below.

#### Amendments to protections from civil liability

Bill 84 proposes amendments to the [Excellent Care for All Act, 2010](#) (ECFAA) to grant protections against civil liability for those involved in providing MAID.

The original drafting of the bill provided immunity from civil liability for physicians, nurse practitioners and others involved in the performance or intended performance of MAID; however, institutions were excluded from the ambit of the protection.

In response to sector concerns, including those expressed by the OHA, the Committee introduced amendments that would extend these immunity provisions to cover institutions and their employees, directors and officers. The proposed immunity would apply to “care providers”, defined to mean “health service providers” as provided for in the [Local Health System Integration Act, 2006](#) (including hospitals and long-term care homes, among others).

The language of the Bill was also clarified to provide immunity for proceedings based both on direct and vicarious liability (responding to concerns around the potential legal scope of the protection); however, a proposed general exception for any actions or proceedings based on alleged negligence remains in place.

These amendments reflect the OHA’s submissions that Bill 84 be clarified and strengthened to provide appropriate civil liability protections for hospitals (and their employees, directors and officers) involved in MAID.

#### Amendments to freedom of information legislation

Bill 84 also proposed amendments to the [Freedom of Information and Protection of Privacy Act](#) (FIPPA) and its counterpart, the [Municipal Freedom of Information and Protection of Privacy Act](#)

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(MFIPPA). The stated aim of these amendments is to “protect clinicians and facilities that provide MAID from being identified under access to information requests.”

The original drafting of the bill proposed an information-based framework to MAID-related data, requiring institutions to determine whether any information (rather than records) in their custody and control was subject to the application of FIPPA or MFIPPA.

The Committee amended the applicable provisions of Bill 84 to reflect a records-based system, in line with the overall legislative scheme of FIPPA and MFIPPA. The proposed provisions were amended to apply to any “identifying information in a record relating to medical assistance in dying.” This amendment clarifies the application of access to information provisions to MAID-related records.

As originally drafted, Bill 84 would also provide that “identifying information about individuals and facilities” be exempted from the application of FIPPA and MFIPPA. Institutional-level information about MAID, including corporate policies, would therefore be protected from access to information requests under FIPPA or MFIPPA.

The amendments to the bill reflect the OHA’s submissions that the freedom of information provisions be consistent with the existing legislative scheme.

### Establishment of a care coordination service

The Committee also introduced an amendment under ECFAA to require the Minister of Health and Long-Term Care to establish a provincial care coordination service (CCS) for MAID. The CCS would be aimed at “assisting patients and caregivers in accessing additional information and services for MAID and other end-of-life care options.”

This amendment reflects the OHA’s submissions that the government support capacity building for MAID in the community setting.

The OHA has committed to working with the government and with other stakeholders in providing input on the CCS.

### Additional Information and Next Steps

Bill 84 has been ordered for Third Reading and is expected to receive Royal Assent in the coming weeks.

The OHA continues to monitor legal and policy developments related to MAID, and will provide members with additional updates and further supports, as necessary.

General information about MAID is also available through the [Ministry of Health and Long-Term Care](#) and the [OHA’s End of Life Care and MAID webpage](#).

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