

HLTH 1645 – *WAIVER OF FINAL CONSENT*

Instructions for Completion

Medical Assistance in Dying

Ministry of Health

Issued: March 18, 2021

What is the Waiver of Final Consent?

The *Waiver of Final Consent* is a written arrangement between the person requesting medical assistance in dying (the Requestor) and the physician or nurse practitioner who will provide them with medical assistance in dying (the MAiD Prescriber). When the Requestor is at risk of losing their ability to give consent to receive medical assistance in dying, completing the *Waiver of Final Consent* allows them to waive the requirement to give their express consent right before they receive medical assistance in dying. With a completed and signed *Waiver of Final Consent*, the MAiD Prescriber can provide medical assistance in dying to the Requestor even after they have lost the capacity to give express consent, as long as it is done according to the terms agreed on by the Requestor and the MAiD Prescriber.

Who may use the Waiver of Final Consent?

The *Waiver of Final Consent* can only be used under specific conditions:

- The Requestor's natural death is reasonably foreseeable
- The Requestor meets all of the eligibility criteria for medical assistance in dying, and all of the related safeguards have also been met
- The Requestor has been informed by the MAiD Prescriber that they are at risk of losing their ability to give consent to receive medical assistance in dying
- The Requestor is still capable of giving consent to receive medical assistance in dying at the time the *Waiver of Final Consent* is completed

If all of these conditions are met, the Requestor and MAiD Prescriber may complete and sign a *Waiver of Final Consent*.

Does a date have to be set for when the Requestor will receive medical assistance in dying?

Yes. In order to waive final consent, federal legislation requires that the Requestor and MAiD Prescriber enter into an arrangement in writing saying that the MAiD Prescriber will provide medical assistance in dying on a specified day (in BC, this written arrangement is captured on the *Waiver of Final Consent* form).

The Requestor and MAiD Prescriber may also agree that if the Requestor loses capacity to provide consent, the MAiD Prescriber may provide medical assistance in dying sooner than the agreed on date in the agreement. However, the MAiD Prescriber is not able to provide medical assistance in dying after the agreed on date in the *Waiver of Final Consent*.

Can the date for the provision of medical assistance in dying be changed?

Yes. If the Requestor and MAiD Prescriber agree to change the scheduled date for the provision of medical assistance in dying, they may do so. Any change requires a new *Waiver of Final Consent* to be completed, and changes may only be made while the Requestor remains capable of giving informed consent.

What are “additional terms” and why are they optional?

In order for the *Waiver of Final Consent* to be valid, federal legislation requires that certain conditions be met. These are included on page 1 of the *Waiver of Final Consent* form. However, if the Requestor and MAiD Prescriber agree, additional terms can also be added. For example, the Requestor may wish to specify how soon after they lose the capacity to give consent they would like medical assistance in dying to be provided to them, or under what circumstances (e.g. as soon as possible, or when loved ones can be present). In adding any additional terms, please remember that once the Requestor has lost capacity to give consent, medical assistance in dying can *only* be provided according to the terms of the *Waiver of Final Consent*.

Can the Requestor make arrangements with an alternate MAiD Prescriber, in case the first MAiD Prescriber is unable to provide them with medical assistance in dying?

Yes. However, federal legislation states that the physician or nurse practitioner who actually provides medical assistance in dying must have personally assessed the Requestor and found them eligible while the Requestor still had the capacity to provide informed consent.

In order to have an alternate MAiD Prescriber who can provide medical assistance in dying if the first MAiD Prescriber is unable to, the alternate MAiD Prescriber must also complete the *1634 Assessment Record (Prescriber)* form, and the Requestor and alternate MAiD Prescriber must both complete and sign a separate *Waiver of Final Consent* form.

What happens if the Requestor does not lose capacity to provide express consent to receiving medical assistance in dying?

The *Waiver of Final Consent* can only be used to provide medical assistance in dying to a Requestor who has lost the ability to give express consent. If the Requestor is still capable of giving express consent on the day they receive medical assistance in dying, they must do so before the MAiD Prescriber administers the substance to cause their death.

Why does the form say this agreement does not create any obligation for the MAiD Prescriber to administer MAiD?

While the *Waiver of Final Consent* allows a Requestor to receive MAiD after they have lost the capacity to give express consent prior to administration, there is nothing in the federal legislation that requires MAiD to be provided nor compels a practitioner to provide MAiD. The advance consent arrangement does not impose any legal duty on the practitioner to provide MAiD

1. REQUESTOR INFORMATION

In this section, the Requestor will record the following information about themselves:

- **last name**
- **first name**
- **second name(s)** – your middle name or names
- **personal health number** – this is located on your CareCard or BC Services Card
- **birthdate** - use the format “YYYY / MM / DD”, for example: “1940 / 12 / 07”
- **gender** – indicate by checkmark whether you are “male”, “female” or “x” (can specify)

2. MAiD PRESCRIBER INFORMATION

In this section, the MAiD Prescriber will record their name and telephone number, as well as the provision date for medical assistance in dying. This date must be agreed to by both the Requestor and the MAiD Prescriber. Use the format “YYYY / MM / DD”, for example: “1940 / 12 / 07” to write the date.

3. REQUESTOR CONSENT

The intent of this section is to ensure that the Requestor has carefully considered the implications of waiving final consent for medical assistance in dying and understands the expected outcome of receiving medical assistance in dying.

This section has six separate statements for the Requestor to review and initial in the space provided to the left of each statement. The Requestor’s initials beside each statement indicate their confirmation and agreement with that statement.

This includes confirmation that they meet the criteria for waiving final consent to receive medical assistance in dying (for example, that the Requestor has been informed by a medical practitioner of the risk of losing capacity to consent to medical assistance in dying).

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4. MEDICAL PRACTITIONER OR NURSE PRACTITIONER (MAiD PRESCRIBER)

The intent of this section is to ensure that the MAiD Prescriber has met all of the requirements for providing medical assistance in dying to a Requestor who loses the capacity to give express consent to receiving medical assistance in dying. This section has eight separate statements for the MAiD Prescriber to review and initial in the space provided to the left of each statement. The MAiD Prescriber's initials beside each statement indicate their confirmation of, and agreement with, that statement.

5. REQUESTOR SIGNATURE / DATE PATIENT SIGNED / 6. MAiD PRESCRIBER SIGNATURE

The Requestor will sign and date this section of the *Waiver of Final Consent* to indicate their agreement with all of the terms on page 1. The MAiD Prescriber will countersign this section of the *Waiver of Final Consent* to indicate their agreement with all of terms on page 1.

If there are no additional terms agreed to by the Requestor and MAiD Prescriber, the *Waiver of Final Consent* is now complete.

7. ADDITIONAL TERMS (Optional)

This section allows the Requestor and MAiD Prescriber to record any additional agreed on terms for the provision of medical assistance in dying after the Requestor has lost the capacity to give express consent.

The terms required by federal legislation are included on page 1 of the *Waiver of Final Consent* form. However, if the Requestor and MAiD Prescriber agree, additional terms can also be added. For example, if a Requestor wishes, they may choose to consent to receive MAiD at an earlier date or time if they lose capacity to provide consent prior to that date. Or, if the requestor wishes to have specific family members present at the time of the MAiD provision, they may specify this in the agreement.

In adding any additional terms, please remember that once the Requestor has lost capacity to give consent, medical assistance in dying can *only* be provided according to the terms of the *Waiver of Final Consent*.

8. REQUESTOR SIGNATURE / DATE SIGNED / 9. MAiD PRESCRIBER SIGNATURE

The Requestor will sign and date this section to indicate their agreement with all of the additional terms on page 2. The MAiD Prescriber will countersign this section to indicate their agreement with all of the additional terms on page 2.

If there are no additional terms agreed to by the Requestor and MAiD Prescriber, this section does not need to be completed.