

HLTH 1645 – *WAIVER OF FINAL CONSENT*

Instructions for Completion

Medical Assistance in Dying

Ministry of Health

Issued: February 24, 2022

What is the Waiver of Final Consent?

The *Waiver of Final Consent* (HLTH 1645) is a written arrangement between the person requesting medical assistance in dying (the Requestor) and the medical practitioner 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*. If the Requestor is unable to physically initial and sign the arrangement, a proxy (i.e., another person) may initial and sign on their behalf. If no proxy is available, the patient may provide consent via verbal or other means, which must then be documented by the Prescriber in section 6 of the arrangement.

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 Date of MAiD Provision in the arrangement. However, the MAiD Prescriber is ***not*** able to provide medical assistance in dying after the Agreed Date of MAiD Provision in the *Waiver of Final Consent*.

Note: Per federal legislation, The *Waiver of Final Consent* **CANNOT** be created and utilized on the same day that MAiD is provided (i.e., the Waiver cannot be utilized on Jan 1st if the arrangement was completed on Jan 1st and the Agreed Date of MAiD Provision is Jan 1st). However, MAiD **CAN** be provided on the same day that the *Waiver of Final Consent*

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arrangement is created if the Agreed Date of MAiD Provision is set for a future date, but the patient loses capacity to consent prior to the Agreed Date and the arrangement allows MAiD to be provide prior to the Agreed Date in such an event.

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 to the form 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?

For the *Waiver of Final Consent* to be valid, federal legislation requires that certain conditions be met. These are included on page 1 (for the Requestor) and page 2 (for the Prescriber) 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, or who will notify the Prescriber if capacity is lost). 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 arrangement 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

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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.

Are signatures specifically required by the Requestor and Practitioner?

The Criminal Code does not explicitly require the Requestor or the Prescriber to initial their agreement with, or sign the Waiver of Final Consent; however, it is considered best practice to obtain both initials and signatures for documentation purposes. If the Requestor is unable to sign and a Proxy is unavailable, a section has been provided for the Prescriber to document the Requestor's consent via verbal or other means.

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”
- **sex** – 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 agreed date for medical assistance in dying to take place. 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. PROFESSIONAL INTERPRETER (PROVINCIAL LANGUAGE SERVICE OR OTHER) IF USED

Should the patient require an interpreter, The Provincial Language Service can be accessed 24 hours a day, seven days a week at 1-877-BC Talks (228-2557) select option 1. The Prescriber will record the interpreter's name, identification number and the date of service. It is advisable for the Prescriber to inform the Provincial Language Service that the interpreter should be informed the discussion is regarding medical assistance in dying.

4. 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.

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This section has three separate statements for the Requestor to review and initial in the space provided to the left of each statement, with space for additional terms to be added. The Requestor's initials beside each statement indicate their confirmation and agreement with that statement.

REQUESTOR 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 one.

PROXY SIGNATURE (IF APPLICABLE)

The proxy should be at least 18 years old, understand the nature of the request, not know or believe they are a beneficiary in the will or recipient of financial or other material benefit resulting from the death of the Requestor, and should sign in the physical presence of the Requestor. If a proxy initials and signs on behalf of the patient, the proxy will use their own initials, record their printed name, relationship to the patient (e.g. "friend"), phone number, and address.

5. MAID PRESCRIBER

The intent of this section is to ensure that the MAiD Prescriber has met the federal safeguards of the written arrangement to provide medical assistance in dying to a Requestor who loses the capacity to give express consent to receiving medical assistance in dying. If the Requestor was unable to complete the arrangement in writing, an area is provided for the Prescriber to record the steps taken to obtain consent via verbal or other means from the Requestor.

The Prescriber should review and initial each of the statements to indicate that the statements have been satisfied. The Prescriber should sign and date the arrangement after the arrangement has been completed.

This completes the Assessment Record (Prescriber) form.

When the Waiver of Final Consent is utilized to assist a medical assistance in dying provision- the Prescriber **must** fax the *Waiver of Final Consent*, along with all required provincial forms, to the BC Ministry of Health at 778-698-4678 **within 72 hours** of confirmation of the patient's death. The provincial forms to be submitted are listed on the Reporting at a Glance document found on the Ministry of Health website:
<https://www2.gov.bc.ca/gov/content/health/accessing-health-care/home-community-care/care-options-and-cost/end-of-life-care/medical-assistance-in-dying/information-for-providers>