

Regulations and other Acts

Gouvernement du Québec

O.C. 997-2015, 11 November 2015

An Act respecting end-of-life care
(chapter S-32.0001)

Commission sur les soins de fin de vie — Procedure to assess compliance with the criteria for the administration of medical aid in dying and the information to be sent to the Commission for that purpose

Regulation respecting the procedure followed by the Commission sur les soins de fin de vie to assess compliance with the criteria for the administration of medical aid in dying and the information to be sent to the Commission for that purpose

WHEREAS the Act respecting end-of-life care (chapter S-32.0001) was assented to on 10 June 2014;

WHEREAS section 38 of the Act establishes the Commission sur les soins de fin de vie;

WHEREAS the first paragraph of section 46 of the Act provides in particular that a physician who administers medical aid in dying must give notice to the Commission within the next 10 days and send the Commission, in the manner determined by government regulation, the information prescribed by regulation;

WHEREAS the first paragraph of section 47 of the Act provides that, on receiving the notice from the physician, the Commission assesses compliance with section 29 in accordance with the procedure prescribed by government regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the procedure followed by the Commission sur les soins de fin de vie to ensure compliance with the conditions for the administration of medical aid in dying and the information to be sent to the Commission for that purpose was published in Part 2 of the *Gazette officielle du Québec* of 15 July 2015 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS, under section 17 of that Act, a regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date indicated in the regulation or in the Act under which it is made;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT the Regulation respecting the procedure followed by the Commission sur les soins de fin de vie to assess compliance with the criteria for the administration of medical aid in dying and the information to be sent to the Commission for that purpose, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation respecting the procedure followed by the Commission sur les soins de fin de vie to assess compliance with the criteria for the administration of medical aid in dying and the information to be sent to the Commission for that purpose

An Act respecting end-of-life care
(chapter S-32.0001, ss. 46 and 47)

CHAPTER I INFORMATION TO BE SENT TO THE COMMISSION SUR LES SOINS DE FIN DE VIE

DIVISION I OBLIGATION OF PHYSICIAN

1. A physician who administers medical aid in dying must give notice to the Commission sur les soins de fin de vie established under section 38 of the Act respecting end-of-life care (chapter S-32.0001) within the next 10 days by sending the information provided for in Division II.

DIVISION II INFORMATION

2. The information to be sent to the Commission is divided into the following 2 separate components:

(1) the information provided for in section 3;

(2) the information provided for in section 4 that identifies the physician who administered medical aid in dying and the physician who gave a second opinion under subparagraph 3 of the first paragraph of section 29 of the Act respecting end-of-life care, as well as information that allows them to identify the person who requested medical aid in dying.

3. The information constituting the component referred to in paragraph 1 of section 2 is the following:

(1) concerning the person who requested medical aid in dying:

(a) the date of birth;

(b) sex;

(c) an indication that the physician verified that the person was insured within the meaning of the Health Insurance Act (chapter A-29) and that there is proof in the record, as well as the date of expiry of the person's health insurance card;

(d) the main medical diagnosis and assessment of vital prognosis;

(e) the nature and description of the person's disabilities;

(f) the nature and description of physical or psychological suffering and the fact that it is constant and unbearable;

(g) the reasons why the suffering cannot be relieved in a manner the person deems tolerable;

(h) an indication that the physician made sure that the person was capable of giving consent to care and the reasons leading the physician to conclude that the person is not incapable of giving consent to care;

(i) the date of the discussions with the person to ascertain the persistence of suffering and that the wish to obtain medical aid in dying remains unchanged, and the reasons why the physician was convinced of the persistence of suffering and of the constancy of the person's wish to obtain medical aid in dying;

(j) an indication of whether or not the person wished that the physician discuss the person's request with the person's close relations and, if applicable, the date of the discussions and their conclusions;

(k) the description of the steps taken to make sure that the person had the opportunity to discuss the request with every person that he or she wished to contact;

(l) an indication of whether or not the person had the opportunity to discuss with all the persons he or she wished to contact and the reasons why the person could not do so, if applicable;

(2) concerning the request for medical aid in dying:

(a) the date on which the request was completed;

(b) an indication that the physician verified that it was made using the form prescribed by the Minister of Health and Social Services under the second paragraph of section 26 of the Act respecting end-of-life care;

(c) an indication that the physician verified that it was indeed dated and signed by the person personally and, where it was signed by a third person, that the reasons why the third person acted comply with the reasons provided for in section 27 of the Act respecting end-of-life care;

(d) if the request was completed by a third person in the presence of the physician, an indication that the physician had no apparent reason to doubt the fact that the third person met the criteria provided for in section 27 of the Act respecting end-of-life care;

(e) if the request was not completed in the presence of the physician, an indication that the physician verified that the request was completed in the presence of a health or social services professional and, if it was completed by a third person, that the professional had no apparent reason to doubt the fact that the third person met the criteria provided for in section 27 of the Act respecting end-of-life care;

(f) the date on which the physician contacted the health or social services professional to conduct the verifications provided for in subparagraph e, if applicable;

(g) a description of the verifications made by the physician to make sure that the request is made freely and more specifically that it is not made as a result of external pressure;

(*h*) an indication that the physician made sure that the request is an informed one, in particular by ascertaining that the person was fully informed of the following elements and that the person fully understood the information given in their regard:

- i. the medical diagnosis and vital prognosis;
 - ii. therapeutic possibilities and their consequences;
 - iii. other available options for end-of-life care if indicated, in particular palliative care, including palliative sedation, as well as the right to refuse care;
 - iv. the progress of the administration of medical aid in dying and possible risks;
 - v. the fact that the person may at all times and by any means withdraw the request for medical aid in dying or postpone it;
- (*i*) the date of the discussions with the person to make sure that the person was fully informed of the elements provided for in subparagraph *h* and that the person fully understood the information given in their regard as well as a summary of the discussions;

(*j*) an indication of whether or not discussions with respect to the person were conducted between the physician and the members of the care team who are in regular contact with the person and, if applicable, the date of the discussions and their conclusions;

(3) concerning the second physician consulted to confirm that the criteria set out in section 26 of the Act respecting the end-of-life care are met:

- (*a*) a description of the physician's status with regard to the person having requested medical aid in dying and to the physician who administered the aid as well as any professional or personal ties linking them;
- (*b*) the date on which that physician was consulted by the physician who administered medical aid in dying;
- (*c*) the date on which the physician consulted the record of the person who requested medical aid in dying;
- (*d*) the date or dates on which the physician personally examined the person who requested medical aid in dying;
- (*e*) the physician's opinion regarding compliance with the criteria set out in section 26 of the Act respecting end-of-life care;

(4) concerning medical aid in dying:

- (*a*) the date of administration;
- (*b*) the date and time of death of the person who requested medical aid in dying;
- (*c*) the administrative region where the death occurred;
- (*d*) the type of location at which the death occurred, namely,
- i. the domicile of the person who requested medical aid in dying;
 - ii. an institution; in that case, specify whether the institution is public or private and the centre operated in the facility in which the death occurred;
 - iii. a palliative care hospice; or
 - iv. another type of location; in that case, specify the type.

The physician who administered medical aid in dying also sends to the Commission any other information or comment the physician deems relevant for examination by the Commission within the framework of its mandate.

4. The information constituting the component referred to in paragraph 2 of section 2 is the following:

- (1) the record number of the person who requested medical aid in dying in the institution or the private health facility in which the physician who administered medical aid in dying practises and in which the notes concerning medical aid in dying are recorded, as well as the identification of the institution or private health facility concerned and of the institution's facility concerned, if applicable;
- (2) concerning the physician who administered medical aid in dying:
 - (*a*) the physician's name and signature;
 - (*b*) the number of the physician's licence to practise;
 - (*c*) professional contact information;
- (3) concerning the second physician consulted:
 - (*a*) the physician's name;
 - (*b*) the number of the physician's licence to practise;
 - (*c*) professional contact information.

DIVISION III FORM

5. The Minister of Health and Social Services makes a form available to every physician who administers medical aid in dying enabling the physician to fulfill the obligation provided for in section 1.

The form must be designed in such a way that the physician may seal the information constituting the component referred to in paragraph 2 of section 2 in a manner that prevents the members of the Commission from consulting the information. The members of the Commission may consult the information only in the circumstances provided for in sections 9 and 13.

6. The form completed by the physician is sent to the Commission by mail or by any other means that ensures the protection of the information the form contains.

7. The Minister of Health and Social Services may make available an information asset ensuring the safe transmission to the Commission of the information referred to in Division II. The second paragraph of section 5 applies to the information asset, with the necessary modifications.

The Minister may require the use of the information asset. The Minister must then inform the physicians, in particular through the health and social services institutions and the Collège des médecins du Québec, of the information asset chosen, the facilities where the asset is available to them and the date on which the transmission of information to the Commission by means of that asset must begin.

CHAPTER II PROCEDURE TO BE FOLLOWED BY THE COMMISSION

8. The Commission assesses, in each case of administration of medical aid in dying and using the information referred to in paragraph 1 of section 2 sent to the Commission, compliance with section 29 of the Act respecting end-of-life care.

Each case is examined in plenary session.

9. Where the information sent to the Commission is incomplete or the Commission is of the opinion that it may not reach a decision on compliance with section 29 of the Act respecting end-of-life care in a particular case without obtaining particulars, its members may consult the information referred to in paragraph 2 of section 2.

It may then request that the additional information or particulars it deems necessary to the assessment be provided by the physician who administered medical aid in dying, by the second physician consulted to confirm compliance with the criteria set out in section 26 of the Act respecting end-of-life care or by any other person who could be able to do so.

The decision to consult the content of the information referred to in the first paragraph must be made by the majority of the members present.

10. Where the Commission requests that additional information or particulars be provided, the Commission always acts in a manner that protects the confidentiality of the personal information concerning the person who requested medical aid in dying, the person's close relations and the health and social services professionals involved.

11. Every person to whom the Commission requests additional information or particulars must reply to the Commission within 10 working days after receiving the request.

12. The Commission must examine each case of administration of medical aid in dying within 2 months after the information concerning the case is received.

The period is extended by 1 month where the additional information or particulars are requested without exceeding 3 months after the information concerning the case is received.

13. Where following the assessment of compliance with section 29 of the Act respecting end-of-life care in a case of administration of medical aid in dying, two thirds or more of the members of the Commission present are of the opinion that a physician administered medical aid in dying while section 29 was not complied with, the members consult the information referred to in paragraph 2 of section 2.

In such a case, the Commission must inform the Collège des médecins du Québec and, when the physician provided the medical aid in dying as a physician practising in a center operated by an institution, the institution concerned so that they can take appropriate measures. The Commission sends a summary of its conclusions to the Collège and to the institution, if applicable. The summary describes the irregularities identified by the Commission and, if applicable, the steps taken to obtain additional information or particulars as well as the result of the steps.

The Commission may conclude that section 29 of the Act respecting end-of-life care has not been complied with whether or not a request for additional information or particulars under the second paragraph of section 9 has been made.

14. Every decision of the Commission is substantiated in writing and recorded in the minutes of the sitting at which the decision is made.

15. The Commission keeps for 5 years the information sent to it by a physician who administered medical aid in dying and the additional information and particulars received, if applicable.

CHAPTER III

FINAL

16. This Regulation comes into force on 10 December 2015.

102357