

Draft Regulation

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

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

—Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend 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, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation specifies the information that must be forwarded to the Commission sur les soins de fin de vie by

—a competent professional who administers medical aid in dying to a person who has made an advance request for medical aid in dying;

—a competent professional who does not administer medical aid in dying to a person who has made an advance request for medical aid in dying, despite having received it, when one of the events listed in the first paragraph of section 47.1 of the Act respecting end-of-life care (chapter S-32.0001) occurs.

Further information on the draft Regulation may be obtained by contacting Katleen Busque, Director, Direction de l'éthique et de la qualité, Ministère de la Santé et des Services sociaux, 1075, chemin Sainte-Foy, 3^e étage, Québec (Québec) G1S 2M1; email: katleen.busque@msss.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister Responsible for Seniors and Minister for Health, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1; email: ministre.deleguee@msss.gouv.qc.ca.

SONIA BÉLANGER
*Minister Responsible
for Seniors and Minister
for Health*

CHRISTIAN DUBÉ
Minister of Health

Regulation to amend 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

Act respecting end-of-life care
(chapter S-32.0001, s. 46, 1st par., s. 47, 1st par.,
and s. 47.1, 2nd par.).

1. 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 (chapter S-32.0001, r. 1), amended by section 2 of the Regulation to amend 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, enacted by Order in Council 1020-2024 dated 26 June 2024, is again amended in section 2

(1) by adding “, in the case of a contemporaneous request for medical aid in dying, or in section 3.1, in the case of an advance request for medical aid in dying” at the end of subparagraph 1;

(2) by striking out “that identifies the competent professional who administered medical aid in dying and the competent professional who gave a second opinion under subparagraph 3 of the first paragraph of section 29 of the Act respecting end-of-life care (chapter S-32.0001), as well as information that allows them to identify the person who requested medical aid in dying” in subparagraph 2.

2. Section 3, amended by section 3 of the Regulation to amend 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, enacted by Order in Council 1020-2024 dated 26 June 2024, and by section 4 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is again amended by replacing “The information” in the part preceding subparagraph 1

of the first paragraph by “If medical aid in dying was administered following a contemporaneous request, the information”.

3. The following is inserted after section 3:

“**3.1.** If medical aid in dying was administered following an advance request, 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 competent professional verified that the person was insured within the meaning of the Health Insurance Act (chapter A-29) or that the person is considered an insured person within the meaning of the second paragraph of section 29.1 of the Act respecting end-of-life care (chapter S-32.0001);

(d) the main medical diagnosis, vital prognosis and detailed clinical picture;

(e) a description of the clinical manifestations related to the serious and incurable illness leading to the incapacity to consent to care that the person described in the request, as observed by the competent professional along with their recurrent nature;

(f) the nature and description of the person’s disabilities;

(g) the nature and description of physical or psychological suffering and a description of the signs of suffering that the competent professional has observed;

(h) the reasons for which the person’s medical situation leads the competent professional to believe that the person is experiencing enduring and unbearable physical or psychological suffering that cannot be relieved under conditions considered tolerable;

(i) a description of the other services the person has received to relieve the suffering, if any;

(j) an indication that the competent professional made sure that the person was incapable of giving consent to care when medical aid in dying was administered and the reasons leading to that conclusion;

(k) an indication that the competent professional ensured that the person had become incapable of giving consent to care because of the serious and incurable illness leading to the incapacity to consent to care identified in the request;

(l) a description of the behavioural symptoms resulting from the person’s medical state, presented by the person, and the reasons for which the competent professional ruled out the possibility that the patient was refusing to receive medical aid in dying, if applicable;

(m) an indication that the competent professional recorded in writing the behavioural symptoms arising from the person’s medical state that the professional observed and the conclusions of the assessment, if applicable;

(n) the date or dates on which the person was examined as required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care;

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

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

(b) an indication that the competent professional verified that it was made using the form prescribed by the Minister of Health and Social Services under the first paragraph of section 29.2 of the Act respecting end-of-life care;

(c) an indication that the competent professional verified that it was completed fully and correctly;

(d) an indication that the competent professional verified that the request was the most recent one made by the person and recorded in the register referred to in section 29.10 of the Act respecting end-of-life care;

(e) the serious and incurable illness leading to the inability to consent to care identified in the request;

(f) the clinical manifestations of the serious and incurable illness leading to the incapacity to consent to care described by the person in the request;

(g) a medical description of the clinical manifestations made by the competent professional in the request;

(3) concerning the competent professional who administered medical aid in dying:

(a) the date or dates on which the competent professional

i. consulted the record of the person who requested medical aid in dying, and in particular the form used to make the request for medical aid in dying;

ii. examined the person who requested medical aid in dying;

iii. consulted the members of the healthcare team responsible for the person who requested medical aid in dying, if applicable;

(b) an indication that he or she is a physician or a specialized nurse practitioner and, if applicable, was treating the person who requested the medical aid in dying before it was administered;

(c) an indication that the competent professional did or did not carry out the examination required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care;

(4) concerning the second competent professional consulted to confirm compliance with the criteria set out in subparagraph 2 of the first paragraph of section 29.1 and the first paragraph of section 29.2 of the Act respecting end-of-life care:

(a) an indication that the professional was independent of both the person who requested medical aid in dying and the competent professional who administered the medical aid in dying;

(b) the date or dates on which the second competent professional consulted the record of the person who requested medical aid in dying, and in particular the form used to make the request for medical aid in dying;

(c) the date or dates on which the second competent professional personally examined the person who requested medical aid in dying;

(d) the second competent professional's opinion concerning compliance with the criteria set out in subparagraph 2 of the first paragraph of section 29.1 and the first paragraph of section 29.2 of the Act respecting end-of-life care and the date on which the opinion was signed;

(e) an indication that the second competent professional is a physician or a specialized nurse practitioner and, if applicable, was treating the person who requested the medical aid in dying before it was administered;

(f) an indication that the second competent professional did or did not carry out the examination required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care;

(5) the information on medical aid in dying referred to in subparagraph 4 of the first paragraph of section 3.

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

4. Section 4, amended by section 4 of the Regulation to amend 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, enacted by Order in Council 1020-2024 dated 26 June 2024, is again amended by replacing “consulted” in the part preceding subparagraph *a* of subparagraph 3 by “who gave a second opinion pursuant to subparagraph 3 of the first paragraph of section 29 of the Act respecting end-of-life care (chapter S-32.0001), in the case of a contemporaneous request for medical aid in dying, or subparagraph 2 of the first paragraph of section 29.19 of that Act, in the case of an advance request for medical aid in dying”.

5. Section 8 is amended by inserting “or section 29.19” after “section 29” of the first paragraph.

6. Section 9, amended by section 6 of the Regulation to amend 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, enacted by Order in Council 1020-2024 dated 26 June 2024, is again amended:

(1) by inserting “or section 29.19” after “section 29” in the first paragraph;

(2) by inserting “or the criteria set out in subparagraph 2 of the first paragraph of section 29.1 and the first paragraph of section 29.2 of that Act” after “Act respecting end-of-life care” in the second paragraph.

7. Section 13, amended by section 7 of the Regulation to amend 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, enacted by Order in Council 1020-2024 dated 26 June 2024, is again amended

(1) in the first paragraph

(a) by inserting “or section 29.19” after “section 29”;

(b) by replacing “section 29” by “either section”;

(2) by inserting “or section 29.19” after “section 29” in the third paragraph.

8. Section 15.1, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is amended by striking out “that identifies the competent professional having received a request for

medical aid in dying who did not administer such aid to the person having made the request as well as the information that allows the Commission to identify the person who requested medical aid in dying” in subparagraph 2.

9. Section 15.2, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is amended

(1) by inserting “or section 29.19” after “section 29” in the part preceding subparagraph 1;

(2) by replacing paragraphs 1 to 3 by the following:

“(1) in the case of a contemporaneous request:

(a) the person’s date of birth and sex;

(b) the person’s main medical diagnosis and the prognosis for the illness or a description of the anticipated clinical course of the physical impairment, if known by the competent professional;

(c) the date on which the request for medical aid in dying was completed;

(d) the health region in which the person’s domicile is located;

(e) the reasons leading the competent professional to conclude that the person no longer meets the criteria set out in section 29 of the Act respecting end-of-life care and the date on which the conclusion was made;

(f) the information concerning any other service offered to and received by the person to relieve suffering, if applicable;

(g) an indication that the competent professional is a physician or a specialized nurse practitioner;

(2) in the case of an advance request:

(a) the person’s date of birth and sex;

(b) the person’s main medical diagnosis and vital prognosis, if known by the competent professional;

(c) the date on which the request for medical aid in dying was completed;

(d) the health region in which the person’s domicile is located;

(e) the reasons leading the competent professional to conclude that the person no longer meets the criteria set out in section 29.19 of the Act respecting end-of-life care and the date on which the conclusion was made;

(f) the information concerning any other service offered to and received by the person to relieve suffering, if applicable;

(g) an indication that the competent professional is a physician or a specialized nurse practitioner.”

10. Section 15.3, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is amended by replacing paragraphs 1 to 3 by the following:

“(1) in the case of a contemporaneous request:

(a) the reasons why the person withdrew the request, if known by the competent professional;

(b) the competent professional’s opinion regarding compliance with the criteria set out in section 26 of the Act respecting end-of-life care (chapter S-32.0001) before the person withdrew their request, if applicable;

(c) the information referred to in subparagraphs *a* to *d*, *f* and *g* of paragraph 1 of section 15.2;

(2) in the case of an advance request:

(a) the reasons for which why the person withdrew the request, if known by the competent professional;

(b) the date on which the request was deleted from the register referred to in section 29.10 of the Act respecting end-of-life care;

(c) the information referred to in subparagraphs *a*, *c*, *d* and *g* of paragraph 2 of section 15.2.”

11. Section 15.4, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is amended by replacing paragraphs 1 to 5 by the following:

“(1) in the case of a contemporaneous request:

(a) the date on which the administration of medical aid in dying was to take place;

(b) the date on which the competent professional concluded that the person met the criteria set out in section 29 of the Act respecting end-of-life care (chapter S-32.0001);

(c) the facts that made it possible to find that the person had expressed his or her refusal;

(d) the date on which the person's inability to consent to care was observed;

(e) an indication that the person had given consent, in writing by means of the form prescribed by the Minister of Health and Social Services and in the presence of a competent professional, to receive medical aid in dying even if the person became incapable of giving consent to care before the administration of the aid as well as the date on which the form was completed, if applicable;

(f) the person's main medical diagnosis and the prognosis for the illness or a description of the anticipated clinical course of the physical impairment;

(g) the information referred to in subparagraphs *a*, *c*, *d*, *f* and *g* of paragraph 1 of section 15.2;

(2) in the case of an advance request:

(a) the date on which the administration of medical aid in dying was to take place;

(b) the date or dates on which the examination required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care was carried out;

(c) the date on which the competent professional concluded that the person met the criteria set out in section 29.19 of the Act respecting end-of-life care;

(d) the facts that made it possible to find that the person had expressed his or her refusal and the reasons leading the competent professional to conclude that they did not constitute behavioural symptoms resulting from the person's medical state that would have led the competent professional to rule out the possibility that the person was refusing to receive medical aid in dying;

(e) the person's main medical diagnosis and vital prognosis;

(f) the date on which the request was deleted from the register referred to in section 29.10 of the Act respecting end-of-life care;

(g) the information referred to in subparagraphs *a*, *c*, *d*, *f* and *g* of paragraph 2 of section 15.2.”

12. Section 15.5, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is replaced by the following:

“**15.5.** If the competent professional forwarded a notice of refusal pursuant to section 31 of the Act respecting end-of-life care (chapter S-32.0001), the information constituting the component referred to in paragraph 1 of section 15.1 is, in addition to the date on which the professional forwarded the notice, the following:

(1) in the case of a notice of refusal of a request for a reason not based on section 29 or section 29.19 of the Act respecting end-of-life care, the information referred to in subparagraphs *a*, *c*, *d*, and *g* of paragraph 1 of section 15.2, in the case of a contemporaneous request, or in subparagraphs *a*, *c*, *d* and *g* of paragraph 2 of that section, in the case of an advance request;

(2) in the case of a notice of refusal to provide assistance to a person in making an advance request:

(a) the date on which the competent professional was asked to assist the person;

(b) the information referred to in subparagraphs *a*, *d* and *g* of paragraph 2 of section 15.2;

(3) in the case of a notice of refusal de provide assistance to a person for the withdrawal of an advance request or a notice of refusal to carry out the examination required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care, the information referred to in subparagraphs *a*, *c*, *d* and *g* of paragraph 2 of section 15.2.”

13. Section 15.6, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the *Gazette officielle du Québec* dated 31 July 2024, is amended by replacing paragraphs 1 to 4 by the following:

“(1) in the case of a contemporaneous request:

(a) the date of death of the person, if known by the competent professional;

(b) the competent professional's opinion regarding compliance with the criteria set out in section 26 of the Act respecting end-of-life care (chapter S-32.0001) before the person died, if applicable;

(c) the date on which the administration of medical aid in dying was to take place, if applicable;

(d) the information referred to in subparagraphs *a* to *d*, *f* and *g* of paragraph 1 of section 15.2;

(2) in the case of an advance request:

(a) the date of death of the person, if known by the competent professional;

(b) the competent professional's opinion regarding compliance with the criteria set out in section 29.19 of the Act respecting end-of-life care before the person died, if applicable;

(c) the date on which the administration of medical aid in dying was to take place, if applicable;

(d) the date or dates on which the examination required by section 29.13, 29.14 or 29.15 of the Act respecting end-of-life care was carried out, if applicable;

(e) the date or dates on which the criteria set out in section 29.19 of the Act respecting end-of-life care were assessed, if applicable;

(f) the information referred to in subparagraphs *a* to *d*, *f* and *g* of paragraph 2 of section 15.2.”.

14. Section 15.7, enacted by section 8 of the Regulation to amend 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, published as a draft in Part 2 of the Gazette officielle du Québec dated 31 July 2024, is amended by replacing “who made” in paragraph 1 by “concerned by”.

15. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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