

**AUTHORIZATION FOR  
INDIRECT COLLECTION OF PERSONAL INFORMATION  
MINISTRY OF HEALTH – MEDICAL ASSISTANCE IN DYING (MAID)**

Michael McEvoy, Information and Privacy Commissioner

April 22, 2021

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**SUMMARY**

Under [section 42\(1\)\(i\) of the \*Freedom of Information and Protection of Privacy Act\*](#) (FIPPA), the Commissioner authorizes the Deputy Minister of Health to collect personal information from sources other than the individual the information is about, such as witnesses to the written request, medical practitioners, nurse practitioners, and pharmacists, with respect to the Ministry's role in facilitating medical assistance in dying (MAID) under the exception set out in [s. 241.1 of the \*Criminal Code\*](#) and associated [Regulations](#).

**BACKGROUND**

Individuals seeking MAID must submit personal information demonstrating that they meet the requirements necessary for a legally-assisted death to the Ministry of Health. As part of this process, others, such as witnesses to the written request, medical practitioners, nurse practitioners, and pharmacists must also submit personal information as part of the request.

The MAID exception in the *Criminal Code* authorizes the federal Minister of Health to designate individuals who can receive personal information about an individual seeking MAID. In British Columbia, the federal Minister has designated the provincial Deputy Minister of Health as the individual responsible for collecting this information. Among other matters the Deputy Minister of Health is tasked with collecting personal information from sources other than the individual the information is about. On two previous occasions my Office exercised powers under s. 42(1)(i) FIPPA to authorize the Deputy Ministry of Health to undertake such collection.<sup>1</sup>

On March 17, 2021, changes to the *Criminal Code* related to MAID, received Royal Assent and came into force immediately. The changes were in response to a 2019 Superior Court of Québec [ruling](#) that, among other things, expanded who could receive MAID.<sup>2</sup> For greater

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<sup>1</sup> See, [Authorization](#) for Indirect Collection of Personal Information, Ministry of Health, October 31, 2018 and [Authorization](#) for Indirect Collection of Personal Information, Ministry of Health, October 23, 2020.

<sup>2</sup> See news release, "[New medical assistance in dying legislation becomes law](#)", Department of Justice Canada, March 17, 2021.

certainty, the Ministry of Health, has requested that I issue a further authorization for indirect collection of personal information under MAID in light of the most recent *Criminal Code* amendments.

## **DISCUSSION**

A decision whether to exercise my discretion authorizing the collection of the personal information requested by the Ministry of Health is guided by answering the following questions:

1. Has a clear and sufficiently compelling public interest or objective been identified that cannot reasonably be accomplished through direct collection of personal information?
2. Is the requested departure from FIPPA's rule of direct collection clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used?

These are the same questions my Office considered in the two previous authorizations.

MAID involves the intersection of federal (criminal law) and provincial (healthcare) responsibilities. Given the Ministry of Health's role in the provision of healthcare for British Columbians, there is a clear and compelling justification for authorizing the Deputy Minister of Health to collect the personal information of those who are supporting another individual's application to receive MAID. This will allow the proper facilitation and administration of MAID. It is also clear that to ensure the requirements of MAID are met, the Ministry would need to collect information about an individual from third parties, such as healthcare professionals and witnesses.

## **AUTHORIZATION**

There is no enactment in British Columbia authorizing the Deputy Minister to collect this information from individuals other than the individual directly. For the Deputy Minister of Health to do so therefore requires my authorization in accordance with [s. 27\(1\)\(a\)\(ii\) of FIPPA](#) for the purpose of fulfilling their role as the federal Minister of Health's designate in accordance with the federal MAID Regulations. I therefore authorize this collection of personal information by the Deputy Minister as requested by the Ministry of Health.

This authorization is effective retroactive to March 17, 2021, the date of the Criminal Code amendments referenced above, and expires the sooner of when I rescind it, when provincial legislation takes effect that would make this authorization redundant, or on the expiration of my term as Commissioner.

April 22, 2021

  
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Michael McEvoy  
Information and Privacy Commissioner for British Columbia