



Submission to the Special Joint Committee on Medical Assistance in Dying (AMAD)

Prepared by
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INTRODUCTION

Dying With Dignity Canada or DWDC is the national human-rights charity, which for the past 42 years, has been committed to protecting end-of-life rights, and helping people across Canada avoid unwanted suffering. For Canadians, this is not an academic debate – it is about compassion, avoiding suffering and fundamental rights.

Canada's medical assistance in dying (MAID) laws have been driven by individuals whose desire for dignity, autonomy, and self-determination have led them to fight for the right to make decisions that align with their own personal values. People like Sue Rodriguez, Kay Carter, Gloria Taylor, Audrey Parker, Jean Truchon, and Nicole Gladu.

Today, we hear from people across the country with thoughts and concerns around advance requests and MAID for those with a mental illness as a sole underlying condition – concerns that they want to see addressed by changes in the legislation. In developing our position, we sought out the insights and lived experience of health care practitioners, individuals with physical disabilities and mental disorders, first person advocates, and other volunteers within the MAID community.

We believe this review must not only include, but value the perspectives of people across Canada by actively seeking out, engaging, listening, and collaborating with individuals and organizations from diverse backgrounds. Everyone should have both the right to live and the right to choose their end-of-life. We encourage the federal government to continue to invest in increasing access to palliative care and to providing additional supports for people living with disabilities and mental disorders.



ADVANCE REQUESTS FOR MAID

DWDC recognizes that those who will gain the most by allowing for advance requests for MAID are those at risk of having conditions that cause lack of capacity to provide informed consent (for example, from an accident or a neurocognitive condition such as dementia). Advance requests for MAID would allow those of us who so choose to avoid a life of grievous and irremediable pain and suffering if loss of capacity occurs, whether through an accident or a health condition.

Support for advance requests remains **high**.

New Ipsos polling in April 2022 indicates that 85% of Canadians support an advance request for those diagnosed with a grievous and irremediable condition and 77% of Canadians support an advance request without a diagnosis.

When determining safeguards for advance requests:

- The individual has the capacity to provide informed consent at the time they create the advance request for MAID
- The individual may designate a representative who can notify the health care team of the individual's advance request for MAID, at the time they are experiencing suffering intolerable to them as outlined in their request, but no longer have the capacity to make their own health care decisions. This does not preclude a member of the person's relational group or a medical provider notifying the health care team of the advance request
- The individual meets the eligibility requirements for MAID, as outlined in the current legislation
- The decision to proceed with MAID is based on the advance request previously made by the individual and the assessment made by health care practitioners who have been made aware of the advance request. Recognizing the relational context of the individual, the decision to proceed should be made by the assessors in consultation with the person representing the individual's advance request (where present), personal care representative, key family or friends who share the best interests of the individual, and other members of the health care team as appropriate



- All parties to the process honour the individual's wishes as expressed in the personal statement forming part of their advance request, and
- The individual provides no conscious indication of resistance to or refusal of MAID at the time of receiving it.

MENTAL ILLNESS AND MAID

DWDC supports the repeal of the exclusion of those with a mental illness from accessing MAID, which is stigmatizing, discriminatory and unconstitutional, effective March 17, 2023. We maintain that individuals suffering solely from mental illness ought to have the same eligibility for and access to MAID as those who suffer from physical or non-psychiatric medical conditions. We look forward to the report and recommendations of the Expert Panel on MAID and Mental Illness.

MATURE MINORS AND MAID

In many jurisdictions across Canada, mature minors already have the right to make important decisions regarding their care. This includes the right to consent to or refuse lifesaving medical treatment. In determining any challenges to the presumption of capacity to make these decisions, the courts look to age, maturity, intellect, life experience and the psychiatric, psychological, and emotional state of the minor. They also consider whether the minor can understand the short and long-term consequences of their illness and proposed treatment, and the broader consequences of their decisions, such as any impact on others.

We maintain that it is unfair to allow a 70-year-old with terminal cancer the choice of a peaceful death but deny a 12-year-old who has been given the same prognosis and demonstrates a clear capacity to make the decision as an adult, the same choice – especially when the 12-year-old has the legal right to accept or refuse medical treatment that may prolong their life.



THE STATE OF PALLIATIVE CARE IN CANADA

DWDC continues to support the recommendations outlined in Health Canada’s five-year plan titled, “Action Plan on Palliative Care: Building on the Framework of Palliative Care in Canada.” The plan includes a key recommendation to raise awareness and understanding of how Advance Care Planning and palliative care can improve quality of life until the end of life. We believe everyone in Canada should be able to access the end-of-life care that they need and choose.

THE PROTECTION OF PEOPLE WITH DISABILITIES

DWDC strongly advocates for increasing investments into additional supports for people with disabilities, including those targeted at enhancing income and social supports, reducing waiting lists for housing, specialist care, day programs and assistive devices, and assisting with the navigation of a complex and confusing health care system. We call upon the federal government to commit to fully supporting our most vulnerable populations, so they have every opportunity to thrive.

