

January 25, 2023

Open Letter to Ministers Lametti (Justice), Duclos (Health), Qualtrough (Disability Inclusion) and Bennett (Mental Health and Addictions) [sent via email Jan 25, 2023]

Re: MAiD for mental illness expansion

Dear Ministers,

We are writing to you regarding the issue of expanding Medical Assistance in Dying (MAiD) to include mental illnesses as the sole underlying condition.

First, thank you and the Liberal government for announcing that the expansion mandated by the sunset clause would not proceed in March 2023 as previously planned. We believe proceeding with the sunset clause and providing MAiD for sole mental illness by March 2023, in the face of an absence of evidence, standards and safeguards, would have reflected an unconscionable moral, medical and political failure.

Having said that, it is important to note that simply “kicking the can down the road” and introducing a new arbitrary date for implementing MAiD for sole mental illness would be irresponsible given the host of concerns that exist and are publicly being reported.

We are aware that expansion advocates have continued to assure that MAiD for sole mental illness could be responsibly provided any time in the next few weeks to months, dismissing concerns and the call for a pause by the Association of Chairs of Psychiatry in Canada (ACPC), the academic chairs of the 17 departments of psychiatry, who pointed out the lack of standards, guidelines and evidence. We hope that you and your colleagues recognize the views of such expansion advocates are based on ideology, not evidence. Pre-determining and pre-approving MAiD for mental illness as being “safe to provide” based simply on prior assurances, and devoid of actual unbiased evidentiary review, is not how medical practice and public health policy in Canada should work. And despite some expansion activists claims to the contrary, no court in Canada, and clearly not the Supreme Court, has ruled that national MAiD policies must provide MAiD for sole mental illness – rather, the sunset clause was a political, and not evidence-based nor legally-required, policy decision.

Without taking an ideological position regarding MAiD for sole mental illness, we challenge any physicians, senators, or politicians to provide evidence demonstrating that mental illnesses can be predicted to be irremediable in any individual (which remains the legal premise for providing MAiD in Canada).

We note that the Federal Expert Panel chaired by Dr. Gupta failed to provide any specific guidelines for predicting incurability or irremediability of mental illness, as it had been tasked to do. In fact, in the November 2020 report Dr. Gupta authored as Chair of the AMPQ Advisory Committee on MAiD, she acknowledged it is not possible to predict irremediability of mental illnesses, writing: *“It is possible that a person who has recourse to MAiD - regardless of his condition - could have regained the desire to live at some point in the future”*. We understand from media assertions the same panel chair remains involved with developing and recommending implementation guidelines. Any potential “guidelines” must be based on

evidence that MAiD for mental illness can be done safely and responsibly, and not simply be arbitrary suggestions serving to allow provision of MAiD for mental illness. When the law requires that MAiD be for an irremediable medical condition, any advisor suggesting that MAiD for mental illness can be responsibly provided without evidence-based guidelines on irremediability is following ideology, not evidence. With increasing concerns emerging about potential risks of expansion, we are concerned that some individuals appear so heavily invested in supporting expansion that they may not be in positions to provide much needed sober and unbiased review of these complex issues.

Minister Lametti, thank you for acknowledging in last week's episode of *The Fifth Estate* that MAiD, especially when expanded beyond end-of-life, is "a species of suicide". Many MAiD expansion advocates have refused to acknowledge this overlap. However this also shows the importance of ensuring policies are based on evidence, and not predetermined by a sunset clause, since it highlights that with expanded MAiD people may seek death for a range of reasons, including social suffering and marginalization. While some expansion advocates have argued that such individuals should be able to access MAiD, we would remind you that the trial judge in *Carter* specifically wrote: "[1390] *Third, I do not accept that the term "grievously and irremediably ill persons" should incorporate reference to "psychosocial suffering"*".

Mental illness impacts every family in Canada. During her periods of despair, the Prime Minister's own mother fortunately had access to the best care the country could provide, and was given a chance at recovery rather than a facilitated path to suicide. We believe all Canadian's suffering from mental illness deserve the same chance, rather than having their despair being reinforced by medical assessors wrongly telling them their condition will not improve, when they cannot in any honesty make that prediction.

Once again, we are appreciative of your government's announced pause on this issue. However, for that to have any real meaning, your pending proposal to the House of Commons **must require that any recommendations or potential expansion of MAiD, including any potential consideration of MAiD for sole mental illness, be based on proper and unbiased review of the evidence, rather than expansion being a foregone conclusion.** Simply setting another arbitrary date or 'sunset clause', pre-supposing that MAiD for sole mental illness can be provided safely in the face of increasing and known concerns, would be irresponsible.

We are aware that Cabinet is meeting this week in advance of the House resuming later this month, and are copying all cabinet members on this communication since this is an issue of significant and increasing concern to many Canadians. As a non-partisan and multi-disciplinary/trans-cultural advisory group including experts with lived experience, we would be happy to work with you to ensure future MAiD policies are compassionate, responsible and evidence-based, and look forward to providing further input once we learn what the government's intentions are regarding resetting of this issue.

Regards,

K. Sonu Gaiind, MD, FRCPC, DFAPA, Honorary Member World Psychiatric Association
Chair, Expert Advisory Group on MAiD
Chief of Psychiatry & Physician Chair MAiD Team, Humber River Hospital
Former President, Canadian Psychiatric Association
Professor, Temerty Faculty of Medicine, University of Toronto

Harvey Max Chochinov OC OM MD PhD FRCPC FRSC FCAHS
Distinguished Professor of Psychiatry, University of Manitoba
Senior Scientist, CancerCare Manitoba Research Institute
Former Chair, External Panel on Legislative Options to Carter versus Canada

Ramona Coelho, MD, CFPC
Family physician caring for marginalized populations

Paul Dagg, MD, FRCPC
Clinical Professor, Department of Psychiatry, University of British Columbia
Member, American College of Psychiatry

Sarah Garside MD PhD FRCPC
Associate Professor, Department of Psychiatry and Behavioural Neurosciences, McMaster
University
Vice-President, OAAF

Mark Henick, BA, MSc
CEO Strategic Mental Health Solutions
Mental Health and Suicide Prevention Advocate
former spokesperson Faces of Mental Illness Canada

Myeengun Henry
Former Chief, Chippewas of the Thames First Nation
Law Society of Ontario Indigenous advisor
Ontario Provincial Police Indigenous Advisor
Southern First Nations Health Access Traditional Healer

Scott Kim, MD
Adjunct Professor of Psychiatry, University of Michigan
Member, CCA Expert Panel on MAiD MD-SUMC

Trudo Lemmens, LicJur, LLM bioethics, DCL
Professor and Scholl Chair in Health Law and Policy
Faculty of Law, University of Toronto

John Maher MD FRCPC
President, Ontario Association for ACT&FACT (OAAF)
Editor-in-Chief, Journal of Ethics in Mental Health

Rod McCormick PhD (Kaniienkehaka)
Professor and BCIC Research Chair in Indigenous Health
Principal Investigator -Ombaashi Network
Director - All My Relations Centre
Faculty of Education and Social Work, Thompson Rivers University

Brian L. Mishara, PhD
Director, Centre for Research & Intervention on Suicide, Ethical Issues & End-of-Life Practices
Professor, Psychology Department, Université du Québec à Montréal

The Honourable Graydon Nicholas, BSc, LLB, MSW, Order of Canada, Order of New Brunswick
Wolastoqiyik Nation
Former Lieutenant-Governor of New Brunswick

Harvey Schipper BAsC, MD, FRCPC
Professor of Medicine, Adjunct Professor of Law
University of Toronto
Member, CCA Expert Panel on MAiD

Alexander (Sandy) Simpson MBChB, BMedSci, FRANZCP, FCPA
Chair in Forensic Psychiatry, CAMH + University of Toronto
Clinician Scientist, Research Program, CAMH
Professor, Department of Psychiatry, Temerty Faculty of Medicine, University of Toronto
Institute of Health Policy, Management and Evaluation, Dalla Lana School of Public Health-
University of Toronto

Tim Stainton, PhD (he/him/his)
Professor, School of Social Work
Director, Canadian Institute for Inclusion and Citizenship
University of British Columbia
x^wməθk^wəyəm (Musqueam) Traditional Territory

Sephora Tang, MD, FRCPC
Psychiatrist, The Ottawa Hospital
Assistant Professor, University of Ottawa, Department of Psychiatry

Georgia Vrakas, PhD, psychologue & ps.éd. (elle|she|her)
Professeure agrégée, Département de psychoéducation
UQTR | Campus de Québec

c.c. The Right Honourable Prime Minister Justin Trudeau
c.c. Canadian Ministry (Cabinet)

The Expert Advisory Group (EAG) on Medical Assistance in Dying (MAiD) consists of diverse individuals with extensive Canadian and international experience with MAiD policy and practices, and mental health and illness issues. The EAG first convened in 2020 and includes members of the Council of Canadian Academies (CCA) expert panels on MAiD, and additionally those with lived experience/expertise of mental illness.

Prior reports can be found at <https://www.eagmaid.org/>

Contact: eagmaid@gmail.com

Our purpose: To provide expert, evidence-based advice to guide MAiD policy