

House of Commons
43rd Parliament, 2nd Session
Standing Committee on Justice and Human Rights
Regarding BILL C-7
An Act to amend the Criminal Code (medical assistance in dying)
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Toujours Vivant-Not Dead Yet

[Bill C-7](#) is touted as providing additional safeguards to replace the end of life criterion, but does it really? And what would happen if Bill C-7 were not adopted?

For all people asking to die, Bill C-7 would reduce the number of witnesses required to sign the request from two to one, and would allow a personal support worker to witness the request. This could create a situation where an abusive care provider coerces a person to ask for MAiD then acts as the only witness to the written request.

Among the “safeguards” in Bill C-7 is an exclusion to the effect that “a mental illness is not considered to be an illness, disease or disability” for purposes of the MAiD law. This is supposed to prevent the deaths of people whose only medical condition is a mental illness. But it is unlikely to be effective for several reasons. Mental illness is universally recognized as a disability in laws, treaties, regulations and court decisions. For parliament to try to create an exception for this one law would be going against legal precedent and public policy. As well, the exclusion doesn’t address autism, brain injury or organic brain syndrome, which are not mental illnesses, but which may, especially in combination with discrimination, barriers and stigma, include symptoms that cause a wish to die. As long as the MAiD law allows eligibility based on psychological suffering, there will be an inevitable slide toward allowing euthanasia for psychiatric survivors.

Bill C-7 would create a two-track approval process, one for people whose natural death is reasonably foreseeable, the other for people, like the plaintiffs in the [Truchon](#) and [Lamb](#) cases, with long-term disabilities who are not dying.

For people whose deaths are considered reasonably foreseeable, Bill C-7 would remove the ten-day waiting period. Thus, a person could be approved and euthanized the same day, as has already happened in [Québec](#). Like the [current MAiD law](#), Bill C-7 does not define what “[reasonably foreseeable](#)” means as applied to a person’s natural death but it’s likely that a large majority of people will fall into this category. As of December 31, 2019, nearly 14,000 people had met that eligibility criterion, which has expanded through [court decisions](#) and [practice guidelines](#). Also, doctor shopping and referrals from euthanasia advocacy groups virtually guarantee that a person can easily find two medical professionals to approve euthanasia.

The bill would also remove the requirement that the person be competent to confirm their wish to die when death is administered; creating, in effect, an advance directive for euthanasia or assisted suicide. As long as the person had capacity and provided informed consent when they made the written request, and they do not “demonstrate, by words,

sounds or gestures, refusal to have the substance administered or resistance to its administration,” the lethal injection can go ahead.

The bill “clarifies” that “involuntary words, sounds or gestures made in response to contact do not constitute a demonstration of refusal or resistance.” Which raises the question; do “Involuntary words” include “no” or “stop”? This section is probably added in response to the case of a 74-year-old woman with dementia in the [Netherlands](#) who was euthanized under an advance directive, despite giving mixed signals about her wish to die as the date for euthanasia drew near. The physician in the case, who was [cleared of wrongdoing](#), allegedly put a sedative in the woman’s coffee and asked her family to hold her down to receive the lethal injection.

For people who are not at the end of life, Bill C-7 proposes an approval process with a three-month waiting period, which can be waived if both medical providers believe the person will lose capacity to consent. This waiting period will probably be challenged as a violation of charter rights. The bill also requires that one of the medical professionals have (presumably self-defined) expertise in the condition that causes the person’s suffering. That could mean a doctor who took a two-week course in pain management might decide they have expertise in managing the pain caused by multiple sclerosis, fibromyalgia or lupus.

The current MAiD law (Bill C-14) calls for the person to “give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.” Bill C-7, takes informed consent a step further for people who are not near death, saying that the medical practitioner must “ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care and has been offered consultations with relevant professionals who provide those services or that care.” A few things to note about these additions:

- The medical practitioner decides which of these supports are “appropriate” to offer, and may not be qualified to identify necessary non-medical supports;
- For some reason, these services are only deemed useful for people who are not at the end of life;
- As with the palliative care provision in Bill C-14, “being informed” and “offered consultations” are not the same as receiving services that meet the person’s needs.
- The medical professional’s obligation to discuss and “agree ... that the person has given serious consideration” to the means to relieve suffering is essentially unenforceable.

The bill would add some new reporting requirements in an attempt to correct the monitoring system’s failure to record oral MAiD requests where the person is found ineligible upon an informal assessment. However the bill makes no effort to document the impact of MAiD on disadvantaged groups, or to bridge the gap between the number of reported cases of MAiD and the actual number of people who are dying from assisted

suicide, euthanasia, continuous palliative sedation, life-ending acts without explicit requests, as well as abuse, medical errors and neglect.

Bill C-7 is an inadequate response to the limitations of Bill C-14, which never satisfied the mandate imposed by the Supreme Court in the [Carter](#) case to provide a “carefully-designed system imposing stringent limits that are scrupulously monitored and enforced.” It removes more safeguards than it adds, and leaves the pivotal concept of RFND undefined. Its “exclusion” of people whose request is based solely on a mental illness fails to protect people who are suffering from the effects of discrimination, barriers and stigma based on mental illnesses and disorders. It doesn’t solve the problems we highlighted in our analysis of the [MAiD annual report](#), nor the coercive effects of discrimination and barriers, as documented in our webcast series “[No free choice](#).” Nor is Bill C-7 a sufficient response to the disproportionate and discriminatory impact that MAiD and the COVID pandemic have on elders, disabled folks, and black, indigenous and people of colour.

Toujours Vivant-Not Dead Yet is a project of the Council of Canadians with Disabilities to inform, unify and give voice to the disability opposition to euthanasia and assisted suicide and other ending-of-life practices that have a disproportionate impact on disabled people. TVNDY is a bi-lingual, progressive, non-religious organization that provides educational services to achieve equal rights and the full range of options guaranteed by law.