

**Brief submitted to the Special Joint Committee on Medical Assistance in Dying (AMAD)
Parliament of Canada**

May 2022

Christopher Lyon, PhD

My father's MAiD death raises several issues for AMAD's consideration. Originally applying as a Track 2 (natural death not foreseeable) he was regraded to Track 1 (natural death foreseeable) mid-way through his 90-day assessment. He was able to track-shift, I was told, by refusing food and care, and he threatened unassisted suicide if he was denied MAiD. He also faced many of the non-clinical conditions suggested by others as possible incentives for MAiD, including poor housing, physical disability, access to care, and the isolation that Covid-19 imposes on the elderly and vulnerable¹. He also had a previous mental illness diagnosis. With this background in mind, I next describe my concerns and make two recommendations.

The questionable distinction between suicide and MAiD

In the months before he discovered and applied for MAiD, he was openly suicidal, as he was many other times in his life. He would sometimes use threats of suicide to manipulate family members. In our conversations, he compared his death to the suicides of Ernest Hemingway and Robin Williams, claiming to me that these men "were not mentally ill" and "just knew when it was their time to go" and made no distinction between MAiD and suicide.

Thus, the distinction between MAiD and suicide may be imposed by advocates, practitioners² and the Criminal Code³ and not reflect the lived experience or interpretation of the requestor. Indeed, the psychiatrists and practitioners appearing before AMAD making this distinction are not the requestors, who may have to be taught or otherwise absorb this new grammar for suicide. Imposing a new term on the requestor is coercive.

Moreover, at the same time, MAiD is offered after accepting the requestor's lived experience of intolerable suffering amid a diagnosed irremediable illness. Such a selective acceptance of patient definitions of their circumstance is inconsistent with the notion of autonomy used for MAiD support.

Lack of a complete account of the context of a MAiD request and impact on loved ones

He received MAiD on a close family member's birthday, which he declared was his "special gift". In any other instance, such an action would be interpreted as a horrific form of abuse and/or a clear red-flag pointing to a need to re-examine the approval. However, the Criminal Code currently does not compel consideration of these kinds of circumstances, and certainly does not include circuit-breakers or assessment reset provisions should new health or context information become known to assessors or providers. The path to death may thus be somewhat locked-in once both assessments are passed under Track 1 and Track 2.

Furthermore, virtually all other healthcare centres on saving and improving lives, which objectively does not harm loved ones. MAiD provides only death through a form of suicide. Suicide is often deeply traumatic for loved ones and can lead to significant health problems for them, including suicidality⁴. Yet, assessors and providers currently hold no moral or legal responsibility for harm to others resulting from their decisions to provide death, and deceased patients cannot be held responsible for the impact of their deaths.

Amid the thousands of MAiD deaths in Canada, it seems highly plausible that a proportion of these will be circumstantially challenging or harmful to others, yet defensible under current law.

Implications

The Health Canada *Final Report of the Expert Panel on MAiD and Mental Illness* was recently released⁵. While the Expert Panel was restricted in its mandate and the report has received criticisms, it nonetheless recognizes the complex nature of requests for death. It contains 19 recommendations amenable to all Track 2 cases, not just those involving mental illness.

It is clear to me that had the Panel's recommendations been in force and applied to all Track 2 cases in 2021, my father's assessment would have been quite different by using the early collection of collateral health information and investigation into his socioeconomic circumstances and suicidality. These efforts may have saved his life by revealing new opportunities for care or prevented him from maliciously using his MAiD approval should he still be eligible. It is therefore reasonable to conclude that other MAiD cases may have proceeded differently or not at all under a much more rigorous process, meaning that lives might be saved and improved, or harm to loved ones mitigated.

Recommendations: National moratorium and comprehensive review of real cases

It cannot be discounted that some people may have avoidably died because the Criminal Code currently requires too little from assessment and provision processes and clinicians. AMAD itself is relying largely on abstracted expert testimony and references to empirical research from other countries to make life and death recommendations for Criminal Code provisions for MAiD.

What is clearly missing from AMAD hearings and called for in the Expert Panel report, are much better empirical data on the circumstances of the large sample of real cases in Canada.

I strongly recommend that AMAD:

1. Advise an immediate national moratorium or repeal of the Criminal Code MAiD provision until AMAD testimony and the Expert Panel's recommendations can be examined;
2. Triangulate these examinations with a broadly mandated and academically rigorous systematic review of the thousands of real MAiD cases in Canada.

Lives depend on it.

References

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