Canadian Psychiatric Association
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POSITION STATEMENT

Medical Assistance In Dying: An Update

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This position statement has been revised by the Canadian Psychiatric Association's Professional Standards and Practice Committee, and approved for republication by the Board of Directors on October 18, 2021. The original position statement was developed by the Professional Standards and Practice Committee, and approved by the Board of Directors on February 10, 2020.

In 2016, Canada passed Bill C-14 to amend the *Criminal Code of Canada*. This exempted physicians and nurse practitioners from a charge of culpable homicide if involved in the provision of medical assistance in dying (MAiD). It also articulated eligibility criteria for MAiD for people with irremediable medical conditions who are in a state of irreversible decline, and whose death is in the foreseeable future.[1] This development was in response to society's changing view of MAiD as reflected in a landmark Supreme Court decision[2] on this topic.

In 2019, a Quebec Superior Court decision struck down the "reasonably foreseeable" provision in Canada's assisted dying law.[3] This finding was not appealed by the Quebec or federal governments, and in March 2021, the federal government passed Bill C-7,[4] which made changes to the eligibility criteria for MAiD in response to the *Truchon* decision. These changes included:

- Removal of the requirement that natural death be reasonably foreseeable.
- Introduction of a two-track approach to procedural safeguards based on whether a person's natural death is reasonably foreseeable.
- Allowing people whose natural death is reasonably foreseeable, and who have a set date to receive MAiD, to complete a waiver of final consent if they are at risk of losing capacity in the interim.

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- Expanding data collection through the federal monitoring regime to provide a more complete picture of MAiD in Canada.
- Temporarily excluding eligibility for those with a mental disorder as the sole underlying medical condition (MD-SUMC) for a period of 24 months.

This temporary exclusion is to provide additional time to study how MAiD for MD-SUMC can be provided through initiation of an expert review committee tasked with making recommendations on protocols, guidance and safeguards.

The Canadian Psychiatric Association (CPA) did not and does not take a position on the legality or morality of MAiD. Provision of MAiD is a decision reflecting current Canadian ethical, cultural and moral views. However, with the legislation now enacted, the CPA maintains several important principles and considerations regarding MAiD and psychiatry in Canada, even as the legislation and case law evolve:

1. Canadian psychiatrists will ensure that they have a working knowledge of MAiD legislation and shall draw on this knowledge during clinical encounters where the issue of MAiD may arise.
2. Patients with a psychiatric illness should not be discriminated against solely on the basis of their disability, and as such, should have available the same options regarding MAiD as available to all patients where eligibility requirements are determined to be met.
3. Psychiatrists will be mindful of medical ethical principles as they relate to MAiD. They should not allow personal opinion or bias to influence patients who wish to discuss MAiD as an option.
4. While psychiatrists may choose not to be involved with the process of MAiD, their patients requesting MAiD must be provided with information regarding available MAiD resources and an effective referral, as required by their provincial regulatory body.
5. Psychiatrists who assess eligibility for MAiD are expected to be rigorous in conducting capacity assessments and identifying treatable symptoms of mental disorder.

Finding the balance between a psychiatrist's commitment to provide treatment, care and hope for recovery, and a person's own experience of suffering and right to make personal choice in health-care decisions is core to the patient-provider relationship. The CPA will continue to protect the rights and interests of patients with psychiatric conditions at all times, and will advocate for the inclusion of appropriate and necessary safeguards in processes, protocols, and procedures relating to provision of MAiD.

References

1. Parliament of Canada. An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) [Internet]. Canada; 2016. [Cited 2021 Oct 01]. Available from: https://www.parl.ca/DocumentViewer/en/42-1/bill/C-14/royal-assent.
2. Carter v. Canada 2015 SCC 5 [2015] 1. R.C.S. 331.
3. Truchon c. Procureur général du Canada, 2019, QCCS 3792.
4. Parliament of Canada. An Act to amend the Criminal Code (medical assistance in dying) [Internet]. Canada; 2020. [Cited 2021 Oct 01]. Available from: https://parl.ca/DocumentViewer/en/43-2/bill/C-7/royal-assent.