

OPINION

People with irremediable mental illness should not be denied access to assisted death



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On March 17, 2023, Canadians suffering solely from mental illness will become eligible for medical assistance in dying.

There is a lot of hand-wringing over this evolution in the MAID law.

The well-worn “slippery slope” chestnut is being evoked. There are those saying we are preparing to “euthanize” the vulnerable, and others who insist people with mental illness cannot give informed consent for ending their lives.

There will be safeguards, of course.

The law requires that, to be eligible for MAID, a person’s medical condition must be deemed “grievous and irremediable.”

The request must also be reviewed and approved (or not) by two medical professionals, one of whom is a specialist in the condition – in this case, a psychiatrist – over a 90-day period.

In reality, the debate we’re having today (which often feels like an exchange of rhetorical volleys rather than a real discussion) was foreseeable even before Canada’s criminal interdiction of “assisted suicide” was struck down by the Supreme Court of Canada way back in 2015.

The first iteration of the law on medical assistance in dying said death must be “reasonably foreseeable,” a clause that was, predictably, struck down by the courts.

Assisted death is a medical procedure that allows people to end their intolerable suffering with the aid of a medical professional. But the idea of healers helping to hasten death, of course, raises ethical concerns and emotional issues.

Where to draw lines about who is eligible, when and how, is ultimately a debate about patient autonomy vs. patient protection.

Or, if you prefer, the freedom to choose vs. paternalism.

A 76-year-old with incurable cancer (the typical MAID recipient in Canada)? Pretty well everyone is fine with them getting a dignified death, receiving a final lethal injection with family gathered 'round to say farewell.

We get a lot more uncomfortable with a 55-year-old who has been living with chronic pain for decades, or a 29-year-old with treatment-resistant depression who has been suicidal their whole life. We tend to view these conditions as less serious, or treatable, but they're not always.

Is cancer more grievous and irremediable than chronic pain or depression? Is ending one's suffering from a physical illness nobler than doing so for a mental illness?

This is not a simple discussion, and it's only going to get more difficult. Should patients with dementia be eligible for MAID? What about babies born with grave conditions who have no chance of survival?

Medical professionals, ethicists, politicians, and patients themselves are deeply divided on how we should regulate medical assistance in dying.

A recent Globe and Mail article by Erin Anderssen masterfully explores the challenges that changing the eligibility for MAID poses, and asks whether Canada has had enough time to "get it right."

But the question is not so much, "Has there been time to get it right?" as it is, "Can we ever get it right?"

There's no question that most everyone engaged in this issue is coming at it from a point of compassion. (The exception being a few anti-choice zealots exploiting the vulnerable to suggest we will be euthanizing people indiscriminately.)

There will never be broad consensus on this deeply emotional issue.

As a result, legislators need to take a stand, and do so with full transparency.

To its credit, the federal government has done so. There is no question the federal Liberals were not enthusiastic about allowing medical assistance in dying, but were pushed to act by the courts.

They've responded relatively well, fashioning overcautious legislation, publishing thorough data and studying the issue exhaustively.

The most recent annual report on medical assistance in dying shows that 10,064 Canadians availed themselves of the procedure in 2021, including 219 whose deaths were not "reasonably foreseeable," the category into which most mental health requests would fall.

There was an Expert Panel on MAID and Mental Illness, which made 19 thoughtful recommendations. There is also a Special Joint Committee on Medical Assistance in Dying, which staged excellent public hearings and whose report is expected in February.

What's clear is that the legislative change should go forward in March.

The law will never be perfect, but if we're going to err, it has to be on the side of patient autonomy.

Those suffering from irremediable mental illness deserve a dignified death as much as anyone else.

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