

## OPINION

# The dithering on MAID reveals the ingrained cowardice in Canadian politics

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Senators Pamela Wallin, left, Stan Kutcher, and Marie-Francoise Megie attend a press conference to call on the government to fulfill its obligation regarding access to Medical Assistance in Dying (MAID) where mental health is the sole underlying condition, in Ottawa on Feb. 1.

If you've ever wondered why substantial change never seems to come to health care, look no further than the federal and provincial government handling of medical assistance in dying and mental illness.

Any time there is a moderately difficult decision to make, we seem to punt it forward. We do nothing because we're "not ready," without defining what readiness means. The institutional and political cowardice is dispiriting.

In 2015, the Supreme Court ruled on the case of [Kathleen Carter](#), saying Canadians do have a right to MAID, but gave legislators time to fashion a law. A year later, Parliament passed Bill C-14, which legalized MAID, but only if people suffered from a “grievous and irremediable condition” and their death was “reasonably foreseeable.” The latter condition was [struck down](#) in a 2019 Quebec court decision.

The federal government was given a year to adjust MAID regulations, but took two to do so. In March, 2021, Bill C-7 removed the “reasonably foreseeable” clause and created two tracks for MAID requests. But legislators delayed access for it if the sole underlying condition was a mental disorder (MAID-SUMC for short) until March, 2023. That was delayed another year, to give time for committees to study the matter. With that deadline imminent, a joint committee of MPs and Senators decided last week they again [need more time](#). The federal government jumped on that recommendation and proposed extending the delay for legalizing MAID-SUMC [to 2027](#).

There is no question that allowing people with mental illness to access MAID is a complex and fraught issue. We need to balance individual rights with protecting the vulnerable. But these decisions need to be made on a case-by-case basis, between an individual and medical practitioners.

The role of government here is mostly to get out of the way. Politicians should no more be deciding who accesses MAID than they should be deciding who gets a heart transplant.

We keep hearing that Canada is “not ready” for MAID-SUMC. But readiness has two aspects. Legally, governments need to respect the court rulings and ensure that there is no discrimination in accessing MAID in the legislation. Medically, with the expansion of MAID, readiness means practitioners have to be prepared to tackle three key issues: Establish that a condition is irremediable; ensure the requester is competent; and distinguish between patients who are suicidal and those making a rational and sustained request for MAID.

None of these issues are unique to people with mental disorders, though some are slightly more complicated. There are some psychiatrists who argue that no mental illness is untreatable, but there are patients who have suffered for decades who take issue with that position. Ultimately, we have to find the balance between individual autonomy and protecting the vulnerable.

Canada has about 96,000 physicians; at last count (in 2021), only [1,577 of them](#) had provided MAID. By all accounts, they have done so in a responsible and ethical manner, relieving the suffering of almost [45,000 Canadians](#) as of 2022.

There are [practice standards](#) for medical assistance in dying, and they need to be tweaked. Practitioners will get additional training on how to handle some of the issues that are especially challenging in reviewing requests from patients with a mental disorder.

The same will apply in dealing with MAID requests from mature minors and advance requests from people living with dementia. (By the way, both of these were endorsed by the joint committee of MPs and Senators, but have generated little media coverage.)

MAID is an emotional issue, with many political, moral, and social entanglements. We hear repeatedly of fears that people with disabilities – mental, physical and developmental – will seek assisted death because of difficulties accessing care or social supports.

There is no question we need to bolster access to mental health care, especially for the sickest. If we are worried about rates of suicide – and with [3,593 suicide deaths](#) in 2022, according to Statistics Canada’s most recent data, we should be – then why doesn’t Canada have a national suicide strategy?

Unquestionably, too many people with disabilities are living in poverty. But that doesn’t mean we should deny MAID to those who are eligible and request assisted death. No one should be coerced. But neither should we hold individuals hostage until we fix systemic problems.

If legislators have doubts about their ability to draft legislation, they should refer the issue directly to the Supreme Court of Canada – an eminently sensible [recommendation](#) from Senator Pierre Dalphond.

There is no reason we have to wait until 2027 to fix the law when solutions are at hand. The job of legislators is to legislate, not procrastinate.

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