



Background on the right to medical assistance in dying (MAID)

- In September 2019, Quebec Superior Court Justice Christine Baudouin ruled in the Truchon decision that it is unconstitutional to limit medically assisted death to those whose natural death is “reasonably foreseeable”. In response, the federal government in February 2020 tabled Bill C-7 to amend Canada’s MAID laws.
- In March 2020, and again in June 2020, the federal government asked for and was granted an extension to comply with the ruling. The new deadline is December 18, 2020.
- With the government deciding to prorogue Parliament, Bill C-7 was not allowed to proceed through the legislative process and died on the Order Paper.
- The House of Commons returned on September 23, 2020 and on October 5, Bill C-7 was reintroduced into the House of Commons. It is identical to the previous Bill, including all proposed amendments.
- In addition to the amendments proposed in Bill C-7, the federal government has committed to the parliamentary review of MAID legislation as soon as possible, and to address three issues excluded from the Bill, including advance requests for MAID, mature minors and their right to access MAID, and mental illness as the sole underlying medical condition. DWDC’s position on these issues are below:

More than eight Canadians in 10 (85 per cent) support the right to MAID, according to a Feb. 2016 poll commissioned by DWDC & conducted by Ipsos Reid.

What you can do as a Member of Parliament

Bill C-7

Dying With Dignity Canada (DWDC) is calling on all MPs to:

- Support Bill C-7 and the proposed amendments to MAID legislation, namely:
 - Removing the clause that ‘natural death has become reasonably foreseeable’ (NDRF) as an eligibility requirement. This clause now plays a role in the safeguard process.
 - Allowing waiver of the requirement for final consent for those patients who are eligible, but who may lose capacity in advance of their scheduled date. DWDC is pleased that a process has been proposed to ensure continued eligibility for MAID in these cases, recognizing the unnecessary pain that has been caused to many, including Audrey Parker.
 - Proposing that only one independent witness be required to sign the formal request for MAID, and that this witness may be a paid personal care or healthcare worker. As an organization providing independent witnesses, DWDC understands the importance of respecting the privacy of patients and that requiring two witnesses was often a barrier to access.

Supporting Information

Our concerns with the preamble to Bill C-7:

- DWDC calls on the government to clarify its intent and meaning in the clause “taking a human-rights based approach to disability inclusion.”
- Further, DWDC calls on the government to remove the following paragraph: “Whereas Parliament recognizes the need to balance several interests and societal values, including the autonomy of persons

who are eligible to receive medical assistance in dying, the protection of vulnerable persons from being induced to end their lives and the important public health issue that suicide represents..." It is paramount that all those seeking MAID be free of "external pressure" and are protected, whether or not they are considered vulnerable. With well-crafted legislation there is no need to balance autonomy and vulnerability of the person in end-of-life decisions because the autonomy of the person will take precedence in moving forward with MAID.

Our concerns with the amendments in Bill C-7:

- DWDC is opposed to the explicit exclusion of those with mental illness and believes these measures to be stigmatizing, discriminatory and likely unconstitutional. As noted in the Truchon decision, "the vulnerability of a person requesting MAID must be assessed exclusively on a case-by-case basis, according to the characteristics of the person" and that "the patient's ability to understand and to consent is ultimately the decisive factor, in addition to the other legal criteria."
- DWDC also believes that the waiver of final consent be permitted whether natural death is reasonably foreseeable or not as an individual could lose capacity due to an unexpected event (e.g. coma, sudden brain seizure etc.) and then be denied MAID.
- Some aspects of this proposed framework may be more restrictive than the government intended. The government is encouraged to consult with appropriate parties such as members of the Canadian Association of MAID Assessors and Providers (CAMAP) to ensure that the dual track safeguard definitions and criteria do not inadvertently exclude individuals who are currently eligible.

Our concern with the assessment period for those whose natural death is not reasonably foreseeable:

- The 90-day assessment period for those whose death is not reasonably foreseeable will unnecessarily extend suffering. We call on the government to revise this clause to provide an assessment period of 30-days allowing for full assessment, consideration of the enduring nature of the request and review of possible interventions and supports.

Parliamentary Review

We further ask that the federal government act quickly to initiate the parliamentary review called for in the 2016 MAID legislation now that Parliament has resumed. This review should consider:

- Lifting the ban on advance requests for assisted dying, which discriminates against people with capacity-eroding conditions such as dementia, by ensuring that only those eligible people with an enduring request for MAID can receive it.
- Having a severe mental illness does not necessarily mean that a person is incapable of making free and informed decisions about their care. Suffering by severe mental illness is no less 'real' than suffering caused by a physical injury or disability. Acknowledging that additional safeguards may be required in cases, where the person's sole underlying condition is a severe mental illness, individuals with mental illness should not be excluded outright from access.
- In many jurisdictions across Canada, mature minors already have the right to make important decisions regarding their care. This includes the right to consent to or refuse life-saving medical treatment. Recognizing that special eligibility criteria and safeguards may be required, the allowance of MAID for mature minors, who are otherwise eligible, should be considered.

Should you have any questions concerning DWDC's position around Bill C-7 and/or the parliamentary review, please do not hesitate to have your staff contact Mr. Puneet Luthra, Director of Government & Stakeholder Relations at puneet.luthra@dyingwithdignity.ca or 647-956-4127.