ARPA *AT ISSUE*

EUTHANASIA

PROVINCIAL SAFEGUARDS

SUMMARY

Euthanasia and assisted suicide, commonly referred to as MAID, have been legal in Canada since 2016. In that time, the number of MAID deaths has skyrocketed. This is not a mark of Canadians' freedom, but of their vulnerability to choosing death in difficult circumstances. This report explains what provincial governments can and should do to protect vulnerable Canadians.

Background

In 2016, the federal government introduced Bill C-14, which de-criminalized euthanasia and assisted suicide for those whose natural death was reasonably foreseeable. In 2021, Bill C-7 expanded eligibility to persons who are not nearing natural death, including those with disabilities and chronic illnesses. Euthanasia is scheduled to further expand, in March 2027, to people with mental illness as their sole underlying condition.

Federal law (through the *Criminal Code*) sets out basic eligibility and procedural requirements for obtaining Medical Assistance in Dying (MAID). Unfortunately, these are inadequate to prevent patients from feeling pressured to consider MAID, or to screen out vulnerable patients who may seek MAID due to remediable suffering and psychosocial factors. Canada's criminal law alone is inadequate to ensure that every patient's condition and circumstances are comprehensively assessed, and appropriate care made available.

As provincial governments have jurisdiction over administering health care, they can and should implement additional safeguards related to MAID. As the federal Justice Department said regarding Bill C-14 (2016):

> The legal effect of the new legislation [is] to de-criminalize medical assistance in dying and leave further regulation of the practice to the provinces and territories should they so choose. Medical assistance in dying has aspects that fall under both federal and provincial jurisdiction (emphasis added).

The remainder of this report is structured as follows:

- Part 1 compares federal and provincial jurisdiction when it comes to regulating MAID.
- Part 2 provides a suite of policy recommendations for provincial governments.
- Part 3 provides an in-depth explanation and defense of those policy recommendations.

PART 1: Defining Federal & Provincial Jurisdiction

Canada's Parliament is responsible for defining the line between culpable homicide and MAID through the criminal law. Thus, the basic eligibility and procedural requirements for MAID are prescribed in the *Criminal Code* as exceptions to the offences of homicide and assisting suicide.

Provincial governments have jurisdiction over *how* MAID is offered, regulated, monitored, and reported within their healthcare system.

The Supreme Court in *Carter v Canada (Attorney General)* confirmed that "health is an area of concurrent jurisdiction; both Parliament and the provinces may validly legislate on the topic… This

suggests that aspects of physician-assisted dying may be the subject of valid legislation by both levels of government, depending on the circumstances and focus of the legislation" (emphasis added).

Justice McLachlin wrote in *Reference re Assisted Human Reproduction Act* that "the use of a carve-out [from a criminal prohibition] only means that a particular practice is not prohibited, not that the practice is positively allowed by the federal law.… If a province enacted stricter regulations than the federal government, there would be no conflict in operation between the two sets of provisions since it would be possible to comply with both."

PART 2: Recommended Provincial Safeguards on MAID

Having laid out the jurisdictional responsibility and authority of federal and provincial governments above, the following recommendations would fall within the scope of provincial government and would improve protection for vulnerable Canadians who may be eligible for MAID. This list of policy recommendations would be best implemented all together.

ARPA Canada recommends that provincial governments:

- Prohibit health care workers from initiating a conversation about MAID with a patient;
- Ensure that MAID is not provided for patients with mental illness as the sole or primary underlying condition for their request, even if the patient also has a physical disability or illness;
- Protect conscience and professional integrity by allowing medical professionals and health care institutions to not participate in MAID;
- Implement screening requirements to detect external pressures behind a patient's request for MAID; and
- Only permit MAID for terminal conditions, where a patient's prognosis is a natural death within six months.

RATIONALE

The following rationale applies to the above recommendations collectively:

- In 2024 alone, 16,499 Canadians received physician-assisted death, accounting for 5.1% of all deaths, continuing an upward trend.
- Of all persons who died by MAID in 2024, nearly 50% noted a perceived burden on family, friends or caregivers as a source of their suffering, and over 20% listed loneliness or isolation. For those not nearing natural death, nearly 45% suffered from loneliness and isolation. These are not incurable medical conditions but familial and social problems.
- Dr. Michel Bureau, the chair of Quebec's commission on end-of-life care, worries that MAID in his province is no longer seen as a last resort. Instead, it is increasingly seen as a 'solution' to suffering.
- Patients have been offered or provided MAID instead of other social or medical services to ease their suffering.
- Patients have been offered MAID without asking for it. Proactively offering MAID sends an implicit message that the patient's life may no longer be worth living.
- Provincial governments should ensure that doctors and patients explore all care options, and that MAID is truly treated as a last resort, categorically different than other end-of-life options, such as palliative care.
- The Alberta government recently passed Bill 18, the *Safeguards for Last Resort Termination of Life Act*. Alberta's law permits euthanasia only for persons with a prognosis of natural death within a year. In addition, Alberta's law prohibits health care workers from suggesting or offering MAID without being asked. It also protects freedom of conscience for health care professionals and institutions that object to participating in MAID. Finally, Alberta's law implements better safeguards and oversight of MAID in the province.
- The United Nations Committee on the Rights of Persons with Disabilities recently urged Canada to not expand MAID any further, eliminate "track 2" MAID, and implement more effective oversight.
- The Scottish Parliament considered Canada's example and voted down a bill to legalize euthanasia for terminal illness. The UK Parliament also studied Canada's example as it did not pass a bill that would permit euthanasia only for terminal illness.

PART 3: Further Explanation of Recommended Safeguards

Recommendation #1: Prohibit health care workers from initiating a conversation about MAID with a patient.

Information about MAID should only be provided upon request from the patient. Otherwise, doctors could potentially be inducing suicide by suggesting MAID as an option. Canada's *Criminal Code* does not clearly preclude medical professionals from suggesting or encouraging MAID, even though counseling a person to consider suicide remains a crime.

- When a healthcare provider initiates a conversation about MAID, vulnerable patients may feel pressured or encouraged to consider it. This may erode hope of recovery or worsen the patient's feeling or fear of being a burden.
- Patients may interpret an offer of MAID as an indication that their suffering will be intolerable, and that MAID is the recommended way out.
- In various jurisdictions outside of Canada where euthanasia has been legalized, doctors are prohibited or strongly discouraged from raising the option of euthanasia with a patient. Canada (outside of Alberta) is out of line with these standards.

Hospitals have offered MAID to patients who were not asking for it. Roger Foley, who has a degenerative brain condition, was offered assisted death instead of the help he needed to manage his condition. This is devastating for someone who simply wants help to live well. (Joseph Brean, "Denied 'assisted life,' chronically ill Ontario man is offered death instead: lawsuit," *National Post,* Mar. 16, 2018).

A Nova Scotia woman about to undergo a mastectomy for breast cancer was informed about MAID on two separate occasions. She says the question of whether she was aware that she could get MAID "threw me. It came up in completely inappropriate places and completely inappropriate times." (Sharon

Kirkey, "Nova Scotia woman was asked if she knew about assisted dying before mastectomy surgery for breast cancer," *National Post,* Oct. 22, 2024).

Recommendation #2: Preclude MAID for Mental Illness

Provinces should not permit MAID for patients whose sole or primary underlying condition is a mental illness, even if the patient also has a physical disability or illness.

- MAID for mental illness as the sole underlying condition will no longer be criminally prohibited as of March 17, 2027 – unless Parliament delays or cancels that change to the criminal law. However, patients with mental illness are already eligible for MAID if they meet other eligibility criteria, such as having a disability. The request for MAID, however, may still be fueled by mental illness which impairs a person's judgment.
- Several problems with MAID for mental illness remain largely unresolved, including questions about irremediability, informed consent, suicidality, other vulnerabilities, and lack of access to services.
- Offering MAID for mental illness normalizes death as a solution for psychological suffering and undermines suicide prevention efforts.
- A 2023 Angus Reid poll indicated that 82% of Canadians say MAID should not be expanded without first improving mental health care access. Across the provinces, between 42% and 63% of people oppose or strongly oppose expanding MAID to mental illness.

It is deeply traumatic for a person suffering a mental health crisis and seeking professional support to be offered MAID, as happened to Kathrin Mentler in Vancouver in 2023. Mentler went to the hospital with suicidal thoughts. The clinician asked Mentler if she had considered MAID. Mentler left feeling "hopeless because this was my attempt at reaching out for help and I feel it was actually more traumatizing." (Christa Dao and Elizabeth McSheffrey, "She went to the hospital with suicidal thoughts. A clinician raised medically-assisted death," *Global News,* Aug. 10, 2023).

The Ontario Coroner's MAID Death Review Committee tells of Mr. A. (anonymized) who suffered from inflammatory bowel disease and had a history of mental illness, suicidality, substance abuse, and social vulnerability. These factors were not adequately addressed. Yet Mr. A.'s psychiatrist asked him if he was aware of MAID and Mr. A. was driven to his MAID appointment by his MAID provider.

Recommendation #3: Protect Freedom of Conscience

Provinces should allow physicians to decline to provide an effective referral for MAID. Similarly, provinces should allow health care institutions to opt out of providing MAID on their premises for conscientious reasons.

- In some provinces, doctors must facilitate MAID through an effective referral if they are unwilling to provide the service directly. Many doctors view this as participation in the procedure.
- Protecting doctors from participating in MAID upholds their professional integrity and allows them to provide the highest quality of care to their patients.
- Doctors must be permitted to make ethical decisions and should not be expected to simply provide whatever a patient requests.
- Vulnerable patients might feel unsafe with medical professionals who do not share their values. Many patients want a doctor and a healthcare facility who they know will never provide MAID.
- A hospice in British Columbia could not get assurance from the government that it would not be forced to allow MAID on its premises. As a result, it is planning to move to another jurisdiction.

Christine Nagel feared that a doctor might end her life because she was eligible for MAID. As a defense, she got a tattoo stating, "don't euthanize me." She noted, "I'm a Catholic and I wanted 'Don't euthanize me' to be a permanent [declaration]." (June Chua, "Calgary granny gets 'Don't euthanize me' tattooed as sign of faith," *Yahoo News,* Jan. 11, 2017).

Recommendation #4: Consider External Factors Behind a MAID Request

Provinces should establish safeguards that help medical professionals detect potential external pressures behind a patient's request for MAID. Assessors must consult the patient's family doctor and other health care providers and seek to obtain information from family members and other significant people in the patient's life to inform the MAID assessment. Further, provinces should enable family members to submit a complaint to a MAID oversight body if they believe a health care provider has contravened MAID safeguards.

- A patient may be eligible for MAID but desire to live well instead of receiving assisted death. MAID is often provided as an option before a patient has received other appropriate types of care.
- Patients may be pressured to seek MAID through various social and environmental factors unknown to their healthcare provider.
- In 2019, the UN Special Rapporteur on the rights of persons with disabilities stated, "I have been informed that there is no protocol in place to demonstrate that persons with disabilities have been provided with viable alternatives when eligible for assistive dying. I have further received worrisome claims about persons with disabilities in institutions being pressured to seek medical assistance in dying, and practitioners not formally reporting cases involving persons with disabilities."

Gary Nichols found out about his brother Alan's scheduled death by MAID four days before it happened. The family pleaded with the hospital to postpone due to Alan's history of depression, stating that he could recover and live well. Alan's family argued that his death was not reasonably foreseeable, and he should not have been eligible for MAID (as MAID for those whose death was not reasonably foreseeable was not yet permitted). Alan's sister-in-law Trish said, "We spent 50 years helping Alan live, and in one month they signed his death warrant." (Avis Favaro, Elizabeth St. Philip and Graham Slaughter, "Family says B.C. man with history of depression wasn't fit for assisted death," *CTV News,* Sept. 24, 2019).

Additional Resources:

"Sixth Annual Report on Medical Assistance in Dying in Canada," *Government of Canada*, (November 2025).

Committee on the Rights of Persons with Disabilities, "Concluding observations on the combined second and third periodic reports of Canada," *United Nations*, April 15, 2025

Ramona Coelho, K. Sonu Gain, and Trudo Lemmens, eds., *Unravelling MAiD in Canada*, (McGill-Queen's University Press, 2025).

Julia Nicol, "Medical Assistance in Dying: The Law in Selected Jurisdictions Outside Canada," *Library of Parliament*, Sept. 23, 2021.

Mary J. Shariff, Derek BM Ross, and Trudo Lemmens, "Mental Illness, Health Care, and Assisted Death: Examining Parameters for Expanding or Restricting MAID under Canada's Charter and Federal System," *Manitoba Law Journal* 47, (2024).

Ramona Coelho et al., "The realities of Medical Assistance in Dying in Canada," Palliative & Supportive Care 21 (no. 5), (2023).

Daniel Zekveld, "Ring the alarm – Canada is failing to safeguard those with mental illness from MAID," *The Hub*, April 25, 2024.

Daniel Zekveld, "Better MAiD oversight is needed to protect patients," *Policy Options*, Dec. 6, 2024.

In 2022, then 23-year-old Kiano Vafaeian had been approved for MAID. His only physical disabilities were diabetes and loss of vision in one eye. A Toronto doctor approved him for MAID. Because of Kiano's mother's advocacy, the doctor eventually decided he would not euthanize Kiano. However, at the end of 2025, Kiano Vafaeian died by MAID in British Columbia despite his mental illness and having no major medical condition. (Rupa Subramanya, "Determined to Die," *The Free Press*, Jan. 26, 2026).

Recommendation #5: Eliminate Track 2 MAID and clarify Track 1

Only permit MAID for terminal conditions, where a patient's prognosis is a natural death within six months.

- When MAID was legalized in 2016, only those whose natural death was 'reasonably foreseeable' (now known as 'track 1') were eligible. In 2021, MAID eligibility was expanded to include those whose death was not 'reasonably foreseeable' (now known as 'track 2'). Reasonable foreseeability, however, is not defined in criminal law, meaning that some patients with years left to live are not afforded the additional safeguards of track 2 but are fast-tracked onto track 1.
- For provincial law purposes, the province can build "above the floor" set by criminal law. As such, the province can require that medical professionals only provide MAID to persons with a prognosis of natural death within six months.
- Inclusion Canada, the Council of Canadians with Disabilities, Indigenous Disability Canada, and DAWN Canada have filed a Charter challenge against track 2 MAID, noting the need to provide adequate support and resources for Canadians with disabilities rather than MAID.

In 2023, Rose Finlay applied for MAID because she was unable to receive adequate disability support. She noted at the time that "it takes six to eight months to receive disability support and only 91 days to receive medical assistance in dying based on the fact that I have a permanent disability and decreased quality of life." (Caryn Lieberman, "Ontario quadriplegic mother applies for MAID over lack of access to disability supports," *Global News*, June 21, 2023).

The Ontario Coroner's MAID Death Review Committee tells of Mr. C. (anonymized) who became quadriplegic in an accident. Mr. C. suffered from social isolation and was separated from his family during care. Various treatment and care options were left unexplored. He received MAID within two years of his accident, raising concern among some members of the Committee that two years is not sufficient time to navigate adjustments that come with quadriplegia.

Conclusion

Canada has one of the most permissive federal euthanasia policies in the world, and we are failing to adequately protect vulnerable Canadians. Provinces should implement safeguards around Medical Assistance in Dying to protect patients and preserve ethical and professional standards in medicine.

CONTACT

Daniel Zekveld
Policy Analyst
647.909.5177
Daniel@ ARPACANADA.ca

John Sikkema
Director of Law & Policy
289.228.8775
John@ ARPACANADA.ca

ARPA *AT ISSUE*

Association for Reformed Political Action (ARPA) Canada

Part 4: Common Objections and Suggested Responses

POTENTIAL ARGUMENTS & OBJECTIONS TO OUR RECOMMENDATIONS	RESPONSES TO SUPPORT THE RECOMMENDATIONS
Medical professionals who mention MAID as an option are not pressuring their patients to access it. They are simply informing their patient about all legal options. Awareness is not the same as coercion.	• Patients who are suffering are in a vulnerable position and may take mention of MAID as a suggestion. Mention of MAID may also cause a patient to believe that they are eligible even if no assessment has taken place. • MAID is not an ordinary health care service to be listed among "care options". It is an exception to the criminal prohibition on homicide and is essentially the "service" to end health care services.
Health Canada's Model Practice Standard only recommends bringing up MAID for patients for whom MAID is consistent with their values and goals of care. We can trust doctors to only bring up MAID in appropriate circumstances.	• Even patients for whom MAID is consistent with their values and goals of care should not be pressured to access it before they are ready. Patients with a significant illness are vulnerable to suggestibility. • Some patients have even been offered MAID because appropriate health care is not readily available. These patients may not be opposed to MAID, but the health care system should focus on offering support to live well. • These standards are not being adequately followed. There are examples of health care professionals suggesting MAID without any knowledge of – or entirely ignoring – a patient's values and goals of care.
If MAID for mental illness is permitted by Canada's criminal law, provinces cannot prohibit it.	• Only Parliament can enact a criminal prohibition with criminal law penalties. But provinces have authority to regulate health care. Nothing compels provincial health care systems to offer MAID to those with a mental illness. • A provincial law would apply only to health care practitioners, much like Ontario's Bill 77 in 2015, which amended the *Regulated Health Professions Act* to prevent health professionals from offering conversion therapy and made conversion therapy a non-insured service. A provincial law could prescribe professional and financial consequences for breaching the law. The objective would be to keep euthanasia for mental illness out of health care, based on the judgment that it is not an appropriate treatment for the health care system to offer patients as a solution for mental illness. • The Supreme Court in *Carter* confirmed that "health is an area of concurrent jurisdiction; both Parliament and the provinces may validly legislate on the topic … This suggests that aspects of physician-assisted dying may be the subject of valid legislation by both levels of government, depending on the circumstances and focus of the legislation." • Quebec's *Act Respecting End of Life Care* is a comprehensive statute regulating MAID that supplements and, in some ways, duplicates federal law. That Act states that "a mental disorder other than a neurocognitive disorder cannot be an illness for which a person may make a request."
Patients with a disability or illness can still make an informed decision about MAID if they have a mental illness.	• Even if a patient would be eligible for MAID without having a mental illness, that mental illness impacts whether the decision to access MAID is truly an informed choice. • In the state of Oregon, if one of two physicians assessing a patient believes that judgment may be impaired by a psychiatric or psychological disorder or depression, the physician must refer the patient for counselling and cannot prescribe MAID medication until it is determined the patient's judgment is not impaired.

POTENTIAL ARGUMENTS & OBJECTIONS TO OUR RECOMMENDATIONS	RESPONSES TO SUPPORT THE RECOMMENDATIONS
Allowing doctors to decline to refer for MAID harms vulnerable patients.	• Patients benefit when their doctor provides her honest, ethical opinion. Health care suffers when patients simply get whatever they ask for without a conversation about what is best. • Healthcare workers who are unwilling to participate in MAID may be excellent advocates for other end-of-life care services which many patients want, such as mental health care, disability supports, community services, or palliative care.
Requiring an effective referral is an appropriate balance between doctors' rights and patients' rights.	• In *CMDS v. CPSO*, 2018, the Court acknowledged that effective referral policies are an infringement on freedom of religion but justified such policies under section 1 of the *Charter.* Yet even if effective referral policies are constitutional, they may not be helpful. Other approaches would be less of an infringement on freedom of religion and conscience and better protect vulnerable patients. • Protection of conscience is important for *both* doctors *and* patients. Because of effective referral requirements in some provinces, doctors are choosing to move to other jurisdictions or to retire early, contributing to an already short-staffed healthcare system.
We must respect a patient's autonomy in choosing MAID and accept that choice.	• People requesting MAID often experience severe constraints on their autonomy due to their medical condition and due to inadequate access to health and social support. Safeguards designed to screen out patients who can and should be assisted in life-preserving ways serve to enhance and preserve their autonomy. MAID is the choice to end all choices. • MAID was legalized as a last resort and should remain so. Medical professionals may not realize that the patient's choice is constrained by external factors.
People close to the patient, including family members, may try to stop the patient from accessing MAID.	• A patient's family typically knows the patient's needs as well as, or better than, their doctor. Family members may know whether a patient is feeling pressured by external factors. • If the patient's family is involved, doctors may also perceive any pressure from the family that pushes the patient toward MAID. • This is common practice in other jurisdictions. In Oregon, a physician must request that the patient inform their next of kin of a request for assisted suicide, although the physician cannot require the patient to do so. In California, a doctor must meet with the person who requests assisted suicide to ensure that the patient is not being coerced or unduly influenced.
The current guidelines give medical professionals the flexibility to give care dependent on their patient's circumstances.	• There is no standard that applies to all medical professionals when defining reasonably foreseeable natural death. One doctor might place a patient on track 2 while another would place them on track 1, foregoing the additional safeguards. • The Canadian Association of MAID Assessors and Providers recommends interpreting 'reasonably foreseeable' as 'reasonably predictable.' One doctor noted that natural death up to 10 years away counts as reasonably foreseeable. Such an approach makes track 2 safeguards meaningless.

For a more in-depth list of potential objections and rebuttals for each of our recommendations, contact daniel@arpacanada.ca.