Submission to the Government of Alberta
Consultation on Medical Assistance in Dying

December 20, 2024

The Evangelical Fellowship of Canada (EFC) appreciates the opportunity to participate in the Government of Alberta consultation on Medical Assistance in Dying (MAiD).

The EFC is the national association of evangelical Christians in Canada. Established in 1964, the EFC provides a constructive voice for biblical principles in life and society and a forum for engagement and collaboration for the roughly 2.2 million Evangelicals who are part of our constituency. Our affiliates include many churches and institutions in Alberta.

Our approach to this issue is based on the biblical principles of respect for human life and dignity, justice and care for those who are vulnerable. These principles are also reflected in Canadian law and public policy.

Question 1: Procedural safeguards and oversight

> MAiD is distinct from medical procedures in that it intentionally brings about the death of the patient. It carries significant risk of wrongful death, abuse or coercion. It is an exception carved out in the section of the *Criminal Code* that deals with offences against the person (Murder, Manslaughter and Infanticide). If the criteria and requirements laid out in that section (ss. 241.1-241.2) are not met, ending the life of a patient is a criminal offence.
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> Thus, it is essential to have significant transparency and clear, meaningful review of MAiD procedures, such as public reports of complaints and findings. As well, it is critical to require strict compliance with the law and clearly set out processes and consequences for non-compliance. An independent review committee or process for MAiD may be advisable.
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> In *Carter*, the Court envisioned a "carefully designed and monitored system of safeguards" (para 117).
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> Provinces have the opportunity to add precise definitions and objective standards to provincial regulation in order to better protect patients.

The existing eligibility criteria in the federal legislation are very subjective. What is a grievous or serious illness? What is an advanced state of irreversible decline? Who decides? Governments must look at what the law allows rather than relying on how they expect health professionals will proceed. Assessing patients primarily on a case-by-case basis means there are no universal protections.

We recommend requiring a reflection period for those whose death is reasonably foreseeable. Without this kind of safeguard, a person's life could be ended on the same day a request is made. A reflection period would ensure a person doesn't make a life-ending decision on a particularly difficult day.

We also recommend the Government of Alberta develop a clear definition of 'reasonably foreseeable' death, such as a prognosis of less than six months until natural death.

Question 2: Only patient-initiated conversations

It is in the public interest to protect patients against the possibility of subtle or overt pressure to pursue MAID.

We firmly believe that in order to protect persons from feeling pressured to request hastened death in moments of vulnerability and to avoid undue influence by medical professionals, it is essential that conversations about medical assistance in dying be patient-initiated. Medical practitioners must not be the ones to suggest medical assistance in dying as an option.

Doctors are in a position of authority, and ideally, trust. There is a power imbalance in the doctor-patient relationship. The sources of suffering outlined in MAiD reports clearly and consistently indicate many people who die by MAiD feel like a burden. When a clinician brings up MAID as an option, it suggests to the patient that the clinician sees their life as not worth living, or that ending their life is something worth considering. The physician's opinion is a very important factor in decision-making for many patients. The suggestion that MAID is an option is likely to be taken as a recommendation. This cannot be.

Given the presence and influence of medical ableism and ageism in the health care system, patients may have a context of receiving inadequate care. Clinicians may believe patients should consider MAID when patients do not feel they are suffering and are not contemplating ending their life.

Seeking treatment and healing, but instead being offered death by the one designated to provide care can cause feelings of betrayal and great distress. It is critical to ensure requests for MAiD are patient-initiated and not influenced by the power imbalance in

physician-patient relationships. This will become even more critical when eligibility is extended to persons with mental illness alone.

When a patient does express a desire to die, the first response and focus should be on offering support to live well, not to immediately initiate the MAiD process. Medical practitioners should first explore the source of suffering and underlying reasons for the desire, as well as all available care and treatment options, to ensure MAiD is limited to being considered as a last resort when there are no reasonable treatment options available.

Question 3: MAiD-free spaces to protect patients and staff

It is essential to maintain MAiD-free spaces where patients are not offered MAiD and do not feel pressured to seek it, and staff who object to MAiD are not required to participate in it. These spaces are a protection for both patients and staff.

Many faith-based institutions provide senior care, extended care and hospice care. The care they offer is an expression of the deeply held beliefs of the communities that provide the care. To compel these institutions to facilitate or allow assisted death on their premises denies the beliefs that animate their compassion. Health care professionals, staff and the administrators of these facilities should not be compelled to participate in or facilitate assisted death.

It is equally important that patients and residents of these facilities feel safe from the prospect of feeling pressured to receive MAiD.

Question 4: Protecting minors

We firmly believe minors must not become eligible for MAiD.

It is well known that the prefrontal cortex, the area of the brain responsible for judgment and decision-making, doesn't fully mature until about age 25. There is no decision more grave than the decision to end one's life. There are currently age limits for youth to sign contracts, vote or buy cigarettes or alcohol. The decision to have one's life ended is far more serious than these other decisions that come with specific minimum ages.

Setting a minimum age for MAiD establishes a universal standard within the province. It reduces the risk of pressure or despair leading to decisions for MAiD, which may be more keenly experienced by children, adolescents and teens. Arguably, the minimum age should be set higher than 18. But it must not be decreased.

Maintaining ineligibility for minors is even more crucial given that MAiD for mental illness alone is set to come into effect in 2027. The combination of MAiD for mental

illness alone and eligibility for mature minors would put the lives of vulnerable children and teens at risk.

If the decision is made to move ahead with the very problematic expansion of MAiD for mature minors, it would be essential to require parental consent, not just that parents be informed or consulted.

In *Carter*, the Court used the term "competent adult" repeatedly and deliberately. The Court is fully aware that there are differing provincial standards and ages of competence for care, but nonetheless chose to restrict the exemption to "adults," rather than "competent persons."

Question 5: Dependent adults

We do not believe that eligibility criteria should be expanded to include dependent adults. Adults with intellectual and physical disabilities already face ableism in the health care system. They may be in vulnerable situations with family and caregivers and may struggle to receive needed care and support.

Question 6: MAiD for mental illness

We do not believe eligibility for MAiD should be expanded on the basis of mental illness. The limitations of the current law will be exacerbated significantly if MAiD for mental illness alone is allowed.

The current MAiD regime does not require that a person receive treatment. It doesn't require that a patient has tried all available treatments – or any treatment. It only requires that eligible patients be informed of treatment options and seriously consider them.

We cannot assume that the percentage of Canadians with mental illness who access MAID will be as low as in Benelux countries when those countries have different safeguards. For example, in the Netherlands, while no patient is compelled to take treatment, a doctor may not end the life of a patient when there are means available to relieve their suffering. This will not be the case in Canada.

Statistics Canada reports a sharp increase in mental disorders over the last decade, particularly among many marginalized groups. The Canadian Association for Mental Health told a parliamentary committee, that "about 1/3 to 1/2 of Canadians with mental illness were not getting their mental health needs met before the COVID-19 pandemic exacerbated the mental health crisis and increased the burden on our mental health system." The data available tells us that as more Canadians struggle with their mental health, fewer are able to access adequate and timely care.

MAID for mental illness must not become an option – and particularly not the most accessible option - when mental health care may not be accessible or affordable, when treatment and support are not available. Canada's health care systems have been described as strained, if not broken. It is unconscionable that in Canada it may become easier for a person with mental illness to access MAID than the care and supports they need to live.

The law limits eligibility to those with a serious and irremediable medical condition. However, experts say that the trajectory of an individual person's mental illness is difficult, if not impossible, to predict.

There is no clear guidance on how to distinguish suicidality from a request for MAID. This will be a subjective assessment, carried out unevenly in a fractured and overburdened health care system.

We note also that family doctors are the most common MAID providers. Mental illness is complex and doesn't necessarily follow a predictable trajectory. Are family doctors equipped with the time, capacity or expertise to deal with this expansion?

There have been numerous reports of individuals in vulnerable situations choosing Track 2 MAID because of socioeconomic concerns. Canadians with mental illness already face stigma and discrimination. They may face similar pressures and challenges accessing care and support that may push them toward MAID.

Question 7: Safeguards for MAiD for mental illness

We do not believe that there are any safeguards that can ensure Canadians will be sufficiently protected if MAiD is expanded on the basis of mental illness alone.

However, if MAID for mental illness is to be allowed, there must, at minimum, be a requirement that:

- It be a last resort when all reasonable treatment options have been exhausted.
- Physicians must not be the ones to suggest MAID to their patients. Conversations about MAID be patient-initiated in order to protect patients from feeling pressured to request MAID in moments of vulnerability.
- A patient is directly assessed by a psychiatrist.
- A minimum age of 25 years of age for eligibility to MAID when mental illness is the sole underlying medical condition.

Question 8: Additional safeguards

We recommend a provision to require that those whose request for MAID may be related to a concurrent, underlying mental illness receive a mental health assessment,

to help the patient, and the practitioner, better understand the factors underlying the desire for MAID and allow for a more informed decision about treatment.

Additional essential safeguards include:
• Access to high quality palliative care.
• A waiting or cooling off period for people recently diagnosed with a life-threatening condition or who have suffered a traumatic injury.
• The patient must be capable of consent at the time their life is ended by MAiD.

Question 9: Dispute Mechanism for family members

Alberta should consider establishing an independent review body or process that families can appeal to for review or investigation if they feel that the law has been violated.

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