

## Canada

Assisted dying has been legal in Canada since 2016. In its first year, 1,018 people died by medical assistance in dying (MAiD). In 2021, that figure was 10,064 – an increase of 889%.<sup>1</sup> Over these five years, the law has expanded to include people with non-terminal illnesses, and recent reports show requests being made and approved, on the basis of poverty and lack of disability support. Proposals are in place to allow for individuals to request MAiD on the basis of mental illness. Palliative care provision remains inadequate. It is of serious concern that the law in Canada has shown the pitfalls and unworkability of an assisted dying law, where safeguards are merely qualifying criteria that loosen over time, and the pressure on vulnerable people to access MAiD has only grown. This document lays out the growing evidence of inappropriate uses of MAiD, the most concerning data collected from the annual MAiD reports, and the legislative history and proposals that indicate the weakness of so-called safeguards.

### 1. Growing evidence of expansion in uses of MAiD

There have been increasing reports of MAiD requests by patients citing poverty, lack of access to social support services, inadequate housing, insufficient disability support and mental health issues. Some are listed below.

- Amir Farsoud, who suffers from a chronic back injury, does not have stable housing but fears being homeless more than he fears dying so has applied for MAiD.<sup>2</sup>
- Joannie Cowie, a criminology graduate, suffers from epilepsy but managed to pursue education and work. Her disability recently worsened making work impossible. She says she doesn't want to die but can't see herself continuing to live the way she currently is.<sup>3</sup>
- Roger Foley suffers from a degenerative brain disorder. He states that he was offered euthanasia regularly and told how much his hospital care was costing.<sup>4</sup>
- Donna Duncan was approved for MAiD last year after years of declining mental health, exacerbated by a chronic inability to access psychiatric care.<sup>5</sup>
- Alan Nichols was approved for MAiD after he was brought to a psychiatric ward to recover from a psychiatric episode. He was approved for death after just four days there.<sup>6</sup>
- Margaret Bristow was denied MAiD in Ottawa but found a doctor in Ontario who approved it.<sup>7</sup>
- 'Madeline' suffers from ME. When the money needed to treat the illness runs out, she will call a doctor to administer MAiD.<sup>8</sup>

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<sup>1</sup> Third Annual Report on Medical Assistance in Dying (MAiD) in Canada (2021) - <https://www.canada.ca/content/dam/hc-sc/documents/services/medical-assistance-dying/annual-report-2021/annual-report-2021.pdf>

<sup>2</sup> <https://toronto.citynews.ca/2022/10/13/medical-assistance-death-maid-canada/>

<sup>3</sup> <https://globalnews.ca/news/9176485/poverty-canadians-disabilities-medically-assisted-death/>

<sup>4</sup> <https://nationalpost.com/news/canada/another-case-of-a-sick-canadian-offered-death-instead-of-treatment-this-time-a-veteran>

<sup>5</sup> <https://nationalpost.com/news/canada/another-case-of-a-sick-canadian-offered-death-instead-of-treatment-this-time-a-veteran>

<sup>6</sup> <https://nationalpost.com/news/canada/another-case-of-a-sick-canadian-offered-death-instead-of-treatment-this-time-a-veteran>

<sup>7</sup> <https://thepostmillennial.com/canadians-now-shopping-around-for-doctors-who-will-give-greenlight-for-death-under-euthanasia-program>

<sup>8</sup> <https://www.canadaland.com/madeline-medical-assistance-in-dying-priced-out-of-life/>

- Rosie Ashcraft suffers from Ehlers-Danlos syndrome. After waiting for years for surgery for her chronic joint pain, she is contemplating MAiD instead.<sup>9</sup>
- ‘Denise’ suffers from Multiple Chemical Sensitivity. She has applied for affordable housing for seven years without success and is now in the final stages of applying for MAiD.<sup>10</sup>
- ‘Susan’, a victim of violent assault, is multiply disabled, but is not terminally ill. She says she has dietary restrictions making food banks an inaccessible option. “An increase [in income support] is the only thing that could save my life. I have no other reason to want to apply for assisted suicide, other than I simply cannot afford to keep on living.”<sup>11</sup>
- Christine Gauthier, a retired Canadian Forces Veteran and paralympian with permanent spinal and knee damage, was offered MAiD after phoning her caseworker to ask for a wheelchair ramp for her home.<sup>12</sup>
- Jennyfer Hatch, who starred in a short film promoting the ‘beauty’ of euthanasia, was the victim of lack of access to health care. Speaking before her death, Hatch explained that she wanted to live but the resources were not provided for her care - she was not offered palliative care and struggled to find treatment for her complications. She was approved for MAiD within weeks.<sup>13</sup>
- Greg, 57, a writer who has diabetes, cardiac problems, anxiety and depression, and a history of trauma needs housing, but can’t find a place that is accessible, safe, and affordable on an income mostly from disability benefits. He has applied for MAiD<sup>14</sup>
- Michael Fraser was not terminally ill and didn’t appear close to death. His difficulty paying rent pushed him towards MAiD: “a constellation of factors — intractable disease, poverty, childhood sexual trauma, mental health challenges and the option of an assisted death.”<sup>15</sup>
- Christopher Lyon’s father died from MAiD despite the psychiatric evaluation report ruling out only depression and not checking for other mental conditions.<sup>16</sup>

Senator Wallin, who has introduced a bill to permit advanced requests for assisted death for non-terminally ill people who have lost mental capacity to consent, said that “MAiD is not an alternative to poverty or treatment or support or family”. The evidence as laid out above contradicts such a statement.

## 2. Data from Canada shows failings in care

- The number of requests deemed ineligible for MAiD is decreasing over time – 7.9% of requests were ineligible in 2019, 6.1% in 2020 and 4% in 2021.<sup>17</sup> As the use of MAiD has expanded, it would suggest ‘safeguards’ have slackened as the law lays out qualifying criteria rather than legal protections.

<sup>9</sup> <https://bc.ctvnews.ca/after-years-waiting-for-surgery-b-c-woman-considering-medically-assisted-death-1.5922445>

<sup>10</sup> <https://toronto.ctvnews.ca/toronto-woman-in-final-stages-of-maid-application-after-nearly-a-decade-long-search-for-housing-1.6145487>

<sup>11</sup> <https://www.macleans.ca/opinion/dying-for-the-right-to-live/>

<sup>12</sup> <https://www.ctvnews.ca/politics/paralympian-trying-to-get-wheelchair-ramp-says-veterans-affairs-employee-offered-her-assisted-dying-1.6179325>

<sup>13</sup> <https://bc.ctvnews.ca/b-c-woman-behind-dystopian-commercial-found-death-care-easier-than-health-care-1.6177877>

<sup>14</sup> <https://www.thenewatlantis.com/publications/no-other-options>

<sup>15</sup> <https://www.thestar.com/opinion/star-columnists/2022/11/18/were-all-implicated-in-michael-frasers-decision-to-die.html>

<sup>16</sup> <https://christopherlyon.substack.com/p/dying-indignity>

<sup>17</sup> Third Annual Report on Medical Assistance in Dying (MAiD) in Canada (2021)

- In 2021, 1.9% of patients withdrew their request for MAiD. Of those who withdrew their request, 38.5% (88 people) did so because of the sufficiency of palliative care.<sup>18</sup> These numbers highlight the significant unmet care needs that need to be addressed.
- At least 16.8% of MAiD patients did not receive any palliative care. For the remainder, no data is given on whether that care was received before or after the request for MAiD was submitted. There is no information about what was provided, by whom, or whether this was only a simple conversation.<sup>19 20</sup>
- In 2021, 43% (4,278) of individuals who received MAiD required disability support services. Of those whose main condition was neurological, 66.8% required disability support. 4.2% were not receiving this support at the time of request.<sup>21</sup>
- A study of patients who died by MAiD found that before the MAiD request, only 27.4% of patients had a community palliative care physician and only 59.5% had palliative care involvement in any setting. The hospital palliative care team was involved in 46.4% of patients who requested MAiD.<sup>22</sup> This figure is low, highlighting the need for greater provision of specialist palliative care.

When MAiD is requested, palliative care options should be offered to the patient, but there is no requirement to refer to palliative care. Some patients have no access to palliative care. Others have heard the term ‘palliative care’, but are unaware what specialist palliative care could provide to them.

- “Doctor-shopping”, where patients who are not approved in their request by one doctor seek and attain the approval of another doctor (see Margaret Bristow above) is becoming more frequent.<sup>23</sup> One patient, who did not have a serious illness or the “capacity to make informed decisions about his own personal health”, was deemed ineligible. Dying with Dignity Canada connected him with Ellen Wiebe, a euthanasia provider and advocate in Vancouver. She assessed him and found him eligible. Ellen Wiebe has conducted more than 400 assisted deaths.<sup>24</sup>
  - Jocelyn Downie, a prominent law professor who was part of the legal team that won the court case decriminalising euthanasia in 2015, told assessors and providers of MAiD during a seminar that “you can ask as many clinicians as you want or need,” seemingly implying that you can do so until there is a concurring opinion. “Disagreement doesn’t mean you must stop”.<sup>25</sup>
  - Stefanie Green, co-founder of the Canadian Association of MAiD Assessors and Providers (CAMAP), endorsed by Health Canada to “establish training resources, to create medical

<sup>18</sup> Third Annual Report on MAiD

<sup>19</sup> Third Annual Report on MAiD. 16.8% didn’t receive palliative care, and it is not known whether 2.5% did or did not receive palliative care.

<sup>20</sup> Chochinov HM. Medical Assistance in Dying, Data and Casting Assertions Aside. *Journal of Palliative Medicine*, 2022 DOI: 10.1089/jpm.2022.0484

<sup>21</sup> Third Annual Report on MAiD

<sup>22</sup> Munro, C. et al., ‘Involvement of palliative care in patients requesting medical assistance in dying’, *Canadian Family Physician*, Vol 66 (November 2020)

<sup>23</sup> <https://www.thenewatlantis.com/publications/no-other-options>

<sup>24</sup> <https://www.dailymail.co.uk/news/article-11611095/Canadian-doctor-whos-euthanized-400-says-helped-kill-man-deemed-incapable-choosing-suicide.html>

<sup>25</sup> <https://www.thenewatlantis.com/publications/no-other-options>

standards, and to encourage the standardization of care across the country”, has conducted more than 300 MAiD deaths.<sup>26</sup>

### 3. Legislative history and proposals indicate a widening in the law

The rapid expansion of the assisted dying law in Canada reveals the weakness of safeguards, and shows how vulnerable people are put at risk of coercion and pressure, because of the ease with which MAiD can be accessed. Expanding the law to include those with mental health problems – and those for whom the underlying cause of their request is the lack of support – stands contrary to suicide prevention. Laws should seek to enable the most vulnerable people in society to live with confidence and dignity, rather than offering death as a solution to suffering.

- The 2016 law legalised assisted death for Canadians aged 18 and older with a serious and irreversible condition, whose death was "reasonably foreseeable". In that first year, 1,018 people received an assisted death, a number that has grown every year since.<sup>27</sup>
- In 2019, the Superior Court of Quebec ruled that the “reasonably foreseeable” clause in the federal euthanasia legislation was unconstitutional<sup>28</sup>
- In March 2021, the government passed Bill C-7, relaxing and eliminating some of the safeguards for patients whose deaths were ‘reasonably foreseeable’, notably removing the 10-day reflection period, requiring only a single independent witness, and removing the requirement for final consent in the case of a person whose death is reasonably foreseeable but who loses mental capacity.
- Furthermore, the changes allowed for an individual remunerated to provide health or personal care to the patient to act as an independent witness. This increases the risk of subtle coercion, which often goes undetected.
- The legislation also introduced a new avenue for those whose death was not ‘reasonably foreseeable’ to access euthanasia.
- It also included a sunset clause that would allow people with mental illness to be eligible for euthanasia in 2023. Postponement of this provision is currently being debated in the Canadian Parliament.
- The most recent figures available, reveal that there were 10,064 MAiD cases in 2021, accounting for 3.3% of all deaths in Canada, but notably was 4.7% in Quebec and 4.8% of all deaths in British Columbia.<sup>29</sup>
- Bill S-248 is currently progressing through the Canadian Senate, which would allow a patient whose death is not reasonably foreseeable to receive an assisted death on a specified day if they lose mental capacity to consent to being given lethal drugs.

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<sup>26</sup> <https://www.thenewatlantis.com/publications/no-other-options>

<sup>27</sup> Third Annual Report on Medical Assistance in Dying (MAiD) in Canada (2021)

<sup>28</sup> *Truchon v Canada (AG)*, 2019 QCCS 3792

<sup>29</sup> Third Annual Report on MAiD

- The Second Reading debate on Bill S-248 stated: “if the individual is willing, family members and others can participate in the discussions as to what conditions the individual considers to be the threshold for MAID when the advance request is being developed”.<sup>30</sup> This removes any safeguard against coercion, elder abuse or financial manipulation which often goes undetected.

## Conclusion

Canadian Prime Minister Trudeau in affirmed 2019 that people will be able to choose assisted death “in a way that isn’t because you’re not getting the supports and cares that you actually need.”<sup>31</sup> The evidence outlined in this document would indicate that the opposite is now happening in Canada, and it has coincided with expansion of the law.

Expansion has taken place under the auspices of equality and accessibility but, on the ground, those in despair and struggling to live are feeling driven by hopelessness and lack of support to avail themselves of assisted dying. This does not serve to further equality within society.

The reason such data is concerning for the UK is that it is not by coincidence or flawed implementation of the legislation that stories of inappropriate requests are emerging. The very nature of a law that arbitrarily excludes certain groups of people means that there will always be calls to remove such exclusions. This can be seen with the removal of the “reasonably foreseeable” clause in 2021. It was deemed discriminatory to prevent a non-terminally ill person who may be in more severe pain than a terminally-ill person from accessing assisted dying. It is also the rationale behind calls for eligibility on the grounds of mental illness. Given that psychological suffering can be as painful as physical suffering, why should one be permitted to have an assisted death and not the other?

As these legal provisions are removed, the quality of assessments and implementation become dependent upon the subjective interpretations of best practice guidance and standard regulation. Finally, the data also shows that there are significant levels of unmet care needs among patients requesting and receiving assisted dying.

The evidence to which this briefing has referred highlights the ways in which assisted dying in Canada does not solve deficits in care and cannot provide sufficient protection against cases of abuse and coercion.

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<sup>30</sup> Debate on Bill-248, [https://sencanada.ca/en/content/sen/chamber/441/debates/084db\\_2022-11-24-e?language=e](https://sencanada.ca/en/content/sen/chamber/441/debates/084db_2022-11-24-e?language=e), Nov 2022

<sup>31</sup> <https://www.cbc.ca/news/politics/trudeau-medical-assistance-dying-euthanasia-1.5307408>