

Chris Selley: It's not too late to fix medical assistance in dying

Opinion by Chris Selley • Dec 6, 2022 National Post

One of the saddest things about Canada rapidly losing control over its brand-new medical-assistance-in-dying (MAID) regime is knowing that people in other countries are watching and in some cases drawing the wrong conclusions. For example, concluding that there's no way to legalize MAID for anyone without hurtling down a slippery slope toward something horrible. Something horrible like, say, offering suicide (sometimes proactively) as a remedy for inadequate housing, income or medical care.



It's a matter of saying "this condition is not going to kill you, so you're not eligible for MAID."© Provided by National Post

Those [horror stories](#) are accumulating rapidly in Canada – not least at [Veterans Affairs](#), of all departments – and it's understandable they are [making headlines](#) around [the world](#). Canada enjoys an undeserved reputation abroad as a serious and competent nation, so it's news when we lose the plot.

Canada hasn't proven the slippery-slope theory true, though. Canada has simply proven itself, again, to be Canada: a country uniquely in thrall to its courts and

obsessed with equal rights to a fault (which is some feat, equal rights in general being an unimpeachable concept). Other countries needn't succumb to this "dystopia," as New York Times columnist Ross Douthat [called Canada's MAID situation](#) in Sunday's edition. And it's not too late for Canada to put its foot down either.

There are two troubling arguments that MAID maximalists tend to employ when arguing to expand access to patients whose death isn't "reasonably foreseeable" (as the law originally demanded), to patients suffering mental illnesses, and to "mature minors" and even infants.

One argument, which the courts have broadly speaking accepted, is that you can't deny MAID to constitutionally protected groups: Demanding a "reasonably foreseeable" death discriminated on grounds of physical impairment, the Quebec Superior Court ruled in 2019. (The federal government failed to appeal.) The same argument underpins the notion of providing MAID to those suffering mental illnesses: It would be discriminatory to deny such patients MAID, just as it would be to deny them any other government service.

The other argument, which reinforces the first, is that MAID is just another "medical procedure," as Dr. Mauril Gaudreault, president of the Quebec College of Physicians, put it to a parliamentary committee last month. "(It) is a form of care. It's a medical procedure that may be appropriate in certain circumstances," he testified. "It is not a matter of politics, morality or religion."

- [Michael Higgins: Our veterans ask for help. They're offered assisted death](#)
- [Chris Selley: Canadian euthanasia quickly went to very dark places](#)

Needless to say, ending a life is absolutely a moral matter. You don't have to be religious to see that; you have to be a zealot to deny it. Also needless to say, MAID isn't just another medical procedure, inasmuch as it ends life rather than preserving it.

That said, thinking of MAID as a medical procedure may actually be helpful in navigating this uniquely Canadian moral maze. Because with a few exceptions — abortion being one — we don't generally think of medical procedures as "rights" at all.

In Canada, you don't have a right to a new hip just because you don't like the one nature gave you. You don't have a right to have your appendix out because you think it's a dumb organ, even on your own dime. You don't have a right to a Xanax prescription because you've heard it makes the feelings go away.

Rather, the medical profession and our health-care systems establish criteria for installing titanium hips, removing appendixes, prescribing drugs and everything else that goes on under the caduceus. Doctors measure the patient's situation against those criteria. Patients often disagree with the decisions made: When government insurance denies coverage for a new drug or treatment, for example, or Health Canada hasn't yet approved it. But it rarely descends into a discussion of "rights."

Indeed, most Canadian provinces still [refuse liver transplants](#) to patients who can't stay sober for six months, even if they're likely to die before they get a chance to try. That's textbook discrimination on grounds of a medical condition — alcoholism — but it's mostly understood to make sense, both practically and morally.

By the same token, Canada could simply say that MAID is an appropriate treatment for those who are objectively near death anyway, but not for anyone else. Period. In the same way we don't treat mental illnesses like they're a broken leg or a concussion or a urinary tract infection, we don't treat them like they're terminal physical illnesses. In the same way the treatments for mental illness are not appropriate for patients suffering from ALS or terminal cancer, MAID is not appropriate for those who aren't about to die.

It's not a matter of downplaying mental illness. It's a matter of saying "this condition is not going to kill you, so you're not eligible for MAID."

Interestingly, something like the opposite of MAID has gained more and more acceptability in recent years in the treatment of potentially fatal addictions, which often intersect with mental illness: The harm-reduction principle holds that it's better to keep people alive for another day, through safe-injection sites or a safe supply of opioids or both, in hopes the day after that they might find a path toward recovery.

There is no reason to let the courts drag us the other way on non-terminal illnesses and MAID. And if it pushing back requires deploying the notwithstanding clause, well, it's hard to think of a more suitable occasion for its first use at the federal level.

[Chris Selley: It's not too late to fix medical assistance in dying \(msn.com\)](https://www.msn.com/en-us/news/health/story/Chris-Selley-It-s-not-too-late-to-fix-medical-assistance-in-dying)