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January 24, 2024

Re: MAID and mental illness expansion

Dear Ministers,

I am writing to you on behalf of the Society of Canadian Psychiatry (SocPsych) regarding medical assistance in dying (MAID) and mental illness. SocPsych is a new association formed with the mission of preserving the integrity of psychiatry as a biopsychosocial evidence-based science, and working towards a mentally healthy and socially just Canada with scientifically sound public policy. Several inaugural Board members are former Presidents and Board members of the Canadian Psychiatric Association.

We are aware the special joint parliamentary committee reviewing the state of readiness for possible expansion of MAID to sole mental illness conditions will be releasing its report and recommendations the week of January 29, and that your government needs to decide how to respond to the report. After reviewing the evidence, and following the testimonies and briefs presented to the parliamentary committee, SocPsych maintains its view, as expressed in the attached Brief, that ***Canada is not ready to expand MAID to sole mental illness as planned and recommends an indefinite pause to any potential expansion; and that any future potential consideration of MAID for sole mental illness policy be informed by evidence, guided by experts reflecting the range of views, and only be potentially considered following fulsome and unbiased review of the issues without presupposition that implementation can safely be introduced at any arbitrary pre-determined date.***

In addition to the points and recommendations in the attached SocPsych 2023 Briefing Note that was submitted to the parliamentary committee, we would make the following points related to testimonies presented during the recent hearings.

Witnesses Who Testified "Canada is Ready"

Several of the same people who testified that Canada is ready to expand MAID to mental illness in 2024 are known to be prominent expansion activists and similarly argued that Canada was ready to expand MAID to mental illness in 2023. Since passage of the sunset clause in 2021, following its last-minute introduction as an amendment to Bill C7, a shrinking group of the same expansion activists has been increasingly driving policy recommendations, has rejected the need for any additional legislative safeguards, and has repeatedly claimed "Canada is ready" based on the work they themselves have done.

When your government tasked the CCA with studying the issues of MAID for mental illness, mature minors, and advance directives in 2016, the CCA expert panels consisted of about 50 experts with a range of experience and views. Since Bill C7, a narrowing group of expansion activists have guided policy recommendations, with the exclusion of the range of views required for Canada to develop thoughtful policy on these complex issues.

As you know, twelve individuals were selected to sit on the 2022 Expert Panel on Mental Illness and even there one sixth of them resigned, including the health care ethicist who himself supports MAID for mental illness (but who publicly cited the known activism of the Panel Chair as a flaw, and not being able to sign of "in good conscience" on the dangerous lack of safeguards recommended in the report), and the member with lived experience (who publicly discussed her feeling shamed by other panelists when she brought up the need for safeguards). The 2023 Health Canada Standards were then developed by an even smaller group, of six, including some of the same most prominent known MAID expansionists in Canada, including the same Expert Panel Chair that the resigning health care ethicist raised concerns about regarding process flaws. During parliamentary testimony, when asked if she was concerned about the 2:1 female to male gender gap of twice as many women as men getting MAID for mental illness in the European countries providing it, this Panel Chair publicly testified she was "not concerned" about the gender gap since, according to her, no one knows what it means.

Ministers, we outline the above to illustrate the concerning *lack of concern* those so far entrusted to provide guidance have shown regarding potential risks to vulnerable populations, and the deepening echo chamber that has developed around those who have lately been entrusted to guide policy. The fact the most prominent expansion activists claim that Canada is ready to expand MAID for mental illness in 2024, as they also claimed in 2023, should not be surprising; what would be surprising is if our national policies continue to be driven by such biased expansionist ideology while ignoring the actual increasing evidence that Canada is not ready for this expansion.

To be clear, SocPsych understands the above-mentioned gender gap as reflecting gender-based marginalization and suffering, and is concerned that the same 2:1 gender gap exists with twice as many woman as men attempting suicide when mentally ill, with most not dying by suicide and most not re-attempting. The fact the psychiatrist so far most entrusted to guide public policy is *not* concerned by these data is troubling, and should flag for any elected public policy maker whether other reassurances of "being ready" are similarly ideologically driven rather than evidence-based.

Similarly, reassurances have been provided by the same expansion activists that "readiness" is there through CAMAP training on MAID and mental illness. In reviewing these CAMAP modules, SocPsych must point out that, counter to the reassurances being provided by activists, the CAMAP training *fails* to provide assessors means of separating suicidality due to mental illness symptoms, from other motivations for psychiatric MAID requests. Additionally, we continue to lack evidence that such distinctions can even be made. In this context, SocPsych believes that any person claiming the CAMAP training allows assessors to filter out suicidality from psychiatric MAID requests is providing a dangerous, and false, reassurance.

Witnesses Testifying "on Behalf" of the Psychiatric Profession

As a fledgling association, we are well aware it can be challenging navigating what "the psychiatric profession's" view is on such a complex issue, especially when there are varied groups and perspectives involved. To be clear, while SocPsych is a national group of psychiatrists, with additional non-members also forming a Board Advisory Council, we also respect the role of the existing national psychiatric association, the Canadian Psychiatric Association (CPA). Many of our colleagues contribute in a number of meaningful ways to the CPA. However, on this particular issue of MAID and mental illness, we believe CPA leadership has not provided the normally expected evidence-based input that a professional national association should provide to responsibly inform public policy, and in fact we disagree with several key points CPA testified to at the recent hearings.

Even prior to the current hearings, it should be recognized that CPA did not contribute important key evidence in the consultations leading up to adoption of the sunset clause in 2021. For example, CPA never raised any concerns about the 2:1 gender gap mentioned above, of twice as many women as men receiving psychiatric euthanasia where it is provided. In the consultations on Bill C7, the CPA never once mentioned evidence related to known suicide risks associated with mental illness (and only mental illnesses have suicidal ideation as a potential diagnostic symptom of the illness), nor did CPA mention suicide risk related to marginalized populations, nor did CPA mention the importance of suicide prevention strategies (indeed CPA never used any variant of the word "suicide" in those consultations on mental illness and death). It is also important to note that when Senator Kutcher recommended the sunset clause, he repeatedly referenced CPA consultations, which as noted neglected to consider key relevant evidence.

Since passage of the sunset clause, CPA has unfortunately continued to fail to provide critical evidence-based cautions or concerns that a national medical society would be expected to contribute. In December 2022, when government was discussing delaying the at the time March 2023 planned expansion of MAID for mental illness, the CPA President publicly tried to provide reassurances indicating CPA thought there were good enough safeguards already in place to protect vulnerable Canadians *("president of the Canadian Psychiatric Association said the safeguards currently embedded in the national standards "in our view protect all vulnerable Canadians"")* even while most other mental health professionals, including the Chairs of Departments of Psychiatry across the country, were raising increasing concerns about the clear lack of safeguards and readiness. CPA's current continued messaging and testimony that they consider it would be "discriminatory" not to provide MAID for mental illness from March 2024 onwards is not surprising, given CPA leadership's stance to date, but it also continues to ignore key evidence (for example, still no cautions or even acknowledgement of the 2:1 female to male gender gap discussed above).

In CPA's November 15, 2023 Brief submitted to the AMAD committee, the CPA equates the crucial issue of whether assessors could make determinations of irremediability of mental illness for the purposes of MAID as being no different than any other uncertainty in medicine. CPA writes: *"There is no accepted clinical definition of irremediable for any disorder, physical or mental. Neither is medical certainty, absolute certainty"*. In SocPsych's opinion, CPA's input dangerously trivializes the implications of being unable to predict irremediability in individual cases of mental illness (with the actual evidence showing assessors' predictions would be wrong over half the time). It is a false conflation to equate the extreme uncertainty and

inaccuracy of attempting assessments of irremediability of mental illness, which we do not understand the underlying biology of, with the far more accurate assessments and much more predictable course of other medical conditions like cancers or neurodegenerative conditions, especially once those conditions are causing significant decline and suffering. The CPA is not providing any reasonable evidence-based input when it falsely equates these vastly different degrees of uncertainty and trivializes the issue, which is a crucial one if MAID is meant to be honestly provided *for an irremediable condition*. Instead of evidence, CPA concludes its comments on irremediability with *"at some point, a capable person has the right to decide how their care should unfold"*, which while a noble sentiment, unfortunately has nothing to do with whether an assessor can make responsible or honest medical assessments of irremediability of mental illness, which is supposed to be the key issue for MAID.

Of note, while continuing to state CPA would find it discriminatory not to provide MAID for mental illness, when pressed the CPA Chair (who also co-authored CPA's Position on MAID and mental illness) acknowledged in testimony that CPA could not assure an adequate state of readiness for introducing MAID for mental illness *("I don't think that from a CPA perspective I can say all the readiness is there")*. However she dismissed the relevance of this by equating it as being no different from the lack of readiness, or access, to needed care in general, suggesting the lack of readiness to provide death for mental illness should not hold the country back from providing it ("*What you're asking me is whether we have enough psychiatry resources to do this…when we look at mental health and addictions, we don't have enough resources for all kinds of things that we do in the delivery of mental health care and the provision of expert opinion on the different issues…Do we have enough psychiatrists specifically for MAID? We probably do not. Do we have enough psychiatrists for the delivery of mental health care in general? We do not necessarily, and the same applies for many other medical specialities, where people may wait for an expert opinion for other conditions that are being considered for track two*").

The CPA Chair also explicitly claimed the minimal uptake of psychiatrists willing to participate in MAID for mental illness assessments and provisions paralleled the gradual uptake of any other "new" or "innovative" practice, specifically comparing it to the introduction of neuromodulation treatments like repetitive transcranial magnetic stimulation (rTMS), or psychedelics ("*Those [ketamine and psilocybin treatments] are great examples, and a couple that I would have raised. The rTMS would be another one. These are active, new practices and innovative aspects of psychiatric treatment and care. There are a limited number of people who have expertise in them. The CPA becomes involved because of our focus on the mission of ensuring that we provide educational opportunities or access to them to help people learn more and become more engaged and familiar with some of these things*").

To be clear, SocPsych could not disagree more with CPA leadership's public position on this. Longstanding concerns about inadequate resources and access to mental health services is *not* a justification to proceed with providing MAID, or death, for mental illness when the system lacks readiness to do so safely. Likewise, SocPsych considers it a false and dangerous conflation to rationalize the reluctance of psychiatrists to participate in providing death by MAID to their non-dying patients suffering from mental illness by equating it with any 'innovative new practice', and the natural gradual adoption of 'innovative practice' as proficiencies increase. Providing death to patients is not an 'innovative new practice', it has been available since before the time of Hippocrates and Socrates.

Rather than considering providing death an innovative new practice, as CPA leadership characterized, SocPsych believes knowing when *not* to do harm by providing death for the wrong reasons is the more fundamental question we need to answer as we consider expanding MAID laws.

In terms of "speaking for the profession", it is important to note that every survey of psychiatrists since the introduction of the sunset clause has consistently shown that psychiatrists across Canada do *not* support expansion of MAID for sole mental illness, by a 2:1 to 3:1 margin, with even higher rates of opposition to particulars of the potential MAID for mental illness expansion currently planned for March 2024 (for example, by an over 22:1 (*twenty two to one!*) ratio, Ontario psychiatrists overwhelmingly opposed patients getting MAID for mental illness if standard best-practice treatments have not been tried; and as you know, Canada's legislation does not require patients to have had treatments prior to getting MAID).

Ministers, you can imagine it is difficult for us to point out the above criticisms of CPA input, given we are all professional colleagues and many also friends, however SocPsych feels it must provide such key relevant evidence since it is clear CPA's input on this issue has not been reflective of the concerns of most Canadian psychiatrists.

Summary & Conclusion

Thank you again for thoughtfully considering the complexities and range of issues regarding MAID and mental illness. These are challenging issues, with real Canadians and patients in need, and the broader question of how we as a society help in these situations must extend beyond rushing, in a state of complete unreadiness, to provide MAID for mental illness as an escape from suffering that has been magnified by gaps in the system, including lack of access to care. Contrary to CPA's messaging, SocPsych believes providing death in these situations would be the ultimate discrimination. SocPsych believes we should be ensuring resources and means for those with mental illness to get the care they need, and the supports they need to live with dignity, rather than pushing ahead with providing MAID for mental illness this March.

We will additionally point out the irony that, if Canada proceeded to expand MAID for sole mental illness in March 2024, we would not only be the country with the most open and safeguard-lacking MAID laws in the world (the Benelux countries have legislated "due care" requirements that Canada does not have), we would concurrently be expanding access to death for mental illness while still lacking a national suicide prevention strategy, which many of our peer countries have committed to and developed for years. This is not the sort of outlier that Canada should aspire to be in the international community.

At this time, SocPsych reiterates its recommendations as articulated in our 2023 Brief, ***"that the planned 2024 MAID for mental illness expansion be paused indefinitely, without qualification and presupposition that such implementation can safely be introduced at any arbitrary pre-determined date; and that any future potential consideration of MAID for sole mental illness policy be informed by evidence, guided by experts reflecting the range of views rather than being driven exclusively by ideological advocates, and only be potentially considered following fulsome and unbiased review of the issues".***

Ministers, we realize it is unusual for previously announced public policy to be paused last-minute, even moreso for that to potentially happen twice. However, the pause SocPsych and others are recommending is the only responsible course of action at this point. Indeed, the underlying reason these reversals have been necessary reflects the flawed process we outlined above, of just a narrow ideologically driven and non-representative group shaping MAID expansion policies in recent years – but when those policies come under broader scrutiny, the clear flaws glaringly emerge, which the public is now realizing.

Moving forward we are confident policy development will be informed by the full range of perspectives and evidence on this challenging issue, and SocPsych is eager to contribute responsibly to these ongoing policy dialogues. We look forward to further engagement with you on this issue, and working towards meaningful solutions for the challenging issues our patients struggle with.

Respectfully submitted,

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