

The Honourable Senators

February 23, 2024

Re: Bill C-62

Dear Senator,

We are writing to you on behalf of the Society of Canadian Psychiatry (SocPsych) regarding Bill C-62, which as you know pauses the planned expansion of medical assistance in dying (MAID) for sole mental illness until 2027. 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.

SocPsych does not have an a priori view on whether or not MAID for sole mental illness should be provided. As a professional association we believe evidence should guide public health policies and our goal is to contribute medical expertise and evidence to aid decision-making. After reviewing the evidence, following the testimonies and briefs presented to the parliamentary committee, and reviewing the report of the Joint Parliamentary Committee, SocPsych maintains its view (as expressed in its [full 2023 brief that can be found on the SocPsych website by clicking here](#)) that:

Canada is not ready to expand MAID to sole mental illness as planned;

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.

We understand that Bill C-62 passed third reading in the House of Commons last week by a vote of 272:32. We are also aware of arguments being made by the senators dissenting with the AMAD Committee Report, urging fellow senators to not approve Bill C-62 as drafted, including Senator Kutcher's comment that the senate needs to "protect against tyranny of the majority".

With respect, the dissenting senators' arguments do not address key issues and medical evidence related to MAID and mental illness. In addition to the points and recommendations made in the [SocPsych 2023 Briefing Note that was submitted to the parliamentary committee](#), we would make the following points regarding issues raised by the dissenting senators.

Arguments to Dismiss AMAD Report

The dissenting senators argue that the AMAD committee report failed to abide by its terms of reference by attempting to assess whether the health system is ready for providing MAID for mental illness, and they disagree with the majority conclusion "*that the medical system in Canada is not*

prepared for MAiD where mental disorder is the sole underlying medical condition... based on recommendations from their respective departments and in consultation with their respective provincial and territorial counterparts and with Indigenous peoples". Instead the dissenting senators argue that the only voices that should have been considered by the AMAD committee were those of individuals who testified claiming that regulatory bodies felt 'readiness' was there.

SocPsych believes such arguments concerning attempt to limit needed debate and consideration of key issues related to MAID and mental illness. Attempting to dismiss the importance of "health system readiness" in this way ignores the actual reality of suffering Canadians experiencing the "health system", and calls for the senate to side with the dissenting senators to ignore and disregard, as 'out of scope', whether vulnerable and marginalized Canadians would be at risk of premature avoidable deaths if MAID for mental illness expansion occurred.

The dissenting senators selectively cite only the individuals supporting their claim of regulatory readiness, dismissing any others warning of the lack of readiness. As senators are aware, 7 of 10 provinces and all territories openly articulated lack of readiness. After reviewing the issue and evidence, the Quebec National Assembly advised against moving ahead with providing MAID for sole mental illness. The majority of Chairs of the departments of psychiatry across Canada have openly stated the lack of readiness and that MAID for mental illness should not be provided for as planned in 2024 (and not a single chair of any department of psychiatry has claimed that the system 'is ready').

With respect, the dissenting senator's suggestions that the AMAD committee recommendations, and hence Bill C-62, should essentially be dismissed are concerning since they shut down discussion rather than listening to the range of valid and complex issues involved.

Arguments That "The Issue has Already Been Decided"

Several who have openly advocated for MAID expansion to mental illness have argued since passage of Senator Kutcher's sunset clause in 2021 that "the time for debate is over", including Senator Kutcher himself. SocPsych believes this inappropriately shuts down needed discussions on this issue.

As you are aware, the initial sunset clause was proposed by Senator Kutcher and was added as a last minute amendment to Bill C-7 following minimal debate (3 hours) in the elected House of Commons. Since that time, several prominent MAID expansion advocates have presented the issue as having already being decided, including those presenting as legal experts and claiming that legal rulings require MAID expansion to mental illness, as Jocelyn Downie claimed to the Senate in her November 2020 testimony leading up to the decision to add the sunset clause, despite there being no actual legal requirement or ruling forcing expansion of MAID to mental illness. At that time Ms. Downie told the Senate: "*the Minister of Justice has repeatedly said the government needs more time — I assume with respect to the question of how to implement MAID MD-SUMC [i.e. MAID for a mental disorder as the sole underlying medical condition] rather than whether, as the whether question has already been answered by the courts in Carter and Truchon.*" However as senators are aware, neither Carter nor Truchon involved cases of mental illness, and neither required that MAID for mental illness needed to be provided.

SocPsych is concerned such arguments, which incorrectly claim the issue of MAID expansion to mental illness is legally required despite it not actually having been reviewed by the courts, suppress needed discussions being informed by evidence-based clinical issues that must be considered on this complex topic.

For a more detailed review of other similar inaccuracies that have fed into the debate regarding MAID for mental illness, we refer you to a brief prepared for the Expert Advisory Group on MAID here: <https://www.eagmaid.org/brief-2023>

Faulty Basis of Key Input

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. As you are aware, the dissenting senators reference the Canadian Psychiatric Association (CPA) as testifying in favour of readiness for expansion of MAID for mental illness. 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 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 failed to provide 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 that the dissenting senators use in their arguments.

It should be recognized that CPA did not provide important key evidence in the consultations leading up to adoption of the sunset clause in 2021. For example, CPA never presented evidence or raised concerns about the 2:1 gender gap of twice as many women as men receiving psychiatric euthanasia where it is provided. In consultations on Bill C7, the CPA never 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. When Senator Kutcher recommended the sunset clause, he repeatedly referenced CPA consultations, which neglected to consider key relevant evidence including any whatsoever related to suicide risks with mental illness.

Senators should be aware that, at its November 2021 AGM, CPA leadership explicitly rejected the need for evidence and standards, and for appropriate safeguards to ensure MAiD was not requested as a result of social suffering or lack of access to care. At that time, CPA leadership spoke against the following Member Proposal that would have required CPA guidance to be evidence-based:

Given that MAID is based on the premise of having an irremediable medical condition, that any CPA policy on MAID explicitly include guidance on:

- (i) the need for evidence and standards regarding whether or not mental illnesses can reliably and prospectively be determined to be irremediable medical conditions,*

prior to any potential consideration of MAID being provided for sole psychiatric conditions.

(ii) the need for appropriate treatments having been tried, and supports and services being in place, to ensure that MAID is not requested as a means to escape social exclusion, nor as a response to psychosocial stressors or a dearth of appropriate clinical and community supports.

With CPA leadership arguing against this Member Proposal, the vote at the AGM was deadlocked, 41:41, and the Proposal failed.

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 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 known 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. Arguing that 'nothing in medicine is 100% certain' to conflate these wildly different uncertainties trivializes this key issue.

Of note, while continuing to state CPA would find it discriminatory not to provide MAID for mental illness, when pressed CPA Chair Dr. Alison Freeland 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 lack of 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 equated the minimal uptake of psychiatrists willing to participate in MAID for mental illness assessments with 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 dismiss the reluctance of psychiatrists to participate in providing death by MAID to their patients suffering from mental illness with ‘slow uptake of any innovative new practice’. 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.

Views of the Profession

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, including a survey of Ontario psychiatrists done by the Ontario Medical Association, a survey of Manitoba psychiatrists done by the University Department there, and a national survey of Canadian psychiatrists conducted by the Ontario Psychiatric Association and approved by the Research Ethics Board of the Ottawa Hospital. These surveys consistently show that by a 2:1 to 3:1 margin psychiatrists do not support expanding MAID for sole mental illness, despite most not being conscientious objectors to MAID overall, and even higher rates (by a 4:1 margin) of psychiatrists citing lack of readiness for MAID for mental illness expansion for March 2024.

Senators, 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 neither been reflective nor representative of the concerns of most Canadian psychiatrists, nor has it provided important evidence-based input to the deliberations.

Dissenting Senators Do Not Address Evidence-Based Concerns

We must point out that while the dissenting senators cite their medical credentials as lending expert credibility to their dissent, and claim that their dissent focusses “on the medical and procedural aspects” of the AMAD committee’s recommendations, their dissent does not address any relevant medical issues. The dissenting senators do not address the key issues of evidence related to inability to predict irremediability of mental illnesses, evidence related to inability to separate suicidality due to mental illness from other motivations for psychiatric MAID requests, and/or evidence related to risks of premature avoidable deaths by MAID to marginalized Canadians suffering from mental illness, which were the key issues identified by the majority AMAD report in shaping its recommendation and informing Bill C-62.

The dissenting senators also characterize the testimony of one witness as potentially misleading (testimony of a SocPsych Board Member related to testimony that pointed out the lack of evidence contained in components of the CAMAP curriculum for mental illness, specifically the lack of evidence supporting CAMAP's claims that the curriculum teaches assessors to filter out suicidality from psychiatric MAID requests). In noting that "*medical training is accredited under the authority of the Royal College of Physicians and Surgeons (RCPS) and the College of Family Physicians and Surgeons of Canada (CFPSC)*" [sic - note there is no "CFPSC", the senators must be referring to the College of Family Physicians of Canada, CFPC], the dissenting senators suggest that the majority committee giving weight to this testimony "discredits" Canada's medical education accreditation process, stating "*this will have a profound and negative consequence for...medical education in Canada*". While the senators cite their historic medical credentials as conferring them expertise to weigh in on these matters, the dissenting physician senators' claims reveal a serious misunderstanding of the nature and context of accreditation. Raising evidence-based critiques of components of an accredited medical curriculum in this way is fully consistent with pursuit of the academic mission, and in fact expected and required in discussions of complex topics. As a former chair of the accreditation committee of one of the relevant national medical colleges has confirmed in private correspondence, it is not "discrediting Canada's medical education accreditation process" as the dissenting physician senators mischaracterize.

Summary & Conclusion

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 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 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. In terms of positively moving forward, earlier this year the SocPsych Board of Directors joined the [call from leading national and international suicidologists in seeking to develop Canada's first national suicide prevention strategy \(linked, and letter attached\)](#), and we would be pleased to work with you and others in moving this important initiative forward.

Senators, thank you again for thoughtfully considering the complexities and range of issues regarding MAID and mental illness. We hope you will not join the dissenting senators in rejecting the evidence-based concerns that have led to the recommendation of the Special Joint Committee to pause the planned expansion of MAID for mental illness, and respectfully request that you support the wisdom of the majority and pass Bill C-62.

Additionally, recognizing that Senator Kutcher put forward and has actively promoted the sunset clause and providing MAID for mental illness, SocPsych is happy to invite Senator Kutcher to participate in open and transparent discussion of these issues on a panel we will be coordinating for a virtual symposium later this year. Senator Kutcher, we hope you accept this opportunity to engage in needed and respectful transparent public dialogue on this issue.

Senators, 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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