

## BRITISH COLUMBIA HUMANIST ASSOCIATION

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## PROTECTING AUTONOMY AND SECULARISM IN ACCESS TO MAID

A brief for the Special Joint Committee on Medical Assistance in Dying (AMAD)

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### SUMMARY

The BC Humanist Association has been providing a community and voice for Humanists, atheists, agnostics, and the non-religious of British Columbia for over 40 years. We support the growth of Humanist communities across BC, provide Humanist ceremonies, and campaign for progressive and secular values.

As part of that work, we have long advocated for the right to die with dignity. We believe that any framework must be rooted in compassion, evidence, and individual autonomy. Safeguards should ensure that decisions are free, voluntary, and informed but should not make access unjustly difficult. When it comes to the eligibility of persons whose sole underlying medical condition is a mental disorder, we believe the committee should consider the following:

1. **Rights-Based Parity:** There is no legal or human rights justification for the categorical exclusion of individuals suffering from mental disorders from MAID eligibility.
2. **Secular Governance:** Public policy must be insulated from religious dogma. We are deeply concerned by the concerted efforts by religious organizations to stall legislative progress and obstruct access to care.

A compassionate society is one that respects the individual's right to define the limits of their own suffering. To deny MAID to those with mental disorders is to tell them that their pain is less real, or their autonomy less valid, than those with physical ailments. The BCHA calls on the government to reject the pressure of religious lobbyists and uphold the secular, rights-based values that define modern Canada.

## THE HUMAN RIGHTS MANDATE FOR MD-SUMC

The current exclusion of persons whose sole underlying condition is a mental disorder is a violation of the *Canadian Charter of Rights and Freedoms* and runs contrary to the clarity of the Supreme Court of Canada's decision in *Carter v Canada*.<sup>1</sup>

In *Carter*, the Court stated that the prohibition on assistance in dying unjustifiably violated Canadians' right to life, liberty and security of the person. The *Truchon* decision went further and declared that restricting MAID to the "reasonable foreseeability of natural death" was a breach of Section 15's equality rights as the law created a hierarchy of suffering.<sup>2</sup>

The current law has not met the floor set by *Carter*. To permit MAID for physical suffering while maintaining a blanket prohibition for mental suffering perpetuates that arbitrary and discriminatory hierarchy. If an individual possesses the capacity to provide informed consent and their suffering is irremediable and intolerable, the biological origin of that suffering (whether neurological, psychological, or physiological) is irrelevant to their fundamental right to relief.

The *Truchon* decision made it clear that vulnerability must be assessed on an individual basis, not applied to entire classes of people. Categorical exclusion relies on the false and stigmatizing assumption that an individual with a mental disorder can never provide valid consent. This undermines the dignity of the patient and perpetuates a paternalistic approach to healthcare. Instead of relying on these ableist assumptions, the state's role should be to ensure every Canadian has the supports they need to live a life with dignity, while at the same time respecting their right to choose to die with dignity.

There is obviously a place for robust safeguards to ensure a choice is free and voluntary. Thankfully, much of this work has already been done. The recommendations of the Expert Panel on MAID and Mental Illness were released four years ago.<sup>3</sup> The government merely needs to follow the plan.

The consequences of legislative gridlock are not merely theoretical. Claire Elyse Brosseau is seeking an emergency constitutional exemption, highlighting the cruelty of these perpetual delays.<sup>4</sup> While Parliament has refused to update the law, the most vulnerable citizens have been forced to spend their remaining energy fighting in courtrooms for the right to a peaceful death.

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<sup>1</sup> *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331

<sup>2</sup> *Truchon v Canada (AG)*, 2019 QCCS 3792.

<sup>3</sup> Expert Panel on MAiD and Mental Illness. (2022 May 13). *Final report of the Expert Panel on MAiD and Mental Illness*. Health Canada.

<sup>4</sup> Dying With Dignity Canada. (2026 May 4). *Statement from Claire Elyse Brosseau on her decision to seek emergency relief to receive MAID*. <https://www.dyingwithdignity.ca/media-center/statement-from-claire-elyse-brosseau-on-her-decision-to-seek-emergency-relief-to-receive-maid/>

## CONFRONTING RELIGIOUS INFLUENCE IN PUBLIC POLICY

We are committed to an inclusive secularism, where government policy is based on universal values and the best available evidence. As affirmed by the Supreme Court of Canada, the government has a duty of religious neutrality, meaning it cannot use its power to promote or favour any particular religious or non-religious worldview.<sup>5</sup>

Nevertheless, there is a concerted effort by religious lobby groups to delay MD-SUMC eligibility based on theological objections. This is readily apparent from the submissions you have received. While these groups have every right to hold and express these views, they must not be permitted to dictate the limits of healthcare for a diverse (and increasingly) secular Canadian public.

We have seen the harm caused when publicly funded, religiously affiliated healthcare institutions (such as Providence Health Care in BC) refuse to provide MAID on-site. Patients are forced to undergo dehumanizing and agonizing transfers, as religious administrators interject their beliefs between a patient and their healthcare team. By allowing religious doctrine to influence MAID policy, the government effectively sanctions the abandonment of patients in their time of greatest need.

Decisions regarding MAID eligibility should be based on clinical expertise, legal precedents, and the lived experience of patients. When the voices of religious organizations are given equal or greater weight than medical professionals and human rights experts, the integrity of our secular democracy is undermined.

## RECOMMENDATIONS

We urge the Special Joint Committee to:

1. **Commit to the 2027 Deadline:** Cease all further delays and ensure that the MD-SUMC framework is fully operational by the legislated date.
2. **Uphold Clinical Standards:** Adopt the rigorous assessment standards already developed by medical experts to ensure capacity is accurately evaluated without resorting to blanket exclusions.
3. **Mandate Secular Access:** Ensure that all publicly funded health facilities are required to provide MAID, preventing religious institutions from obstructing a legal right.
4. **Prioritize Patient Autonomy:** Focus the committee's study on the rights of the individual rather than the moral preferences of institutional interest groups.

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<sup>5</sup> *Mouvement laïque québécois v. Saguenay (City)*, 2015 SCC 16, [2015] 2 S.C.R. 3