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REJECT THE DISCRIMINATION OF CANADIANS SUFFERING FROM MENTAL DISORDERS

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To Hon Sean Fraser, Minister of Justice:

The British Columbia Humanist Association (BCHA) is calling on the Government of Canada to reject the recommendation of the Special Joint Committee on Medical Assistance in Dying (AMAD), which, on June 17, 2026, recommended that the government “indefinitely exclude” persons whose sole underlying medical condition is a mental disorder from eligibility for medical assistance in dying (MAID). This recommendation is a violation of the Charter rights affirmed in *Carter v Canada*, an act of discrimination against Canadians with mental disorders, and a failure to honour the individualized assessment process the law already requires.

WHAT HAPPENED

The AMAD committee tabled its report in the House of Commons on June 17, 2026, ten years after MAID became legal in Canada. Its sole recommendation: “that the Government of Canada amend the Criminal Code to indefinitely exclude persons whose sole underlying medical condition is a mental illness from eligibility for MAID.”¹

This exclusion is not new. It was first imposed in Bill C-7 (2021), which established that a mental disorder is “not considered to be an illness, disease or disability” for the purposes of MAID eligibility. The exclusion was intended to end in March 2023, then extended to March 2024 via Bill C-39, and extended again to March 17, 2027, via Bill C-62.² What was sold to

¹Special Joint Committee on Medical Assistance in Dying (AMAD), *Medical Assistance in Dying and Mental Disorder as the Sole Underlying Medical Condition: A Complex and Challenging Conversation Among Canadians* (Ottawa: Parliament of Canada, June 2026), Recommendation 1, p. 39. Available at <https://www.parl.ca/Content/Committee/451/AMAD/Reports/RP14171413/amadrp01/amadrp01-e.pdf> (retrieved June 18, 2026). [Hereinafter: AMAD Report.]

²AMAD Report, Background, pp. 5-6; Bill C-7, An Act to amend the Criminal Code (medical assistance in dying), 43rd Parliament, 2nd Session (SC 2021, c 2); Bill C-39, An Act to amend An Act to amend the Criminal Code (medical

Parliament as a temporary measure to allow time for preparation has now survived three extensions, and the committee is recommending it never end. Indeed, the committee's report itself identified as one of its four possible avenues forward that the government could "introduce legislation to permanently prohibit MAID MI-SUMC."³ The recommendation for indefinite exclusion stops just short of that but achieves the same practical result.

The committee held six meetings between March 24 and May 5, 2026, hearing from 44 witnesses and receiving 32 written briefs.⁴ Senators on the committee filed a dissenting opinion describing the process as "highly irregular and flawed," noting that more than two-thirds of the witnesses called had been publicly opposed to expanding MAID for mental illness, and that those with lived experience were not prioritized.⁵

THE CHARTER

In *Carter v Canada*, the Supreme Court held unanimously that the Criminal Code's blanket prohibition on assisted dying unjustifiably violated section 7 of the Canadian Charter for Rights and Freedoms (the right to life, liberty and security of the person) for adults who consent to assistance as a result of a grievous and irremediable medical condition causing enduring and intolerable suffering.⁶ *The Criminal Code's* eligibility criteria (s. 241.2) already require that the person be capable of making health-related decisions, that they have a grievous and irremediable medical condition, that their request be voluntary, and that they give informed consent after being informed of all means of relief, including palliative care.⁷ The outright exclusion of mental disorders as a qualifying condition overrides all of this before the individualized process can start.

In *Truchon c. Procureur général du Canada*, the Superior Court of Quebec declared that restricting MAID to those whose natural death was "reasonably foreseeable" violated section 15 equality rights by creating a hierarchy of suffering.⁸ As the BCHA stated in our brief submitted to the committee, "the biological origin of that suffering (whether neurological, psychological, or physiological) is irrelevant to [a person's] fundamental right to relief."⁹ To permit MAID for

assistance in dying), 44th Parliament, 1st Session (SC 2023, c 1); Bill C-62, An Act to amend An Act to amend the Criminal Code (medical assistance in dying), No. 2, 44th Parliament, 1st Session (SC 2024, c 1).

³AMAD Report, "Conclusions and Recommendation," p. 39.

⁴AMAD Report, Introduction, p. 3.

⁵Olivia Stefanovich & Raffy Boudjikianian, "Parliamentary committee recommends indefinite pause to MAID expansion for mental illness," CBC News, June 16, 2026. Available <https://www.cbc.ca/news/politics/committee-maid-mental-illness-expansion-recommendation-9.7237992> (retrieved June 18, 2026).

⁶*Carter v Canada* (Attorney General), 2015 SCC 5, [2015] 1 SCR 331; AMAD Report, Background, pp. 4-5.

⁷Criminal Code, RSC 1985, c C-46, s 241.2(1)-(2).

⁸*Truchon c Procureur general du Canada*, 2019 QCCS 3792 (CanLII); AMAD Report, Background, p. 5.

⁹Ian Bushfield, *Protecting Autonomy and Secularism in Access to MAID: A brief for the Special Joint Committee on Medical Assistance in Dying (AMAD)* (Vancouver: BC Humanist Association, May 5, 2026), p. 2. Available at https://www.bchumanist.ca/joint_committe_brief_md_sumc. [Hereinafter: BCHA AMAD Brief.]

physical suffering while maintaining a blanket prohibition for mental suffering perpetuates that same arbitrary and discriminatory hierarchy.

Expert witnesses appearing before the committee reinforced this position. Professor Jocelyn Downie (Professor Emeritus, Faculties of Law and Medicine, Dalhousie University) testified that the current legal framework is sufficient and that regulatory readiness has been met. In her view, maintaining the exclusion would violate sections 7 and 15 of the Charter, as the Supreme Court held in *Carter* that a ban on MAID is unconstitutional if it prohibits access for those with a grievous and irremediable medical condition, “including an illness, disease or disability, and mental illness falls within this category.”¹⁰

Professor Downie also warned of the real-world consequences of an indefinite exclusion: people will die by suicide, travel to Switzerland, or continue to experience intolerable suffering with no legal recourse, and the government will end up in court.¹¹ Active constitutional challenges are already underway. The committee’s recommendation does not resolve this legal question.¹²

AUTONOMY AND HUMAN DIGNITY

Beyond the legal framework, the case for inclusion rests on the fundamental principle of individual autonomy. 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.¹³ Categorical exclusion rests on the false and stigmatizing assumption that a person with a mental disorder can never provide valid consent. This approach, as the BCHA argued, “undermines the dignity of the patient and perpetuates a paternalistic approach to healthcare.”¹⁴ Vulnerability must be assessed individually.

The committee did hear, if not prioritize, testimony from those living with treatment-resistant mental disorders. John Scully has lived with severe depression, PTSD, and anxiety for 30 years, has been admitted to seven psychiatric hospitals, and has undergone every available treatment and medication without relief.¹⁵ Savannah Meadows submitted that “when a person is in immense mental pain and no treatment can help them, under the current system people are left to suffer grievously, which is cruel and unusual punishment.”¹⁶ Claire Elyse Brosseau, who has been treated for 35 years and is currently seeking a court order to access MAID¹⁷, stated: “Some

¹⁰Jocelyn Downie, AMAD, Evidence, March 24, 2026 (Professor Emeritus, Faculties of Law and Medicine, Dalhousie University, as an individual); AMAD Report, p. 45.

¹¹Downie, AMAD, Evidence, March 24, 2026; AMAD Report, p. 46.

¹²Stefanovich & Boudjikianian, CBC News, June 16, 2026 (see fn. 5); Downie, AMAD, Evidence, March 24, 2026.

¹³BCHA AMAD Brief, p. 2.

¹⁴*Ibid.*

¹⁵Helen Long (reading statement of John Scully), AMAD, Evidence, May 5, 2026 (Chief Executive Officer, Dying with Dignity Canada); AMAD Report, p. 43.

¹⁶Helen Long (reading statement of Savannah Meadows), AMAD, Evidence, May 5, 2026; AMAD Report, p. 43.

¹⁷Dying With Dignity Canada. “Claire Elyse Brosseau to seek emergency relief to receive MAID with mental illness as the sole underlying medical condition.” May 4, 2026. Available at <https://www.dyingwithdignity.ca/media->

people don't respond to treatment. That's a medical reality, not a philosophical debate. Equality doesn't mean special restrictions. Speculation isn't lived experience."¹⁸ Responding to the committee's recommendation, Brosseau told reporters: "Message received: we don't matter. It's just not right. I'm not sure why we don't have equal rights or body autonomy."¹⁹

A compassionate and secular society does not resolve disagreement about clinical readiness by withdrawing rights from the people most affected.

RESPONDING TO AN ACCESS-TO-CARE CRISIS WITH A RIGHTS RESTRICTION

Much of the case for exclusion rests on gaps in Canada's mental health system; gaps the committee's own evidence documented at length.

The BCHA does not dispute that mental health services in Canada are underfunded and inequitably distributed. We have long supported efforts to increase community health services so that all people, including those at end of life and living with disabilities, can receive the support they require.²⁰ The solution to a systemic failure lies in investing in the system itself, not in stripping away Charter rights from the very individuals who have suffered due to that neglect. The committee has chosen to address access-to-care by restricting access to a legal medical service.

Witnesses before the committee also described a paradoxical effect of the MAID assessment process. Dr. Guillaume Barbes-Morin testified that in the absence of MAID as an option, patients may take their own lives, whereas access to the process can connect patients to resources and treatment engagement.²¹ Dr. Lilian Thorpe similarly described Track-2 MAID requests that led patients to engage with appropriate treatments and improve their quality of life.²² Denying access to the process removes this possibility.

OUR CALL TO THE FEDERAL GOVERNMENT

The BCHA supports the right of an individual who has made a clear decision, free from coercion, to choose a medically assisted death. We believe the promotion of human dignity requires allowing individuals to choose how to end their life, and that people suffering from mental disorders have the right to be equally eligible to fulfil that decision as any other Canadian. The work of developing rigorous assessment standards for this population is done; the Expert Panel

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¹⁸Helen Long (reading statement of Claire Elyse Brosseau), AMAD, Evidence, May 5, 2026; AMAD Report, p. 43.

¹⁹Claire Elyse Brosseau, quoted in La Grassa, CBC News, June 17, 2026 (see fn. 1).

²⁰BC Humanist Association, "Assisted Dying," bchumanist.ca. Available at https://www.bchumanist.ca/assisted_dying (retrieved June 18, 2026).

²¹Guillaume Barbes-Morin, AMAD, Evidence, April 14, 2026 (Psychiatrist, Association des medecins psychiatres du Quebec); AMAD Report, p. 33.

²²Lilian Thorpe, AMAD, Evidence, April 27, 2026 (Full Professor, Departments of Community Health and Epidemiology and Psychiatry, University of Saskatchewan, as an individual); AMAD Report, p. 33.

on MAID and Mental Illness published its recommendations four years ago.²³ Parliament need only follow said plan.

The government response deadline is July 11, 2026. The BCHA calls on the federal government to reject Recommendation 1 and commit to the following:

1. **Commit to the 2027 Deadline:** Cease all further delays and ensure that the MD-SUMC framework is fully operational by the legislated date of March 17, 2027.
2. **Uphold Clinical Standards:** Adopt the rigorous, individualized assessment standards already developed by medical experts to ensure capacity is evaluated on a case-by-case basis, without resorting to categorical 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:** Ground policy in the rights and lived experience of individuals rather than the moral preferences of institutional interest groups.

It is imperative that we work together to uphold the dignity and rights of all individuals, ensuring that mental disorders do not become a barrier to the compassionate choices available to Canadians. Every Canadian deserves the right to live and die with dignity, free from the constraints of biases or institutional morals. It is time for our leaders to act decisively, ensuring that the choices of Canadians, especially those grappling with mental disorders, are respected and honoured. Everyone should have the autonomy to determine the course of their own life. The time for action is now.

ABOUT THE BCHA AND HUMANISM

Since 1984, the BC Humanist Association (BCHA) has provided a community and a voice for Humanists, atheists, agnostics and the non-religious in BC. Humanism is a worldview that promotes human dignity without belief in a higher power. We promote progressive and secular values and challenge religious privilege.

²³Expert Panel on MAiD and Mental Illness, Final Report of the Expert Panel on MAiD and Mental Illness (Health Canada, May 2022).