

## Introduction

Since the original passing of Bill C-14: Medical Assistance in Dying (MAiD) questions remain pertaining to the extension of the bill following the period of independent review

## Goal

To raise four questions regarding the ethics and implications of extending MAiD to capable minors.

## Legislative Landscape

- Cases leading up to Bill C-14:
  - (a) *Rodriguez vs. B.C. (AG) (SCC) 1993*
  - (b) *Carter vs. Canada (AG) (SCC) 2015*
- In *AC vs. Manitoba* the Supreme Court of Canada stated that “it would be arbitrary to assume that no one under the age of 16 has capacity to make medical treatment decisions”
- Quebec passed Bill 52: an *Act respecting end-of-life care* CQLR, c 2-32.0001 in 2014
- Bill 14-C: *Medical Assistance in Dying (MAiD) passes* on June 17<sup>th</sup>, 2016
- Bill specifies that MAiD is only available to individuals who are **at least 18** and capable
- However, Bill C-14 mandates an independent review (reports due in 2 years) of:
  - **Requests by mature minors**
  - Advance requests
  - Mental illness is the sole underlying condition
- Recommendation to introduce legislation by June 2017 to extend eligibility to capable minors (Resolution 16-04-A from the Canadian Bar Association)

## Definition

MAiD is an umbrella term encompassing the administering by a practitioner / nurse practitioner of a substance to a person, at their request, that causes death AND by prescribing a substance that may be self-administered (clause 3 of Bill C-14)

## Questions

### 1. Is the exclusion of mature minors consistent with guiding values of paediatric health care / bioethics?

- Values Guiding Paediatric Health Care:
  - Best interests of the child
  - Respect for the autonomy of the child
  - Respect, compassion, and distributive justice
- Considerations for Clinicians:
- MAiD serves as a benefit for intractably suffering capable adults
- Capable minors can currently make health care decisions that lead to their death (e.g. refusal of treatment)
- Excluding mature minors does not seem consistent with existing values in paediatric health care (i.e. patient-centered; autonomy; and justice)
- Unless it can be defended that capable minors do not suffer in a similar way to adults, extending access to MAiD to mature minors would be consistent with **respect, compassion, and distributive justice**

### 2. Whose perspectives should be considered during the period of study - potentially extending access of mature minors to MAiD?

- Canadian Bar Association resolutions
- Professional associations (Children’s Pediatric Society)
- Capable minors with terminal/ life-limiting illness/ severe disability
- Families of children with intractable suffering
- Bereaved family members whose children died after terminal illness or severe disability
- Clinicians in support & not in support of MAiD for capable minors
- UNICEF Canada brief submitted by to the Special Joint Committee on Physician-Assisted Dying
- Cultural/ religious groups claiming morally relevant distinction between access for capable adults and minors
- Lessons from jurisdictions that permit MAiD for minors- Belgium (2014), the Netherlands (2014), and Luxembourg (2009)

### 3. How should paediatric health care settings be preparing for the legalization of MAiD for mature minors?

- Determine a distinct way to distinguish access to MAiD between adult and paediatric hospitals
- Ensure quality of MAiD even if the numbers are small
- Represent child’s best interest in cases of disagreement between paediatric patients and parents
- Advocate for significance of Child & Family-Centred Care
- How to be attentive to values of patients, families & staff
- How to be prepared for culturally / religiously grounded issues

### 4. Is there an expectation that the number of health care providers who will conscientiously object to participating in MAiD, will be higher in paediatric health care settings? If so, what is the significance?

- Uncertainty about perspectives of paediatric health care providers
- “it feels worse / wrong to think of a minor dying from the toxicity of a drug I administer rather than from their disease”
- “the only thing worse than minors having access to MAiD, is minors not having access to MAiD”
- Concern that provision or denial of MAiD might affect public trust in paediatric health care settings

## Summary Statement

Conversations around the inclusion of capable minors in the provision of MAiD in Canada are ongoing and this paper aims to be a part of these discussions.

## References

*Carter v Canada* (Attorney General), 2012 BCSC 886 [Carter 2012]; 2013 BCCA 435; *Carter, supra* note 1; see also Annex E: Bibliography on Medical Assistance in Dying  
House of Commons and Senate, Special Joint Committee on Physician-Assisted Dying, *Medical Assistance in Dying: A Patient-Centered Approach* (February 2016) (Joint Chairs: Hon. Kelvin Kenneth Ogilvie & Robert Oliphant)  
*Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying, Final Report* (November 30, 2015) (Co Chair: Jenifer Gibson & Maureen Taylor),  
*Rodriguez v. British Columbia* (Attorney General), [1993] 3 S.C.R. 519

