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To: The Council of Canadian Academies

CAMAP welcomes the opportunity to provide information to the panels. As the only association of assessors and providers of medical assistance in dying (MAiD) in the world, CAMAP has an important role to play in helping determine best medical practice and is in a unique position to provide feedback to regulators and other health practitioners about MAiD. Our current membership has representation from ten provinces and two territories.

Limited data exists on MAiD and even less information on the specific issues the Council seeks to study. Rather than just the experienced opinion of the CAMAP Board, in this submission and the attached supporting documentation we will provide you with data from a survey of active assessors and providers of MAiD.

**Mature minors**

MAiD should be permissible for minors. Our member survey shows that 95% of current assessors and providers agree, as there is no difference in the intolerability of suffering of a child with advanced incurable cancer and that of an adult with the same condition. For the law to disallow MAiD for the younger person seems cruel. Robust safeguards would need to be in place as already exist for MAiD in Canada, and for other treatment decisions for minors around the world. Belgium has a system of graded involvement of parents with parental consent necessary up until a certain age, and involvement of parents required but their consent not necessary beyond that age.

Our member survey suggests 82% of current assessors and providers would be willing to assess mature minors for MAiD and 70% would be willing to provide MAiD to a mature minor deemed eligible.

**Advance requests**

Advance requests for MAiD is something that Canadians wish to have available. In an Ipsos Reid poll in February 2016, 80% of Canadians said that patients with a serious illness should be able to make advance requests for physician assisted dying. 76% of Christians, 76% of health professionals and 88% of the disability community are in



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favour. 71% of Canadians support allowing a person who does not yet have a serious illness to make an advance request.

The CAMAP poll shows 82% of current assessors and providers would be willing to assess patients who have made an advanced request for MAiD but have lost the capacity to make their own health care decisions and 76% would be willing to provide MAiD for them if deemed eligible.

### ***Advance requests for those who have already been found eligible for MAiD***

Current law requires that a person must have capacity at the time of the MAiD procedure itself. We have witnessed many patients forego painkillers and sedatives during the days before their scheduled MAiD date in order to reduce the risk of loss of capacity. Our membership strongly believes that advance requests must be made permissible for those who have already requested and been deemed eligible for MAiD.

Our survey shows 94% of active assessors and providers agree that if such an individual loses capacity due to illness progression or secondary to the effects of necessary analgesics or sedatives then MAiD should be allowed to proceed.

This is not a theoretical problem. Across Canada many providers have experienced the gruelling situation of having to tell the patient and their family that although they have requested MAiD and been found eligible, they may now not receive the release they have sought because they have lost capacity. Loss of capacity does not mean there is a loss of the ability to suffer.

### ***Advance requests for those whose suffering is not yet intolerable and for those who do not yet have a grievous and irremediable condition causing intolerable suffering***

Even within groups and organizations supportive of advance requests debate exists regarding the circumstances under which this should be permitted. Most agree that dementia or any other capacity-diminishing condition, once it has reached the point of causing loss of capacity, is a grievous and irremediable condition and that the person is in an advanced state of irreversible decline in capability, as required by the law. Disagreement arises as to what constitutes enduring physical or psychological suffering. Some argue that the person should be permitted to define in their advance request the circumstances that they assert would qualify as causing intolerable suffering, such as not being able to toilet themselves, recognize family, speak, or mobilize independently. This is a common viewpoint amongst the general public. Others, including we believe a greater proportion of physicians than of the general



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public, contend that a person with capacity does not necessarily know what will cause them to suffer when they have lost capacity. The nature and extent of suffering could instead be determined by MAiD clinicians (physicians or nurse practitioners) trained in the assessment of individuals in this state.

CAMAP supports advance requests for MAiD for those who have already requested MAiD and been deemed eligible but who lose capacity. We urge the panel to consult widely on the issue of the circumstances in which it should be permitted for others.

### **Mental illness as the sole underlying medical condition**

The only restriction in the current law that affects persons with mental illness as the sole medical condition is section 241.2(2)(d) which requires that the person's natural death has become reasonably foreseeable. As very few mental illnesses will lead to natural death in the foreseeable future it is rare that a person with only mental illness will be found eligible for MAiD.

The constitutionality of this sub-section is an issue wider than simply the effect on persons with mental illness and it is already being challenged in the *Lamb* case currently before the courts in British Columbia. If this clause were to be dropped, MAiD would more likely become available for patients with mental illness as the sole underlying medical condition. Determining eligibility in such circumstances is not yet within our expertise but something our membership is willing to consider.

#### **Attached (supplementary documents)**

1. CAMAP membership survey results
2. Collection of Comments from Individual Assessors and Providers