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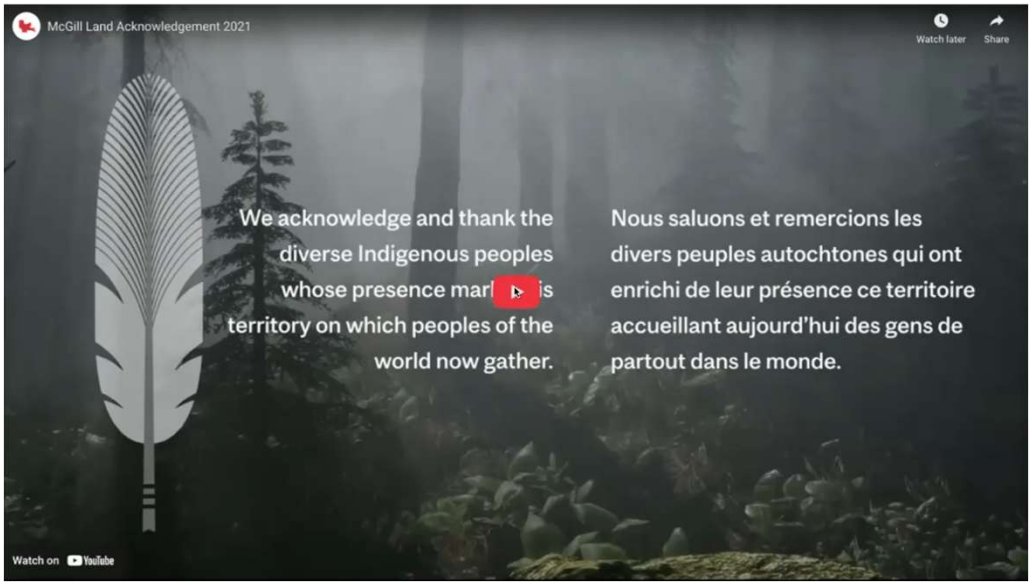

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McGill Palliative Care
National Grand Rounds
2026 Series

Sheila Kussner Hope & Cope Lecture

March 18, 2026

Medical Aid in Dying in Québec: Myths, Pitfalls, Shortcomings, Tipping Points, Hidden Aspects and Contributing Factors

Pierre Deschamps, CM
Lawyer and Ethicist, Quebec Human Rights Tribunal, Quebec End-of-Life Care Commission

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Conflict of Interest Declaration

Pierre Deschamps

I have no conflicts of interest to declare.

McGill

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Learning Objectives

By the end of this talk, participants will be able to:

- Describe the legal and regulatory framework governing Medical Aid in Dying (MAID) in Québec
- Identify the underlying factors that drive MAID requests and shape clinical MAID practices
- Appraise the full spectrum of care options available in the context of MAID

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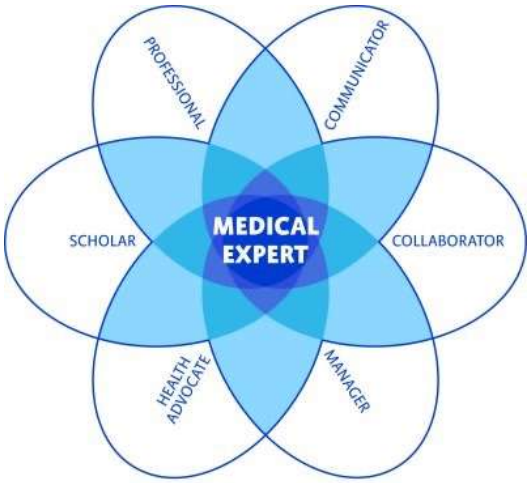
CanMEDS Framework:

The CanMED competencies that will be identified during this presentation:

- Communicator
- Health Advocate
- Professional



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Speaker

I have been a member of the Québec End-Of-Life Care Commission for more than 10 years and have reviewed more than 20,000 declarations transmitted to the Commission by competent professionals (physicians or specialized nurse practitioners) after having administered MAID.

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Forecast

- Canada likely to mark 100 000th MAID death by summer

- *More Canadians are dying from assisted suicide each year*
than all the world's other countries combined

- National Post, February 24, 2026

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Exposure

- Given these numbers,
  - How many healthcare professionals have been or will be exposed to MAID deaths over the course of their career?
  - How many family members and next-of-kin will have been or will be exposed to MAID deaths?
  - How many have said or will say to themselves: this is how I would like or want to die?

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Prologue

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Contemplating One's Death

- Everyone wishes for a peaceful and painless death.

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Agonizing Death

- **No one wants an agonizing death.**
- The term **"agonizing death"** refers to a state of extreme pain or suffering before death. It is often used to describe a situation where someone is experiencing profound physical or mental agony, leading to a painful and difficult death. The phrase emphasizes the intense suffering associated with dying, making it a poignant expression of distress and despair.

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Milestones

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Milestones (1)

Carter v. Canada
Supreme Court 2015

- Section 241 (*b*) and s. 14 of the *Criminal Code* unjustifiably infringe s. 7 of the *Charter* and are of no force or effect to the extent that they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

Criminal Code

- **14.** No person is entitled to consent to have death inflicted on him, and such consent does not affect the criminal responsibility of any person by whom death may be inflicted on the person by whom consent is given.
- **241.** Everyone who
  - (*a*) counsels a person to commit suicide, or
  - (*b*) aids or abets a person to commit suicide,

  whether suicide ensues or not, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

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Milestones (2)

Canada and Québec
Truchon Gladu
Superior Court (Québec) 2019

- [764] DECLARES that s. 241.2(2)(d) of the Criminal Code violates section 7 of the Canadian Charter because it is inconsistent with the principles of fundamental justice and cannot be justified under section 1 of the Canadian Charter;
- [765] DECLARES that s. 241.2(2)(d) of the Criminal Code and subsection 3 of the first paragraph of s. 26 of the Act respecting end-of-life care violate section 15 of the Canadian Charter and cannot be justified under section 1 of the Canadian Charter;
- [766] DECLARES that s. 241.2(2)(d) of the Criminal Code and subsection 3 of the first paragraph of s. 26 of the Act respecting end-of-life care are of no force or effect;
- [767] SUSPENDS the declaration of inapplicability of s. 241.2(2)(d) of the Criminal Code and subsection 3 of the first paragraph of s. 26 of the Act respecting end-of-life care for a period of six months as of this judgment;

Criminal Code
241.2

- (2) A person has a grievous and irremediable medical condition only if they meet all of the following criteria:
- (d) their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining.

Act respecting end of-life care

- 26. Only a patient who meets all of the following criteria may obtain medical aid in dying:
- (3) be at the end of life;

Provisions invalidated

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Legislation
Federal and Provincial

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Legislation

Québec

- Act Respecting End-of-Life Care
- Adopted June 10, 2014
- Came into force December 10, 2015

- End-of-life care
- Palliative care
- Continuous palliative sedation
- Medical Aid in Dying

Canada

- An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) (Bill C-14)
- Adopted June 7, 2016
- Came into force June 7, 2016

- Medical Aid in Dying

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Definition

End-of-Life Care Act

Section 3

- (6) **"medical aid in dying"** means **care** consisting in the administration by a competent professional of medications or substances to a patient, at the patient's request, in order to relieve their suffering by hastening death.

- Note: under the Québec legislation, MAID is considered a form of care and assisted suicide is not contemplated.

Criminal Code

Section 241.1

- ***Medical assistance in dying*** means
- **(a)** the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or
- **(b)** the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.

- Health Canada: MAID is a health service that allows someone to receive assistance from a medical practitioner to end their life (2024 Report)

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Requests

- The patient must request medical aid in dying themselves, in a free and informed manner, by means of the form prescribed by Santé Québec. The form must be dated and signed by the patient.
- The form must be signed in the presence of and countersigned by a health or social services professional; the professional who is not the competent professional treating the patient must forward the signed form to the competent professional.
- End-of-Life Care Act, article 26

- Before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining, the medical practitioner or nurse practitioner must
- **(b)** ensure that the person's request for medical assistance in dying was
  - **(i)** made in writing and signed and dated by the person or by another person under subsection (4), and
  - **(ii)** signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;
- Criminal Code, 241.2 (3)

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Eligibility Criteria

End of Life Care Act

- **26.** In order to obtain medical aid in dying following a contemporaneous request, a patient must, in addition to making a request that complies with this section and, where applicable, section 27, meet the following criteria:
- (1) be of full age and capable of giving consent to care, subject to the exception provided for in the third paragraph of section 29 with regard to the patient's capacity;
- (2) be an insured person within the meaning of the Health Insurance Act (chapter A-29);
- (3) be in one of the following situations: (a) suffer from a serious and incurable illness and be in a medical state of advanced, irreversible decline in capability; or (b) have a serious physical impairment causing significant and enduring disabilities; and
- (4) experience enduring and unbearable physical or psychological suffering that cannot be relieved under conditions the patient considers tolerable.
- For the purpose of 26.3. a, a mental disorder other than a neurocognitive disorder cannot be an illness for which a person can make a request .

Criminal Code

- **241.2 (1)** A person may receive medical assistance in dying only if they meet all of the following criteria:
  - **(a)** they are eligible — or, but for any applicable minimum period of residence or waiting period, would be eligible — for health services funded by a government in Canada;
  - **(b)** they are at least 18 years of age and capable of making decisions with respect to their health;
  - **(c)** they have a grievous and irremediable medical condition;
  - **(d)** they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure; and
  - **(e)** they give informed consent to receive medical assistance in dying after having been informed of the means that are available to relieve their suffering, including palliative care.

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Eligibility Criteria

Criminal Code
241.2 (2)

- **A person has a grievous and irremediable medical condition only if the meet the following criteria:**
- **(a)** they have a serious and incurable illness, disease or disability;
- **(b)** they are in an advanced state of irreversible decline in capability; and
- **(c)** that illness, disease or disability or that state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable.

- **(2.1)** For the purposes of paragraph (2)(a), a mental illness is not considered to be an illness, disease or disability.

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Medical Condition

Old age	not an illness
Frailty	not an illness
Total blindness	a grave and incurable disease
Deafness	a grave an incurable disease

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Safeguard Measures

- *The Quebec legislation requires that the physician, before administering MAID,*
- *a*) makes sure that the request is being made freely, in particular by ascertaining that it is not being made as a result of external pressure;
- *b*) makes sure that the request is an informed one, in particular by informing the patient of the prognosis for the illness or of the anticipated clinical course of the physical impairment considering the patient's condition, of the therapeutic possibilities and their consequences or of the appropriate measures for compensating for the patient's disabilities;
- c) verifying the persistence of suffering and that the wish to obtain medical aid in dying remains unchanged, by talking with the patient at reasonably spaced intervals given the progress of the patient's condition;

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Safeguard Measures

- *The Québec legislation further requires that the physician administering MAID*

- *d*) discuss the patient's request with any members of the care team who are in regular contact with the patient; and
- *e*) if the patient so wishes, discuss the request with the patient's close relations or with any other person the patient identifies;
- f) make sure that the patient has had the opportunity to discuss the request with the persons they wished to contact;

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MAID Process

- Written request
- First evaluation
- Second evaluation
- Setting a date
- Administration
- Declaration

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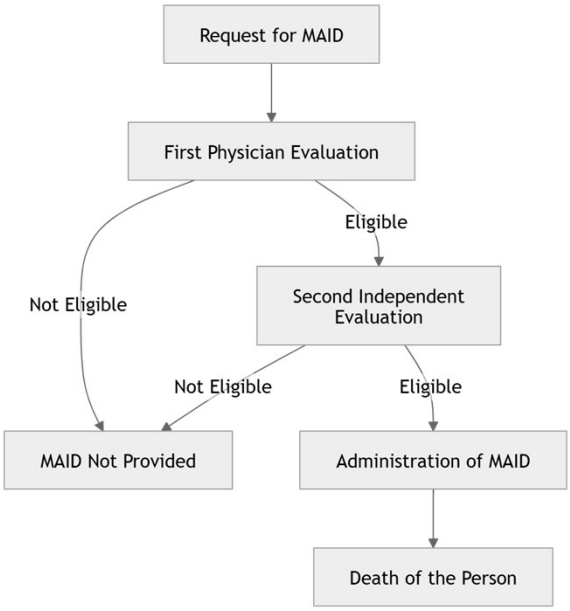
Process



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Treatment of MAID Requests

- MAID requests are, in some settings, processed through a centralized system.
- MAID requests must be dealt with expeditiously.
- The time between the request and the first evaluation must be short as well as with the second evaluation.
- Time is of the essence.
- A MAID request will be treated as a priority.

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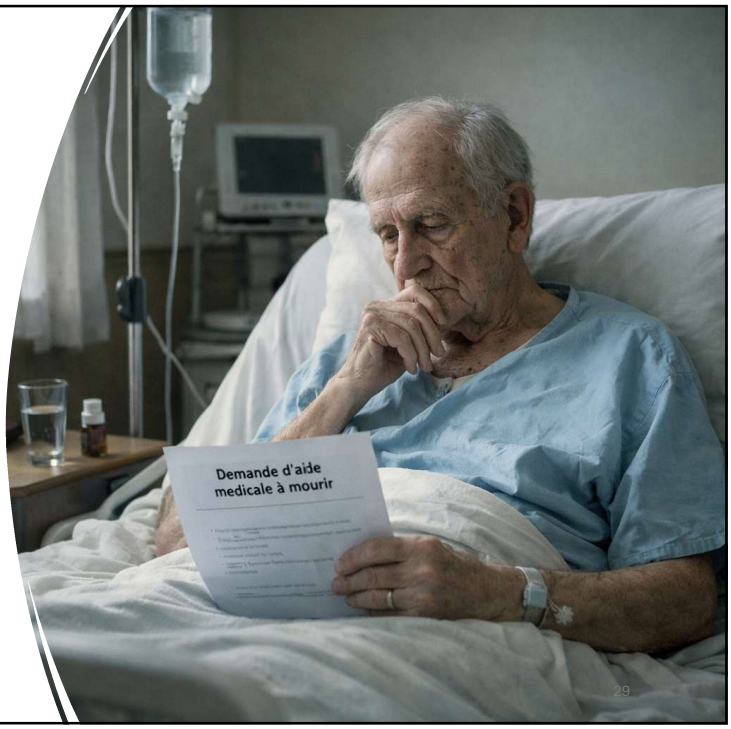
Request

- Time to reflect



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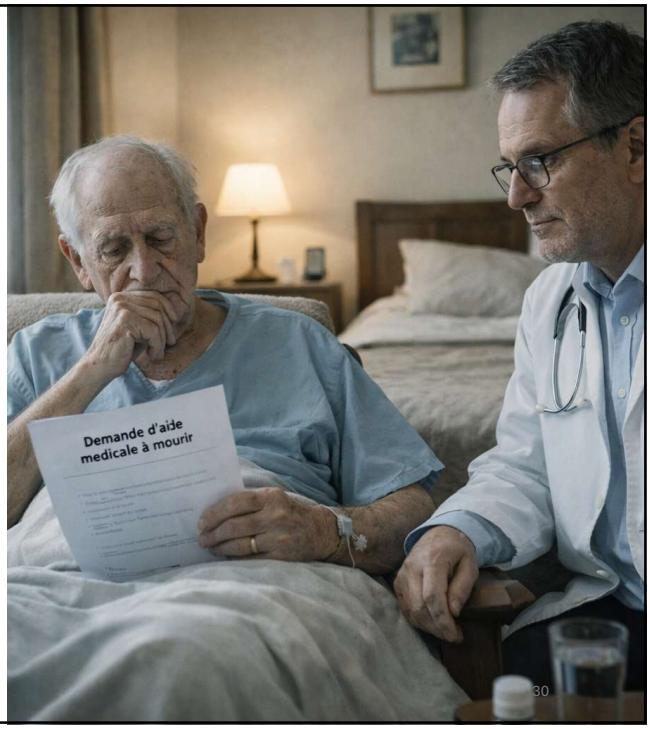
Request

- "What do you think, Doc?"



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MAID Request

Driving Factors

- What drives a person to make a MAID request?
- What triggers a MAID request?

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Shortcomings

Myth
The two physicans involved in the MAID process know the person well, having treated the person in the past.
Fact
In many cases, the two physicians involved in the ‘care’ have never treated the person before the person requested MAID.

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Rapid Timeline

Shortcomings

- A rapid timeline of assessment and provision questions the robustness of existing safegards.
- The swiftness of the process may risk priorizing procedural completion over careful deliberations.
- Compressed timeline may limit the opportunities for patients to reflect, reconsider or access alternative options.

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Triggering Factors

- Loss of one's caregiver
- Fractured hip
- Lack of proper end of life care, of appropriate palliative care
- The fact that a close relative had medical aid in dying and died a peaceful and dignified death.
- Refusal to accept one's medical condition

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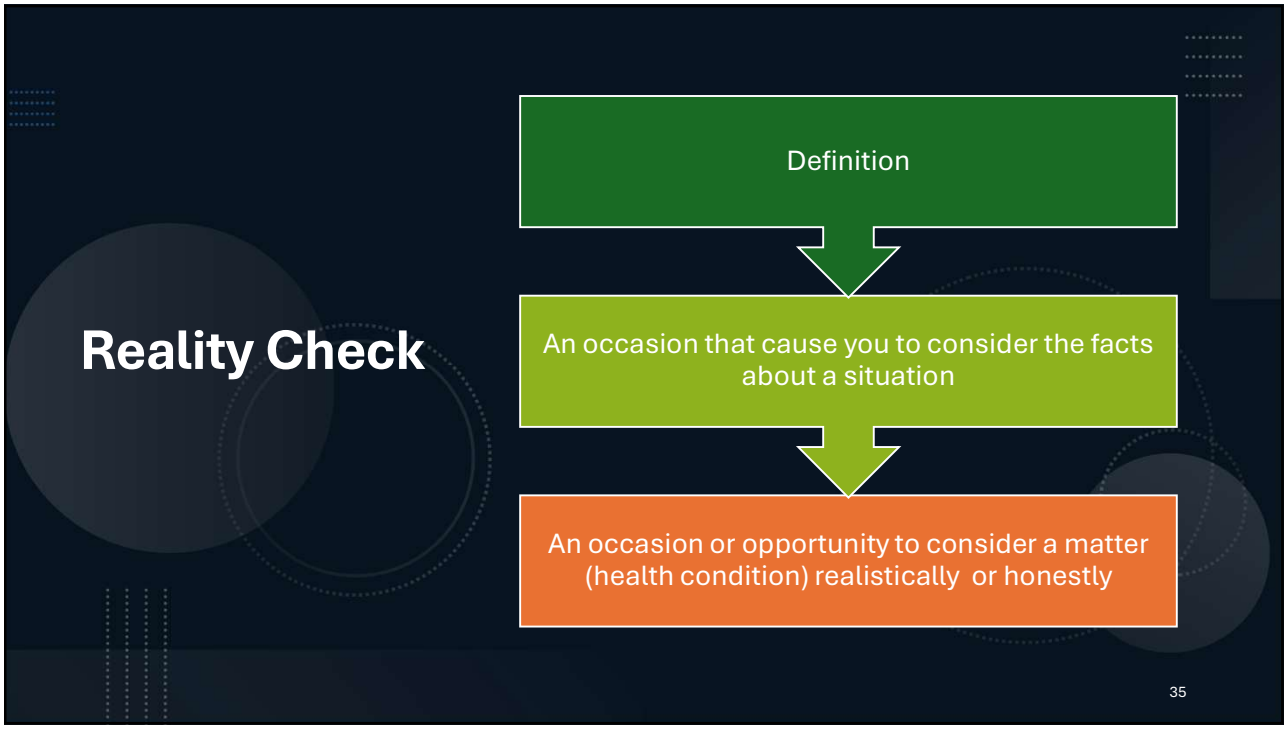
Reality Check
Definition
An occasion that cause you to consider the facts about a situation
An occasion or opportunity to consider a matter (health condition) realistically or honestly
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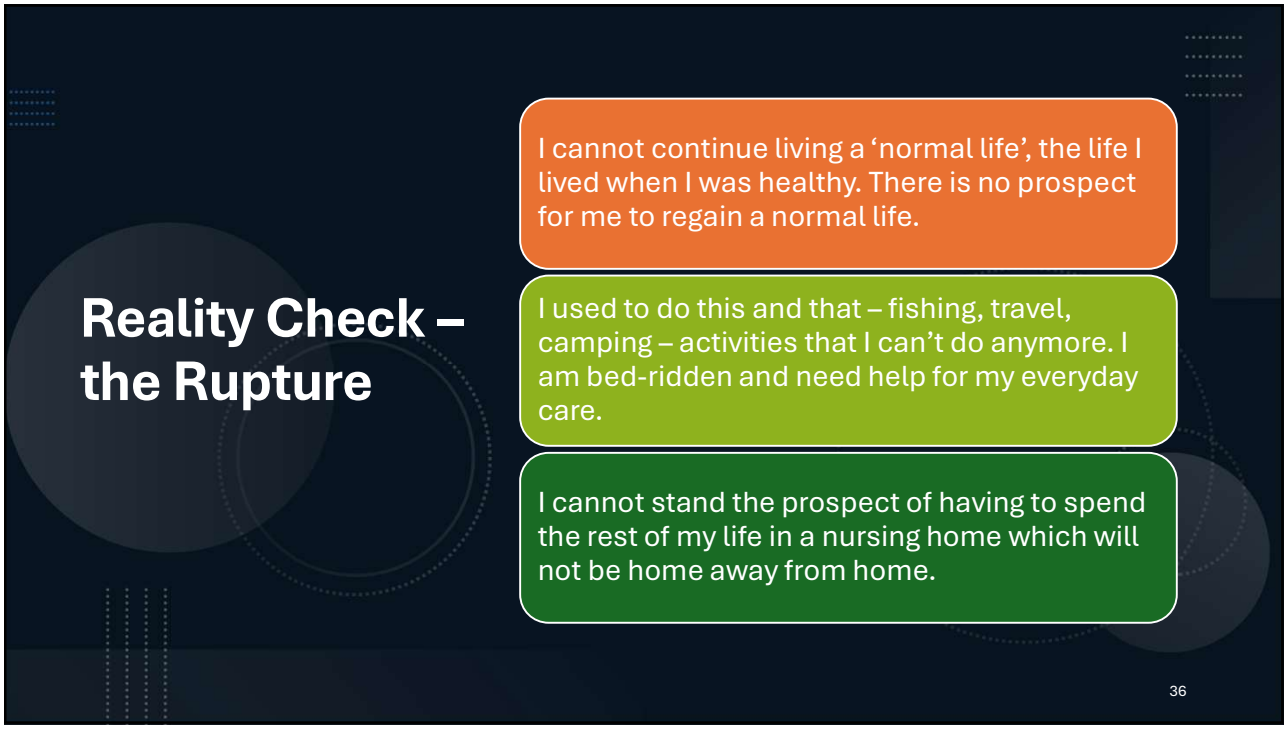
Reality Check – the Rupture
I cannot continue living a 'normal life', the life I lived when I was healthy. There is no prospect for me to regain a normal life.
I used to do this and that – fishing, travel, camping – activities that I can't do anymore. I am bed-ridden and need help for my everyday care.
I cannot stand the prospect of having to spend the rest of my life in a nursing home which will not be home away from home.
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Reality Check

- Fear of death
- Fear of future decline
- Fear of dependency
- Fear of loss identity

- I don't want to live a painful death.
- I don't want to see myself decline.
- I don't want to be depended on others and be a burden to my family.
- I don't want to see my condition degrade to a point where I cease to be who I always was.

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Compounding Factors

Definition:

- Compounding factors are multiple distinct or interwined variables that interact synergistically to produce an amplified overall effect greater than the sum of their individual imputs

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Loneliness

"I lost my husband last year. He was my caregiver. I have no children, no close relative. I am 86 years old."

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Loss of Quality of Life

- Loss of quality of life is a subjective, multidimensional decline in happiness, health, and well-being caused by factors like chronic illness, injury, loneliness, or financial strain. It involves reduced independence, emotional distress (anxiety, hopelessness), and diminished ability to perform daily activities.

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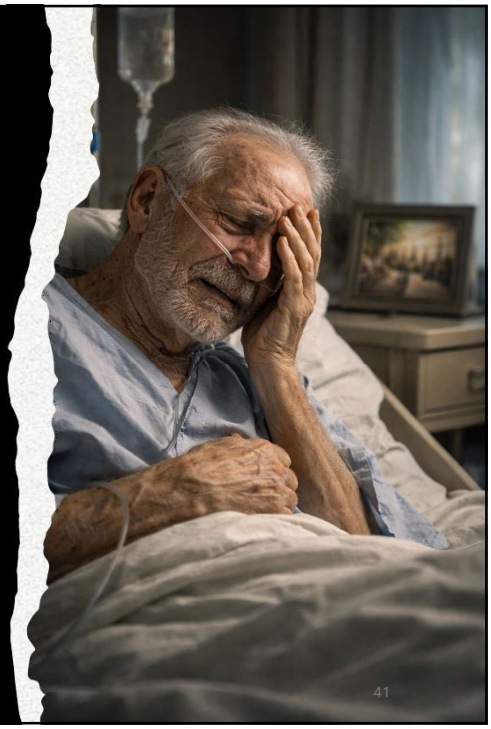
Despair

- Upon learning that I will not be able to go back home
  and will be sent to a nursing home.
- You won't be going home – you will be placed in a nursing home – rupture with your environment. No turning back – adjustment – suffering – no family support – all by yourself – is it worth it to continue to live.



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Caregiver Burnout

Extreme tiredness or mental or physical illness caused by working too hard or trying to do too much

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Tiredness of Life

"I am 95 years old. I am bedridden. I have lost my hearing and sight. My body hurts. There is no reason for me to continue living. Why wait for spring? It is going to be a long winter. I have lived a long and fruitful life. There is nothing for me to live for."

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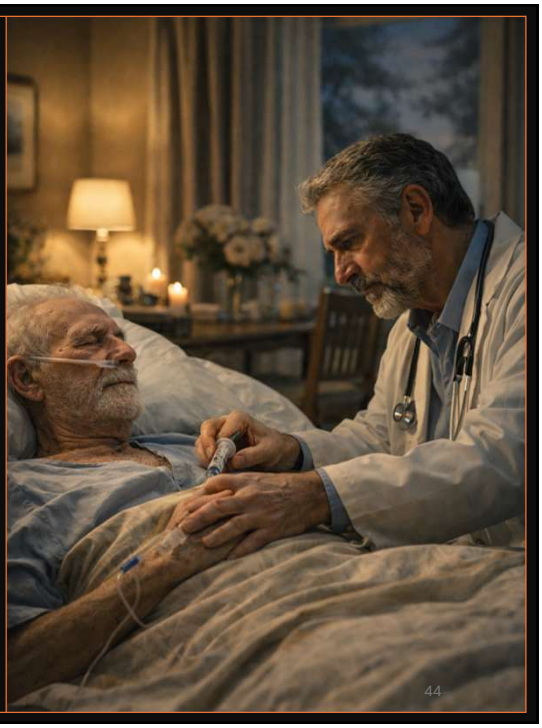
Administration



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Essence of MAID

Myths

- MAID is an exceptional response to suffering.
- MAID is a "last-resort care" (or "final-option care") offered in the terminal phase of an illness when suffering is unbearable and cannot be relieved by other means.

Fact

- MAID has become an option in the continuum of care.

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MAID Provider

Myth

- The physician administering MAID is usually the person's family doctor, a physician who has known the patient for months and years.

Fact

- Often times, the physician administering MAID has never treated the person before he or she made the request. Nor did the physician providing the second opinion.

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Short Delays

- In a number of cases, the time elapsed between the time of the request and the time of the administration is 0, 1, 2 days.

- The patient insists on receiving MAID as soon as possibile, preferably the same day the request was made.
- "I want it now." The family agrees.

- The physician is only available at a certain date and time to administer MAID.

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Relieving Suffering

- **26.** In order to obtain medical aid in dying following a contemporaneous request, a patient must, in addition to making a request that complies with this section and, where applicable, section 27, meet the following criteria:

- (4) experience enduring and unbearable physical or psychological suffering that cannot be relieved under conditions the patient considers tolerable.

- The core purpose of MAID, according to its legal definition, is 'relieving a person's suffering'.
- The nature of the suffering: physical or psychological suffering.
- The intensity of the suffering: enduring and unbearable that cannot be relieved under conditions the patient considers tolerable.
- The means by which the relief is obtained is by hastening the person's death.

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Suffering

- The person must:
- Suffer from a serious and incurable illness and be in a medical state of advanced, irreversible decline in capability
- Experience enduring and unbearable physical or psychological suffering that cannot be relieved under conditions the patient considers tolerable.

End-of-Life Care Act

- Contributing factors
- The person is:
  - Old
  - Frail
  - Blind
  - Deaf
  - Bedridden
  - Alone

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Psychological Suffering

The nature of intolerable psychological suffering

- Fears
- How can they be alleviated?
- Care, time and support in an already healthcare system?
- Improved clinical care and social support?

- I don't want to live a painful death.
- I don't want see myself decline.
- I don't want do depend on others and be a burden to my family
- I don't want to see my condition degrade to a point where I cease to be who I always was.

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Assessment of Suffering

- 26. In order to obtain medical aid in dying following a contemporaneous request, a patient must, in addition to making a request that complies with this section and, where applicable, section 27, meet the following criteria:

- 4° experience enduring and unbearable physical or psychological suffering that cannot be relieved under conditions the patient considers tolerable.

- 29. Before administering medical aid in dying following a contemporaneous request, the competent professional must

- *c*) verifying the persistence of suffering and that the wish to obtain medical aid in dying remains unchanged, by talking with the patient at reasonably spaced intervals given the progress of the patient's condition;

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Right to Die

- **Myth**
- MAID is based on the recognition by the law and society of a right to die, a right to choose the manner, time and place of one' death, a right to control the timing and method of one's death, on the assumption that a person is entitled to choose how, when and where the person wants to die.

- **Fact**
- There is no such right as the right to die recognized by the law.

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Provision of Palliative Care

Myth

- Good palliative care can eliminate the desire of individuals to opt for MAID.

Fact

- The majority of cancer patients who opted for MAID seem to have had access to some form of palliative care before and after they requested MAID.
- However, the nature and the quality of the care provided cannot be thoroughly assessed, especially whether or not the person benefited from an interdisciplinary approach aimed at optimizing quality of life for patients with serious illnesses and their families, regardless of prognosis.
- Good palliative care could reduce the desire of individuals to opt for MAID.

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Training in Palliative Care

Myth

- Physicians administering MAID have all the proper training in palliative care.

Fact

- Some physicians' practice is devoted exclusively to MAID. They have had no prior training in palliative care. They used to practice in psychiatry, anesthesiology, public health. MAID is a second career.

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Conclusion

- In Québec, MAID is considered a form of care and has been, over time, integrated into the continuum of care as a 'clinical prevention and (medical) relief' to any intolerable suffering determined by the patient. MAID has evolved into a 'normalized medical response' to suffering.
- In Québec, MAID access is expanding with the legalization of Advanced Requests and eventually by allowing individuals having a mental disorder other than a neurocognitive disorder to be eligible.

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Epilogue

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MAID confronts a physician with his own death and dying.

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Personal Preferences

- Doctors' personal preferences (what they would want for themselves if they were at the end of their life) influence their practice.
- Should a physician tell a patient that, if he or she was in that patient's condition, he would consider MAID and not other alternatives?

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Comforting Thoughts

- Comforting thoughts are ideas or mental reflections that reduce worry, unhappiness, or stress, providing a sense of calm, reassurance, or emotional security. These thoughts serve as internal consolation, restoring confidence and soothing anxiety during difficult or uncertain times.

- Who am I to challenge the person's' wish to die' given his or her condition?
- The person has the 'right to decide' what is good for him or her.
- The person's choice might be in my view unreasonable but it still remains that person's choice.
- If I was in that person's shoes, I would opt for MAID.

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A Final Word

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Dignity

Myth

- Death with dignity can only be achieved through MAID. The only way to die with dignity is throuhg MAID so much so that MAID deaths are often associated with ‘dying with dignity’.

Fact

- Death with dignity occurs when all the healthcare providers (physicians, nurses, social workers, family members) provivde active emotional and physical assistance to the dying person.

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Indignity

- Indignity in care occurs when patients, particularly the elderly or vulnerable, experience feelings of powerlessness, abandonment, and loss of self-worth due to lack of proper care that their condition requires.

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Questions?

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Thank You!

Please complete your evaluation.

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