

## ***Must Medical Practitioners Refer for Medical Assistance in Dying (MAiD) Under Canada's Newly Amended Assisted Dying Legislation? A Statement of Principle Grounded in Disability Rights.***

### **Canada legalized medical assistance in dying (MAiD) in 2016.**

At the time, disability was relevant but not determinative of MAiD eligibility. Eligibility centered on a person's death being reasonably foreseeable and on intolerable suffering in that context.

Although the law (C-14) had prejudicial impacts on people with disabilities, the end of life requirement limited the potential for systemic harm.

In certain jurisdictions, it was determined that medical practitioners choosing to abstain from assisting in death had a duty to refer.

### **In 2021, Canada made MAiD available to people who are not dying, provided that they have a disability or disabling medical condition.**

Bill C-7 introduced a two track system for MAiD eligibility. While end of life status remains the core eligibility requirement under track one, disability and disability-related perceived suffering is the cornerstone of MAiD eligibility under track two.

Disability rights organizations and UN experts are of the view that providing MAiD on the basis of disability contravenes international law, and Canadian's with disabilities' rights under sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*.

### **Medical practitioners must be exempt from any duty to refer when eligibility for MAiD is inherently discriminatory, i.e., based on having a disability.**

When a medical practitioner chooses to protect the life and dignity of a person with a disability, they should not face penalties, discipline or reprisal.

Medical practitioners must have the right to advocate for a person with a disability to not end their life and for the support services and systemic changes needed to improve the quality of life of their patients with disabilities without fearing overstepping.

Ableism is pervasive and insidious. It is imperative that medical practitioners actively working to counteract ableism in their practice be retained and celebrated. People with disabilities seek out doctors working to dismantle ableism in healthcare.

People with disabilities must also be able to seek out safe havens within the healthcare system that abstain from providing MAiD on the basis of disability to people who are not dying, where one can name and claim their suffering without risk to their life, and be supported to heal and thrive on an equal basis with others.