

Federal government updates medical assistance in dying rules

October 13, 2026

The federal government recently announced updates to Canada's Medical Assistance in Dying (MAiD) laws, maintaining the exclusion for mental illness and proposing new legislation for advance directives. These changes provide essential clarity for healthcare providers navigating complex legal frameworks and patient capacity issues. This update directly impacts clinicians, healthcare organizations and patients exploring MAiD requests.

On Oct. 7, 2026, federal Justice Minister Sean Fraser and Health Minister Marjorie Michel updated two ongoing Medical Assistance in Dying (MAiD) issues. They addressed the availability of MAiD when mental illness is the sole underlying condition and the ability to request MAiD through an advance directive.

Mental illness as the sole underlying condition

The Criminal Code currently excludes access to MAiD when mental illness is the sole underlying condition. This exclusion expires in March 2027, but the federal government intends to maintain it indefinitely.

Minister Fraser stated this position reflects the findings of the Special Joint Committee on Medical Assistance in Dying. The government cited several core concerns for this decision:

- Uncertainty around when a mental illness is truly irremediable;
- A lack of consensus among medical experts; and
- Ongoing disparities in access to mental health services across Canada.

Advance directives for MAiD

This fall, the government plans to introduce legislation allowing advance directives for MAiD in specific situations. This will permit individuals with an illness that causes future capacity loss to provide advance consent while they are still capable.

Minister Fraser noted that proposed amendments will modify the Criminal Code. This ensures clinicians who provide MAiD under a valid advance request will not face criminal liability. However, clinicians must still comply with all applicable provincial and territorial legislation and safeguards.

Looking ahead

BLG continues to monitor this proposed legislation. We are available to discuss how these framework changes may impact your healthcare organization.

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