

The Slippery Slope of Medical Assistance in Dying



by Theodore Dalrymple

In 2017, the Ontario College of Physicians and Surgeons published a document concerning a procedure now known universally in Canada as MAID, Medical Assistance in Dying, though its acronym could just as well have been the slightly less cuddly MAD.

This year the college has suggested ([pdf](#)) that under no circumstances should doctors put the fact that a patient has been medically assisted to die on his or her death certificate, thus making it mandatory for doctors to lie about a matter, namely cause of death, that has traditionally been regarded as rather important. No doubt the College was concerned to forestall future legal proceedings against doctors who participated in MAID as it becomes more and more

sought after, and more and more contested.

Most of us, I think, can easily imagine circumstances in which we would rather die than continue in life. If I had to imagine such circumstances, I think I would opt as my first choice the prolonged agony of respiratory failure, but there are others. The problem, of course, is the prevention of the slide down the slippery slope, but the College seems anxious to toboggan down it.

Here is a quotation from the 2017 document ([pdf](#)):

“The Supreme Court of Canada recognized that minors may have the capacity to make treatment decisions, that they have the right to prove they are capable, and that a rigid statutory framework based on age would fail to reflect the realities of child development. ... [L]inking capacity to age for the purposes of MAID gives rise to an inconsistency between federal legislation and the *HCCA* [Health Care Consent Act]. Patients under eighteen may be deemed capable of making healthcare decisions by virtue of the *HCCA*, (including decisions comparable to MAID such as withdrawal of life-sustaining treatment) but may be ineligible to access MAID simply because of their age. We would encourage the Expert Panel to consider: First, whether the inconsistency created between the federal legislation and the *HCCA* with respect to age and capacity is appropriate and the supporting justification or rationale; and Second, the potential human rights implications that may be associated with limiting the autonomy of a capable patient solely on the basis of that patient’s age.”

This passage, which the word creepy doesn’t adequately describe, is very revealing of the moral sensibility—or lack of it—of our time. The courts in Canada have recognized a perfectly true fact about human development, that it doesn’t take place at the same pace in every individual, and has drawn from this undoubted fact the unjustified conclusion that

placing legal age limits is therefore unacceptably arbitrary. This is an argument that has helped to produce and inflame the egotism and individualism without individuality of our times.

In the prison in which I worked as a doctor, adult men who were imprisoned having had sexual relations with girls under the legal age of consent argued exactly this in their defense: that it was absurd and arbitrary to fix an age of consent. Could anybody seriously argue that a girl who was mature enough to give her consent on her 16th birthday couldn't have given it the day before?

According to this argument, however, the law had no right to fix an age of consent, as fixing it at any age would be arbitrary. What is claimed, therefore, is the right of everyone to set his own rules and decide everything for himself. He doesn't accept that living in society entails acceptance of rules that, in a world of continua rather than of absolutely discrete categories, it's necessary just to accept rules that are neither wholly defensible in rational terms nor that one hasn't made for oneself.

Even more alarming, the passage from the College's document that I have quoted conflates refusing consent to a treatment with the demand that a certain treatment (in this case, a fatal dose) should be given. The right to refuse a treatment isn't the same as the right to demand one. I can refuse a surgeon's recommendation of an amputation, but I can't demand that he perform an amputation. It's far from reassuring that the College appears not to recognize the difference.

Perhaps more alarmingly still, the College seems to think of MAID as a human right. But if it's a human right that can't be arbitrarily limited on account of age, on what account can it be arbitrarily limited? Why should the dying have all the best deaths? And in fact, the Canadian courts have already accepted that MAID shouldn't be limited to those dying of physical disease. It has accepted, for example, that the mentally ill

may accede to it, provided that there's no prospect of cure or amelioration.

This is an astonishingly crude view of so-called mental illness. It's within the power of anyone to prolong his symptoms of distress if he so wishes. It's conceivable that the prospect of MAID might actually prolong distress by making assisted suicide on its account perfectly legal.

Moreover, if MAID is regarded as a human right, someone has the obligation to procure it in practice for those who want it. After all, it's unlikely that those who desire MAID would be satisfied with legal permission if no one would actually carry it out. And the College already speaks of remote areas in which there might not be a doctor or nurse prepared to do so. Before long, doctors will be disciplined for not assisting their patients to die. It will become as much a medical duty as any other.

As I have indicated, the question of assisted dying isn't a simple one, and hard cases can be found in support of their argument by both sides. But I well remember a conversation I had with an aging woman doctor on a train in Germany. The subject of euthanasia as practiced in The Netherlands came up. "What would the world say," she asked, "if what was being done in Holland were being done in Germany?" To this, one might add, "And what would the world say if the documents published by the Ontario College of Physicians and Surgeons had been published by a German college?"

I repeat, however, that I can envisage circumstances in which I would like to be put down painlessly. I wouldn't much care to be professionally entrusted, let alone required, to do it for others. Therein lies a paradox.

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