



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

44th PARLIAMENT, 1st SESSION

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# Special Joint Committee on Medical Assistance in Dying

EVIDENCE

**NUMBER 013**

**PUBLIC PART ONLY - PARTIE PUBLIQUE SEULEMENT**

Thursday, June 16, 2022

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Joint Chairs:  
The Honourable Marc Garneau The Honourable Yonah Martin





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• (1835)

[*English*]

**The Joint Chair (Hon. Marc Garneau (Notre-Dame-de-Grâce—Westmount, Lib.)):** Good evening and welcome to this meeting of the Special Joint Committee on Medical Assistance in Dying.

I would like to begin by welcoming the members of the committee, as well as witnesses and those who may be watching on the web.

My name is Marc Garneau and I am the House of Commons joint chair on this committee.

[*Translation*]

I am joined by the Honourable Yonah Martin, the Senate's joint chair.

Today, we are continuing our examination of the statutory review of the provisions of the Criminal Code relating to medical assistance in dying and their application.

[*English*]

The Board of Internal Economy requires that committees adhere to health protocols, which are in effect until June 23. It is mandatory for any person in the committee room to wear a mask or a face covering, except members who are in their place during the proceedings. All those inside the committee room should follow the best practice of maintaining a physical distance, and I'm sure you're very aware of all of that.

With that said, there are a few administrative points I'd like to bring up.

[*Translation*]

I would like to remind members and witnesses to keep their microphones muted, unless recognized by name by the chair. A reminder that all comments should be addressed through the chair.

When speaking, please speak slowly and clearly.

Interpretation in this video conference will work like in an in-person committee meeting.

You have the choice, at the bottom of your screen, of either floor, English or French.

[*English*]

With that said, I would like to welcome witnesses for our first panel this evening, which is a special one about protection of Canadians with disabilities and mental illness.

We welcome, appearing as individuals, Ms. Cheryl Romaine, Mr. Gary Nichols and Ms. Trish Nichols.

Thank you for joining us. We'll begin with opening remarks by Ms. Romaine, followed by Ms. Nichols, who will be speaking on behalf of the Nichols.

Ms. Romaine, you have five minutes for your opening remarks. Please go ahead. The floor is yours.

**Ms. Cheryl Romaine (As an Individual):** Hello. To the Special Joint Committee on Medical Assistance in Dying, thank you for making the time to hear me today. My name is Cheryl Romaine and I am a 45-year-old mother of two, known for my big smile and my hearty laughter, despite the suffering I endure.

The decline in my physical—

**The Joint Chair (Hon. Marc Garneau):** Ms. Romaine, we're having a bit of a technical difficulty. Just hold on a second, please.

Can we turn down the sound in the room?

All right. Please go ahead, Ms. Romaine.

**Ms. Cheryl Romaine:** Thank you.

The decline in my physical ability when I became sick just over four years ago was rapid, brutal and, unfortunately, largely irreversible. Within a few months I went from having health and independence to being unable to walk up and down the stairs in my own home without assistance.

I'm living with adhesive arachnoiditis and axial spondyloarthritis—both autoimmune-triggered inflammatory spine diseases—as well as numerous related conditions, all of which cause many neurological symptoms, the loudest of which is intractable pain. My immune system is suppressed, leaving me at a higher risk for adverse outcomes if I get sick. The medications I take to try to manage my autoimmunity cause side effects that often rival the conditions they are supposed to treat. I am currently on 18 different medications.

I requested MAID for the first time in June 2019, but was denied because I didn't have a reasonably foreseeable natural death. I requested MAID for the second time in April 2022, and was approved. I remain approved for MAID and I choose to keep that approval for when I make the very difficult decision to use it.

I have a life-limiting chronic illness that causes pain severe enough that it can make me wish for death, but I wasn't given the mercy of a terminal diagnosis to go with it. Over the last four years I have tried everything there is available to help manage my pain and other symptoms. I have had 41 invasive and painful spine procedures, such as steroid injections, nerve root blocks and epidurals. I've had spine surgery three times, radio frequency ablations, acupuncture, physiotherapy and prolotherapy, and I've completed the entire program at the chronic pain clinic.

At the end of February 2022, I had a spinal cord stimulator implanted in the hopes that it would help reduce the pain enough to make my life livable. It helps, but not as much as we had hoped. I remained active in my health and health care even as I was going through the MAID process. MAID is my last resort.

After I requested MAID for the second time, it took the MAID care coordination service five weeks to find two MAID assessors willing to assess a complex case like mine, in which death was not reasonably foreseeable. If I had needed a third assessment, there would have been no third assessor in Alberta to assess me at the time. Legal and accessible are not the same thing.

The assessments that I underwent as part of the MAID process were extremely thorough, and my MAID-providing physician and I maintain an open line of communication. As an assessor, he looked at my entire life, not only at the health care records. The biggest safeguard there for people with disabilities is the assessors—high-quality assessors.

Of note is that I was diagnosed with bipolar I disorder 15 years ago, when I was 29 years old. It has been well controlled for years, but as a precaution, the first time I went through the MAID process I had a thorough psychological evaluation to determine my capacity to consent and to make sure that bipolar disorder was not a factor in my request for MAID.

The second time I went through the MAID process, another psychological assessment wasn't required, although if it had been, my second assessor happened to be a psychiatrist in her day job, so that would have simplified things for me.

For eight months last year my family and I filmed a documentary with Citytv, chronicling my journey with MAID. In the documentary I shared my struggles with the actual MAID process itself, as well as sharing a portion of the emotional impact that MAID has had, not only on me but on my family as well. It has forever changed us all.

In January 2021 I requested palliative care before requesting MAID for the second time. That request was denied because I did not have a terminal diagnosis. After being approved for MAID I requested palliative care again and was again denied. On that day in June 2022, I was clearly told by Alberta Health Services that palliative care is not available to anyone without a terminal diagnosis.

I don't know if having access to palliative care would have made much of a difference to my physical suffering or not, but I believe my quality of life is just as important as that of someone who receives a terminal diagnosis, and I would have welcomed any support.

My family and I hired a death doula, which for us turned out to be a very negative experience. I believe the idea behind a death doula is a good one, and I hope that the right people continue that work.

• (1840)

The pain management palliative care referred to by Alberta Health Services in its MAID policies and FAQs, which were published after the legislation changed in March 2021, doesn't seem to exist. Moving forward, there needs to be clearly defined, actually accessible palliative care provided to every patient who has been approved for MAID, regardless of their diagnosis.

I hope my lived experience can help shine a light on areas of the MAID process that may need improvement and also on the areas that don't. I thank you for taking the time to listen. I welcome any questions.

**The Joint Chair (Hon. Marc Garneau):** Thank you, Ms. Ro-maire.

We'll now go to Ms. Trish Nichols.

Ms. Nichols, you have five minutes.

**Ms. Trish Nichols (As an Individual):** Thank you very much. I am speaking today on behalf of our brother, Alan Nichols, who was given MAID. Alan received medical assistance in dying—assisted suicide—on July 26, 2019, when MAID was still reserved for those whose death was foreseeable. Alan did not meet the MAID criteria. He did not have a foreseeable death. He struggled with recurring mental health crises, but he always recovered.

On June 16, 2019, Alan was placed, against his will, in an ambulance and taken to the Chilliwack General Hospital. Under the Mental Health Act, for his own safety and protection, he was admitted after a neighbour had called the RCMP for a wellness check.

My husband Gary flew from Edmonton to see his brother that very day. Alan asked Gary to bust him out, but Gary thought he would be safer in the hospital and would get the help he needed. My husband Gary lives with the regret of that decision to entrust Alan's wellness to a medical facility.

Alan was transferred to psychiatry the next day. He refused visitors, including family, which disturbed us, though we trusted his treating team. Our family received no hospital updates until eight days after admittance to emergency.

Alan's doctor said she would check with staff and gather information, and asked Gary to call her back to discuss further. Gary called back and learned that Alan's doctor had vanished for a three-week holiday. For the next three weeks our family was misled by his social worker, who assured us that Alan was doing well. Unknown to us at this time, on July 19 an attempt to give Alan MAID had ended in failure. The hospital had not followed the prescribed MAID protocols, as no doctor was present, no family had been notified and they had no clear instruction where to send Alan's dead body.

Alan's doctor called Gary three days after this botched attempt, announcing that Alan would receive MAID at the end of the week. She was delighted that Alan had agreed to a final visit with us and suggested that we make no waves or he could actually deny our visit. After driving 12 hours, we were denied the visit until the next day.

Five weeks after his admittance into emergency for his own safety and protection, we were finally allowed to see him. Alan was not making any sense in the things we talked about. He refused to wear his cochlear apparatus, so it was difficult to communicate effectively.

Fear began to grip us and we began pleading and begging with the medical staff to stop this MAID. We asked for a delay as we could not reach our oldest brother, Wayne. Alan went into a fit of rage, screaming uncontrollably. I asked his doctor right then, "Is this what you call a sound mind?" Alan was euthanized minutes later.

On Alan's MAID form, hearing loss was stated as the reason for application. How can doctors accept, approve and administer a death for this when Alan did not have a terminal illness and his hearing had been corrected, and all the while he had been involuntarily admitted for suicide protection?

Alan did not have a valid diagnosis for MAID. He was eating, walking and talking, according to his social worker, so why did they keep him in the hospital if they weren't treating him for being a danger to himself? Placing him involuntarily in hospital care is what put Alan in imminent danger. We still have no answers after repeatedly trying to have his death investigated.

Would you feel safe now, bringing your suicidal loved one to seek medical care for recovery when there are no oversight or stringent safeguards surrounding a procedure that kills people?

Alan chose to live alone, managing his daily affairs. He owned his own condominium. He had money in the bank. Each week, family would pick him up and take him to buy groceries and help him with his banking. He didn't rely on our health care system for any support. His family and neighbours lovingly kept an eye out for him. It was our health care system and this legislation that failed him, resulting in his premature and wrongful death.

Three years now we have spent in this nightmare. We are so angry and insulted at how they just all turned their heads as they listened to us begging for Alan's life. Do you know what this has done to our family? With no justice, no accountability and no stringent safeguards to prevent such a wrongful death, how can our government even be looking at expanding MAID laws?

• (1845)

There are currently no laws protecting the vulnerable or their families from MAID. Most Canadians think MAID is to alleviate the physical suffering at the end of a life, not a ploy to end a life.

Thank you so much for hearing us.

**The Joint Chair (Hon. Marc Garneau):** Thank you, Ms. Nichols.

I'll now turn it over to my co-chair, Senator Martin, for a question round.

**The Joint Chair (Hon. Yonah Martin (Senator, British Columbia, C)):** Thank you, Mr. Joint Chair.

After these very compelling testimonies, we'll begin with the first round of questions.

Mr. Barrett, you have the floor for five minutes.

**Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC):** Thank you, Madam Co-Chair.

I want to thank you, Ms. Romaine, for joining us today and sharing your personal experience with us.

I'd like to thank you both, Ms. Trish Nichols and Mr. Gary Nichols, for joining us and for sharing your very personal story as well.

My question, Madam Co-Chair, through you, is for Ms. Nichols. As I mentioned, I appreciate the very personal and moving testimony shared by all of the witnesses.

Could you just confirm the timing, Ms. Nichols, of Alan's receiving MAID, and what his diagnosis was at that time?

**Ms. Trish Nichols:** Yes, I can confirm that he was admitted on June 16, 2019, and he received MAID on July 26, 2019.

**Mr. Michael Barrett:** Okay. In your testimony, you shared that it was an involuntary admittance to the hospital. It was for suicide prevention. Is that correct, ma'am?

**Ms. Trish Nichols:** That's right. We understand that was exactly what it was for, because the RCMP had found him dehydrated and not coherent. He was confused. They took him to the hospital and admitted him under the Mental Health Act.

**Mr. Michael Barrett:** Okay. What recourse have you attempted to obtain since that time?

**Ms. Trish Nichols:** I'm going to allow my husband to answer that question, if that's all right.

**Mr. Michael Barrett:** Yes, the question is for Mr. Nichols, please, Madam Co-Chair.

• (1850)

**Mr. Gary Nichols (As an Individual):** We have filed many complaints.

We filed a complaint with the college of physicians in B.C., and they stated that they would not follow through with an investigation unless there was a criminal investigation by the RCMP. We went to the RCMP, and they said it was out of their jurisdiction.

In addition, we've written to the federal minister of health, the provincial minister of health and MLAs. There was actually only one MLA in the Chilliwack area who assisted us, and they got the same result. They either got the runaround, were played ping pong with, or were told that it was not in their jurisdiction or they would pass them on to somebody else.

After three years, we've gotten no justification, no recourse. It's been a really slow, trying process, and it has really hit on our emotions. It's been really tough.

**Mr. Michael Barrett:** Okay. Thank you, sir.

I'm wondering, with respect to those complaints and the responses you received from the College of Physicians and Surgeons and from the RCMP, if you would be able to provide copies of those to the committee clerk. It may be helpful for us to see those as we finalize our report. The clerk would then be responsible for ensuring that any personal or confidential information was redacted.

Is that something you would be able to provide, sir?

**Mr. Gary Nichols:** We can provide the one from the College of Physicians. The RCMP actually just phoned my brother. He was in the Boston Bar area, about 45 minutes from the Chilliwack area, where Alan was euthanized. He had gone to the RCMP station. I can you give the case number and the constable's name, but all he received was a phone call saying, "Sorry, we can't help you. It's out of our jurisdiction."

**Mr. Michael Barrett:** Thank you for that, sir.

In March of 2023, MAID will be legalized for mental disorders. The expert panel suggests that no change is necessary to the legislation in its current form, and practitioners are advised to proceed on a case-by-case basis.

Based on your experience, how do you receive that?

**Mr. Gary Nichols:** I don't want to see MAID expanded until the safeguards are actually enforced, because there was a safeguard in Bill C-14, and that didn't help my brother. So—

**Mr. Michael Barrett:** Pardon my interruption, but what specific safeguard are you referring to?

**Mr. Gary Nichols:** His natural death was not foreseeable. He had no terminal illness. He was being treated for absolutely nothing in the hospital. He could have lived for several years, so his death was not foreseeable.

**The Joint Chair (Hon. Yonah Martin):** Thank you.

**Mr. Michael Barrett:** Okay. Thank you, Mr. and Mrs. Nichols.

Thank you, Madam Co-Chair.

**The Joint Chair (Hon. Yonah Martin):** Thank you very much. Next we'll have Dr. Fry.

You have the floor.

Dr. Fry, you're still muted. You have to unmute, please.

**Hon. Hedy Fry (Vancouver Centre, Lib.):** Could the host please allow me to be unmuted? Thank you. I am now unmuted. Yes.

**The Joint Chair (Hon. Yonah Martin):** Thank you. Now you have five minutes.

**Hon. Hedy Fry:** Thank you very much, Madam Co-Chair.

I just want to thank both Ms. Nichols and Ms. Romaine for different but very compelling testimony.

What is very apparent, as you said, is that there is a need for clear safeguards with actual national standards that can be kept across the country so that provinces don't make up their own. I think that is what we are hearing from a lot of people. We don't have those right now, and provinces may or may not, as Ms. Romaine is telling us. In Alberta, even though she was eligible, she couldn't get palliative care. She couldn't get anything she needed.

I agree with you and I want to thank you both, because the tragedy of actually being able to have MAID or of not wanting MAID.... There really need to be clearly defined guidelines and clear patterns of practice that are decided on across the country and not locally by provinces.

I wonder, Mrs. and Mr. Nichols, if you could answer me. You are getting nothing from the college of physicians in B.C., no information.

• (1855)

**Mr. Gary Nichols:** They actually said they were not going to involve us in their investigation, but they would use all the information to do it behind closed doors. They could be doing something that we're not aware of. I did send them another email saying that the nurse who had filled out Alan's assessment was also the one who euthanized him. I said that was kind of a conflict there, especially having a nurse come up with some kind of assessment of his natural death when really nothing was done.

**Hon. Hedy Fry:** I think that, basically, the college of physicians is responsible for physicians' practice, whether physicians are practising within the guidelines or whether physicians are malpractising, so that, as you said, may be exactly what the college is doing behind closed doors, because there had to be psychiatrists looking after him, not just nurses. Were there psychiatrists looking after him? Who was his attending psychiatrist in the hospital?

**Mr. Gary Nichols:** He was in the psychiatric ward at the hospital. We went there. They gave him antidepressants for a couple of days, and then he was transferred to the PATH unit. Then the MAID team brought in their own psychologist. They didn't use the hospital's psychiatrists or the psychologists from when he was in the psychiatric ward. They brought in their own and just did whatever and made their simple evaluation.

**Hon. Hedy Fry:** I am so sorry to hear of your trials and the pain you must be feeling right now.

Ms. Romaine, your testimony tells us exactly what I think we are hearing.... I am so glad that we're hearing from people on all sides of the spectrum, who wanted MAID, did not want MAID, etc.

I think you are pointing out to this committee—and what we're hearing from you is—that we need to call for clear, distinct practice guidelines nationally, across the country.

Now that is a difficult thing, because the provinces are responsible for practices and patterns of practice, not the federal government. This is a problem. Provinces will decide what they want to decide, and we've seen two different problems, one in Alberta and another in British Columbia.

Thank you. I don't want to ask you any more questions, because you were both pretty clear in your testimony.

I think it is really important that the right people and trained people do MAID assessments, and that the person who is seeking MAID has, as an advocate, a physician who knows their life and what their problems have been and can advocate for that.

Mr. and Mrs. Nichols, it seems that in your case, it did not happen.

Our problem, as a committee, is that we're going to have to look at.... Given that the patterns of practice and practice guidelines are provincial in jurisdiction, it's going to be very difficult for the federal government to have national standards of practice. However, the colleges of psychiatry and physicians may be able to do something about that, because they can be responsible for setting clear guidelines of practice.

I want to tell you how sorry I am to hear of your pain on top of pain, almost adding insult to injury, in both of your cases.

Thank you for testifying, and thank you so much for being so honest and clear with us. I appreciate it.

**The Joint Chair (Hon. Yonah Martin):** Thank you, Dr. Fry. Thank you again to the witnesses.

Next we will go to Monsieur Thériault for five minutes.

[*Translation*]

**Mr. Luc Thériault (Montcalm, BQ):** Thank you, Madam Chair.

Thank you to Mr. and Mrs. Nichols as well as Ms. Romaine for sharing their stories, which were quite moving and very troubling.

In their opening statements, they told us about the struggles they have faced. A few short minutes isn't enough time to adequately understand and unpack the deficiencies in the system. The bottom

line, as I understand it, is that something happened that shouldn't have.

In 2019, Mr. and Mrs. Nichols, MAID was not available to people with mental disorders under the law, so I don't have any questions for you.

Ms. Romaine, you pointed to a problem that has also come up in Quebec.

In terms of end-of-life care, Quebec was one of the first places to authorize medical assistance in dying for people with terminal illnesses. The province even set up a commission to oversee the administration of MAID, the Commission on End-of-Life Care. The commission's job is to oversee MAID responses and to hold all practitioners involved in MAID cases to account.

The situation you described, what happened to you, has to do with MAID requesters not having access to palliative care no matter what their stage of illness, whether terminal or pre-terminal.

That's what you experienced, and that's what you shared with us today.

You could qualify for MAID, but you said that it would be tremendously helpful if you could also receive palliative care. Some witnesses told the committee that palliative care was available, not just for a terminal illness, but also prior to that stage.

Ms. Romaine, I'd like to hear your views on this. I want to be sure I understood everything you said. You were told that you weren't eligible for palliative care because you had requested MAID.

Do I have that right?

• (1900)

**The Joint Chair (Hon. Marc Garneau):** Actually, I think the reason was that she did not have a life-threatening illness.

**Mr. Luc Thériault:** As I understand it, Mr. Chair, the reason that Ms. Romaine does not qualify for palliative care is that she requested MAID. She does, however, qualify for MAID.

Ms. Romaine, I'd like to hear your answer. Please go ahead.

[*English*]

**Ms. Cheryl Romaine:** I was denied palliative care because I did not have a terminal diagnosis. That was the reason I was given.

[*Translation*]

**Mr. Luc Thériault:** Very well.

I gather that the first time you requested MAID, you did not qualify. The second time you requested MAID, you were told that you did qualify. Since you were not terminally ill, or at the end of life, you were denied palliative care.

Do I have that right?

[*English*]

**Ms. Cheryl Romaine:** I am approved for MAID. I requested palliative care before I requested MAID, and I was denied because I didn't have a terminal diagnosis. After I requested MAID and was approved for MAID, I again asked for palliative care and was denied, again because I did not have a terminal diagnosis. I don't know if it would have helped.

[*Translation*]

**Mr. Luc Thériault:** Regardless, if you had had access to palliative care, you would have had help dealing with your pain and suffering. You would have had that support.

My comment about Quebec had to do with the fact that people who are terminally ill—which is not your situation—are denied palliative care.

For that reason, a new bill was brought forward, and its passage would have meant that palliative care facilities would be required to provide care to people who had requested MAID.

Putting people who request MAID and people who request palliative care in two different categories is a widespread practice, not just in your province, but also in Quebec.

We regularly hear from witnesses that palliative care is the answer to all their problems, that people would not request MAID if they had access to palliative care. While that may be true, people who are waiting to die still need compassion and supports.

That was the point I was trying to make. I understand what you are saying, Ms. Romaine.

Thank you.

• (1905)

**The Joint Chair (Hon. Yonah Martin):** Thank you.

[*English*]

We'll now go to Mr. MacGregor for five minutes.

**Mr. Alistair MacGregor (Cowichan—Malahat—Langford, NDP):** Thank you very much, Madam Co-Chair.

Mrs. Nichols, I'd like to start with you. I'll echo the words of my colleagues in thanking you for coming before our committee and sharing a very personal story about Alan.

For Alan, in 2019, it would have been under the old Bill C-14 regime.

**Ms. Trish Nichols:** Correct.

**Mr. Alistair MacGregor:** I brought up the bill because of course it was subsequently changed—the Criminal Code—with Bill C-7. I guess from our perspective as federal legislators, in your opinion, is there something that was missed in how the safeguards are written out in the Criminal Code, or is this more on the side of the medical profession? Could you answer that for us?

**Ms. Trish Nichols:** Well, we have criteria for MAID. In Bill C-14, there are definite criteria for MAID, and Alan did not meet the criteria for MAID, medically or according to the laws that are set by legislation. He did not meet those. He didn't meet the criteria,

because he didn't have a foreseeable death. He was admitted under the Mental Health Act as a danger to himself.

I don't know.... There needs to be a law put in place to protect people from being administered and put into a hospital against their will, don't you think, for that in itself? Then, to actually be offered MAID, and transferred and bounced around a hospital, and kept from his family....

**Mr. Alistair MacGregor:** Was your family ever able to get access to the signed documents by the two independent physicians who would have been involved in the process?

**Ms. Trish Nichols:** It took us a year and a half to get those, but yes.

**Mr. Alistair MacGregor:** So that part was followed?

**Ms. Trish Nichols:** Yes.

**Mr. Alistair MacGregor:** Okay.

I appreciate your sharing your story. I don't have a lot of time, unfortunately.

I'd like to turn to you, Ms. Romaine. I'd also like to take this opportunity to thank you for appearing before our committee and sharing your personal experience.

As you relayed to my colleague, you were denied palliative care because even though you have been approved for medical assistance in dying, your condition is not terminal. I'm just wondering, Ms. Romaine, if you look at the services that would have been given to you had you been approved for palliative care, whether that would have any bearing or impacts on your decision with respect to medical assistance in dying. I just want to put that into some context. Is there anything you can share with us?

**Ms. Cheryl Romaine:** I believe that having access to palliative care would help my suffering. I'm not sure. I don't think it would make enough of a difference to me to make me not request MAID, but I think it would give me the ability to cope with my pain for longer. It would raise my quality of life so that I could live with the physical pain, the things I can't change. I believe that I should have the option to try, and to see if it would help me before I follow through with MAID.

**Mr. Alistair MacGregor:** With respect to your pain management and your quality of life, are the health services providing sufficient management as it stands now? I guess you are saying that palliative care would go above and beyond what medical services you have access to now.

**Ms. Cheryl Romaine:** I'm receiving no supports whatsoever. I never have in Alberta. I had to go to Vancouver for treatment, but Alberta health services paid for the treatment—not for the travel, but for the treatment.

The parts of palliative care that I was looking for included counselling for my family, because, as it stood, someone was going to show up at my home, end my life and leave, and my family would have nothing, no counselling, no support whatsoever. That was a part of what I was looking for with the palliative care.

• (1910)

**Mr. Alistair MacGregor:** Thank you for clarifying that. That's the end of my time.

**The Joint Chair (Hon. Yonah Martin):** Thank you very much.

I'll turn this over to my co-chair now for the round of questions for senators.

**The Joint Chair (Hon. Marc Garneau):** Thank you, Senator Martin.

We'll go to the senators now, for three-minute rounds, beginning with Senator Mégie.

[*Translation*]

Ms. Mégie, you may go ahead. You have three minutes.

**Hon. Marie-Françoise Mégie (Senator, Quebec (Rougemont), ISG):** Thank you, Mr. Chair.

Thank you to the witnesses for sharing their personal experiences with us. Their stories were very impactful, but it was disappointing to hear what they went through.

My first question is for Mrs. Nichols.

Mrs. Nichols, your brother had a mental illness. Do you know whether he had a serious comorbid physical condition?

[*English*]

**Ms. Trish Nichols:** I'm going to pass this over to my husband, Gary.

**Mr. Gary Nichols:** Alan had a bit of a physical disability. When he was 12 and 13 he had brain surgery to remove a benign tumour. That's what affected his hearing and why later on he needed cochlear implants. When in the last surgery they removed the tumour, they had to take a little piece of the brain, which affected his right side. He used to write with his right hand; he had to learn how to write with his left hand. His walk, of course, was a bit lumbered because his left leg and his left side just didn't work one hundred per cent, but he had no physical disability.

He could walk down the block. For years, he could walk miles. He had stairs in his house; he could go up and down. He would come down from his bedroom and go into the kitchen. He did all his house cleaning, all his own shopping and all his own banking. My brother would come down and drive him to do those chores. His physical ability didn't limit his living by any means.

[*Translation*]

**Hon. Marie-Françoise Mégie:** What I'd like to know is whether he had been diagnosed with a specific illness, other than the brain tumour.

[*English*]

**Mr. Gary Nichols:** There was nothing at all—he was treated for nothing.

[*Translation*]

**Hon. Marie-Françoise Mégie:** Thank you.

Could you send us the hospital's report, if possible? I realize that you may not be able to get it since the case is under investigation. I would also like the college of physicians' report. I would really appreciate having that information.

Now, I'm going to turn to Ms. Romaine.

Ms. Romaine, I was very disappointed to learn that you were denied palliative care. You are entitled to it. Palliative care is not exclusively for people who are going to die. Palliative care is also available to people who do not have access to curative treatment, therapies that can make them healthy again. The purpose of palliative care is to provide support to ill patients and prevent their suffering.

While I don't know how Alberta's system works, my advice to you would be to demand access to palliative care. Not only would your family receive support, but so would you. That's what palliative care is. It's not just for people who are dying. That's what I want you to know.

What's more, this is something that the committee should examine.

**The Joint Chair (Hon. Marc Garneau):** Thank you, Senator Mégie.

[*English*]

We'll now go to Senator Kutcher.

**Hon. Stanley Kutcher (Senator, Nova Scotia, Lib.):** Thank you very much, Mr. Chair.

Unfortunately, I was held up at a previous engagement and wasn't here to hear the full testimony of the witnesses. Therefore, I think it would be quite inappropriate for me to ask questions about testimony that I did not hear.

**The Joint Chair (Hon. Marc Garneau):** Very well. We will go to Senator Wallin.

Senator Wallin, you can take four minutes.

**Hon. Pamela Wallin (Senator, Saskatchewan, C):** Thank you very much, Co-Chairs.

I know that this is very difficult, and I'm sorry that we're subjecting you to this, but I'd like to go back to Mr. and Mrs. Nichols, if I could.

The reason you're hearing these questions is that it's quite stunning for us that there were no doctors involved in this process, that a nurse filled out the form and then carried out—I hesitate to call it a MAID procedure—the procedure with no doctors present.

Is that the case?

• (1915)

**Ms. Trish Nichols:** Let me clarify that for you.

That attempt at MAID was on July 19, 2019. That day, there were no doctors available. Our family didn't even know that Alan had applied and was getting MAID. They did not know.... The nurse practitioner did not know where to send Alan's body if she completed it, so she stopped the procedure.

**Hon. Pamela Wallin:** Okay, well let me just back up. On what basis had he applied for MAID?

**Ms. Trish Nichols:** On his form, where it asked “your reason for applying”, was “hearing loss”.

**Hon. Pamela Wallin:** That was the reason he gave.

**Ms. Trish Nichols:** That was what was on his application form.

**Hon. Pamela Wallin:** Okay, but had he at some point requested MAID?

**Ms. Trish Nichols:** He filled in the form.

You know, we don't really know what happened. We're still trying to get information from the hospital. We have asked for specific forms that we have now received. We wanted to see the application form.

That day, on July 26, when the MAID was actually performed, we asked the doctor if we could see his signature, on anything, and she said, “You'll have to ask Alan for that. He's the only one who can provide that.” Well, he was getting prepped for his end of life. He wanted nothing to do with that.

**Hon. Pamela Wallin:** Did you have any discussion with him at that moment? Did you say, “I didn't know you'd requested MAID. Are you sure you want to go through with this?”

Was he of sound mind at that moment, as far as you know?

**Ms. Trish Nichols:** Yes. The day before we arrived and we spent that evening with him, we tried to talk him out of it. We just wanted to bring him home and get him out of the hospital.

**Hon. Pamela Wallin:** Was he determined, if that's the right word, to proceed?

**Ms. Trish Nichols:** Well, actually, my husband said, “Alan, I'm going to be retiring in the next year”—we live in Alberta—“and Trish and I are thinking of moving back to the Chilliwack area.” Alan said, “Gee, I wish I had known that.” He was talking about things.... He was mad at the government. He wasn't making sense. He was talking nonsensical things at that time.

The next morning we came. We actually sat in the room with him when they administered those lethal injections in his arm. We were with him. His own doctor couldn't even be in the room.

**Hon. Pamela Wallin:** Was he aware, as that process...? If this was all being carried out legally, of course, the doctors and the assistant who is with him, whether it's a nurse or another doctor, must ask—

**Ms. Trish Nichols:** Yes, she did.

**Hon. Pamela Wallin:** They must describe the process and ask... Did he give that final consent?

**Ms. Trish Nichols:** Absolutely. Yes.

**Hon. Pamela Wallin:** Okay, thanks for clarifying that, because I did not understand that the first time through.

Ms. Romaine, if I can come back to you on a similar kind of issue of process, then, you applied and asked for MAID. In that first request, in which you were rejected and it was not accepted, what was your reason?

**Ms. Cheryl Romaine:** The reason I first requested MAID—both times actually—was for adhesive arachnoiditis. It was for the pain that I have in my spine. It was for physical suffering.

**Hon. Pamela Wallin:** That's what you wrote on the forms, and the doctors or the assessors then said what to you at that point? I'm talking about the first round.

**Ms. Cheryl Romaine:** When you first request MAID, you do a record of request for MAID, and that's what I did in Alberta. It's sent to the care coordination service. They coordinate the two assessments [*Technical difficulty—Editor*] with you. The assessments that I had were hours and hours long. They sent two independent assessors, and they both came and spent hours with me. My sister was here with me for the assessment. He took almost three hours in my first assessment, just going through the history, everything I had tried and everything that had failed. We covered a lot of things. I had handed him a very well put-together case. I had my list of 15 specialists that I had had consultations with already, and I gave that to him. I provided all of those things, and it was still hours and hours long.

• (1920)

**Hon. Pamela Wallin:** When did they tell you no? Was it that day, later, a week later, a month later? When did they say, “No, we don't think you're eligible.”

**Ms. Cheryl Romaine:** The first time I requested MAID, I had the two assessments, and they tell you at the end of your assessment. When I had the first two in 2019, they told me at the end of that assessment that because I did not have a reasonably foreseeable natural death, they had to tell me no. But actually the first assessor I had was the one who told me to fight for MAID.

**Hon. Pamela Wallin:** Okay, so then what was the time between your first request, which was unsuccessful, and your second request for MAID, which was successful? It's sort of sitting on the books for you to trigger at some point. Is that how you see it?

**Ms. Cheryl Romaine:** Yes, I keep that for when I can't do this anymore.

**Hon. Pamela Wallin:** What was the time between—

**The Joint Chair (Hon. Marc Garneau):** Thank you, Senator Wallin.

**Hon. Pamela Wallin:** Okay. I'm sorry. Thank you, Cheryl.

**The Joint Chair (Hon. Marc Garneau):** Senator Dalphond.

[*Translation*]

**Hon. Pierre Dalphond (Senator, Quebec (De Lorimier), PSG):** Thank you, Mr. Chair.

[English]

I wish to thank the witnesses for appearing today. I know these are difficult stories to tell to the world. We hope that.... I'm kind of shocked to hear that you were refused some palliative care or the assistance that you need, Ms. Romaire.

My question is for Mr. and Mrs. Nichols.

Your story has been happening since 2019. I read on the Internet the story that was run by CTV about it. It's already been almost three years. In the story, they say that you have hired a lawyer to assist you. What's happening with this? According to the CTV report, your lawyer was to get access to the medical records, and I guess you are going to advise further on if you are going to sue somebody. Did you get access to the medical files and everything else?

**Mr. Gary Nichols:** When Alan was in the hospital, that's where he did his will. He didn't have a will when he entered the hospital. They brought in a notary who filled out his will, and Alan made him the executor of the will, so we had trouble getting his records. We eventually got some medical records because we put a lien against the will and everything like that, for a while. They forwarded us the medical records, and there's nothing there to show that Alan was being treated for anything. There were just really the MAID reports and applications, things like that.

We are contemplating action, some kind of criminal law against the hospital, a claim, maybe, against the hospital, but that's just in the process. They have deep pockets. We were actually hoping to get a little more support from the RCMP and the college of physicians.

**Hon. Pierre Dalphond:** You contacted the RCMP, according to the CTV report, three years ago, and so far, they have not.... Are they telling that you the file is closed or...?

**Mr. Gary Nichols:** Yes, they say they're okay with it, even though they didn't take a statement from my brother or me, and they're aware that his application said that hearing loss was the reason for MAID. It's hard to think that you could have a reasonably foreseeable death from hearing loss, but that was it.

We're not too sure if there's a conflict of interest because it was the RCMP that took him to the hospital, but just the same, they're not going to do any investigation. There doesn't seem to be any recourse that way.

● (1925)

**Hon. Pierre Dalphond:** I understand that you may have filed a complaint with the nurses' association about this, maybe two years ago?

**Mr. Gary Nichols:** No. The complaint with the college of physicians—and I guess you have to throw the nurses in there—was done just before.... It was in November 2021.

We weren't in a hurry to do that, because we just thought that they wouldn't do that great a job of investigating their own. We were hoping for the RCMP to do it, but that's as far as we got.

They won't do a thing unless the RCMP proceed with an investigation, so there's not much happening in our favour at all.

**Hon. Pierre Dalphond:** Thank you, sir. Thank you for your information.

**The Joint Chair (Hon. Marc Garneau):** Thank you.

We'll go to Senator Martin now for three minutes.

**The Joint Chair (Hon. Yonah Martin):** Thank you, Mr. Co-Chair.

Thank you so much to our witnesses for helping us understand what your experiences with MAID have been, for us to better understand and inform our committee.

My first question is for either of the Nichols in regard to what advice you would like to offer our committee, as we will be looking at recommendations to the government about MAID. What further advice would you like to give us?

**Ms. Trish Nichols:** I've taken the liberty of writing this down.

First of all, advice: no expansion or widening of the laws or other bills until you understand what's really happening on the ground here.

The second thing is that no patient should be considered eligible for or offered MAID when they're in acute care. It's offensive. They're already in there, they're vulnerable already and that's just not an appropriate thing to do.

Also, make it necessary for practitioners to consult with family and friends and other close contacts during MAID applications and assessment processes. This is just common sense in the ability for a medical team to proceed with due diligence, to obtain all the necessary information on individuals applying for MAID. This is extremely important for vulnerable individuals like Alan, with disabilities and mental illness. We're talking death here. It can't be death on demand.

Form a federal independent review board, a group that could attend to any suspicious.... We had no one to turn to. We have written over 40 letters, to the Prime Minister, to the Honourable David Lametti.... We have written so many letters trying to find out, to give us one reason why Alan was allowed MAID.

Is it because he signed a form and he had hearing loss...? That's not good, not good enough. How many other Canadian families are going to have to go through what our families had to go through until these MAID laws are concrete and definitive, there is no grey area and they're not ambiguous? We need to address the concerns of the medical teams in adequately addressing MAID requirements before the MAID is implemented.

Also, finally, I would like to add that individuals filing for MAID, before they're approved, should have to exhaust reasonable assistance in care. Alan didn't even get a chance to have assisted living. He didn't want that, because he wasn't sure what it was really about and how it would help him in his current state of depression. I asked the nurse.... Well, actually, I asked the doctor that day. I said, "You have to stop this." She said, "What do you want me to do, Trish? What would you have me do?" I said, "Look—this hospital has had Alan for 38 days and kept him away from our family. You give our family 38 days and I can guarantee you that you are going to have a different result. Alan has been depressed before. He has experienced this before, and he has always come back, so you're making a mistake."

To put somebody, to literally have.... I want you to imagine that this is your brother who has had mental depression, and you are begging doctors not to take his life.

**The Joint Chair (Hon. Yonah Martin):** Thank you, Ms. Nichols.

Ms. Romaine, I think I have a minute or so.

I just heard you say that you want to have counselling for your family in the event you go through with MAID. I'm assuming that's one thing that you'd advise us.

Do you have anything else that you want to add?

• (1930)

**Ms. Cheryl Romaine:** The supports that I want include counselling for my family: bereavement counselling afterwards, if I do

choose MAID, family counselling beforehand and individual counselling beforehand. I think that palliative care encompasses a lot of things, like spiritual support.

It's hard. I don't know if it would have made a difference to me. I wish that I had the option to try is all I can say.

**The Joint Chair (Hon. Yonah Martin):** Thank you very much.

**The Joint Chair (Hon. Marc Garneau):** On behalf of the committee, I want to thank the witnesses who came this evening: Ms. Nichols, Mr. Nichols, Ms. Romaine.

Your testimony this evening can only be described as, on the one hand, powerful, and on the other hand also very, very revealing. I think it has been very insightful for the committee to hear from you.

We're very glad that you took the time to tell us your stories. It was not easy for you, but we very much appreciate your coming this evening, answering our questions and making us aware of things that we really need to know about as committee members.

The committee, of course, is only partway through its work. We will continue with our work, but now with the knowledge of your testimonies this evening. Thank you very much.

Committee members, we will suspend very briefly as we go in camera for the next session.

*[Proceedings continue in camera]*







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