Presentation to the Standing Committee on Justice and Human Rights

On Bill C-7, An Act to amend the Criminal Code (medical assistance in dying)

November 5, 2020

Members of the Standing Committee on Justice and Human Rights, thank you for the opportunity to appear before you to discuss *Bill C-7* and specifically, the amendment that 'persons whose sole underlying medical condition is a mental illness are not eligible for MAiD.'

My name is Dr. Tarek Rajji. I am the Chief of the Adult Neurodevelopment and Geriatric Psychiatry Division at the Centre for Addiction and Mental Health (CAMH) in Toronto. CAMH is Canada's largest mental health teaching hospital and one of the world's leading research centres in its field. CAMH uses its expertise in clinical care, research, education and system building to improve the lives of people impacted by mental illness, including those with substance use disorders.

Since 2015, a working group of CAMH staff with expertise in psychiatry, social work, law, ethics, public policy and lived experience have been deliberating regularly on MAiD and mental illness. It is our collective, expert opinion that Bill C-7 gets it right. We agree that there should be a *temporary* prohibition on MAiD for those whose only medical condition is mental illness until – as the Bill's preamble states - 'further consultation and deliberation…determine whether it is appropriate and, if so, how to provide MAiD to persons whose sole underlying medical condition is a mental illness in light of the inherent risks and complexity of the provision of MAiD in those circumstances'.

The reason we support this temporary prohibition is that there is currently a lack of consensus in the mental health field to determine when an individual has an irremediable mental illness.

To explain further: To be eligible for MAiD, an individual must have a 'grievous and irremediable' medical condition. Their illness, disease or disability must be incurable, irreversible or irrecoverable and cause intolerable suffering. The grievousness of an illness is subjective and there is no doubt that some people with mental illness experience intolerable psychological and sometimes physical suffering due to their symptoms.

The irremediableness of an illness, however, is an objective determination that must be based on the best medical evidence available. CAMH's concern is that there are currently no established criteria that define if and when a mental illness should be considered irremediable. That is because there is simply not enough evidence in the mental health field at this time to predict the trajectory of any one person's mental illness and to ascertain whether an individual has an irremediable mental illness. This means that the irremediable criteria would be open to interpretation by each MAiD assessor and any determination that a person has an irremediable mental illness would be inherently subjective and therefore arbitrary. This could put people with mental illness at risk of accessing MAiD when they do not actually meet the eligibility criteria.

Therefore, CAMH strongly recommends that evidence-based criteria be developed prior to any decision to lift the temporary prohibition on MAiD for people whose only medical condition is mental illness. These criteria should establish a consensus definition for when a mental illness should be considered irremediable for the purposes of MAiD. CAMH recommends that the government appoint an expert working group to develop these criteria within a reasonable timeframe, recognizing the

complexity of the task. The working group should develop the criteria in consultation with a broad range of experts in the mental health field, including people with lived experience of mental illness and family members. The introduction of these evidence-based criteria should be accompanied by training for MAiD assessors.

CAMH would be happy to participate in the development and dissemination of the criteria.

Thank you again for the opportunity to speak with you today on this complex and nuanced topic. I am happy to answer any questions.