

# MOVE CAREFULLY BUT QUICKLY ON ACCESS TO MAID

When Canada passed a set of rules governing Medical Assistance in Dying (MAID) in 2016, the federal government knew they were just a starting point.

It knew, and said publicly, that the laws would need to evolve. It had to have known that because the new guidelines were quite restrictive they would face legal challenges.

What it might not have predicted is how quickly that would happen. Late last year the Superior Court of Quebec ruled that it is unconstitutional to limit access to assisted death services to people nearing the end of life.

The challenge was launched by Quebec residents Nicole Gladue and Jean Truchon, both of whom suffer from incurable degenerative illnesses and had requested assisted death, only to have their requests denied because their deaths were not "reasonably foreseeable." Justice Christine Baudouin also invalidated of the section of the Quebec law that states MAID applicants must be "at the end of life."

Neither the Quebec nor the federal government chose to appeal the Quebec ruling, which means the struck sections of the law now need to be replaced by new ones that do not violate the constitutional rights of people seeking MAID, but also protect people who could be victimized if the law was applied too liberally or improperly.

There is no questioning the soundness of the Quebec ruling, either from a legal or a common sense perspective. It never made sense to say yes to a person who is weeks or months away from death due to terminal illness but say no to another person of sound mind whose premature death is equally certain, just not as imminent.

Under the original law, a person with an Alzheimer's diagnosis who wants assisted death at the point they become incapacitated and no longer know their loved ones would probably have been rejected as their death was not reasonably foreseeable. That should be different under a revised law.

This is a matter Canadians feel strongly about. Some don't want assisted death at all. Others, including some in the medical establishment, appear satisfied with the existing law. Others felt the original criteria were too narrow and need to be broadened. But significantly, recent public opinion data suggests a strong majority of Canadians want broader access to MAID services.

And so the government is moving toward a broader approach. Obviously, it should not rush. But neither can it tread water because we now have a court ruling which states the existing law is unfair and violates the constitution.

Public data shows that about 6,700 Canadians have accessed assisted dying services since the law was past four years ago. We don't know how many have applied and been rejected, but we do know that the most common reason for being rejected is that death is not "immediately foreseeable." That's unfair at its core. The government needs to ensure more people can access MAID to end their lives with dignity, and on their own terms.

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## SNAPSHOT



Judy Adam photo

A squirrel finds a chestnut in a Georgetown backyard during a recent snowstorm. Got a great local photo you'd like to share? Send it to [sleblanc@metroland.com](mailto:sleblanc@metroland.com), along with a brief description.

## BILLION(S) DOLLAR QUESTION LOOMING

### LAWSUIT UNDERWAY AGAINST DISCOUNT BROKERS OVER MUTUAL FUND SALES, WRITES PETER WATSON



PETER  
WATSON  
Column

Is it fair for do-it-yourself investors to pay for advice they neither asked for nor received? This question will be answered by the courts.

In January, a class-action lawsuit named 11 discount brokerage firms. This included divisions of the six major Canadian banks.

This pending legal decision could require these large financial firms to repay billions of dollars taken from individual investor's accounts over many years.

The lawsuit is based on the collection of trailing commissions on mutual funds.

The intent of trailing commissions is to provide remuneration to financial advisers for providing ongoing investment advice to clients.

Many clients use an adviser, and many do not. The do-it-yourself investor might just prefer to manage finances on their own, not want to pay for advice, or a combination of both.

That seems pretty straightforward. Apparently it is not.

For many years, discount brokers collected ongoing trailer fees from their clients. Discount brokers do not offer advice. They are not allowed to offer advice.

The practice of charging for advice by discount brokers came to light a few years ago and received a fair amount of press.

The Canadian Securities Administrators (CSA), an umbrella group for all provincial securities commissions, studied this practice. It plans to ban trailing commissions collected from the accounts of do-it-yourself investors.

Here's where it gets inter-

esting.

In 2017 the CSA released a paper that stated \$30 billion of mutual funds were held in discount brokerage accounts. Over 80 per cent of that figure, or \$25 billion, was held in mutual funds paying a trailing commission.

Assume investors paid a one per cent trailing commission on \$25 billion over 10 plus years, that means investors who charged excessively — potentially in the billions — during that period of time.

Potentially adding insult to injury, the legal claim alleges these investors were not aware of this charge. So much for the notion of transparency, if true.

*Peter Watson is registered with Aligned Capital Partners Inc. (ACPI) to provide investment advice. The opinions expressed are those of the author and not necessarily those of ACPI. Peter Watson provides wealth management services through Watson Investments*

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