## Slide 1 Should Able MAID Requester/Recipients be Expected to Participate? Brendan Leier, PhD Clinical Ethicist, University of Alberta and Stollery Children's Hospitals Mazankowski Heart Institute Clinical Assistant Professor Faculty of Medicine and Dentistry John Dossetor Health Ethics Centre Slide 2 They tell us that suicide is the greatest piece of cowardice; that only a madman could be guilty of it; and other insipidities of the same kind; or else they make the nonsensical remark that suicide is wrong; when it is quite obvious that there is nothing in the world to which every man has a more unassailable title than to his own life and person. Arthur Schopenhauer - On Suicide Slide 3 Rodriguez v. British Columbia Constitutional law -- <u>Charter of Rights</u> -- Life, liberty and security of the person -- Fundamental justice -- Terminally ill patient seeking assistance to commit suicide -- Whether Criminal Code provision prohibiting aiding a person to commit suicide infringes s. 7 of Canadian Charter of Rights and Freedoms -- If so, whether infringement justifiable under s. 1 of Charter -- Remedies available if Charter infringed -- Criminal Code, R.S.C., 1985,

<u>c. C-46</u>, <u>s. 241</u> (b).

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## Slide 4 Carter v. Canada Constitutional law — <u>Charter of Rights</u> — Right to life, liberty and security of the person — Fundamental justice — Competent adult with grievous and irremediable medical condition causing enduring suffering consenting to termination of life with physician assistance — Whether Criminal Code provisions prohibiting physician-assisted dying infringe s. 7 of Canadian Charter of Rights and Freedoms — If so, whether infringement justifiable under s. 1 of Charter — <u>Criminal Code, R.S.C. 1985, c.</u> <u>C-46</u>, <u>ss. 14</u>, <u>241</u>(b). Slide 5 Did the Canadian Supreme Court debate and rule on suicide or something else? Slide 6 my question: Is MAID, as it is functioning, an assisted form of suicide, specifically for those who cannot act themselves, or, should health professions consider and incorporate it as a normal aspect and modality of care for the dying/suffering?

# Slide 7 why this question? • clinical observation-discussion • early evidence (euthanasia vs assisted death) • subtle shift in nomenclature • possible avoidance of the actual relevant issue Slide 8 tradition of debate • every philosophical tradition in every era (where possible) has debated this issue and in instances where it is again possible, it is often the first topic of discussion (Hume). • suicide is not a universal taboo and is/has been a specifically contextualized element of culture for reasons of suffering, to survival, honour. Slide 9 Do we do what we ought to do? Do we want what we say we want?

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Silue 11	unavoidable bits of philosophy	
	Of the many philosophical dualisms, the most interesting is that of Reason vs Will as Will is interpreted as a fundamental	
	drive/desire/longing primarily to live, but extends into all forms of desire. Depending on how this relationship is interpreted, as it is a speculation on the very essence of human nature,	
	everything, including ethics begins here.	
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Slide 12	unavoidable bits of philosophy	
	Man can do what he wants, but he cannot will what he wills.	
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#### Slide 13

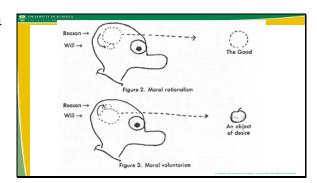
#### unavoidable bits of philosophy

[The Will's] desires are unlimited, its claims inexhaustible, and every satisfied desire gives birth to a new on. No possible satisfaction in the world could suffice to still its craving, set a final goal to its demands, and fill the bottomless pit of its heart.

From the start, the intellect is a hired hand assigned to a miserable task at which its overly demanding master, the Will, keeps it busy from morning until night.

Schopenhauer

#### Slide 14



#### Slide 15

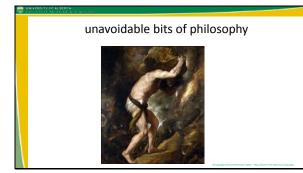
#### unavoidable bits of philosophy

Akrasia (weakness of the will)

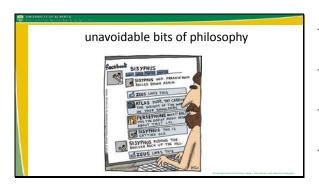
"No one," he declared, "who either knows or believes that there is another possible course of action, better than the one he is following, will ever continue on his present course" (Protagoras 358b-c).

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Slide 16



#### Slide 17



#### Slide 18

# unavoidable bits of philosophy The old question: What is the good life? (eudaemonia) The new question: What makes right actions right?

Slide 19	WE EXCULTY OF MEDICINE & DENTISTRY	
	unavoidable bits of philosophy	
	The old question: What is the good life? (eudaemonia)	
	The new question: What makes right actions right?	
	Respect for Professionals (Old)	
	Respect for Patient Requests (New)	
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Slide 21	University of Alberta	
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	The Argument from Autonomy:  Kant: Autonomy equals self-law giving and grounded in reason.	
	Law: Autonomy equals 'freedom from' and is typically	
	independent from reason.	
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### Slide 22 unavoidable bits of philosophy The Argument from Autonomy: Kant: Autonomy equals self-law giving and grounded in reason. Health Law: Autonomy equals 'freedom from' and is typically independent from reason. The SCC failed to consider these issues and relied on a slippage between autonomous 'freedom from' to 'right to demand' that transgresses the fundamental integrity of health professions. Slide 23 the expectation of occult service provision The Carter SCC decision makes clear two expectations: 1) that traditional health providers will be solely responsible for providing MAID 2) that the criteria for offering MAID should be broad and subjective based on patient's experience, not medical From this we can conclude, despite nomenclature suggesting otherwise, that physicians, nurses, and other professionals are providing MAID legally and conscientiously, but in an occult fashion. Slide 24 the expectation of occult service provision By 'occult' here, I mean nothing other than outside a professional structure of knowledge and skill acquisition, practice, evidence-base, training, and arguably outside the ethos of tradition.

Slide 25	W DESCRIPTION AND ADMINISTRATION OF THE PROPERTY OF THE PROPER	
	unavoidable bits of philosophy  A brief argument:  If the decision to request the participation to include MAID into the codex of treatment/practice of health professionals (who by tradition consider suicidality a pathology and swear oaths strictly forbidding killing), then it should be a responsibility of those professionals who will bear the burden to act upon the request as they will. BUT, this must be prefaced by a resolution on the PHILOSOPHICAL question of rational suicide.  If the decision to request the assistance of health professionals to use their skills and expertise in an occult fashion to facilitate suffering patient's desires to end their lives, then it is not unreasonable to expect patients to act, even merely symbolically, in a fashion that is an extension of the Will.	
Slide 26	Description of All Sector  (Fig. 1) to the Medical All on All Cities  (Fig. 1) to the Medical All on All Cities	
	unavoidable bits of philosophy  A brief argument:	
	conclusion – if we mistakenly confuse and combine the two options, we end up with the uncomfortable result of	
	entertaining a request to kill a person, a patient. The veracity of that request, however, is indiferentiatable from and other commitment or intention. A professional has no way of determining the request's integrity than the integrity of a new year's resolution.	
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Slide 27	Can we tell what people want?	
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Slide 28 I loooooove you, Kitty! I LOVE BLOOD Slide 29 Slide 30 thanks, and I very much require and desire feedback, critical or otherwise. Brendan is bleier@ualberta.ca