Question

With regard to the government's approach on medical assistance in dying and the term "mental illness" as used in subsection 241.2(2.1) of the Criminal Code, introduced through Bill C-7 in 2021, which forms the basis of the current temporary exclusion from medical assistance in dying for persons whose sole underlying medical condition is a mental illness, and which is scheduled to lift on March 17, 2027: (a) what is the definition of "mental illness" as used in subsection 241.2(2.1), and in which statute, regulation, guidance document, legal instrument, or other authority is that definition established; (b) if "mental illness" is not defined in the Criminal Code or any other federal law or instrument, what clinical, diagnostic, legal, or policy authority does the government rely upon to determine the scope of that term for the purposes of subsection 241.2(2.1); (c) has the government, since the May 2022 final report of the Expert Panel on Medical Assistance in Dying and Mental Illness, adopted, endorsed, or relied upon any formal definition or interpretation of "mental illness" for the purposes of subsection 241.2(2.1), and, if so, what is that definition or interpretation, by what authority was it adopted, and on what date; (d) what specific clinical conditions does the government consider to fall within the meaning of "mental illness" for the purposes of subsection 241.2(2.1), and what clinical or legal source does the government rely upon for each; (e) what specific clinical conditions does the government consider to fall outside the meaning of "mental illness" for the purposes of subsection 241.2(2.1), such that a person whose sole underlying medical condition is one of those conditions would not be subject to the exclusion, and what clinical or legal source does the government rely upon for each; (f) has the Department of Justice, the Department of Health, or any other federal department or agency produced any legal analysis, policy analysis, or formal opinion on the scope of the term "mental illness" in subsection 241.2(2.1), including which conditions are captured and which are not, and, if so, what are the dates and titles of those documents; and (g) before the exclusion is scheduled to lift on March 17, 2027, by what specific mechanism, including whether legislative definition, regulatory guidance, clinical practice standards, or judicial interpretation, will the boundaries of the term "mental illness" be established, and what steps has the government taken, or does it plan to take, to ensure consistent interpretation and application of that term across all provinces and territories?

Response

This response was tabled in the House of Commons on June 8, 2026, as Sessional Paper 8555-451-1097.

Tabled on
June 8, 2026

Sessional Paper
8555-451-1097

House of Commons

Order/Address of the House of Commons

Question number	Asked by	Date asked
Q-1097	Tamara Jansen (Cloverdale—Langley City)	April 21, 2026

Presented by

Kevin Lamoureux

Parliamentary Secretary to the Leader of the Government in the House of Commons

Health Canada

Reply by: the Minister of Health

Name of Signatory: Maggie Chi

Reply

Health Canada

(f) has the Department of Justice, the Department of Health, or any other federal department or agency produced any legal analysis, policy analysis, or formal opinion on the scope of the term "mental illness" in subsection 241.2(2.1), including which conditions are captured and which are not, and, if so, what are the dates and titles of those documents?

Health Canada produced an internal policy document in October 2025 entitled “Mental Illness and Mental Disorder”, which analyzed the terms mental illness and mental disorder in the context of medical assistance in dying. However, the Government of Canada has not adopted, endorsed, or relied upon any formal definition or interpretation of "mental illness" and it continues to rely on the intended interpretation of “mental illness” as described in the Legislative Backgrounder for former Bill C-7.

Justice Canada will answer all other parts of this question.

Justice Canada

Reply by: the Minister of Justice and Attorney General of Canada and Minister responsible for the Atlantic Canada Opportunities Agency

Name of Signatory: the Parliamentary Secretary Patricia Lattanzio

Reply

Department of Justice

(a) What is the definition of "mental illness" as used in subsection 241.2(2.1), and in which statute, regulation, guidance document, legal instrument, or other authority is that definition established; (b) if "mental illness" is not defined in the Criminal Code or any other federal law or instrument, what clinical, diagnostic, legal, or policy authority does the government rely upon to determine the scope of that term for the purposes of subsection 241.2(2.1); (d) what specific clinical conditions does the government consider to fall within the meaning of "mental illness" for the purposes of subsection 241.2(2.1), and what clinical or legal source does the government rely upon for each; (e) what specific clinical conditions does the government consider to fall outside the meaning of "mental illness" for the purposes of subsection 241.2(2.1), such that a person whose sole underlying medical condition is one of those conditions would not be subject to the exclusion, and what clinical or legal source does the government rely upon for each?

To be eligible for medical assistance in dying in Canada, a person must have a “grievous and irremediable medical condition” (paragraph 241.2(1)(c) *Criminal Code*). A person will have a “grievous and irremediable medical condition” only if they meet the following three criteria: (i) they have a serious and incurable illness, disease or disability, (ii) they are in an advanced state of irreversible decline in capability, and (iii) their medical state causes them enduring suffering that is intolerable to them (subsection 241.2(2) *Criminal Code*). Subsection 241.2(2.1) of the *Criminal Code* states that a “mental illness” is not considered to be an “illness, disease or disability” and so someone with a mental illness as their sole underlying medical condition could not be said to have a “grievous and irremediable medical condition” for the purposes of medical assistance in dying. Put differently, such individuals would not be eligible for medical assistance in dying.

This exclusion of eligibility is not based on the assumption that individuals who suffer from mental illness lack decision-making capacity nor on a failure to appreciate the severity of the suffering that a mental illness can produce. Rather, it is based on the unique risks and complexities that the availability of medical assistance in dying presents in circumstances where the sole underlying medical condition is a mental illness. For example, screening for decision-making capacity in persons who suffer from a mental illness serious enough to ground a request for medical assistance in dying can be particularly difficult. Moreover, a desire to die is a symptom of some mental illnesses and the trajectory of a mental illness is generally more difficult to predict than that of a physical illness.

As outlined in the Legislative Backgrounder for former Bill C-7, *An Act to amend the Criminal Code* (medical assistance in dying), a “mental illness” for the purposes of medical assistance in dying in Canada is meant to capture medical conditions that fall primarily within the domain of psychiatry, including depression, anxiety and bipolar disorder. A “mental illness” is meant to capture those conditions that raise the specific concerns set out above. It is not meant to capture neurocognitive or neurodevelopmental disorders, or other conditions that may affect cognitive abilities such as autism spectrum disorders or intellectual disabilities that may be treated by specialties other than psychiatry. This distinction was raised in the 2018 report by the Council of Canadian Academies entitled *The State of Knowledge of Medical Assistance in Dying Where a Mental Disorder is the Sole Underlying Medical Condition* . Ultimately, it is for the medical and nurse practitioners who are assessing eligibility for medical assistance in dying to determine whether a person’s medical condition is considered a “mental illness” based on their clinical judgement and Parliament’s intent.

(c) Has the government, since the May 2022 final report of the Expert Panel on Medical Assistance in Dying and Mental Illness, adopted, endorsed, or relied upon any formal definition or interpretation of "mental illness" for the purposes of subsection 241.2(2.1), and, if so, what is that definition or interpretation, by what authority was it adopted, and on what date; (f) has the Department of Justice, the Department of Health, or any other federal department or agency produced any legal analysis, policy analysis, or formal opinion on the scope of the term "mental illness" in subsection 241.2(2.1), including which conditions are captured and which are not, and, if so, what are the dates and titles of those documents; (g) before the exclusion is scheduled to lift on March 17, 2027, by what specific mechanism, including whether legislative definition, regulatory guidance, clinical practice standards, or judicial interpretation, will the boundaries of the term "mental illness" be established, and what steps has the government taken, or does it plan to take, to ensure consistent interpretation and application of that term across all provinces and territories?

The Government of Canada has not adopted, endorsed, or relied upon any formal definition or interpretation of "mental illness" and it continues to rely on the intended interpretation of “mental illness” as described in the Legislative Backgrounder for former Bill C-7.

During Parliament’s study of former Bill C-7, which enacted subsection 241.2(2.1) of the *Criminal Code* , there was some debate about the definition of a “mental illness” (for example, during the House Standing Committee on Justice and Human Rights November 3, 2020 meeting). This issue, among several others, led to a Senate amendment to the former Bill to require a comprehensive joint Parliamentary study of the *Criminal Code* medical assistance in dying provisions and other relevant topics including mental illness. The Special Joint Parliamentary Committee on medical assistance in dying was established to fulfill this obligation, and it tabled a report containing 23 recommendations in February 2023. None of these recommended bringing legislative clarity to the term “mental illness”.

A new Special Joint Committee on Medical Assistance in Dying began a study on the eligibility for medical assistance in dying of persons whose sole underlying medical condition is a mental illness this March. Special Joint Committee on Medical Assistance in Dying has heard from mental health and medical experts, including psychiatrists, medical assistance in dying practitioners, academics and disability groups. It is expected to table its report by October 2, 2026. The Government of Canada looks forward to reviewing the report as it will inform future action in this space.

Any legal analysis within the scope of the question, if they exist, would be solicitor-client privileged and cannot be revealed or commented on.