Ministry of the Solicitor General

Lessons Learned from the Coroner

MAiD2024: The Changing Landscape

5th Annual National Conference

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Chief Coroner

Ontario

Presenter Disclosure

- **Session:** Lessons learned from the Coroner
- **Presenter:** Dirk Huyer

- **Relationships with commercial interests:**
  - **Grants/Research Support:** None
  - **Speakers Bureau/Honoraria:** None
  - **Consulting Fees:** None
  - **Other:** None

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Mitigating Potential Bias

Presenter: Dirk Huyer

Mitigation of conflict: None required

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Learning Objectives

- Identify key insights, best practices, and challenges associated with the Office of the Chief Coroner's role in monitoring and reviewing MAiD cases in Ontario
- Apply these key insights and best practices to individual own regions or jurisdictions, fostering improved practices and ensuring ethical, legal, and procedural considerations are met when overseeing MAiD cases

MAiD Oversight, Investigation and Reporting

The Office of the Chief Coroner (OCC) MAiD oversight, investigation and reporting process was established in Ontario to foster public trust and safeguard against misuse. Key OCC **functions and responsibilities** include:

MAiD monitoring and oversight - The OCC has responsibility for the monitoring and oversight of MAiD deaths in Ontario, through a centralized MAiD Review Team of Registered Nurse Coroner Investigators working directly with the Chief Coroner.

MAiD review and investigation - The OCC reviews all MAiD deaths retroactively to evaluate:

- For compliance with legislative requirements/regulatory body guidelines,
- Clinical assessment/diagnostic approach
- Need for further investigation.

MAiD reporting - For all cases ending in a MAiD death, the OCC reports to Health Canada on behalf of providers. This is part of Ontario's hybrid approach to federal reporting.

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MAiD Review Team (MRT)

- All MAiD deaths reported to the OCC are reviewed by the MRT:
  - Formed in 2017
  - Currently 10 full time registered nurses (Coroner Investigators)
  - MAiD Review Team Manager, MAiD Admin support
  - Authority to review and investigate is given through the powers of the Coroners Act section 16.1 appointment

Mission

The MAiD Review Team works within the Office of the Chief Coroner to employ our diverse range of clinical experiences and expert knowledge of MAiD legislation to provide independent review and legislative oversight of MAiD practice to ensure public safety.

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Reporting Process: Effective January 1, 2023

- The OCC implemented an electronic reporting process for MAiD deaths with the development of the MAiD Death Report (MDR):
  - Captures all required Health Canada data based on reporting regulations
  - Additional data and information to inform oversight and monitoring
- MAiD practitioners are only required to call the OCC at the time of death in specific circumstances to inform the need for possible investigation of the death.
- Calls are made to the family/NOK by OCC MAiD Review team within 24 to 72 hours of receiving the MDR to inform about the review process, seek perspective about the MAiD process, and provide opportunity to share any care or provision concerns

MAiD Case Review

All MAiD deaths are submitted via MDR and are triaged when received:

Red cases (6%)

- At the time of the death the provider reports the circumstances to the OCC to inform the need for an investigation
- All cases reviewed by Chief Coroner
- MCOD will be completed by the MAiD Coroner Investigator

Yellow Cases (12%)

- Greater complexity cases (Track 2; capacity; frailty, care concerns)
- Submit via MDR and records requested for mandatory review
- All cases reviewed by Chief Coroner

Green Cases (82%)

- No concerns or special circumstances
- No data concerns

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Role of the Office of the Chief Coroner (OCC)

MAiD Review Process

All MAiD deaths are reported to the OCC via electronic form submission of the MAiD Death Report (MDR)

- All deaths are reviewed for compliance with legislative requirements/regulatory body guidelines
- Clinical assessment/diagnostic approach
- Ensure completeness of data for Health Canada
- Contact NOK following the death to address any concerns or issues

MAiD cases may require investigation if non-natural elements(e.g., fall, accident, fracture) death of person in custody of Correctional facility) – Provider will call at the time of death

OR case specific concerns(care related, legislative, practice) may be involved in the death

All investigations are completed by the MAiD Review Team

- All investigations are reviewed by the Chief Coroner
- Provide recommendations for practice and policy improvement
- Feedback (levelled) to assessor or provider
- Potential report to regulatory body

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Follow Up Process

OCC Response Framework

- Implemented in October 2018:
- Outlines mechanism for MAiD deaths reported to the OCC where compliance concerns with either/both the Criminal Code and regulatory body policy expectations are identified.
- Introduced a ranking system to inform response to issues that arise with compliance following review of a MAiD death.
- Each concern has been assigned a rank to identify significance and the response required.
- Can apply to primary assessor/provider or secondary assessor

1

Level 1: Informal Conversation

Applied when concerns relating to best practices and/or regulatory policies, guidelines, and standards are identified.

2

Level 2: Educational Email

Applied when there are identified issues with statutory requirements (certain safeguards) or practice concerns.

3

Level 3: Notice Email

Applied when there are identified issues with statutory requirements and/or repeated practice issues.

4

Level 4: Report to Regulatory Body

Applied when there are issues with statutory requirements (e.g., eligibility requirements) or significant practice issues. Requires team discussion and review with the Chief Coroner prior to implementing.

5

Level 5: Report to Police

Applied when there are egregious issues with statutory requirements. Report also submitted to applicable regulatory body.

*These rankings are subject to change in exceptional circumstances.

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OCC Response Framework

Legislative Rankings

Following review of the MAiD death, if an issue is identified, then the level of response indicated would be followed to provide feedback to the practitioner:

You have confirmed that you are independent of the individual requesting MAiD (the "requestor")	3
You have confirmed that you are independent of the other assessor's purview	3
The requestor was at least 18 years of age	4
The requestor was capable of making decisions with respect to their health	5

Prior to January 1, 2023 (based on 11,614 cases from October 2018 to December 2022):

- 250 Level responses: 35 - Level 3 emails sent; 3 - Level 4 (reporting to regulatory body)
- 11 providers identified with > 3 level responses

January 1, 2023 – December 31, 2023

- 178 Level responses; 17 - Level 3 emails; 1 - Level 4 (reporting to regulatory body)
- 5 providers with receipt of 3 levelled responses each

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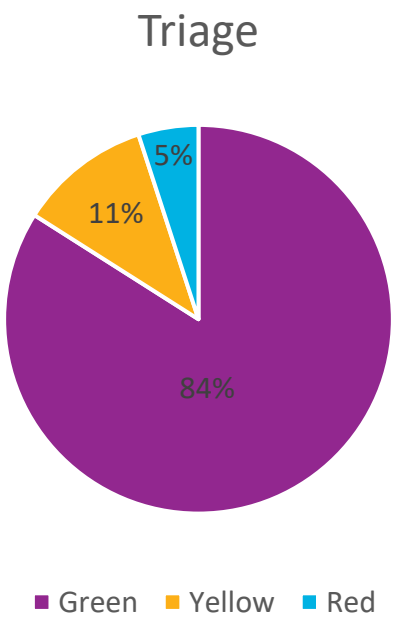
MAiD Death Investigation

If the MAiD Review Team (MRT) identifies any concerns related to the MAiD application process, care received, or legislative requirements, these are carefully evaluated to determine if further action is indicated.

- **Goal:** determine if we can **independently identify issues** whereby recommendations may be made that could lead to **policy-related or practice-related improvement in care** for future patients



Many concerns that are shared are considered general systemic issues that, while valid, cannot be addressed for improvement (e.g., scheduling concerns, family preferences, accessibility of assessors/providers, etc.)

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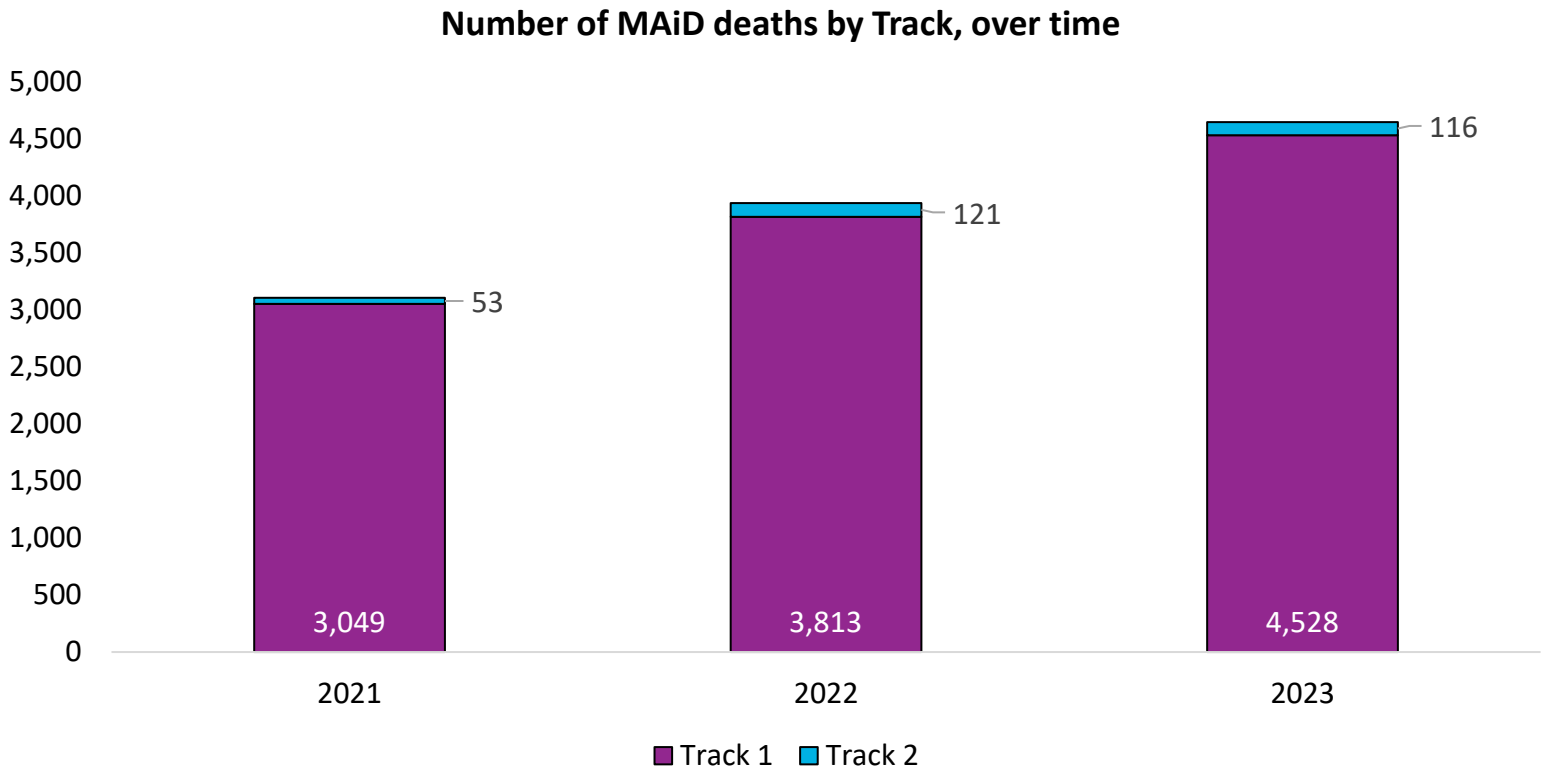
Perspectives from the Data

Number of MAiD deaths



Overall, 2.4% of all MAiD deaths have been Track 2. The proportion of MAiD deaths that were Track 2 declined slightly between 2022 (3.1%) and 2023 (2.5%).

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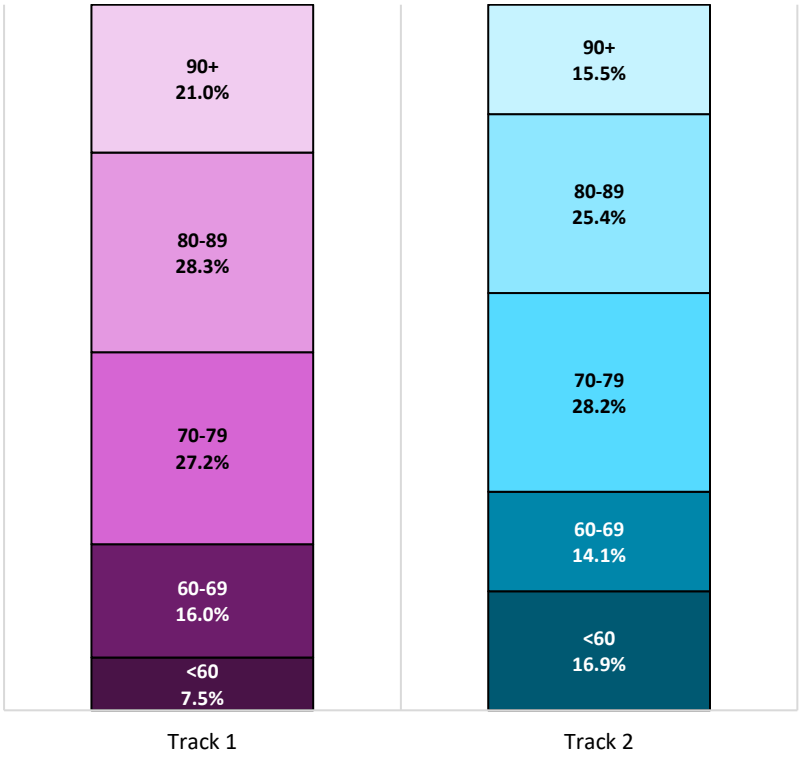
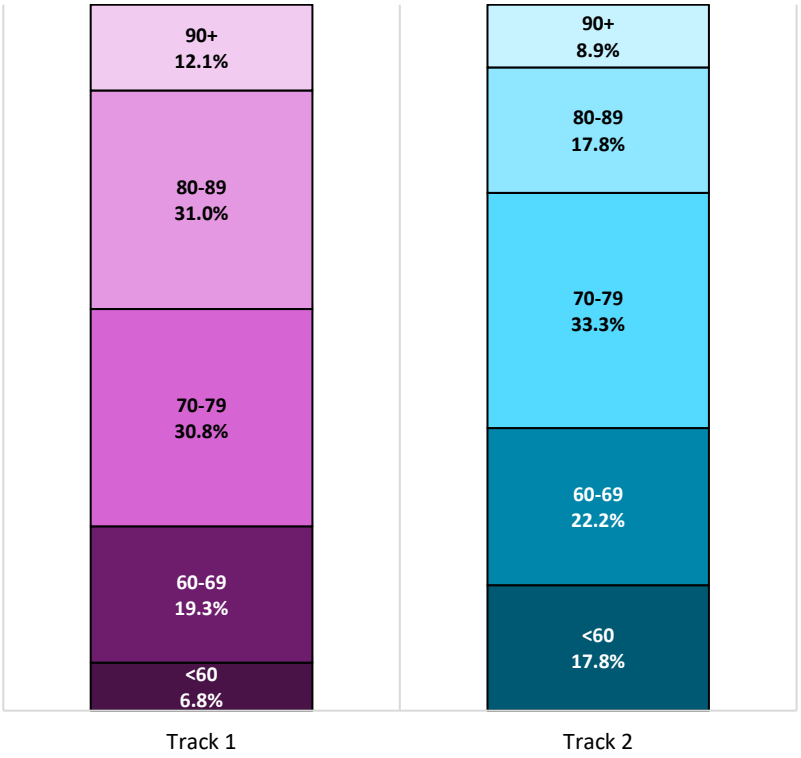
Age and sex distribution

Age distribution of MAiD deaths among females by Track, 2023



Age distribution of MAiD deaths among males by Track, 2023



In terms of absolute numbers, Track 2 MAiD deaths were more than twice as likely than Track 1 deaths to be among individuals under the age of 60.

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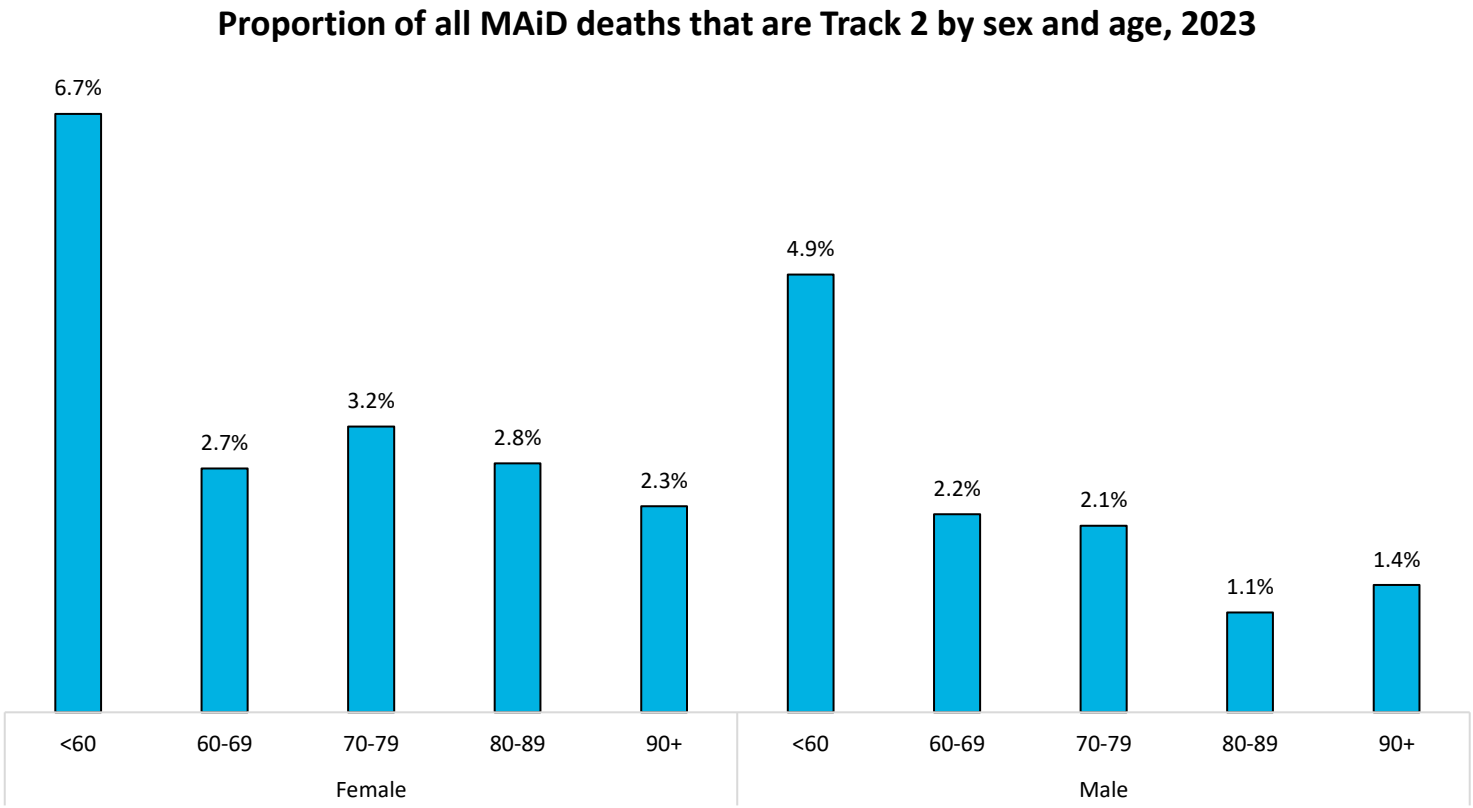
Track 2 versus Track 1



The proportion of MAiD deaths that were Track 2 were highest for those under the age of 60, with nearly 7% of MAiD deaths for females and 5% of MAiD deaths for males under the age of 60 classified as Track 2.

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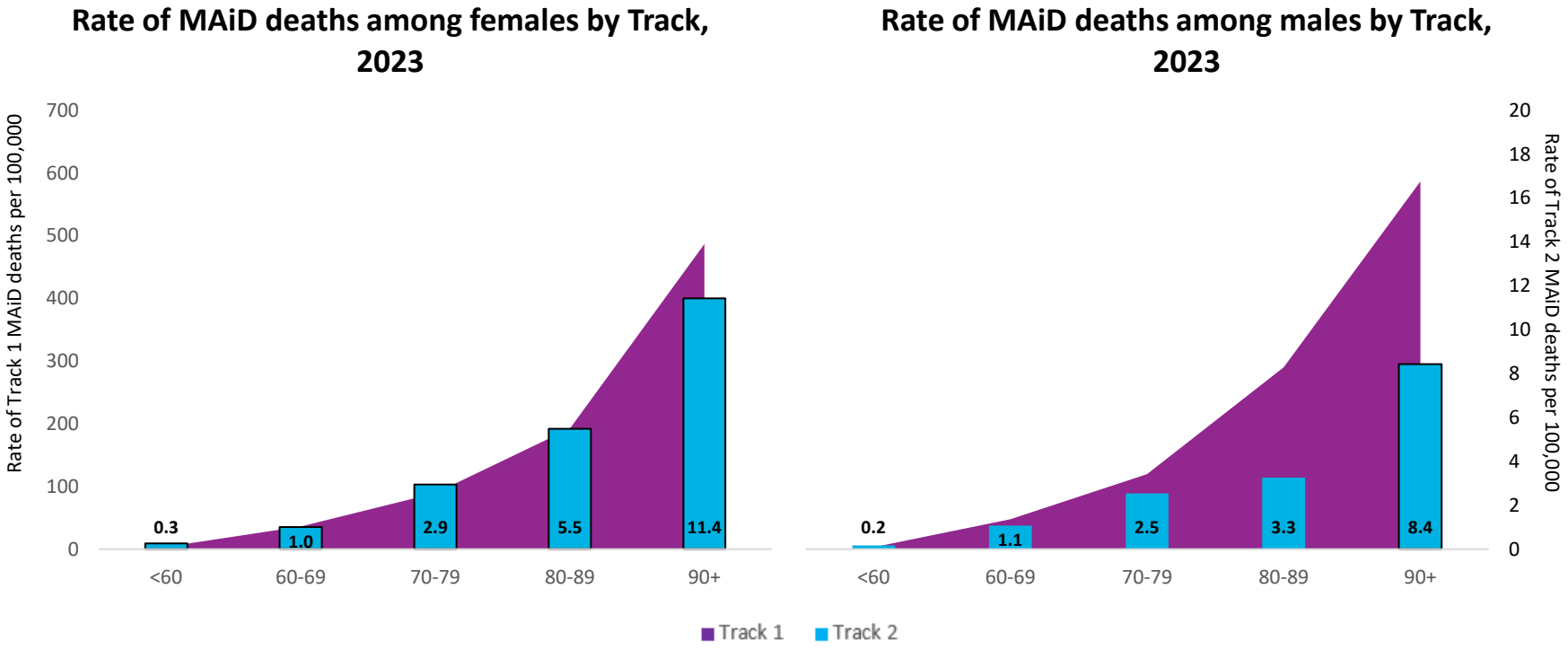
Rates of MAiD deaths



Rates of Track 2 deaths were higher for females than males at most ages, particularly for those 90+ years; this is opposite to what is seen with Track 1 deaths where male rates were higher.

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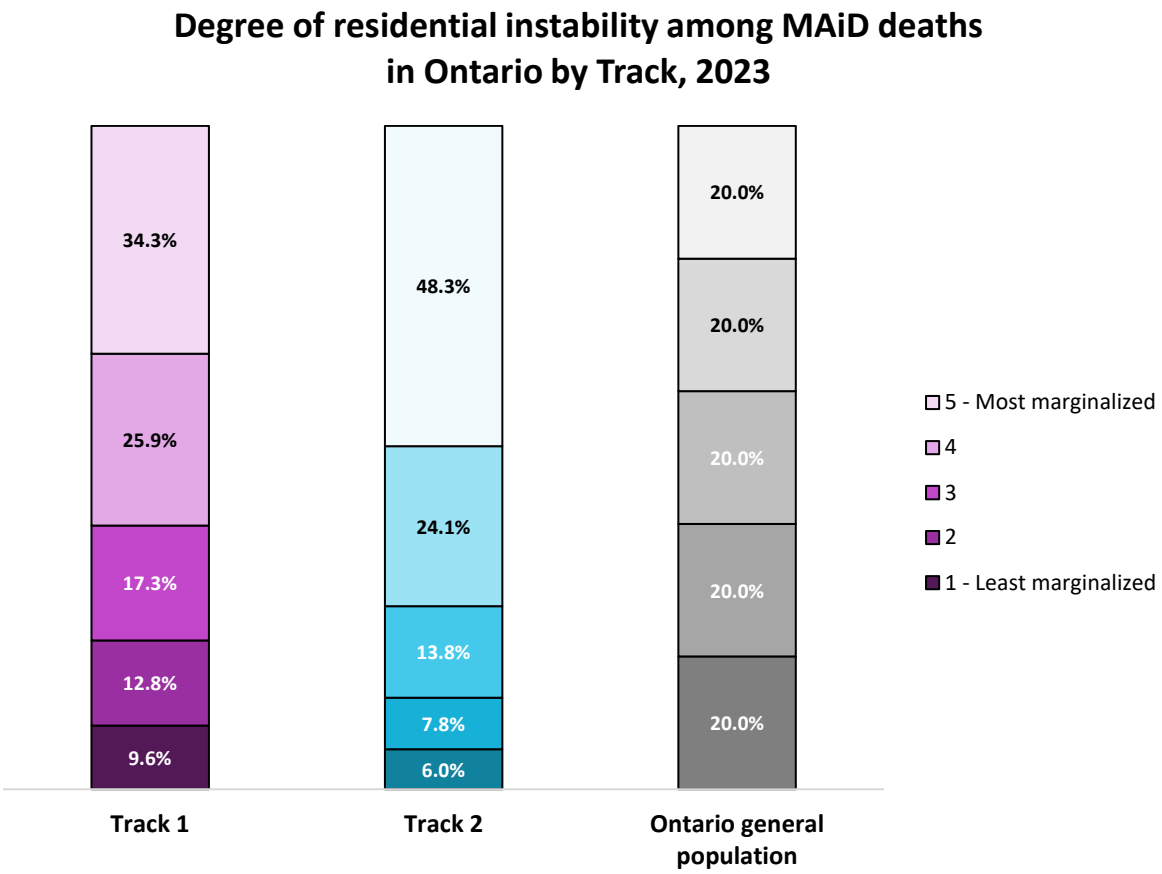
PHO Index: residential instability



Residential Instability (Households and dwellings)

The households and dwellings dimension relates to family and neighbourhood stability and cohesiveness.

- Proportion of the population living alone
- Proportion of the population who are not youth (age 5-15)
- Average number of persons per dwelling
- Proportion of dwellings that are apartment buildings
- Proportion of the population who are single, divorced, or widowed
- Proportion of dwellings that are not owned
- Proportion of the population who moved during the last 5 years

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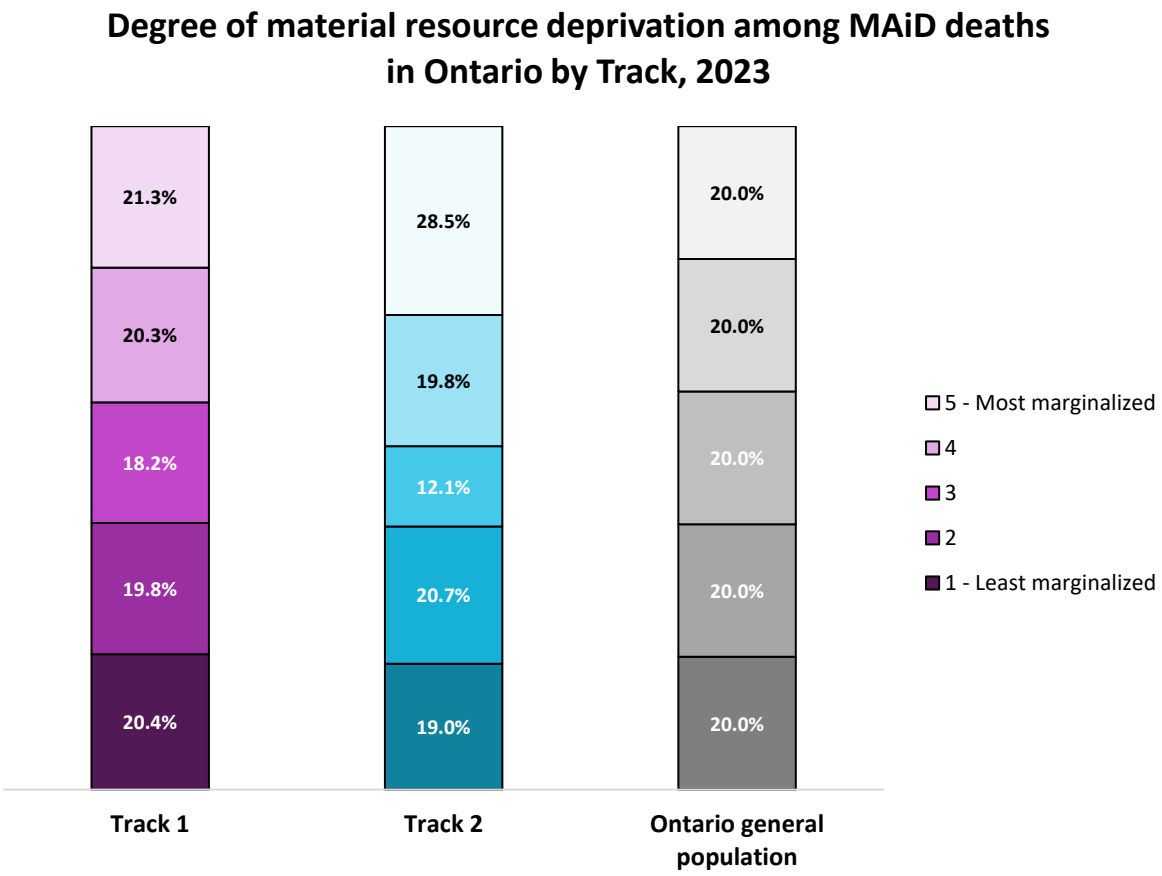
Note: 1% of deaths were not able to be assigned to the marginalization index, either due to invalid postal code, small population size, or First Nations community.

PHO index: material resources



Material resources

The material resources dimension is closely connected to poverty and refers to the inability for individuals and communities to access and attain basic material needs relating to housing, food, clothing, and education.

- Proportion of the population aged 25 to 64 without a high-school diploma
- Proportion of families who are lone parent families
- Proportion of total income from government transfer payments for population aged 15+
- Proportion of the population aged 15+ who are unemployed
- Proportion of the population considered low-income
- Proportion of households living in dwellings in need of major repair

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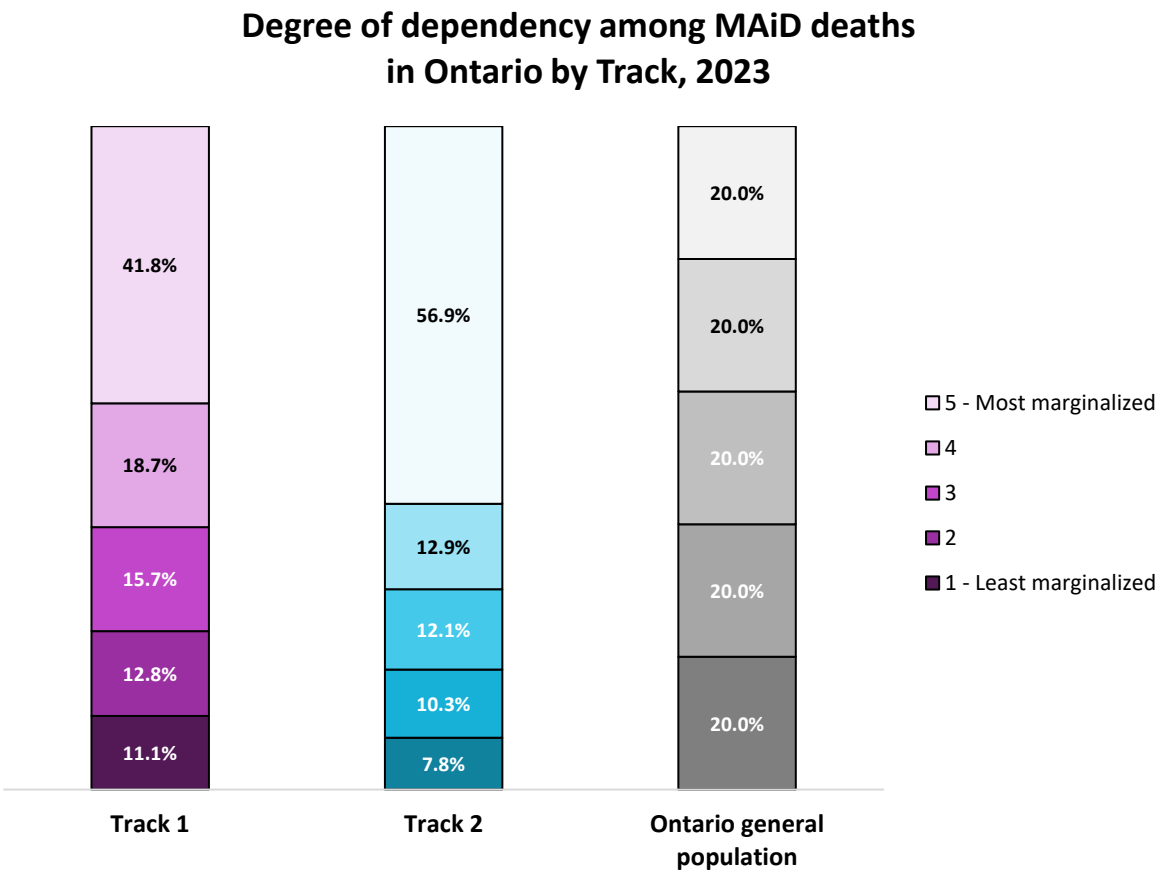
Note: 1% of deaths were not able to be assigned to the marginalization index, either due to invalid postal code, small population size, or First Nations community.

PHO index: dependency



Dependency (Age and labour force)

The age and labour force dimension relates to the impacts of disability and dependence.

- Proportion of the population who are aged 65 and older
- Dependency ratio (total population 0-14 and 65+/ total population 15-64)
- Proportion of the population not participating in labour force (aged 15+)

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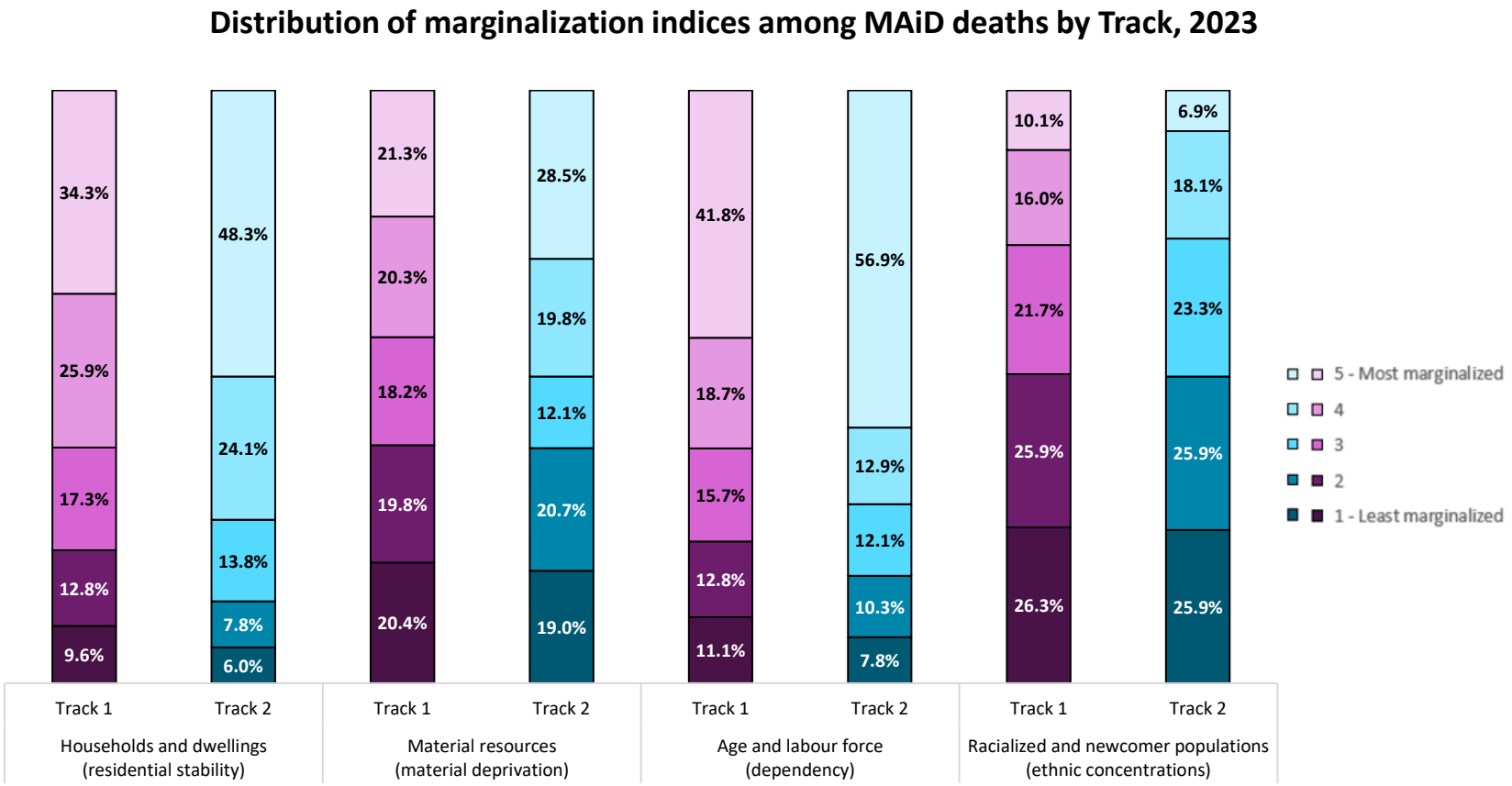
Note: 1% of deaths were not able to be assigned to the marginalization index, either due to invalid postal code, small population size, or First Nations community.

Marginalization among MAiD deaths



Individuals whose deaths were Track 2 were much more likely to live in neighbourhoods with higher levels of residential instability, higher material deprivation, and greater dependency than those in Track 1.

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Note: 1.1% of deaths were not able to be assigned to the marginalization index, either due to invalid postal code, small population size, or First Nations community.
The indices are designed so that the Ontario general population is equally distributed (20%) within the quintiles.

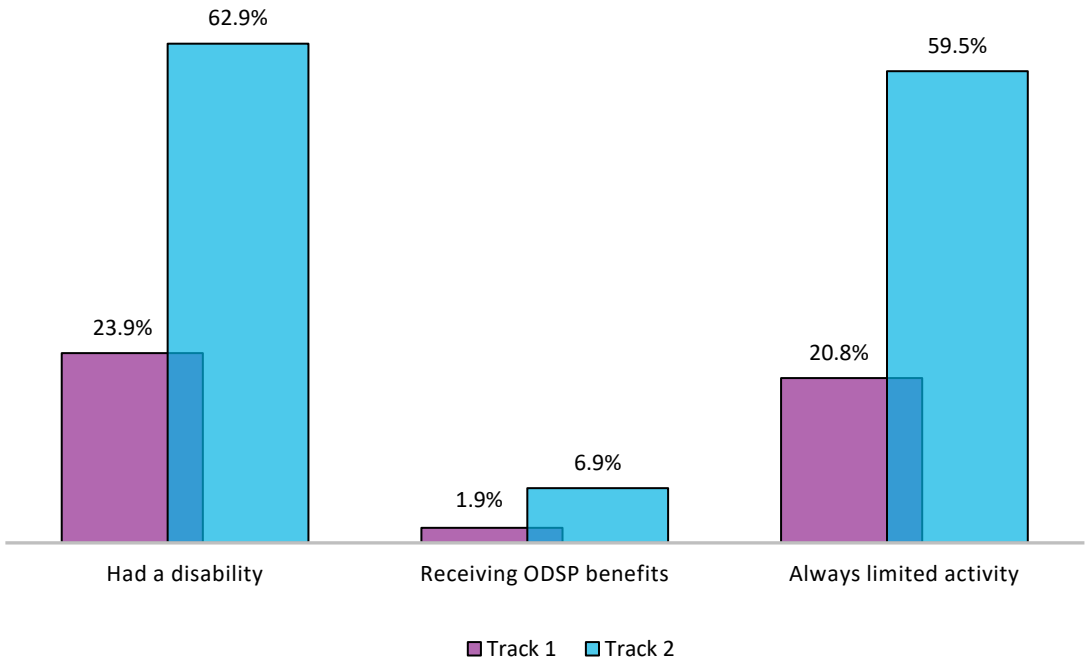
Self-reported level of disability

Average length of disability

Track 1: 1.3 years

Track 2: 7.7 years

Frequency and severity of disability among MAiD deaths by Track, 2023



Over 60% of Track 2 patients self-reported a disability, compared to 24% of those in Track 1. Nearly 60% of those in Track 2 also reported that they experienced limitations to their activities all of the time, and 7% received ODSP benefits.

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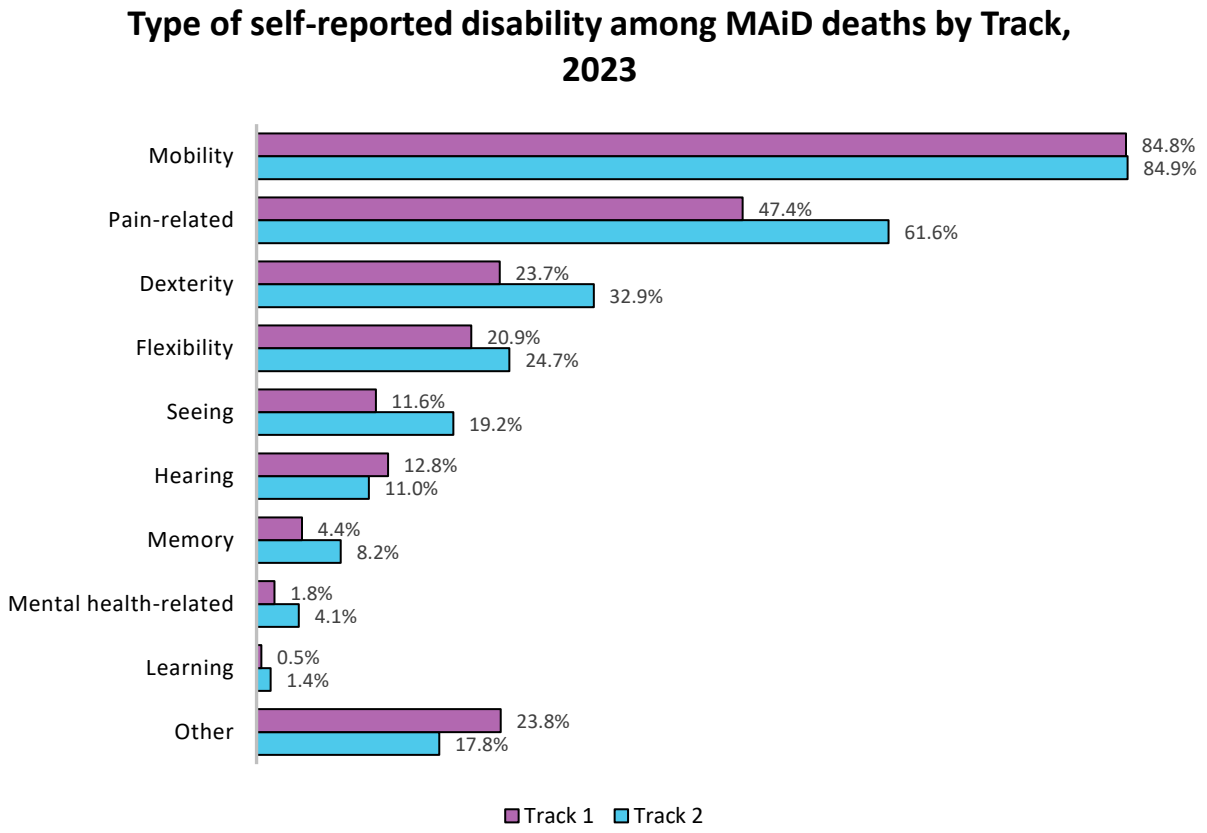
Note: Question asked is, "In the person's opinion do they have a disability?"

Types of self-reported disability



Of patients who reported a disability, 85% experienced difficulty with mobility (both Tracks). Individuals in Track 2 were more likely to experience pain-related disabilities and issues with dexterity than those in Track 1.

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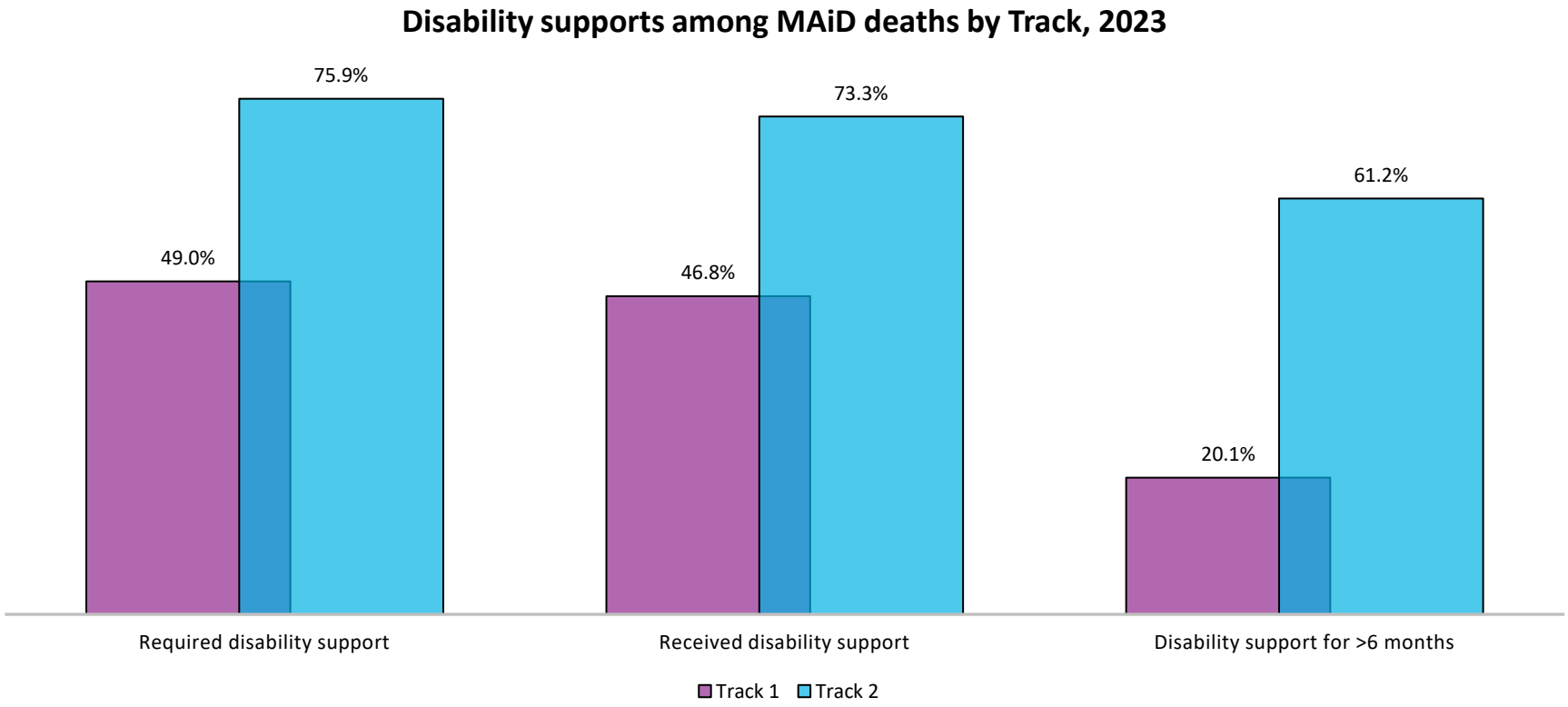
Note: Types of disability are not mutually exclusive

Disability supports



More than three-quarters of Track 2 patients required disability supports – note that this is higher than the proportion who self-reported having a disability. For both Tracks, nearly all those who required support received it.

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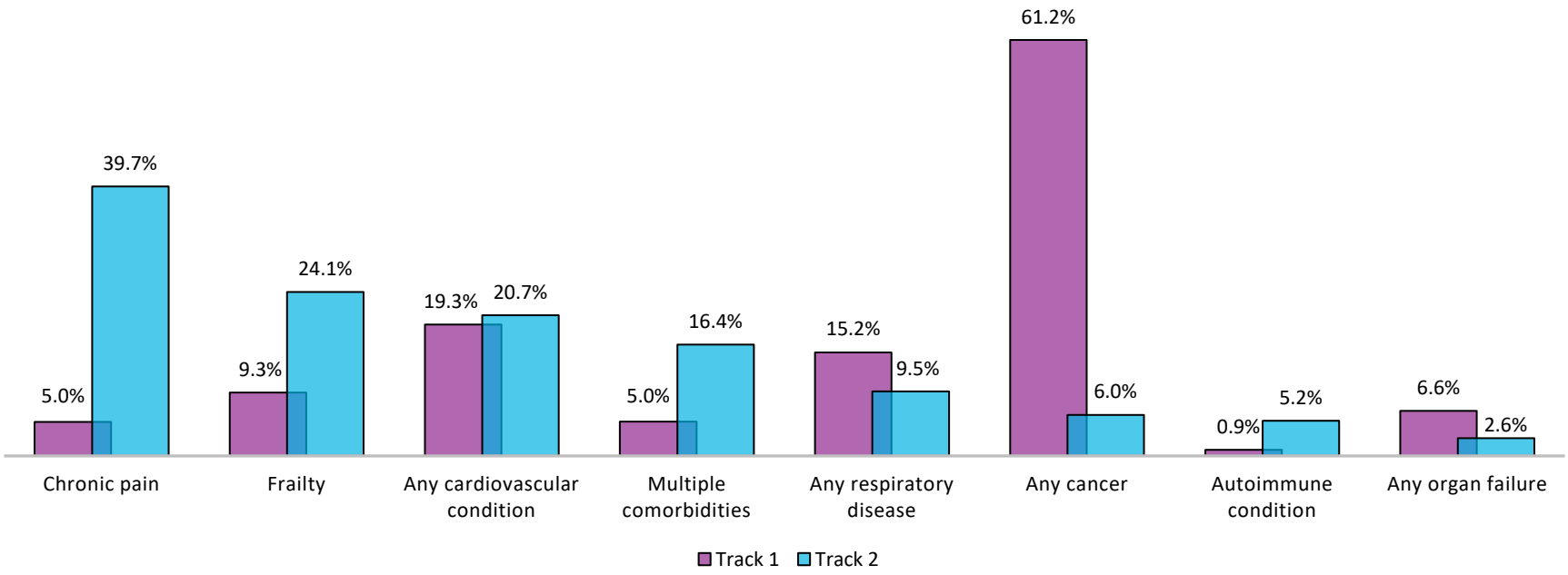
Note: Question asked is, “As the MAiD provider, did the person require disability support services?”

Serious, incurable illness, disease, or disability

Percent of MAiD deaths with types of serious, incurable illness, disease, or disability reported, 2023



Nearly 4 in 10 Track 2 patients reported experiencing chronic pain (8 times higher than Track 1), and one-quarter reported frailty (2.5 times higher than Track 1). The proportion reporting cancer in Track 1 was 10 times the proportion in Track 2.

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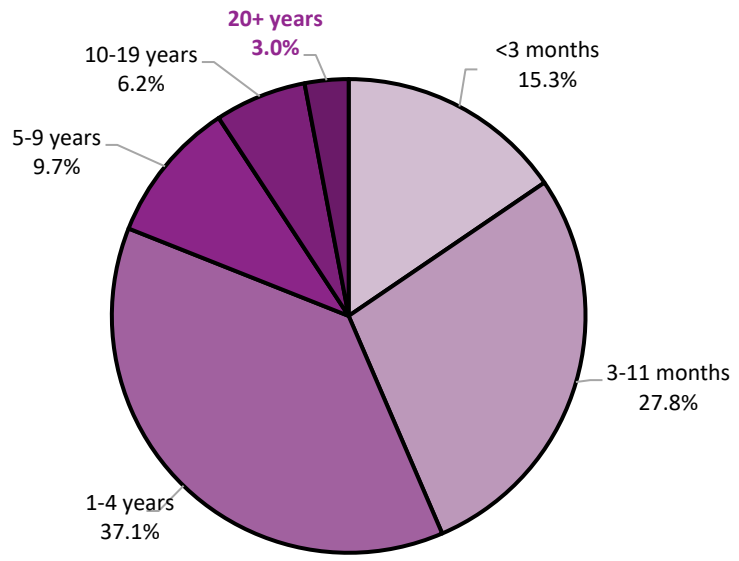
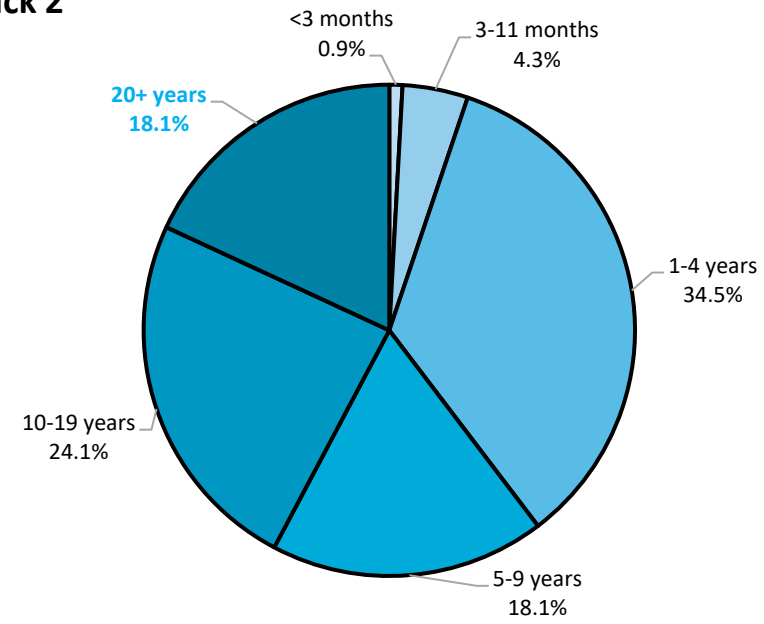
Note: Types of conditions are not mutually exclusive

Length of serious and incurable illness, disease, or disability

Track 1



Track 2



More than 60% of Track 2 patients reported experiencing a serious illness, disease or disability for 5+ years, with 18% reporting 20+ years. In comparison, only 19% of Track 1 patients reported having their illness, disease, or disability for 5+ years.

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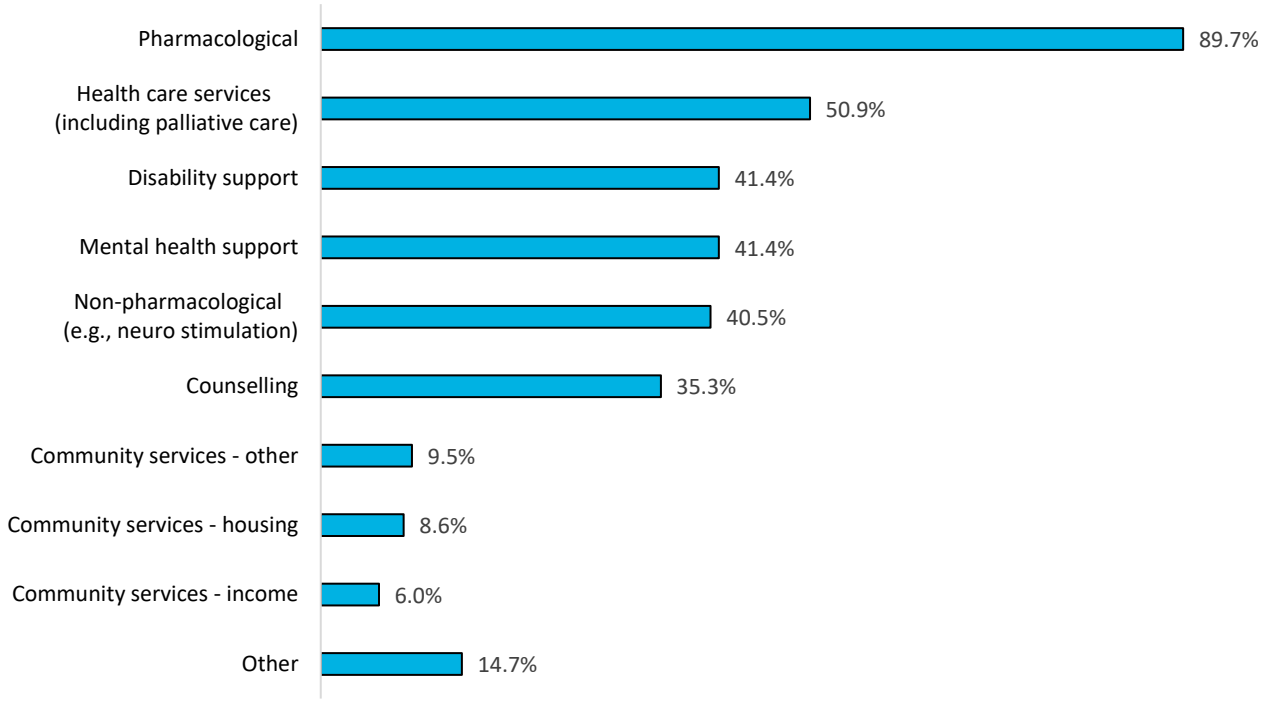
Means to relieve suffering in Track 2 MAiD deaths

Frequency with which various means to relieve suffering were discussed/offered among Track 2 deaths, 2023



Means to relieve the suffering of Track 2 MAiD deaths included pharmacological, health care services including palliative care, disability support, mental health support, and non-pharmacological.

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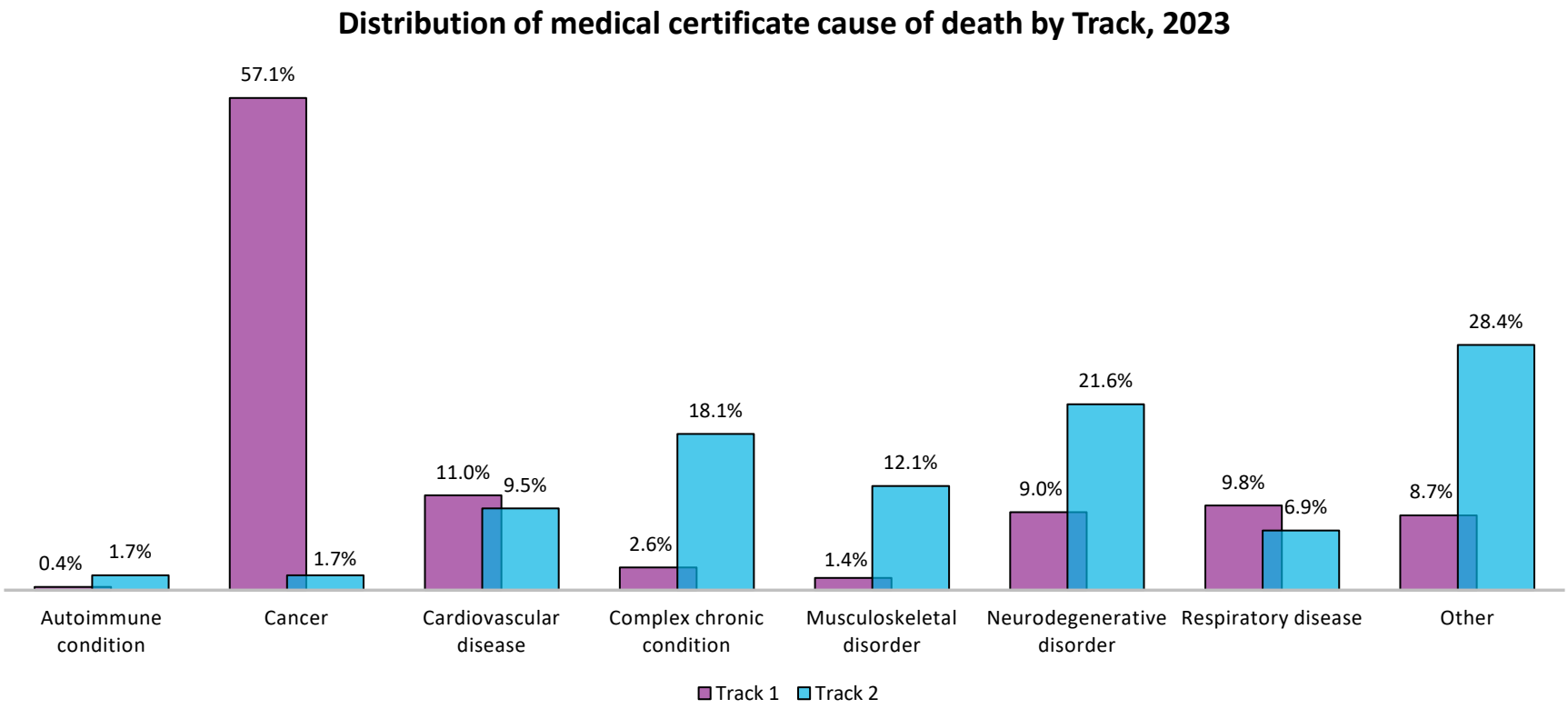
Note: Means to relieve suffering are not mutually exclusive

Medical certificate cause of death



When mutually exclusive causes of death were assigned, Track 2 patients were much more likely to be categorized as a complex chronic condition, musculoskeletal disorder, neurodegenerative disorder, or other.

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Note: Causes of death are mutually exclusive

Conditions included in “Other” category, 2023

Keeping in mind that there is some subjectivity to categorization, the most common causes of death that were categorized as “Other” are presented below.

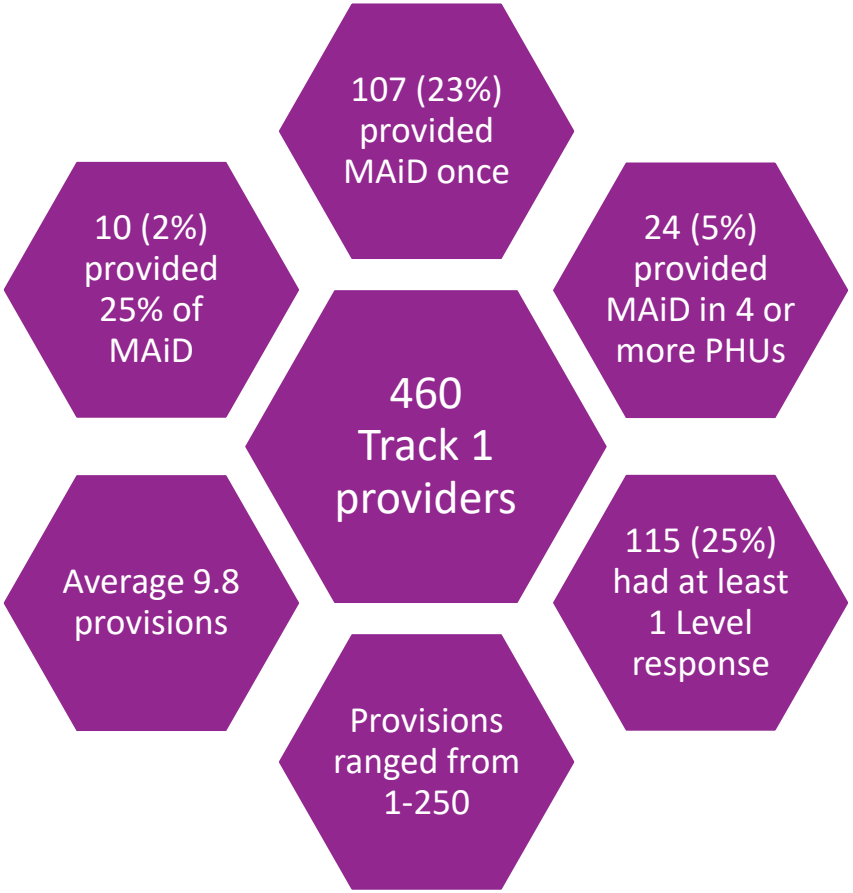
Track 1 causes of death

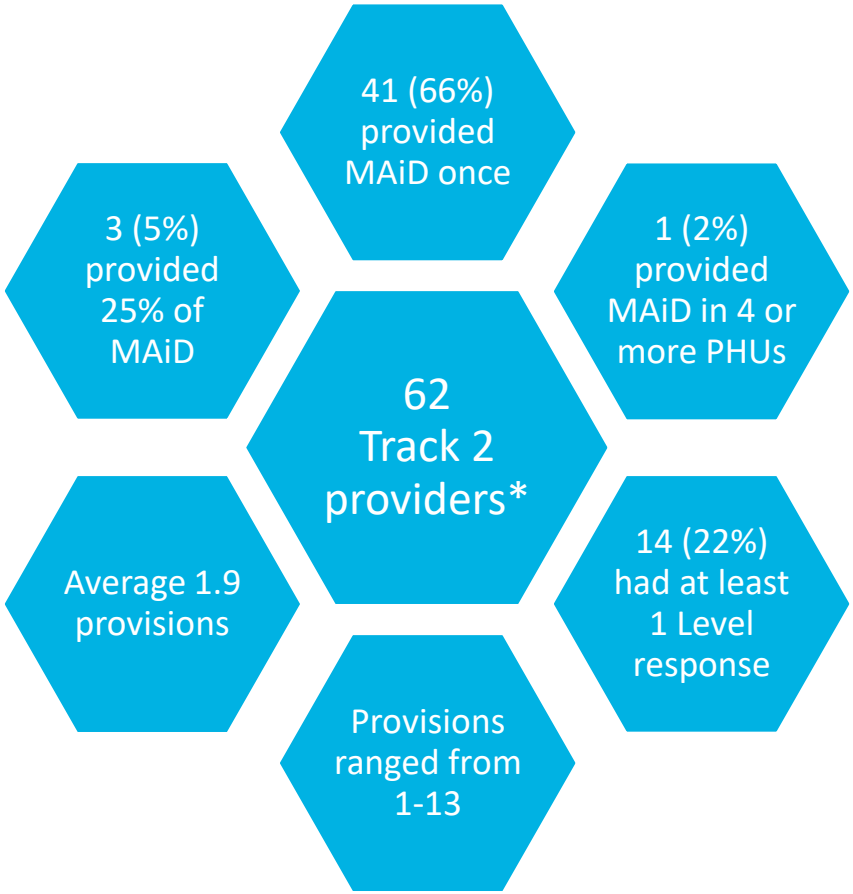
Diagnosis	Frequency
Renal failure	15.2%
Complications of injuries/fractures	15.2%
Frailty	15.2%
Liver failure/cirrhosis	8.0%
Sepsis	4.9%
Effects of stroke	4.0%
Arthritis (osteo & rheumatoid)	3.1%
Multiple comorbidities	2.7%
Osteomyelitis	2.7%

Track 2 causes of death

Diagnosis	Frequency
Chronic pain	18.5%
Arthritis (osteo & rheumatoid)	11.1%
Frailty	11.1%
Diabetes	7.4%
Renal failure	7.4%
Complications of injuries/fractures	3.7%
Multiple comorbidities	3.7%
Osteoporosis	3.7%
Effects of stroke	3.7%

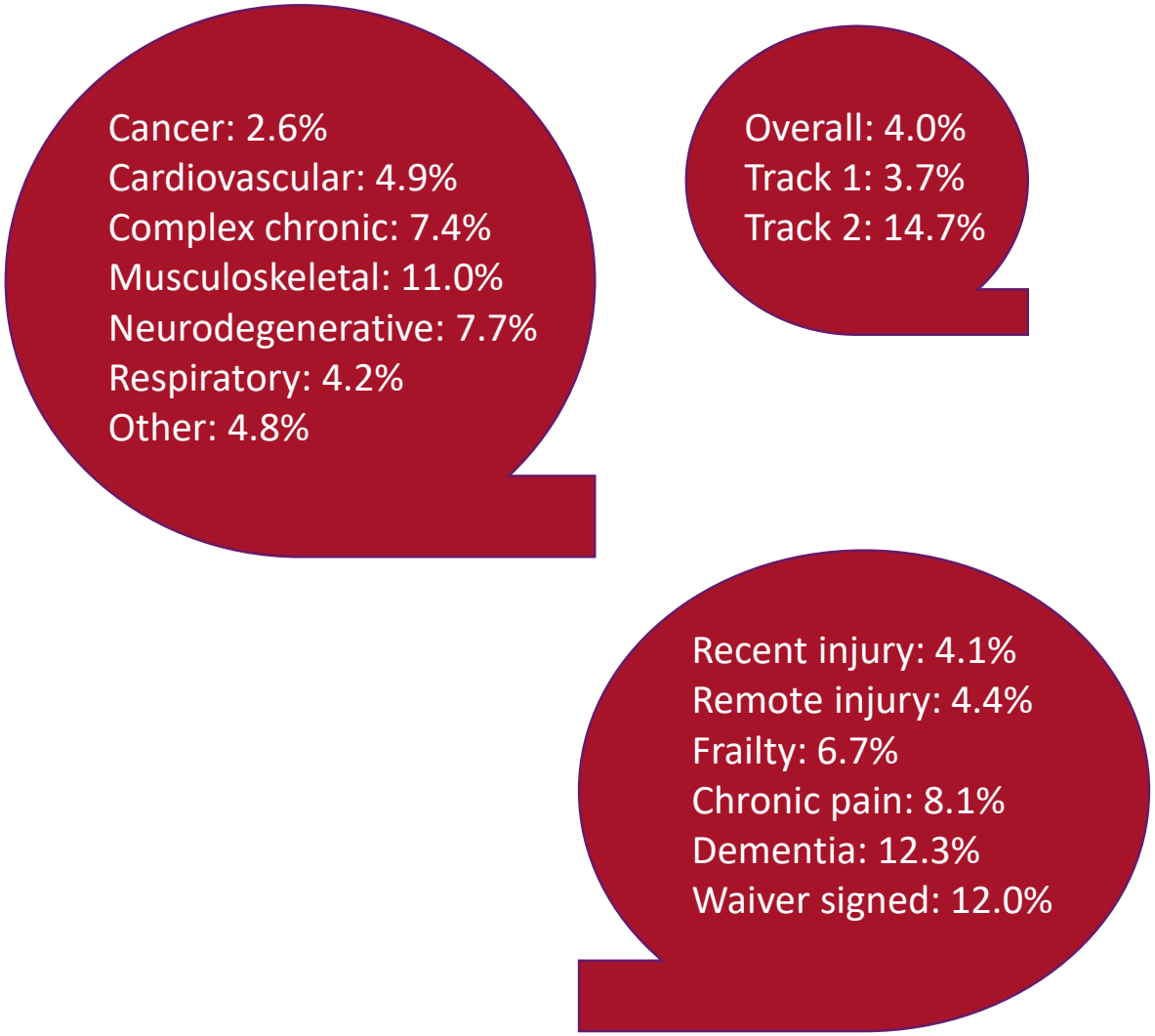
MAiD providers





*59 of the Track 2 providers had also been providers of Track 1 deaths

Deaths requiring a Level response



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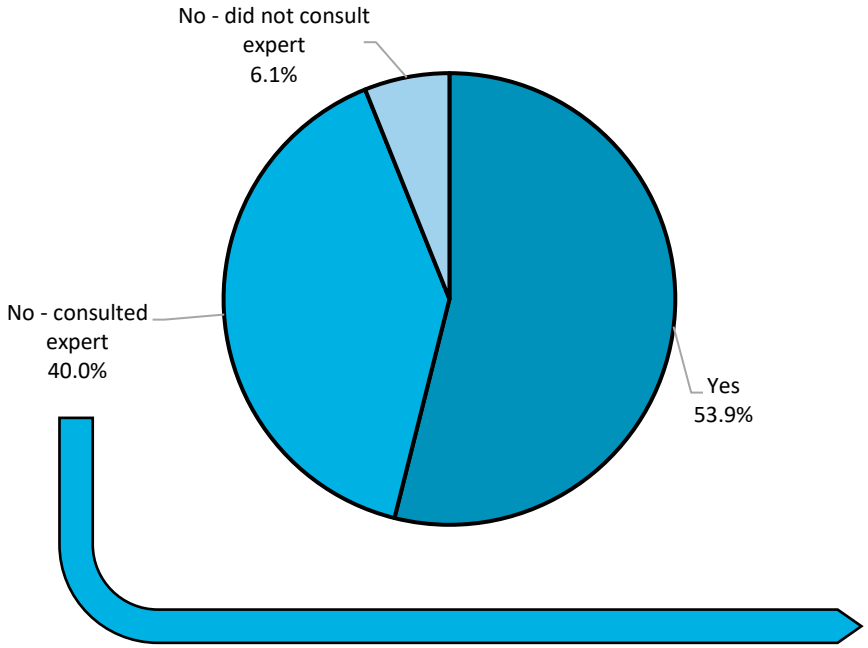
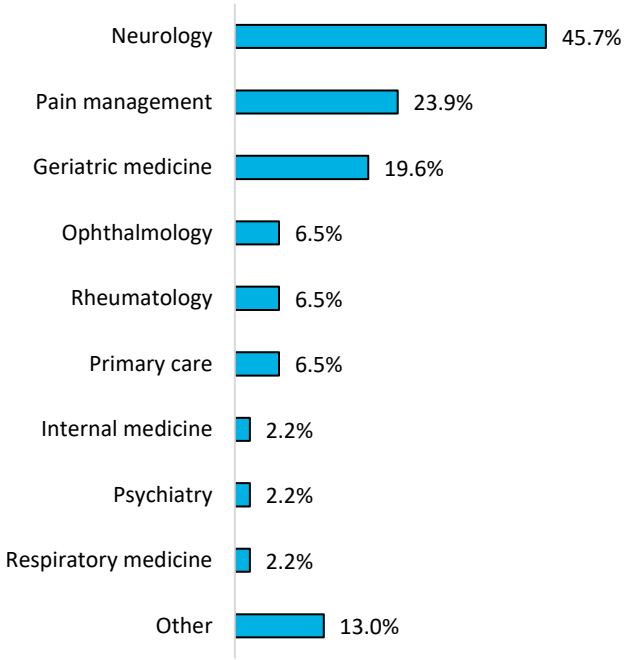
Practitioner expertise in Track 2 MAiD deaths

Percent of Track 2 deaths where the practitioner was an expert in the condition causing the person's suffering



Type of medical practitioner consulted, 2023



One of the practitioners was an expert in the patient's condition in 54% of deaths. In 40% of cases, the practitioners were not experts, but another expert was consulted, primarily in the fields of neurology, pain management, and geriatrics.

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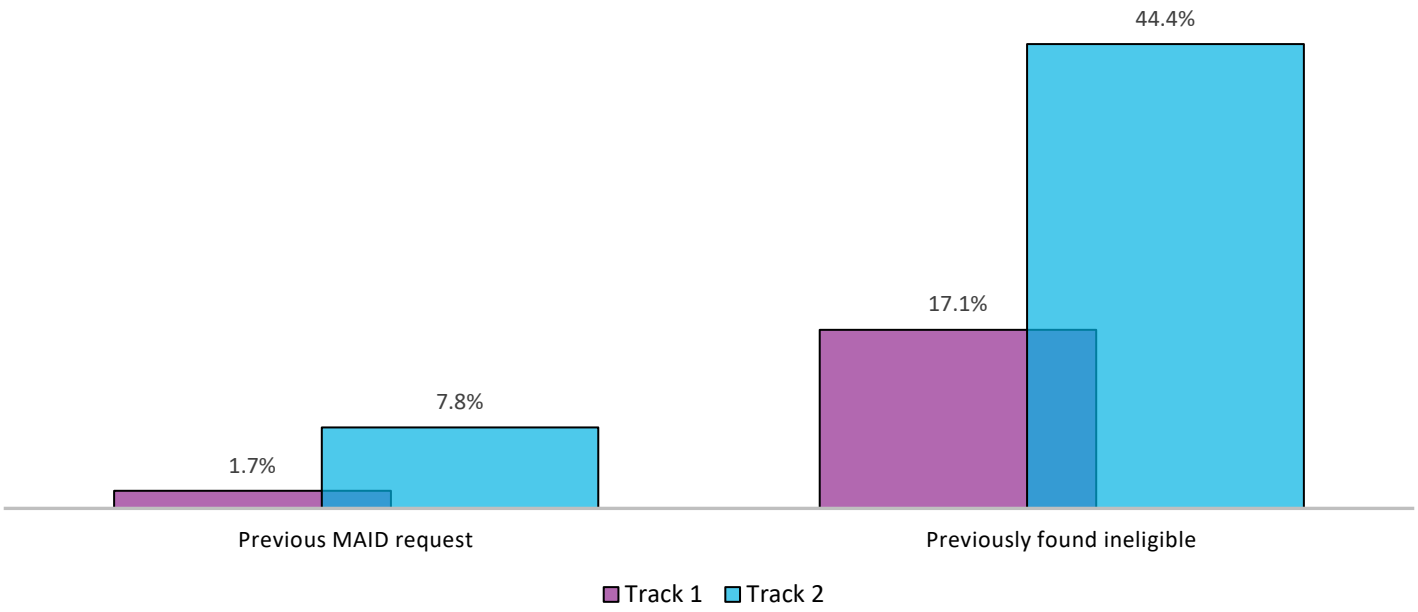
Note: Types of practitioners consulted are not mutually exclusive

Previous MAID requests

Percent of MAiD deaths where a previous MAiD request was made and proportion declined, by Track, 2023



Nearly 8% of Track 2 MAiD deaths were individuals who had previously requested MAiD, and in nearly half of those previous requests the patient was found ineligible.

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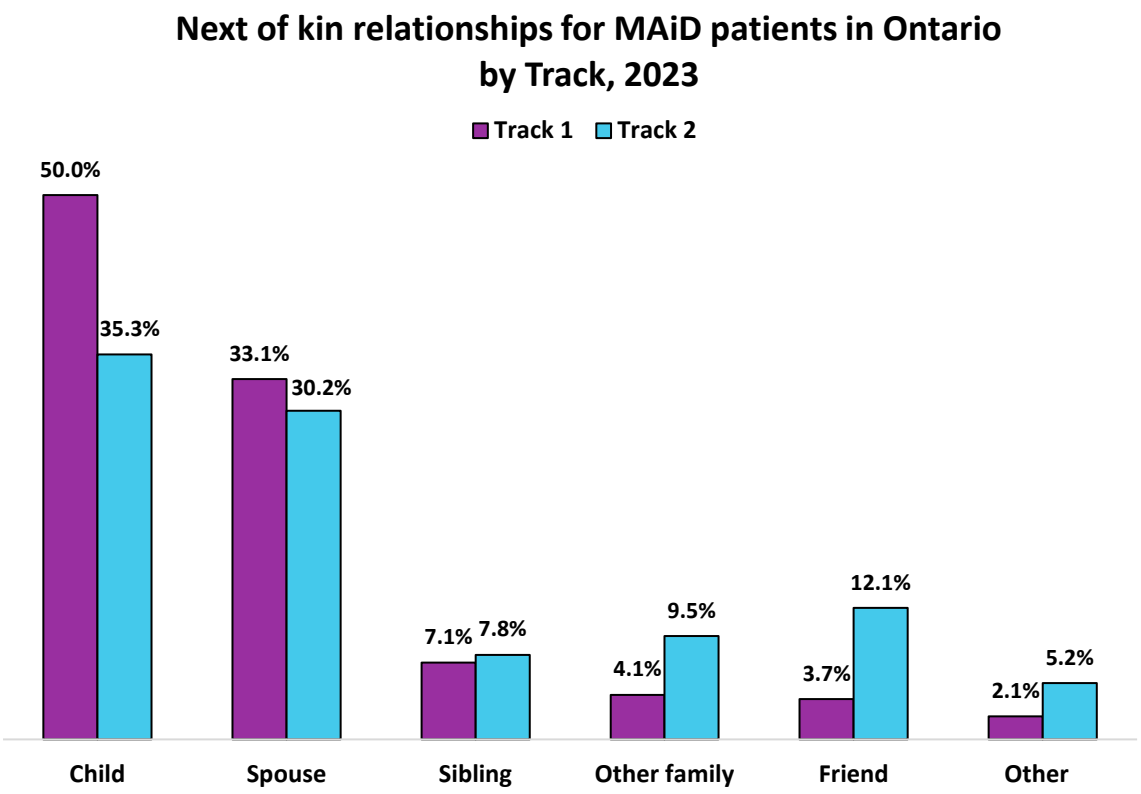
Next of kin



Child – sons, daughters, sons- and daughters-in law, stepchildren

Spouse – husband, wife, common law partners

Siblings – brothers, sisters, brothers- and sisters-in-law

Other family – parents, aunts, uncles, grandchildren, cousins, nephews, nieces

Friend – friends, boyfriends, girlfriends, former spouses

Other – caregivers, social workers, doctors, nurses, powers of attorney

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Identification of MAiD Practice Issues & Trends

Lessons Learned and Recommendations

OCC identified practice issues and trends that impact the safety and quality of MAiD practice:

Intraosseous (IO) administration of MAiD _____ Provision Complications & Safety	Inappropriate handling of MAiD medication kits _____ Policy, Practice & Safety	Private pay nursing services for intravenous access in the community _____ LTCH & Access Issues	Voluntariness considerations for joint MAiD provisions _____ Legislative	Approach to assessment of capacity _____ Legislative & Practice	Track 2 (Non-RFND) legislative and safeguards concerns _____ Application of Legislation

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Identification of MAiD Practice Issues & Trends

Lessons Learned and Recommendations

Actions taken include:				
Conducted case specific reviews (with expert assistance as required) to develop recommendations to inform practice.	Joint information sharing from OCC, regulatory colleges and Ministry of Health to practitioners.	Discussion with Ministry of Health partners to inform policy.	Dissemination of findings and recommendations to stakeholders: regulatory colleges, CAMAP, care coordination centres, Ministry of Health	Sharing lessons learned and recommendations with existing MAiD practitioners to inform practice.

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Example-Track Two Learnings

Initiation of the 90 Day Assessment Period:

Learning Point: The start of the 90-day assessment period is not triggered by a written or verbal request for MAiD.

- The 90-day minimum assessment period occurs between the day on which the first evaluation of the request is completed by a MAiD assessor and the day MAiD is provided.
- This is initiated by either the primary or secondary MAiD assessor and may include reviewing the requestor's records, meeting with the requestor, or engaging in any reflection or consideration of information that forms part of a requestor-specific assessment for MAiD

Example-Track Two Learnings

Assessment Period, NOT a Reflection Period

Learning Point: The 90-day assessment period is a legislated procedural safeguard for Track 2 MAiD case management.

- It is not intended to be a period of time for the requestor to reflect on whether to proceed with MAiD as with the previously legislated 10-day reflection period.
- The intended purpose of the 90-day assessment period is to provide suitable time for the MAiD assessors to explore relevant aspects of the requestor's circumstances and identify potential treatment or service options for their condition or disability

Example-Track Two Learnings

Expertise in the Condition

Learning Point: Track II legislation requires that expertise in the condition(s) for which the requestor is seeking MAiD, is provided during the assessment period

- One of the two practitioners assessing eligibility should have expertise in the medical condition that is causing a person's unbearable suffering, such that they can offer a comprehensive review of all the means that are available to address this suffering
- If neither MAiD assessor has expertise in the medical condition that is causing the requestor's suffering, consultation must occur with another practitioner who does identify as having this expertise.
- A practitioner could be considered an expert through specialization, certification, special training and application or previous experience providing health care to persons with a similar condition.
- When an external consultation for expertise is sought to identify the alternative options to alleviate their suffering, it is incumbent on each assessor to discuss those options directly with the requestor in order to be satisfied that the requestor has given those options serious consideration.

MAiD Death Review Committee

- The Medical Assistance in Dying (MAiD) Death Review Committee (MDRC) was developed in response to increasing health, social, and intersectional complexities arising from current and pending legislative changes.
- The MDRC provides independent multi-disciplinary expert review of MAiD deaths to assist in evaluating potential public safety concerns and providing insights that may inform broad system improvements.
- 16 members from across a number of disciplines (law, ethics, medicine, psychiatry, social work, nursing, and the public) who offer a diverse background of expertise.
- The Committee will develop recommendations to support the improvement of the quality and safety of MAiD practices within the province(with potential benefit beyond Ontario).
- Review activities will be annually and publicly reported to increase transparency of MAiD oversight in Ontario

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Appendix: Marginalization definitions

Households and dwellings	Material resources	Age and labour force	Racialized and newcomer populations
The households and dwellings dimension relates to family and neighbourhood stability and cohesiveness.	The material resources dimension is closely connected to poverty and refers to the inability for individuals and communities to access and attain basic material needs relating to housing, food, clothing, and education.	The age and labour force dimension relates to the impacts of disability and dependence.	The racialized and newcomer populations dimension measures the proportion of newcomers and/or non-white, non-Indigenous populations, and relates to the impacts of racialization and xenophobia.
• Proportion of the population living alone • Proportion of the population who are not youth (age 5-15) • Average number of persons per dwelling • Proportion of dwellings that are apartment buildings • Proportion of the population who are single, divorced, or widowed • Proportion of dwellings that are not owned • Proportion of the population who moved during the last 5 years	• Proportion of the population aged 25 to 64 without a high-school diploma • Proportion of families who are lone parent families • Proportion of total income from government transfer payments for population aged 15+ • Proportion of the population aged 15+ who are unemployed • Proportion of the population considered low-income • Proportion of households living in dwellings that are in need of major repair	• Proportion of the population who are aged 65 and older • Dependency ratio (total population 0-14 and 65+/ total population 15-64) • Proportion of the population not participating in labour force (aged 15+)	• Proportion of the population who are recent immigrants (arrived in the past 5 years) • Proportion of the population who self-identify as a visible minority

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Thank YOU!

Questions?