

Restore the patient-centred approach

A brief by the **British Columbia Humanist Association** to the Standing Committee on Justice and Human Rights regarding amendments to Bill C-14, *An Act to amend the Criminal code and make related amendments to other Acts (medical assistance in dying)*



April 29, 2016

Following extensive consultation with stakeholders representing a wide diversity of viewpoints, the Special Joint Committee on Physician-Assisted Dying produced a laudable set of recommendations for legislation governing medical assistance in dying (MAID) in Canada. We are deeply disappointed that the Government of Canada chose not to implement these recommendations in its legislative response, Bill C-14. We urge the Standing Committee on Justice and Human Rights to adopt the following amendments, based on our full submission to the Special Joint Committee¹ and its final report.

Page	Line(s)	Proposal	Reasoning
2	12	Add paragraph: "Whereas the Government of Canada commits to working with the provinces and territories to ensure the principles of universality and accessibility apply to medical assistance in dying by requiring that health care institutions that receive public funds must provide medical assistance in dying and that health care professionals are equipped to provide medical assistance in dying;"	While the bill references the principles of the <i>Canada Health Act</i> (CHA), there is no guarantee that the principles of universality will be upheld based on our reading of the bill. Lacking such a commitment we believe, as occurred following <i>Morgentaler</i> ² , large disparities in access will inevitably developed across the country. Spelling out in legislation a commitment to work to ensure no publicly funded health care institution turns away a patient requesting MAID and that medical professionals are empowered to provide MAID would demonstrate such an effort to uphold the principles of the CHA.
2	13-23	Replace with: "And whereas the Government of Canada has committed to develop non-legislative measures that would support the improvement of a full range of options for end-of-life care;"	As it stands, this paragraph flagrantly ignores <i>Carter</i> by passing the responsibility for upholding <i>Charter</i> values to a later date. In the meantime, many Canadians are condemned to suffer under these needlessly restrictive criteria. There is arguably also no need for the Government of Canada to take a position on "the personal convictions of health care providers." Individuals make a choice to

¹ *Allow assisted dying for all who choose it*, BC Humanist Association, Jan 25, 2016. Online:

http://www.bchumanist.ca/bcha_calls_on_parliamentary_committee_to_enshrine_assisted_dying_rights_in_healthcare_system

² *R v Morgentaler*, (1988) 1 SCR 30

			enter the health profession. The choices of suffering Canadians should not be limited by those convictions. At a bare minimum, health care professionals should be required to provide an effective referral.
5	11	Delete “they are at least 18 years of age and”	Restricting access to those over 18 is not only arbitrary but in clear violation of a Supreme Court of Canada ruling that mature minors have the right to decide their own medical decisions. Competency, not age, should be the test for whether a decision is free and voluntary.
5	24-25	Delete this section	This additional restriction violates the letter of <i>Carter</i> and discriminates against whole classes of people in suffering.
5	31-35	Delete this section	Similarly, this restriction is likely to be interpreted to limit MAID to those with a terminal illness. This, again, is needlessly discriminatory and an affront to <i>Carter</i> . That this phrasing is already widely debated and misunderstood is reason enough to remove this problematic language.
5	35	Add section: “ Advance request (3) A person may specify in an advance request the circumstances under which they receive medical assistance in dying if they develop a grievous and irremediable medical condition that causes a loss of competence.”	The bill should explicitly allow for individuals to specify in advance the circumstances under which they would want MAID. Prohibiting such requests discriminates against individuals who lose competency but continue to suffer and will result in premature deaths by suicides.
6	3-12	Replace with: “ (b) ensure that the person’s request for medical assistance in dying was made in writing and signed and dated by the person or by another person under subsection (4);”	Having removed the earlier problematic language regarding “natural death”, this section can be simplified. This amendment would then apply the same requirements to both contemporaneous and advance requests for MAID, removing potential grounds for discrimination.
6	27-30	Replace with: “ (g) ensure that the request is enduring and any delay between the day on which the request was signed by the person and the day on which the medical assistance in dying is provided is limited to 15 clear days or...”	Waiting periods are by their nature arbitrary and do not reflect individual circumstances. Those circumstances are best decided in close consultation between a medical practitioner and the patient, where an upper bound on such a delay is limited to prevent unnecessary additional time in suffering.
6	37-40	Delete this section	A final, repeated confirmation of an individual’s expressed consent discriminates

			against individuals who have clearly expressed their wishes and meet the criteria but have lost competency when MAID is to be provided.
9	35	Add section: “National reports on medical assistance in dying (4) Information relating to medical assistance in dying collected and analyzed by the Minister of Health will be compiled into a public report on an annual basis and tabled in Parliament. Such a report must ensure respect for the privacy of affected individuals.”	To inform the public debate over MAID, to enable independent researchers to find ways to continue to improve access and to respond to issues that arise from the implementation, the Minister should be required to publish reports with anonymized data. This would both improve transparency and the ability to implement evidence-based policy.
12	16	Add section: “Canada Health Act 10 (1) The definition of <i>physician services</i> in section 2 the <i>Canada Health Act</i> is replaced by the following: <i>physician services</i> means any medically required services <u>or medical assistance in dying</u> rendered by medical practitioners; (2) Section 2 of the Act is amended by adding the following in alphabetical order: <i>medical assistance in dying</i> has the same meaning as in section 241.1 of the <i>Criminal Code.</i> ”	To demonstrate its commitment to ensuring that MAID is upheld under the <i>Canada Health Act</i> , the Act should be amended to explicitly mention MAID. The Act is restricted to “medically required services” and opponents will undoubtedly argue that MAID is not required. We have already seen such debate over terminology when it comes to providing abortions and this has resulted in a patchwork of access across the country. By explicitly including MAID in the Act, the Government of Canada can send a clear signal that it will uphold universality for MAID.

Contact

Ian Bushfield, Executive Director
BC Humanist Association

400 – 3381 Cambie St
Vancouver BC V5Z 4R3

exdir@bchumanist.ca
www.bchumanist.ca