

Proposed Changes to Bill C-14

Presented to:

Standing Committee on Justice and Human Rights

For Its Study of Bill C-14

42nd Parliament, 1st Session
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**Council of Canadians
with Disabilities**

A VOICE OF OUR OWN

**Conseil des Canadiens
avec déficiences**

CETTE VOIX QUI EST LA NOTRE

The Council of Canadians with Disabilities (CCD) is a not-for-profit umbrella association accountable to a membership of several hundred thousand Canadians with disabilities.

Equal Protection for Vulnerable Persons

CCD urges the Government of Canada in C-14 to strike the right balance between equitable access to medical aid in dying and appropriate safeguards to protect people made vulnerable by the interaction of such factors as their health condition, economic and social circumstances and who may be subject to coercion and abuse. This balance can be achieved by incorporating in Bill C-14 the requirements and safeguards of the Vulnerable Persons Standard (VPS), which is consistent with the Supreme Court of Canada decision in *Carter*. In this paper, CCD recommends how to align C-14 with the VPS' safeguards. The limits placed on submissions prevent a robust discussion of needed reforms.

The Right to Palliative Care

A legislated right to palliative care is recommended. Two options are: listing palliative care as a medically necessary service in the *Canada Health Act* or by including the right to palliative care in Bill C-14, as it was in Bill 52, the Quebec Act respecting end of life.

Preamble

The preamble of Bill C-14 refers to non-legislative measures the Government of Canada has committed to undertaking. It is recommended the Preamble be amended to include additional studies to be undertaken and tabled in Parliament: a study to investigate the social impacts of Canada's medical assistance in dying policies and practices and a study to focus on prior review, particularly to identify the potential for protecting vulnerable persons.

Voluntary and Capable Consent

It is recommended that 241.2 (1) d. be amended to reflect the concept of inducement, which was emphasized by the Supreme Court of Canada in *Carter*: "they have made a voluntary request for medical assistance in dying that, in particular, was not made as a result of external pressure nor is the result of circumstances that render them vulnerable to inducement to commit suicide". The current reference to "external pressure" is too narrow, whereas the term inducement is sufficiently broad to encompass the dynamics of disordered insight, direct coercion by others and the psychodynamics of the doctor-patient relationship (CACL, 2016).

Bill C-14 requires that medical and nurse practitioners communicate with patients requesting medical assistance in dying to ensure that the law's provisions are met; however, Bill C-14 fails to require the provision of neutral, independent and professional interpretation services, including ASL/LSQ. It is recommended that C-14's safeguards include a requirement for the provision of interpretation services, including ASL/LSQ, to ensure effective communication.

End of Life Condition

The phrase "End of Life Condition" would provide greater clarity to further qualify that medical aid in dying is for people with end of life conditions by amending 241.2 (2) b to read: "(b) they are in an end of

life condition with an advanced state of irreversible decline in capability with no chance of improvement;"

Prior Assessments

It is recommended that C-14 be amended to include requirements for two types of prior assessment:

Suffering and Vulnerability - An assessment by two physicians of the person's suffering to ensure it is caused by his/her grievous and irremediable medical condition and not vulnerability induced by psychosocial factors, economic conditions or other non-medical circumstances. The two physicians would be independent of the patient's health care team.

Palliative Care – As the purview of the Bill is situations where "death is foreseeable," it is necessary to require an independent palliative care assessment to ensure the person is informed about palliation.

Prior Review

It is recommended that Bill C-14 be amended to include a requirement that requests for medical assistance in dying are subject to a timely prior review by a judge or an independent body with expertise in the fields of health care, ethics and law. The decision-making process would follow a schedule appropriate to the person's condition. The review would examine the request and the clinical assessments. Reasons would be recorded and reported for each decision. Such an approach would ensure transparency and consistency across Canada.

In the alternative, prior review should be studied as a possible safeguard that, from the CCD's perspective, is necessary in order to protect those that are vulnerable.

Reporting Requirements be Delineated and an Annual Report Be Submitted to Parliament

It is recommended that Bill C-14 be amended to strengthen the reporting requirements for medical assistance in dying. Specifically, Bill C-14 should require reporting on each case, which would describe options considered and the outcome including the reasons for the request.

To ensure that reporting occurs, it is recommended that Bill C-14 include an amendment to the *Canada Health Act* that would make reporting by Provincial and Territorial Governments on medical assistance in dying a prerequisite for the transfer of health funding from the Federal Government.

Conclusion

Representatives of CCD are available to appear before the Justice Committee to provide detailed information on the recommendations made in this paper.

Sources

CACL. 2016. Report on Assessing Vulnerability in a System for Physician-Assisted Death in Canada.