

Bill C-14: Brief authored by Kyle Coffey

Concerns and Recommendations for Bill C-14:

- **Conscience Rights:** There are no protections in the legislation for healthcare professionals' right to conscientious objection (which is a Charter right i.e. "freedom of conscience" in S.2 of the Charter of Rights and Freedoms):
 - As the legislation currently specifies in S241.31(1) that medical and nurse practitioners must give an effective referral unless exempted by regulations to be made by health minister. This section states "unless they are exempted under regulations made under subsection (3)..... (doctors and nurses) who receives a written request for medical assistance in dying must, in accordance with those regulations, provide the information required by those regulations to the recipient designated by those regulations or, if no recipient has been designated, to the Minister of Health.
 - S241.31(3) the "subsection 3" mentioned above, states: The Minister of Health may make (those mentioned above) regulations.
 - **The problems with these provisions:**
 - As noted above, there are no explicit protections for conscience rights of medical professionals and instead these people are subject to the regulations to be made by the Minister of Health and the various provincial bodies. The federal government has a duty to strongly protect the conscience rights of medical professionals who may object to performing or even effectively referring for DAS and euthanasia as these are Charter rights. Being forced to pass the written consent of a patient to a designated recipient or even the Minister of Health (who will then arrange for the procedure to be carried out) could be considered an "effective referral" by some conscientiously objecting medical professionals (most certainly for Catholics and probably many other Christians, but also for those non-Christians who have values opposed to this practice). This is because giving an effective referral is an indirect participation in the same morally objectionable act. It is analogous (to those who morally object) to showing a potential murderer where their target lives or to providing transportation for bank robbers etc. The whole reason for a Charter is that it provides universal and equitable recognition of human rights across the country. If the federal legislation doesn't protect conscience rights then that national standard for human rights and dignity is then compromised.
 - **To fix these provisions:**
 - The bill should provide explicit protection for those who conscientiously object to directly or indirectly participating in DAS or euthanasia. These peoples' Charter recognized human rights should not be subject to regulations made by provinces or Health Ministers. The Federal government has the duty to put in place legislation that will not leave medical professionals rights vulnerable.

- **Safeguards: This legislation provides abysmal safeguards for those who are vulnerable:**
 - **Written consent provision:** As noted in S 241.2(3)(b)(i) that a person's consent to the procedure must be "made in writing and signed and dated by the person or another under subsection (4)" which goes as follows "if the person requesting medical assistance in dying is unable to sign and date the request, another person..... may do so in the person's presence on their behalf."
 - **The problem with this provision:**
 - The whole purpose of a "written consent" provision is to guarantee that the patient "explicitly" consents to the procedure. What is the point of written consent if someone else can do it if the patient can't "explicitly" consent? The exception in this provision for incapacitated patients completely undermines the purpose of the provision itself. Furthermore, the provision doesn't even restrict the "other person" to being someone who is a close relative e.g. spouse, sibling, or parent." It is wide open to competent adults as long as it is done "in the person's (patient's) presence".
 - **To fix this provision:**
 - Written consent of the patient should be required, no exceptions. This will protect those vulnerable who may in a time of weakness give half-hearted, unclear and anything short of explicit consent.
 - **Judicial Review vs. 2 Medical Practitioners' opinions for signing off on the procedure.** Currently, as per S241.2(3)(e), before a medical practitioner can provide assistance to DAS/euthanasia they must "ensure that another medical practitioner or nurse practitioner has provided a written opinion confirming that the person meets all of the criteria set out in subsection (1)"
 - **The problem with this provision:**
 - This is an inadequate safeguard because it isn't too hard to find a second opinion that agrees to the procedure. If the first person approached doesn't agree, then another will be asked, then another and so on until that "right medical practitioner" is found who will write a favourable opinion. A provision that allows for "doctor shopping" is no safeguard at all.
 - **To fix this provision:**
 - A process of judicial review should be set up where an appointed judge reviews the patient's application (which could include the input of 2 medical professionals etc.) and then that judge decides if the application fulfills the requirements or not. This process will go a long way to ensure that no "shopping around" is happening and that due diligence is being done.

- **Qualifying Criteria: This legislation allows for people with a much too broad range of illnesses to qualify:**
 - As it is laid out in S. 241.2(1)(c) people who have a “grievous and irremediable medical condition” which is further defined later on in S.241.2(2)(a) as including those who “have a serious and incurable illness, disease or disability” that in (c) “causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable” will be able to access medically assisted suicide/killing.
 - Also, as is noted in S. 241.2(2)(d), a person who fulfills all the other requirements needs to reach a state that “their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining”.
 - **The problems with these provisions:**
 - First; according to several polls, the strong public consensus in favour of DAS and euthanasia is built around giving access to those who suffer from nothing short of a “terminal illness” which is a disease that cannot be cured or adequately treated and that is reasonably expected to result in the death of the patient within a short period of time (usually 6 months). This proposed provision includes those who suffer from illnesses (both mental and physical) that will not result in death within that short period of time. This broad definition is not what the people of Canada want.
 - Second; what does it mean to have death be “reasonably foreseeable”? Aren’t all our deaths, in some way, reasonably foreseeable? This term is too vague to have any concrete meaning.
 - **To fix these provisions:**
 - These criteria and terminology are way too broad and vague and need to be replaced with something more narrow and concrete; e.g. “the patient needs to be suffering from a terminal illness that is reasonably expected to cause death within 6 months”.

In conclusion, I hope the committee takes into account my concerns with the current bill and applies my recommendations to help remedy what I see to be grave deficiencies in Bill C-14. The language of the bill is too vague and expansive and the safeguards protecting medical professionals and the vulnerable among us are wholly inadequate. This bill needs to be fixed otherwise we will have euthanasia and DAS taking place in different forms across the country to a horribly negative effect. This bill puts too much power in the hands of local actors, i.e. medical professionals to interpret the provisions and provincial authorities to draft regulations affecting the rights of doctors and patients etc. Please, I implore you members of the committee, put out a report that will go a long way towards changing this bill, fixing this bill. Thank you for reading my submission.

Cordially,

Kyle Coffey