



Canadian Association of Advanced Practice Nurses
Association canadienne des infirmières et infirmiers en pratique avancée



Medical Assistance in Dying (MAID)

Standing Committee of Justice and Human Rights Brief, April, 2016

On behalf of the Canadian Association of Advanced Practice Nurses/Association canadienne des infirmières et infirmiers en pratique avancée (CAAPN ACIIPA) I respectfully submit the following comments related to the present wording of Bill C14.

RECOMMENDATION 1. Include 241.1 (a) in Exemption for Medical Assistance in Dying

COUNSELLING OR AIDING SUICIDE

- **241 (1)** Everyone is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years who, whether suicide ensues or not,
 - **(a)** counsels a person to die by suicide or abets a person in dying by suicide; or
 - **(b)** aids a person to die by suicide

EXEMPTION FOR MEDICAL ASSISTANCE IN DYING

- **(2)** No medical practitioner or nurse practitioner commits an offence under paragraph **(1)(b)** if they provide a person with medical assistance in dying in accordance with section 241.2.

The word 'counsel' is defined differently between health care professionals and the legal profession.

“For the purposes of the *Criminal Code*, “counsel” includes procure, solicit or incite. This is important because health care professionals often use the word “counsel” within a therapeutic relationship to mean communication with elements of information-sharing, active listening, patient education, and provision of appropriate psychological or emotional support (also, provincial health insurers may have a billing code for when a physician counsels a patient). (CNPS, 2016)

Although Bill C-14 uses legal language its primary purpose is to provide the Canadian public and health care providers with a protection and accessibility for medically assisted dying.

Counselling equates to a therapeutic relationship and is an everyday activity within every context of healthcare. Providing the pros and cons of assisted suicide is an expected component

and is 'counselling'. Therefore, CAAPN-ACIIPA would recommend the inclusion of both clause (a) and (b) as being exempt of committing an offense.

RECOMMENDATION 2. Remove Age Restriction in Eligibility for MAID

ELIGIBILITY FOR MEDICAL ASSISTANCE IN DYING

- **241.2 (1)** A person may receive medical assistance in dying only if they meet all of the following criteria:
 - **(b)** they are at least 18 years of age and capable of making decisions with respect to their health;

CAAPN-ACIIPA recommends the removal of the age restriction. An age requirement is discriminatory. Nurse Practitioners know pain and suffering has no age limit. A 16-year-old with a brain tumor will suffer just as much as a 36-year-old. And their prognosis is the same. While society has difficulty contemplating death in people under the age of 18, we know it occurs.

We do not wish to condemn the individual under the age of 18 to suffer more because society is uncomfortable facing the reality of children dying. Human suffering occurs regardless of age. Society accepts mature minors consenting in other circumstances- e.g. the 16-year-old signing a surgical consent for his 2-year-old toddler. CAAPN- ACIIPA believes a mature minor who has a grievous and irremediable medical condition would be able to provide an informed consent to receive medical assistance in dying.

RECOMMENDATION 3. Removal of (a) and (d) from definition of Grievous and Irremediable Medical Condition

GRIEVOUS AND IRREMEABLE MEDICAL CONDITION

- **2)** A person has a grievous and irremediable medical condition if
 - **(a)** they have a serious and incurable illness, disease or disability;
 - **(b)** they are in an advanced state of irreversible decline in capability;
 - **(c)** that illness, disease or disability or that state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable; and

- **(d) 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.**

CAAPN-ACIIPA suggests the highlighted areas above should be removed from 241(2). Point (a) is focused solely on a medical diagnosis or condition, rather than the circumstances of the patient. Points (b)(c) fully describe a grievous and irremediable disease, illness or disability in a way that holds meaning for the individuals who are using the descriptors to make an assessment related to medically assisted dying.

There are no objective measures for determining natural death and no clear definition of 'reasonably' foreseeable. CAAPN believes this this statement is not measurable- therefore should not be used as a descriptor.

Yours respectfully submitted:

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Reference:

Canadian Nurse Protective Society, 2016, Physician-Assisted Death: What Does this Mean for Nurses? Retrieved from <http://www.cnps.ca/index.php?page=327>