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Mary J Shariff PhD*
Faculty of Law, University of Manitoba
Winnipeg, Manitoba
R3N 1C2

SUBMISSION TO: STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS - STUDY OF BILL C-14

A. DEFINITIONS

Medical Assistance in Dying (“MAID”): Euthanasia or Assisted Suicide

Euthanasia or Lethal Injection: administering by medical practitioner of a substance to a person at their request that causes their death.¹

Assisted suicide: prescribing or providing by medical practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.²

B. AMENDMENT TO THE CRIMINAL CODE MUST ESTABLISH BRIGHT LINES

This bill requires **TRANSPARENCY AND EXCEPTIONALLY BRIGHT LINES**, particularly as this bill is amending the homicide provisions in the *Criminal Code of Canada* notwithstanding that the Supreme Court in *Carter*³ **did not consider the purpose or objectives of the homicide provision** (the provision directly applicable to lethal injection) and only considered the purpose or objective of the aiding or abetting provision⁴ (the provision applicable to self-administration of lethal substance).

With the foregoing in mind, with a view to harm reduction and protection of vulnerable persons and drawing from other the “permissive” jurisdictions, I propose the following:

TERMINATION OF LIFE UPON REQUEST

Apart from the disconcerting frivolousness the acronym “MAID” conveys, the use of the term “Medical Assistance in Dying” is vague and stands to substantially confuse the specific acts being granted an exemption under the *Criminal Code* with acts that squarely fall under the domain of medicine.

* BSc, LLB, LLM, PhD; comparative laws expert *Carter v Canada* 2012 BCSC 886.

¹ With exception of “nurse practitioner”, definition tracks Bill C-14 language at S3, Definitions 241.1

² *Ibid.*

³ *Carter v. Canada (AG)* 2015 SCC 5.

⁴ *Carter* note 3 para 20.

RECOMMENDATION 1: Language should be unequivocal (as it is with other permissive jurisdictions) that the exemption is for “termination of life upon request” (or equivalent language).⁵

NO “RIGHT” TO DIE AND FREEDOM OF CONSCIENCE

Carter did not establish a “right to die”. It used the *Charter* (Section 7) to “crack open” the *Criminal Code* so physicians who “choose to provide”⁶ could do so without criminal liability provided certain criteria are met.

RECOMMENDATION 2: Include in Preamble that exemption does not establish a right to die; only a right to request.

Additionally, in all other permissive jurisdictions, given that this act is an exemption to homicide, no health care provider can be compelled to participate or provide MAID – all guarantee physicians freedom of conscience.

RECOMMENDATION 3: Include in Preamble that no health care provider is under a duty, whether by contract, statute or by any other legal requirement to participate in or provide MAID.⁷

RELATED AMENDMENTS

Given that the Bill is set to allow MAID to those with terminal illness and that palliative care is not available to all Canadians, exacerbated by specific challenges in Northern, remote and/or rural areas, the Federal Government (as has been accomplished in other permissive jurisdictions)⁸ should establish a concurrent Right to Palliative Care under new or existing Federal Legislation such as the *Canada Health Act*.

RECOMMENDATION 4: In Preamble and Section 4, recognize and establish a Right to Palliative Care.

STRICT INTERPRETATION OF *CARTER* WITH ROBUST SAFEGUARDS TO PROTECT VULNERABLE WITH DUE ATTENTION TO CURRENT DATA.

Recent data from permissive jurisdictions is demonstrating expansion of euthanasia practice and suffering related to the social determinants of health qualifying patients for euthanasia/assisted suicide.

⁵ Netherlands: *Termination of Life on Request and Assisted Suicide*; Belgium: *The Belgian Act on Euthanasia of May 28th, 2002*; Luxembourg: *Law of 16 March 2009 on euthanasia and assisted suicide*.

⁶ *Carter* note 3 para 131: “any legislative scheme must legally protect both those physicians who choose to provide this new intervention to their patients, along with those who do not.”

⁷ *Ibid*; *Carter* note 3 para 132; See *Belgium Act* at Section 14; *Luxembourg Law* at Article 15.

⁸ See e.g. Luxembourg and Belgium.

RECOMMENDATION 5: The Bill should be explicitly restricted to requests for terminal somatic illness (or equivalent) and should not be amended to include to teens or children, persons with mental health illness or other disabilities (age-related or otherwise), nor available pursuant to advance directives: as Bill currently reads.

RECOMMENDATION 6: In Preamble acknowledge Equal protection for vulnerable persons, especially through palliative care and home support, and rigorous and transparent monitoring of MAID.

RECOMMENDATION 7: In Section 241.2(1), amend to require Arm's-length consideration of MAID requests to ensure safeguards are met before request is granted.⁹

⁹ See Vulnerable Persons Standard: <http://www.vps-npv.ca/>