

Brief to the The Standing Committee on Justice and Human Rights
on Bill C-14, An Act to amend the Criminal Code
Submitted by Maureen Taylor, Co-Chair,
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Thank you for the opportunity to address my concerns about some of the language in Bill C-14. In August of 2015 I was asked to co-chair an expert advisory panel on assisted dying for the provinces and territories (P/T EAG). Our final report with its 43 recommendations was released publicly in December 2015 and many of those recommendations were adopted in the report of the Special Joint Committee on Physician Assisted Dying (SJC).

My own personal interest in assisted dying stems from my late husband, Dr. Donald Low, who was diagnosed with an inoperable brain tumour in February 2013. Knowing that his last weeks would likely mean he'd be paralyzed, unable to communicate, unable to toilet himself, unable to swallow, he tried but failed to secure assistance to die at a time of his own choosing. Under Bill C-14 my husband would have met all the criteria: his "natural death" was "reasonably foreseeable." He was "in an advanced state of irreversible decline in capability" and his disease was "incurable." Yet the Bill is flawed.

While we know from other jurisdictions that the majority of patients who will seek assistance in dying will be in circumstances similar to my late husband's, Bill C-14 would violate the Charter rights of other patients who have a grievous and irremediable condition and who are suffering intolerably, but whose death may not be "reasonably foreseeable."

There was no reference to "reasonably foreseeable" in either the trial decision or the SCC decision. Kay Carter, for whom the SCC decision is named, would not have qualified for an assisted death under the strict criteria set out in Bill C-14. Ms. Carter's disease, spinal stenosis, caused her enduring pain and took away her capacity to participate in the most basic activities of daily living, but would not have killed her. Excluding those who are suffering intolerably but whose natural death is not reasonably foreseeable undoubtedly violates the right to life, liberty and security of the person.

In addition, I am troubled by the Bill's definition of "grievous and irremediable" to include the word "incurable". As a front line health care worker, I understand that some diseases may be "cured" by treatments, surgery, medications – even lifestyle changes. But often, the attainment of a "cure" is highly dependent on the individual patient, for reasons not always well understood. My fear is that individual physicians and nurse practitioners will interpret this standard differently, which will inevitably result in uneven access to MAID for Canadians.

The P/T EAG recommended that "grievous and irremediable" be defined as "very severe or serious". I would contend that most medical professionals understand very well when a patient's condition meets that benchmark. Very few would feel comfortable swearing that a patient like Kay Carter was going to die of her condition in "the not too distant future". I predict that if Bill C-14 language is not changed, only those with terminal illnesses who have months or even just weeks to live, like my late husband, will be granted an assisted death, as physicians will be wary of being prosecuted for assisting patients whose conditions are not terminal.

There are other areas where Bill C-14 is at odds with the recommendations of both the P/T EAG and the SJC, including:

- * Setting an arbitrary age limit of 18 instead of using the concept of "mature minor"
- * Excluding mental illness as a primary condition (Bill C-14 essentially does this with the "reasonably foreseeable" death criteria)
- * Defining a "cooling off" period of 15 days
- * Not allowing the use of advance directives in cases where patient has been diagnosed with a "grievous and irremediable condition" but might lose competency before they are suffering intolerably.

The justice minister's analysis of Bill C-14 argues that it strikes an appropriate balance that respects "autonomy during the passage to death" while otherwise prioritizing "respect for life". She states It also "furthers the objective of suicide prevention and the protection of the vulnerable."

The "respect for life" phrase is weighted in Catholic Church dogma and has no place in modern day legislation. The safeguards in Bill C-14 such as evaluation by

two medical professionals and requiring the patient's consent in writing are adequate to ensure the vulnerable are protected.

The ultimate way to guarantee respect for life is to offer Canadians the option of living their life as fully and completely as they choose until the moment when their suffering makes living intolerable.

Again, thank you for this opportunity.