

May 2, 2016

Mr. Michael MacPherson, Clerk of the Committee  
Standing Committee on Justice and Human Rights  
Sixth Floor, 131 Queen Street  
House of Commons  
Ottawa ON K1A 0A6

Dear Mr. MacPherson,



THE  
COLLEGE  
OF  
PHYSICIANS  
AND  
SURGEONS  
OF  
ONTARIO

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**Re: Submission to the Standing Committee on Justice and Human Rights**

The College of Physicians and Surgeons of Ontario (College) appreciates the opportunity to make a submission to the Standing Committee on Justice and Human Rights on Bill C-14, *An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)*.

As Canada's largest medical regulatory authority, the College has a legal mandate to serve and protect the public interest. All of our work, including that on medical assistance in dying (MAID)<sup>1</sup>, is undertaken with a view toward fulfilling our mandate.

The College believes that it is essential that legislation on MAID be in place for June 6 2016 and we support many elements of the Bill. We are in the process of developing a more detailed submission for the Senate Committee. The purpose of this letter is to highlight two key concerns the College has with Bill C-14 which we believe will unfairly impede patient access to MAID and which must be revised.

**Key Concerns: Barriers to Access**

The College's key concerns centre on two elements of subsection 241.2(3): the requirement for independent witnesses, and the requirement that the practitioners involved in MAID be independent of each other and of the patient.

The College supports the principle that the process which governs the requests for and provision of MAID needs to be rigorous, and that patients should never be coerced or otherwise influenced in seeking or proceeding with MAID. However, the definitions of 'independence' as set out in subsections 241.2(5) and (6), are so stringent that they will effectively prevent many eligible patients from accessing MAID.

Regarding witnesses, some patients who would otherwise be eligible for MAID will not be able to find two individuals outside their family, caregivers or medical staff to act as independent witnesses. Yet subsection 241.2(5) prohibits people in these circles from being a witness. For some, the very

<sup>1</sup> The College finalized its document, *Interim Guidance on Physician-Assisted Death* in January 2016.



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condition that has led them to seek access to MAID will have resulted in their isolation and loss of access to broader circles of support. It is inappropriate to establish a regime which could unfairly prevent these patients to access MAID.

Regarding practitioners, the prohibition in subsection 241.2(6)(a) against physicians being in a 'business relationship' does not reflect the realities of how healthcare is delivered in Ontario. Physicians typically practice medicine in a group setting: they work in practice groups in hospitals and other facilities and in accordance with direction from the Ontario Ministry of Health and Long-Term Care, family medicine is delivered in the context of group practice models: family health groups, family health teams and family health organizations. The prohibition against being a 'business relationship' would disqualify all physicians who practice together in hospital or facility groups or in family medicine practice models from providing MAID. The consequent impact on patient access to MAID would be significant, particularly in rural or smaller centres where all the physicians in the city or town may be part of the same practice group. Similar concerns flow from the requirement in subsection 241.2(6)(c), that physicians not be 'connected' to each other.

The requirement in subsection 241.2(6)(c) that physicians not be 'connected' with the patient poses an additional concern. It appears to require that physicians only provide MAID to patients with whom they do not have an existing treating relationship. In addition to any challenges this may pose to patients with respect to seeking out a new physician for the sole purpose of exploring MAID, it would also deprive patients of having a trusted physician by their side when they need them the most.

We hope these comments will be helpful to the Committee as it conducts its examination of Bill C-14. We note that in addition to the above key concerns, the College is developing a more comprehensive submission and plans to raise additional concerns regarding the definition of 'grievous and irremediable condition' and to seek clarification of the government's proposed non-legislative measures regarding access. With respect to the latter, the College believes it is essential that health care providers with conscientious objections to MAID be required to facilitate patient referrals to ensure and support patient access to MAID.

We would be pleased to provide any further assistance the Committee may find useful.

Yours very truly,

Rocco Gerace MD  
Registrar