About CARP

CARP is the largest national organization advocating for better healthcare and improved financial security for Canadians as we age. We are a non-profit, non-partisan organization with 300,000 members and 60 chapters across the country.

We have repeatedly polled our members on assisted dying and there has been much discussion of this topic at our chapter meetings. These recommendations reflect the consensus from our poll results and chapter discussions.

1. Ensure patients aren't compelled to accept unacceptable treatment

Bill C-14's definition of "grievous and irremediable" undermines patient choice. In *Carter*, the Court qualifies "irremediable" as "not acceptable to the individual." Bill C-14 requires individuals to have an "incurable" condition, but does not qualify what "incurable" means. This wording may exclude people with serious medical conditions who do not wish to undergo treatments that are unacceptable to them.

Recommendation: Replace the current wording of Section 241.2, Line 2a with: "They have a serious illness, disease or disability that is irremediable or *for which there is no treatment that is acceptable to the person*."

2. Remove limitation of reasonable foreseeable death

In *Carter*, the court did not include "terminal" as a provision required to receive an assisted death. Under Bill C-14, only individuals whose "natural death has become reasonably foreseeable" will have access to assisted dying. This implies that a person has to be terminally ill in order to be eligible for medical assistance in death. This will force years of severe, unwanted hardship upon Canadians—like Kay Carter—who are already suffering intolerably as the result of a grievous and irremediable chronic medical condition, but are not terminal. Secondly, the criteria is sufficiently vague, meaning most health care providers will refuse to authorize an assisted death unless the patient is imminently dying.

Recommendation: Remove Section 241.2, Line 2d from the proposed definition of a "grievous and irremediable condition."

3. Allow Options in Case of Loss of Competency near Death

Section 241.3 Line H mandates that individuals must give "express consent to receive medical assistance in dying" immediately before the assisted death takes place.

This provision will become a barrier for eligible individuals who have already requested and received approval for an assisted death, but are not competent at the time it is carried out. Take, for example, an individual with terminal cancer who meets all the criteria for assisted dying, but unexpectedly suffers a stroke a few nights before her scheduled assisted death, leaving her incapacitated but still alive. She will now be denied access to assistance in dying, despite her unequivocal, enduring wish for relief from her suffering.

Recommendation: Amend Line H to include "If the person is still capable."

4. Ensure Access to Assisted Dying for Those With Dementia

A. Allow for death of dementia patients while competent

At a minimum, ensure people with dementia, or other diseases which impact competency, have the ability to access assisted dying while they remain competent. Bill C-14 currently only provides access to assisted dying for those individuals in an "advanced state of irreversible decline in capability".

This rule, in conjunction with the prohibition on advance requests for assisted dying, is discriminatory. It effectively denies access to an assisted death for Canadians with dementia or other chronic, degenerative conditions like Huntington's disease who will not be competent when they reach an "advanced state."

Recommendation: Remove Section 241.2, Line 2b from the proposed definition of "a grievous and irremediable condition."

B. Provide option for dementia patients to pre-plan their death

A more compassionate option is to allow dementia patients and others who will lose their capacity before their death is reasonably foreseeable is to allow them to pre-plan their death.

Prohibiting advance consent for assisted dying discriminates against Canadians diagnosed with dementia or other degenerative conditions that rob victims of capacity and who would otherwise be eligible for medical assistance in dying. For example, a person with a recent Alzheimer's diagnosis would almost certainly not be able to access assisted dying under the rules outlined in Bill C-14. By the time her suffering becomes intolerable and she is in an "advance state of irreversible decline," she will have long since lost capacity and will be ineligible for assistance.

Recommendation: Bill C-14 must be amended to include advance requests immediately. If this is not considered a viable amendment because more time is needed to study the issue, Bill C-14 must be amended to reflect a phased-in approach regarding advance consent. The Bill must include a binding commitment to further study advance requests for assisted dying, with a fixed deadline of three years for final implementation.

5. Treat assisted dying as a private health care matter

Bill C-14 must respect the autonomy of patients and allow patients to be the sole decision-makers when determining whether assisted dying is the appropriate legal option in their particular circumstances. After consulting with medical or nursing practitioners, patients have final say over whether they receive an assisted death. Bill C-14 should make it clear that patients do not need to go to a court or undergo a prior judicial tribunal review before accessing assisted dying.

May 2, 2016