



College of Physicians and Surgeons of British Columbia

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VIA EMAIL (PDAM@parl.gc.ca)

February 3, 2016

Honourable Kelvin Kenneth Ogilvie
Joint Chair, Special Joint Committee on Physician-Assisted Dying
40 Elgin Street
Chambers Building
The Senate of Canada
Ottawa ON K1A 0A4

And

Mr. Robert Oliphant, MP
Joint Chair, Special Joint Committee on Physician-Assisted Dying
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6

Dear Senator Ogilvie and Mr. Oliphant:

Re: Physician-assisted Dying (PAD)

We write on behalf of the College of Physicians and Surgeons of BC (the College) regarding the recent delay granted by the Supreme Court of Canada (SCC) to the federal government to allow it to draft legislation in support of the charter right of patients who are suffering grievous and irremediable medical conditions that are causing intolerable suffering to access physician assistance in dying. We enclose for reference purposes the College's interim guidance to the profession on physician-assisted dying (PAD).

It is the position of this College that legislation in addition to regulation is necessary to establish a framework that protects the vulnerable. A legal framework is properly part of the administrative safeguards necessary to protect vulnerable people from potential abuse and error. While some of these safeguards can be set out in regulation alone (for example, the requirement

to have two independent medical opinions) it is the opinion of the College that having such processes codified through legislation is also required.

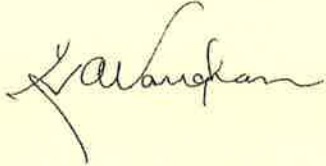
A legal framework should clarify how the SCC decision is to be operationalized. The College strongly believes that it is not the role of the regulatory authority to interpret what is ultimately a societal matter, and will ensure that Canada has a consistent pan-Canadian approach to this charter right, as opposed to a patchwork of interpretations by region or province / territory.

The following issues are areas where the College would encourage the panel to develop legislation:

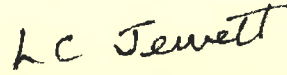
1. **Competent adult:** While this is the reference in the SCC decision, it is not clear if the intent was to allow emancipated minors to consent to PAD. This is particularly important in that persons accessing PAD need not have a terminal illness. Many physicians have identified this as an area where legislative guidance is required.
2. **Advance Directives:** An important aspect of good end-of-life care is to have meaningful informed discussions with patients about their expectations for life preserving or sustaining therapies when certain disease states or conditions exist. For many patients, the reality is that they may be competent today, but the nature of their illness is such that mental capacity will decline, and competency will be lost. Having legal clarity as to a person's ability to consent in advance, or not, to physician assistance in dying would be welcomed. We have had many inquiries from physicians regarding care plans, advance directives and substitute decision making. It is our view that clarity on these issues can only come from law or jurisprudence.
3. **Requirement for two independent medical opinions:** While all the medical regulators in Canada have referenced the requirement for two opinions in their professional guidance, this should be codified in law.
4. **Waiting period:** The SCC decision made no reference to requiring a waiting period before a patient can access PAD. While this period of time should be proportionate to the circumstances of the patient, we note that most jurisdictions in the world that permit voluntary euthanasia have a statutory waiting period. We believe that this is an important protection for the vulnerable.
5. **Oversight body:** As part of the implementation of what is a significant social change for Canadians, we believe that there should be an oversight body established in law that receives reports of every instance of PAD and that it be required to report publically on PAD. Such reports would be non-nominal, and include statistical information on those who sought PAD, including any quality assurance matters it considers relevant. This is not a role for the College, but we do see the regulator being a part of quality assurance activities of such an oversight body. The College could, for example, receive recommendations and requests for further investigation or other actions, as we do at present from the Office of the Chief Coroner for the province.

We thank you in advance for your consideration of this correspondence, and welcome the opportunity to discuss this further at your convenience if helpful. We encourage the federal government to adopt legislation that will support charter rights of patients who are suffering while at the same time balancing the need to protect the vulnerable, marginalized and isolated citizens of Canada whose life circumstances may place them at risk for abuse or error.

Respectfully yours,



Gerrard A. Vaughan, BSc, MD
President



L.C. Jewett, MD, FRCS(C)
Chair of the Patient Relations, Professional
Standards and Ethics Committee

cc: Honourable Minister Lake, Ministry of Health
Mr. Stephen Brown, Deputy Minister, Ministry of Health
Mr. Doug Hughes, Associate Deputy Minister, Ministry of Health