

**From:** Malcolm Buchanan  
**Sent:** February 11, 2016 8:46 PM  
**To:** ~Physician-Assisted Dying Committee Comité Aide médicale à mourir  
**Subject:** Fw: Special Joint Committee on Physician-Assisted Dying Submission

**Ms Cynara Corbin**

**Joint Clerk-Special Commons-Senate Committee on Physician-Assisted Dying**

**House of Commons**

**Ottawa.**

**February 11, 2016**

**Dear Cynara Corbin,**

**Re: Submission to the Special Commons-Committee on Physician-Assisted Dying**

The Hamilton, Burlington and Oakville Chapter of the Congress of Union Retirees of Canada [HBO CURC] represents retirees from numerous unions including, CUPE, OPSEU, OSSTF, PSAC, UNIFOR and USW. CURC acts as an advocacy organization to ensure that the concerns of union seniors are heard and addressed, Specifically, CURC's mandate is to petition legislators for the introduction and support of legislative measures to improve the health and welfare of all retired persons; and to fight for the rights of retirees to have an equitable standard of living.

On February 6, 2015, the Supreme Court of Canada rendered its decision in *Carter v Canada [Attorney General]*["Carter"].

The Supreme Court unanimously struck down the Criminal Code prohibitions against assisted dying to the extent that they prohibited physician-assisted dying for a competent adult person who [1] clearly consents and [2] has a grievous and irremediable medical condition [including an illness, disease or disability] that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition. The Court held that the prohibition on physician-assisted dying deprived the claimants and others suffering from grievous and irremediable medical conditions of the right to life, liberty and security of the person. The Court further held that this prohibition was overbroad and could not be justified in a free and democratic society.

**HBO CURC strongly supports the Supreme Courts ruling**

To that end, HBO CURC introduced a resolution at CURC's National Convention in June, 2015, supporting the Supreme Court Decision in *Carter v Canada*. The resolution was adopted unanimously.

The resolution in both English and French is attached.

HBO CURC believes that physician-assisted dying is a major social policy issue. CURC also believes that physician-assisted dying is part of the discussion about high quality and equitable access to end of life care in Canada.

HBO CURC supports the Final Report of the Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying [November 30, 2015] statement *that provincial, territorial and federal governments should work together to develop a pan-Canadian strategy for palliative and end-of-life care. This strategy would include physician-assisted dying as part of a continuum of services and supports to Canadians at the end of life.*

HBO CURC also supports the concept that other health professionals such as nurse practitioners and registered nurses will need to be involved in the process of physician-assisted dying. This will help to ensure equal access and a high level of care.

A major concern raised by opponents of physician-assisted dying is that the vulnerable will be at risk. That elderly patients will be pressured by family to "take an early exit" so that the family can access their inheritance, etc. That the disabled and intellectually challenged will also be subject to pressures to avail themselves of physician-assisted dying.

HBO CURC believes that there must be safeguards built into the legislation to protect the vulnerable. The Provincial-Territorial Expert Advisory Group provides some useful recommendations. For example: assessment by two physicians, reflection to ensure all eligibility criteria are met, robust assessment of competency and consent, and a witnessed patient declaration form that serves as a formal request for physician-assisted dying.

However, HBO CURC cautions about making the eligibility criteria too restrictive so that many patients who are suffering intolerably are made to wait for long periods of time. This would amount to torture.

The Ontario Superior Court of Justice has recently issued [February, 2016] a list of safeguards for people seeking a doctor's help to end their lives in the months before a new federal law is in place. The list includes asking for both medical and psychiatric assessments, a seven day notice period and the option of alerting family and others who might be affected. HBO CURC is concerned that these measures may restrict access to physician-assisted dying that the Supreme Courts ruling intended. The requirements for a psychiatric assessment could possibly create a barrier to access physician-assisted dying as could the provision to notify spouse/partners, children, parents, grandparents, siblings and any other person who will be affected. It is the patient who should have the final say-it is their choice.

HBO CURC is also concerned about the rights of patients suffering from acute dementia, including Alzheimer's. Will they be eligible to assess physician-assisted dying? What rights will they have.

HBO CURC requests the Special Commons-Senate Committee to consider this matter, especially those who have signed a Power of Attorney for Personal Care requesting physician-assisted dying when they are mentally incapable of making the request themselves. The request regarding a doctor's help to end their lives must be included in the Power of Attorney for Personal Care document while still competent.

CURC's resolution [see attached] proposes that only willing physicians will be permitted to offer physician-assisted death to appropriate competent adults. This issue is currently being discussed and debated within the medical profession. A number of physicians have openly objected to provide physician-assisted dying and will also refuse to refer patients to those who will provide physician-assisted dying based upon their religious or moral values.

Yun Jen, President, Quebec Medical Association in a recent letter to the Globe and Mail [Wednesday Feb.3, 2016] states: *"I am concerned that some doctors think that their professional freedom gives them the right to abandon a patient who asks for medical assistance to die. This failure to help patients is a professional contradiction and a breach of the social contract between medicine and society. This social contract gives doctors certain privileges, clinical autonomy, exclusive rights to practice medicine, self regulation. However, privileges come with duties; for example, doctors have to prioritize their patients' best interests over their own.....If a doctor is unable to treat a patient for moral reasons, he or she is under the obligation to transfer the patient to another doctor who can provide adequate care"*.

HBO CURC's position is very clear on this issue: that a patients' right for medical treatment and advice trumps a doctors and other medical professionals religious, moral or ethical reasons for denying medical treatment, advice or referral.

Conscientiously objecting health care providers must be required to either provide a referral, a direct transfer of care to another health care provider, or to contact and transfer the patients health records through a third party, agency or service which would have a duty to ensure the safe and timely transfer of care of the patient to a non-objecting provider. Delays and unnecessary barriers must be eliminated.

HBO CURC supports the Provincial-Territorial Expert Advisory Groups recommendation 39: Provincial and territorial governments should establish Review Committee systems to review all cases of physician-assisted dying after the provision of the the service to ensure compliance with relevant federal/provincial/territorial legislation and health professional regulatory standards, transparency and accountability.

**In conclusion, HBO CURC recommends to the Special Commons-Senate Committee that if at all possible that Canada has a uniform physician-assisted dying framework from coast to coast. A uniform framework would help avoid end-of-life shopping that has drawn ill and dying Canadians to Europe and some U.S.states.**

**If you require further information regarding HBO CURC's submission please do not hesitate to contact me at:**

**Submitted on behalf of the Hamilton, Burlington and Oakville Chapter of the Congress of Union Retirees of Canada [CURC]**

**Malcolm Buchanan**

**President HBO CURC**