



Euthanasia Prevention Coalition

Analysis of Bill C-7: An Act to Amend the Criminal Code (Medical Assistance in Dying)

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Bill C-7 was introduced on February 24, 2020 in response to the September 11, 2019 Superior Court of Quebec *Truchon* decision. The federal government should have appealed *Truchon* based on the precedent the decision created. Bill C-7 was re-introduced on October 5, after parliament returned from prorogation.

The *Truchon* decision found that the "*reasonable foreseeability of natural death*" criterion in the Criminal Code, as well as the "*end-of-life*" criterion from Quebec's Act respecting end-of-life care, was unconstitutional (*Truchon v. Attorney General of Canada*).

Bill C-7 is the federal government's response to *Truchon*, but it extends the law in a much wider manner than *Truchon* required.

Bill C-14, when passed in June 2016, included a provision that the MAiD law undergo a five-year review beginning in June 2020. Further expansions of the law are premature since the federal government has not completed the legislated five-year review of the MAiD law.

It is concerning that Bill C-7 continues to use the phrase: "*natural death is reasonably foreseeable*." Experts who support or oppose MAiD agree that the term "*natural death is reasonably foreseeable*" lacks effective meaning.

Bill C-14 and now Bill C-7 do not include a definition of the phrase: "*natural death is reasonably foreseeable*." Since June 2016, the accepted understanding of this phrase has expanded.

Without a clear definition to determine if a person's "*natural death is reasonably foreseeable*" decisions become subjective and unequally applied.

In response to the *Truchon* decision, Bill C-7 implements a two-track approach to procedural safeguards based on whether or not a person's "*natural death is reasonably foreseeable*."

The first track is based on someone whose natural death is deemed to be *reasonably foreseeable*. For these cases, Bill C-7 removes the 10-day reflection period. Bill C-14 already permitted a waiving of the 10-day reflection period. Bill C-7 reduces the requirement from two independent witnesses to one witness and it permits a person, who was previously approved for MAiD, to die by MAiD even if that person loses their ability to consent at the time of death.

The second track is based on someone whose *natural death is not reasonably foreseeable*. The main difference is that these people will be subject to a 90 reflection period.

Determining whether a person qualifies for MAiD based on the first or second track will be difficult to determine and will be inconsistently applied based on the lack of definition for the phrase "*natural death is reasonably foreseeable*."

What does Bill C-7 do?

1. Bill C-7 removes the requirement in the law that a person's *natural death is reasonably foreseeable* in order to qualify for MAiD, as required by Truchon. Therefore people who are not terminally ill can die by MAiD. The *Truchon* decision only required this amendment to the legislation.

2. Bill C-7 permits a doctor or nurse practitioner to lethally inject a person who cannot consent, if that person was previously approved for MAiD. This contravenes the Supreme Court of Canada *Carter* decision which stated that only competent people could die by MAiD.

3. Bill C-7 waives the ten-day waiting period when a person is deemed to be "terminally ill." Thus a person could request MAiD on a "bad day" and die the same day. Studies prove that the "will to live" fluctuates.

4. Bill C-7 creates a two-track law. A person whose death is deemed to be reasonably foreseeable would have no waiting period while a person whose death is deemed to be not reasonably foreseeable would have a 90-day waiting period.

5. Bill C-7 claims to prevent MAiD for people with mental illness. The law permits MAiD for people who are physically or psychologically suffering that they find intolerable and that cannot be relieved in a way that the person considers acceptable.

Bill C-7 states: **Exclusion** (2.1) *For the purposes of paragraph (2)(a), a mental illness is not considered to be an illness, disease or disability.*

To prohibit MAiD for mental illness alone, the bill must define psychological suffering and mental illness. Mental illness is considered a form of psychological suffering which MAiD is permitted for in the law.

Bill C-7 needs to define the phrase "*natural death is reasonably foreseeable*," it needs to define the terms psychological suffering and mental illness. Without defining the parameters of the law, the law will be unequally applied and, over time, go far beyond the claimed scope of the bill.

There was no requirement or need to remove the 10 day reflection period. Studies show that the will to live fluctuates over time.

Removing the requirement of consent at the time of death is inconsistent with the *Carter* decision and it denies a person the right to change their mind.

We also convinced that the two-track approach will be struck down by a future court decision based on it being an inequality in the law. If that happens, Canada would have a wide open MAiD law.

Bill C-7 expands the law to permit anyone, who considers their physical or psychological suffering to be intolerable, to qualify for death by lethal injection, even if effective medical treatments for their condition exists. The lack of parameters directly threatens the lives of people with disabilities.

As stated earlier, the additional changes to the law were not required by *Truchon*. These changes are premature considering that the five-year review of the MAiD law which was to begin in June 2020, has not been done.

The government needs to shelve Bill C-7 until after the five-year review is completed. If the government insists on passing Bill C-7 then it must limit the changes in the legislation to the *Truchon* decision which required removing the phrase: "*natural death is reasonably foreseeable*."

Thank you for your service to our country.