Dr. Justine Dembo, MD, FRCPC April 30, 2016 (2 pages)

Dear Standing Committee on Justice and Human Rights Members,

Thank you considering my concerns. I am a practicing psychiatrist trained in Canada, and am a Fellow of the Royal College of Physicians and Surgeons of Canada. I have researched, published, and presented numerous times on the topic of physician assistance in dying (PAD), since 2009. I am proud of our country, in its quest to decriminalize PAD; that said, I have serious concerns about the discrepancies between Bill C-14 and the Supreme Court decision. As a psychiatrist, my focus is on the aspects of the Bill pertaining to psychiatric illness. I am requesting an amendment to the outright exclusion of mental illness from the criteria for access to PAD, on the grounds that it is discriminatory and inhumane.

I will highlight several areas of the Bill. The first is the statement that *"...it is important to affirm the inherent and equal value of every person's life and to avoid encouraging negative perceptions of the quality of life of persons who are elderly, ill or disabled."* As you are aware, the mentally ill have been stigmatized throughout history. Most pertinent to the Bill, individuals with even the most severe, treatment-refractory depression must still face a society that deems their suffering, erroneously, to be lesser in magnitude than that of "physical illness" (and I would argue that there is rarely a clear distinction between physical and mental suffering). To deny PAD to everyone with mental illness serves to perpetuate this untrue and "negative perception."

The Bill also states that *"...permitting access to medical assistance in dying for competent adults whose deaths are reasonably foreseeable strikes the most appropriate balance between the autonomy of persons who seek medical assistance in dying... and the interests of vulnerable persons in need of protection and those of society....."* Mentally ill individuals can be competent with respect to decisions about PAD, and to exclude the competent mentally ill is an infringement on human rights. When a decision to die in severe, refractory depression, is based upon a realistic appraisal of the illness (its severity, its lack of responsiveness to treatment, and its impact on quality of life including the ability to have meaningful relationships and to work) and its prognosis (20% of patients with depression do not recover despite gold standard treatment, and the suicide rate in depression is 10-15%, consistently), then that decision is a competent one. And, as established above, those with refractory mental illness are vulnerable on multiple counts, including a dismissal of the severity of their suffering. The exclusion therefore dismisses both the autonomy and the interests of these vulnerable individuals.

Next, the Bill reminds us that the Carter decision requires that the *"illness, disease or disability or that [the] state of decline causes [patients] enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable."* Here, psychological suffering is included; an exclusion for mental illness contradicts this. Also, psychological suffering is arguably what makes physical suffering unbearable. Certainly we can agree that refractory psychiatric illness can be enduring and lifelong with a declining course. It can cause unbearable psychological suffering which often cannot be relieved under conditions that the sufferers consider acceptable. I would suggest, instead of a blanket exclusion, that there be a requirement that a certain number of first-line treatments have been attempted, given that unresponsiveness to treatment is necessary to establish "refractoriness." But to bar *all* grievously mentally ill individuals the right to aid in dying is unacceptable.

Finally, I move to amend the requirement that a "*natural death [is] reasonably foreseeable*." I will leave the bulk of these arguments to my colleagues, but as this applies to mental illness it is highly problematic for two reasons: firstly, when death is reasonably foreseeable, the suffering would end in weeks to months without intervention; but in mental illness the body remains intact, and so suffering is prolonged indefinitely. This is a cruel fate. Secondly, in truly malignant mental illness, death can be reasonably foreseeable by means of suicide, which is a terrible kind of death. These individuals should not be forced to end their lives alone in horrific and painful ways, and the Supreme Court documents state the same.

My very sincere thanks for your consideration. I am very happy to answer any questions, or to elaborate on this statement at any point.

Justine Dembo, MD, FRCPC