

Brief from the AQDMD Regarding Bill C-14

Mr. Mike MacPherson
Committee Clerk
Standing Committee on Justice and Human Rights
House of Commons

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The Association québécoise pour le droit de mourir dans la dignité (AQDMD) understands that, in view of the unanimous judgment of the Supreme Court of Canada, Parliament is seeking through Bill C-14 to amend specific sections of the *Criminal Code*. We nevertheless feel that there should be amendments to two specific elements:

- the eligibility of persons with chronic debilitating diseases who are not terminal in the short to medium term, thus complying with the Supreme Court judgment with regard to Ms. Carter's situation;
- the provisions regarding advance medical directives.

A- People with chronic debilitating diseases that are not terminal in the short to medium term

Bill C-14 proposes very limited eligibility that opens the door to legal challenges, which will be very painful for patients with chronic conditions seeking to assert their rights under the Canadian Charter. The most striking and worrisome examples for the vast majority of citizens involve patients with neurodegenerative or traumatic conditions.

Examples include: locked-in syndrome, amyotrophic lateral sclerosis, Guillain Barré syndrome, multiple sclerosis, quadriplegia, etc. With all of these conditions, cognitive capabilities remain intact and allow for informed consent.

Numerous decisions of the supreme courts of Canada and the US have always given these patients the right to terminate all treatment, even if death is the inevitable consequence, either immediately or in the very short term (US: Cruzan, Perlmutter, Farrell, Requena, Rodas, Putzer, McAfee; Quebec: Nancy B., 1992, etc.)

Logically, this right, which has been recognized for almost three decades for patients who are not terminally ill or for whom "*natural death has (not) become reasonably foreseeable*" and who retain their cognitive abilities, should also be extended to medical assistance in dying (MAID).

The same applies to people with chronic debilitating and advanced conditions such as advanced respiratory failure or heart disease.

This very real clinical problem should be included in the new section 241.2(2) proposed by Bill C-14, as per Recommendation 2 of the report of the Special Joint Committee on Physician-Assisted Dying:

That medical assistance in dying be available to individuals with terminal and non-terminal grievous and irremediable medical conditions that cause enduring suffering that is intolerable to the individual in the circumstances of his or her condition.

B- Advance medical directives

The AQDMD also fully supports Recommendation 7 of Parliament's Special Joint Committee on Physician-Assisted Dying to allow individuals who have been diagnosed with a neurodegenerative disease that will eventually result in the loss of cognitive ability to use an advance medical directive in order to decide when they will benefit from medical assistance in dying.

The AQDMD therefore asks that the following provision be included in section 241.2(1):

That the permission to use advance requests for medical assistance in dying be allowed any time after one is diagnosed with a condition that is reasonably likely to cause loss of competence or after a diagnosis of a grievous or irremediable condition but before the suffering becomes intolerable.... The advance request is subject to the same procedural safeguards as those in place for contemporaneous requests.

SOME ADDITIONAL COMMENTS ON BILL C-14

1) Individuals who are currently incompetent, minors, mental health

As things currently stand, AQDMD agrees with continuing the prohibition:

- for incompetent individuals who did not prepare advance medical directives;
- for individuals born with a cognitive deficit;
- for minors and patients with primary psychiatric disorders: societal and medical study must continue with input from other jurisdictions that are grappling with the same issues.

2) Assisted suicide

The AQDMD wonders about section 241.1(b), which appears to open the door to some form of assisted suicide. We argue that it should be very clear that medical assistance in dying is and must remain within the strict framework of a medical act administered by a physician (or nurse/clinician, depending on provincial legislative provisions).

The AQDMD recommends that there not be any provision that would suggest that medical assistance in dying could be provided by anyone other than a doctor or a nurse/clinician (depending on provincial legislative provisions).

[signed]

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President of the AQDMD
On behalf of the Board of Directors

The mission of the AQDMD is to promote recognition for the right of every competent adult who has prepared an advance medical directive (AMD) to have, when the time comes, an end of life that is consistent with his or her own values of dignity and freedom and to ensure respect for that individual's personal desire to receive medical assistance in dying (MAID), regardless of his or her cognitive status at that time.

<http://www.aqdmd.qc.ca/documentation-in-english/>