

October 28, 2020

Written By: Alizée Wickenheiser

Dear Honourable Chair and Committee Members:

Please consider the following as a “Brief in Opposition of Bill C-7”, with facts and recommendations for consideration.

List of Recommendations

- **Recommendation 1:** That the government NOT discriminate against person(s) with intolerable suffering and whether it be psychological or physical pain from ANY chronic illness.
- **Recommendation 2:** That the government understands independently restricting person(s) of MAiD, who solely suffer from a psychological/mental illness, would be ableism behaviour against the person(s) suffering intolerable pain, and against the Canada Charter of Rights & Freedoms emphasized in section 7 & 15.
- **Recommendation 3:** That the government understands majority of patients receiving MAiD, are doing so because of intolerable psychological suffering from a chronic illness and NOT from physical suffering; and intolerable psychological pain from a mental illness can force persons to death.
- **Recommendation 4:** That the government understands stakeholders desiring restrictions against persons suffering intolerable psychological pain from mental illness, aren't acting upon the best interest of the law or the persons suffering; in respect of the right to equality, life, liberty, and security of the persons suffering.
- **Recommendation 5:** That the government understands personal autonomy shouldn't be restricted of requested medical treatment and when the treatment prevents or ends intolerable suffering from psychological or physical pain.
- **Recommendation 6:** That the government rejects Bill C-7 and until it can be drafted to NOT disallow persons suffering solely from mental illness; so all persons suffering intolerable psychological or physical pain desiring to receive MAiD, will have their rights be honoured and by being able to receive MAiD if they wish for it.
- **Recommendation 7:** That the government considers life imprisonment as a social disability and considered a medical condition.
- **Recommendation 8:** That the government considers my version of Bill C-7 and please find it on page 4 to 12.

List of Facts

- **Fact 1:** My intolerable psychological pain is caused by the psychological illness known in the medical community as Gender Dysphoria.
- **Fact 2:** Gender Dysphoria is the feeling of discomfort or distress that might occur in persons whose gender identity differs from their sex assigned at birth or sex-related physical characteristics.
- **Fact 3:** My intolerable psychological pain occurs while being associated as or resembling my birth sex being male; and that outcome is from being deprived medical treatments known as puberty blockers & hormone replacement therapy (HRT) in my years of adolescence to adulthood.
- **Fact 4:** The denial of the foregoing medically necessary treatment, resulted in permanent disfigurement of my voice & physical appearance from male puberty and aggravates Gender Dysphoria consistently to cause intolerable psychological pain everyday.
- **Fact 5:** I've experienced bullying, abuse by religious ideology, wanton conversion therapy, law enforcement treating me incorrectly as a man, and I've had my human rights violated on a few occasions; all in correlation of being visibly a transgender woman, suffering Gender Dysphoria and from denial of medical treatment that would've ended my psychological suffering but would've prevented the foregoing wrongful acts against my health, will & life.
- **Fact 6:** No remedy could ever result in forgiveness of the egregious foregoing acts against my health, will & life, and I believe if I hadn't understood free will is an illusion "**a mistaken belief held by many**" that I would've sought irrational vengeance for the acts against my health, will & life. Vengeance is irrational under realization that people have no control over how they came to be, and similar for their thoughts & acts. Nobody chooses the life they're born into and similar is for what follows but people fall into an illusion of believing they have real choice that things could've been different but that's untrue so-matter-of-factly.
- **Fact 7:** Society has learned from the past why denying medical treatment is egregious and when doing so is against the will of the person desiring the treatment; when requesting the treatment for real justified benefit(s) for the person's life and when is equally shared among others in society who have obtained the treatment without prejudice.
Example: Committees used to exist for allowing or denying women their right to an abortion and depending upon factors of their financial status, potential family & partner support of the individual requesting an abortion; the committees could erroneously ponder questions such as if the woman is in a vulnerable state by her current situation being pregnant and which might possibly change once the woman gives birth. **We should all agree it's evil to label pregnant women "vulnerable" and in attempt of refusing them of a medical treatment they desire to end pregnancy.** Similar, for all persons suffering intolerable psychological or physical pain from a chronic illness and while desiring MAiD as their medical treatment.
- **Fact 8:** Majority of patients receiving MAiD report their choice to receive it because of intolerable psychological pain from a chronic illness and it's egregious to restrict similar persons suffering a chronic illness while it's classified as a mental illness; specifically when the person(s) suffering a mental illness express similar, they're experiencing intolerable psychological pain and wish to receive MAiD like the other patients receiving MAiD without prejudice.

- **Fact 9:** Denying persons completely from receiving MAiD when they suffer intolerable psychological pain from a mental illness isn't a safeguard but discrimination.
- **Fact 10:** Labeling persons with a mental illness as vulnerable is ableism behaviour and discrimination against the persons considered mentally ill who are desiring to receive MAiD when they suffer intolerable psychological pain.
- **Fact 11:** Survivorship bias confuses the general public about mental illness survivorship. Persons suffering from mental illness may NOT have supportive family members, or be in a financial situation for the ability to obtain alternative treatment for them, and genetics & environmental factors grossly factors into the equation of whether a person can enjoy their unique life with their health condition; all prior events in a persons life, influence the outcome of mental illness to either be medically manageable or unmanageable and whether the person will experience an early death than if they hadn't suffered an illness. Simply, the general public isn't educated in understanding "determinism" for the realization that some persons do everything right but life cannot work out for them because everything is outside one's control at birth till death; while others can think or behave much worse and succeed in life. People don't choose the life they're born into and similar for what follows after birth.
- **Fact 12:** Every death is considered a natural death if you don't believe in a fallacy known as free will.
- **Fact 13:** Faith without justified logic & evidence, is enforced by religious ideology, and makes people behave or think irrationally about persons with mental illness.
- **Fact 14:** Psychiatry has harmed more lives than helped, the field originally enforced the idea that a God is punishing the mother or the child, when the child is mentally ill, and the field is responsible for persons of LGBTQ+ status being lobotomized; and while the field is considered a soft science, I consider it a pseudoscience, and Canada law protecting psychiatry from lawsuits should be repealed with removing statue of limitation for lawsuits in association with psychiatry.
- **Fact 15:** Natural death is a deceptive phrase that confuses people of reality and from enforced religious ideology that causes people to think that free will exists instead of it being an illusion. Everyone in society no matter how they die wouldn't have died any other way.
- **Fact 16:** The decision to end one's life by receiving MAiD is an act of self love. There are fates far worse than death. Such as suffering intolerable psychological or physical pain from a chronic illness and while society refuses the person the ability to receive MAiD when they desire to receive it while not being coerced.

List of Amendments

- **Amendment 1:** That the Bill C-7 be replaced by the following:

BILL C-7

An Act to amend the Criminal Code (medical assistance in dying)

SUMMARY

This enactment amends the Criminal Code to, among other things,

- (a) repeal the provision that requires a person's natural death be reasonably foreseeable in order for them to be eligible for medical assistance in dying;
- (b) specify that persons whose intolerable suffering be eligible for medical assistance in dying and regardless if the suffering be from psychological or physical pain from a chronic illness;
- (c) create two sets of safeguards that must be respected before medical assistance in dying may be provided to a person, the application of which depends on whether the person made a reasonably request by their own volition;
- (d) permit medical assistance in dying to be provided to a person who has been found eligible to receive it, who has lost the capacity to consent before medical assistance in dying is provided, on the basis of a prior agreement they entered into with the medical practitioner or nurse practitioner; and
- (e) permit medical assistance in dying to be provided to a person who has lost the capacity to consent to it as a result of the self-administration of a substance that was provided to them under the provisions governing medical assistance in dying in order to cause their own death.

BILL C-7

An Act to amend the Criminal Code (medical assistance in dying)

Preamble

Whereas the Government of Canada has committed to responding to the Superior Court of Québec decision in *Truchon v. Attorney General of Canada*;

Whereas Parliament considers that it is appropriate to no longer limit eligibility for medical assistance in dying to persons whose natural death is reasonably foreseeable and to provide additional safeguards for those persons whose natural death is not reasonably foreseeable;

Whereas under the Canadian Charter of Rights and Freedoms every individual has the right to life, liberty and security of the person without being deprived of them except in accordance with the principles of fundamental justice and has the right to the equal protection and equal benefit of the law without discrimination;

Whereas Canada is a State Party to the United Nations Convention on the Rights of Persons with Disabilities and recognizes its obligations under it, including in respect of the right to life;

Whereas Parliament affirms the inherent and equal value of every person's life and the importance of taking a human rights-based approach to disability inclusion;

Whereas Parliament recognizes the need to balance several interests and societal values, including the autonomy of persons who are eligible to receive medical assistance in dying, the protection of persons being coerced or manipulated to end their lives and the important public health issue that psychological or physical suffering represents;

Whereas it is desirable to have a consistent approach to medical assistance in dying across Canada, while recognizing the provinces' jurisdiction over various matters related to medical assistance in dying, including the delivery of health care services and the regulation of health care professionals, as well as insurance contracts and coroners and medical examiners;

Whereas the Government of Canada is committed to having a federal monitoring regime that provides a reliable national dataset and that promotes accountability under the law governing medical assistance in dying and improve the transparency of its implementation;

Whereas, while recognizing the inherent risks and complexity of permitting medical assistance in dying for persons who are unable to provide consent at the time of the procedure, Parliament considers it appropriate to permit dying persons who have been found eligible to receive medical assistance in dying and are awaiting its provision to obtain medical assistance in dying even if they lose the capacity to provide final consent, except if they demonstrate signs of resistance to or refusal of the procedure;

Whereas further consultation and deliberation are required to determine whether it is appropriate and, if so, how to provide medical assistance in dying to persons whose sole underlying psychological suffering is from a social disability known as criminal conviction, such persons whom have been sentenced to imprisonment for life and in light of the inherent risks & complexity of the provision of medical assistance in dying in those circumstances;

And whereas the law provides that a committee of Parliament will begin a review of the legislative provisions relating to medical assistance in dying and the state of palliative care in Canada in June 2020, which review may include issues of advance requests and requests where intolerable psychological suffering is the sole underlying condition from persons with a social disability known as imprisoned for life;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

R.S., c. 46

Criminal Code

2016, c. 3, s. 3

1 (1) Subsection 241.2(2) of the Criminal Code is amended by repealing both paragraph (b) and paragraph (d).

(2) Section 241.2 of the Act is amended by adding the following after subsection (2):

Exclusion

(2.1) For the purposes of paragraph (2)(a), imprisonment is not considered to be a disability unless it be a sentence of life imprisonment.

2016, c. 3, s. 3

(3) The portion of subsection 241.2(3) of the Act before paragraph (a) is replaced by the following:

Safeguards — request made by own volition

(3) Before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose intolerable suffering is either psychological or physical pain, taking into account all of their medical circumstances, with confirming the person is not being coerced or manipulated into dying, the medical practitioner or nurse practitioner must

2016, c. 3, s. 3

(4) Paragraph 241.2(3)(c) of the Act is replaced by the following:

(c) be satisfied that the request was signed and dated by the person — or by another person under subsection (4) — before an independent witness who then also signed and dated the request;

2016, c. 3, s. 3

(5) Paragraph 241.2(3)(g) of the Act is replaced by the following:

(g) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision;

2016, c. 3, s. 3

(6) Subsection 241.2(3) of the Act is amended by striking out “and” at the end of paragraph (h) and by repealing paragraph (i).

(7) Section 241.2 of the Act is amended by adding the following after subsection (3):

Safeguards — natural death not foreseeable

(3.1) Before a medical practitioner or nurse practitioner provides medical assistance in dying to a person whose natural death is not reasonably foreseeable, taking into account all of their medical circumstances, while suffering intolerable from psychological or physical pain, the medical practitioner or nurse practitioner must

(a) be of the opinion that the person meets all of the criteria set out in subsection (1);

(b) ensure that the person’s request for medical assistance in dying was

(i) made in writing and signed and dated by the person or by another person under subsection (4), and

(ii) signed and dated after the person was informed by a medical practitioner or nurse practitioner that the person has a grievous and irremediable medical condition;

(c) be satisfied that the request was signed and dated by the person — or by another person under subsection (4) — before an independent witness who then also signed and dated the request;

(d) ensure that the person has been informed that the person may, at any time and in any manner, withdraw their request;

(e) ensure that a written opinion confirming that the person meets all of the criteria set out in subsection (1) has been provided by

- (i) if they do not have expertise in the condition that is causing the person's suffering, a medical practitioner or nurse practitioner with that expertise, or
- (ii) if they have that expertise, another medical practitioner or nurse practitioner;
- (f) be satisfied that they and the medical practitioner or nurse practitioner referred to in paragraph (e) are independent;
- (g) ensure that the person has been informed of the means available to relieve their suffering, including, where appropriate, counselling services, mental health and disability support services, community services and palliative care and has been offered consultations with relevant professionals who provide those services or that care;
- (h) ensure that they and the medical practitioner or nurse practitioner referred to in paragraph (e) have discussed with the person the reasonable and available means to relieve the person's suffering and they and the medical practitioner or nurse practitioner referred to in paragraph (e) agree with the person that the person has given serious consideration to those means;
- (i) ensure that there are at least 90 clear days between the day on which the first assessment under this subsection of whether the person meets the criteria set out in subsection (1) begins and the day on which medical assistance in dying is provided to them or — if the assessments have been completed and they and the medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the loss of the person's capacity to provide consent to receive medical assistance in dying is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;
- (j) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision;
- (k) immediately before providing the medical assistance in dying, give the person an opportunity to withdraw their request and ensure that the person has expressed consent to receive medical assistance in dying.

Final consent — waiver

(3.2) For the purposes of subsection (3), the medical practitioner or nurse practitioner may administer a substance to a person to cause their death without meeting the requirement set out in paragraph (3)(h) if

- (a) before the person loses the capacity to consent to receiving medical assistance in dying,

 - (i) they met all of the criteria set out in subsection (1) and all other safeguards set out in subsection (3) were met,
 - (ii) they entered into an arrangement in writing with the medical practitioner or nurse practitioner that the medical practitioner or nurse practitioner would administer a substance to cause their death on a specified day,
 - (iii) they were informed by the medical practitioner or nurse practitioner of the risk of losing the capacity to consent to receiving medical assistance in dying prior to the day specified in the arrangement, and

(iv) in the written arrangement, they consented to the administration by the medical practitioner or nurse practitioner of a substance to cause their death on or before the day specified in the arrangement if they lost their capacity to consent to receiving medical assistance in dying prior to that day;

(b) the person has lost the capacity to consent to receiving medical assistance in dying;

(c) the person does not demonstrate, by words, sounds or gestures, refusal to have the substance administered or resistance to its administration;

(d) the substance is administered to the person in accordance with the terms of the arrangement.

For greater certainty

(3.3) For greater certainty, involuntary words, sounds or gestures made in response to contact do not constitute a demonstration of refusal or resistance for the purposes of paragraph (3.2)(c).

Advance consent invalidated

(3.4) Once a person demonstrates, by words, sounds or gestures, in accordance with subsection (3.2), refusal to have the substance administered or resistance to its administration, medical assistance in dying can no longer be provided to them on the basis of the consent given by them under subparagraph (3.2)(a)(iv) unless the person later believes they were coerced to prolong life.

Advance consent – self-administration

(3.5) In the case of a person who loses the capacity to consent to receiving medical assistance in dying after self-administering a substance, provided to them under this section, so as to cause their own death, a medical practitioner or nurse practitioner may administer a substance to cause the death of that person if

(a) before the person loses the capacity to consent to receiving medical assistance in dying, they and the medical practitioner or nurse practitioner entered into an arrangement in writing providing that the medical practitioner or nurse practitioner would

(i) be present at the time the person self-administered the first substance, and

(ii) administer a second substance to cause the person's death if, after self-administering the first substance, the person lost the capacity to consent to receiving medical assistance in dying and did not die within a specified period;

(b) the person self-administers the first substance, does not die within the period specified in the arrangement and loses the capacity to consent to receiving medical assistance in dying; and

(c) the second substance is administered to the person in accordance with the terms of the arrangement.

(8) Section 241.2 of the Act is amended by adding the following after subsection (5):

Exception

(5.1) Despite paragraphs (5)(c) and (d), a person who provides health care services or personal care as their primary occupation and who is paid to provide that care to the person requesting medical assistance in dying is permitted to act as an independent witness, except for

(a) the medical practitioner or nurse practitioner who will provide medical assistance in dying to the person; and

(b) the medical practitioner or nurse practitioner who provided an opinion under paragraph (3)(e) or (3.1)(e), as the case may be, in respect of the person.

2016, c. 3, s. 3

(9) The portion of subsection 241.2(6) of the Act before paragraph (a) is replaced by the following:

Independence — medical practitioners and nurse practitioners

(6) The medical practitioner or nurse practitioner providing medical assistance in dying and the medical practitioner or nurse practitioner who provides the opinion referred to in paragraph (3)(e) or (3.1)(e) are independent if they

(10) Paragraph 241.2(6)(b) of the English version of the Act is amended by replacing “or” with “and” at the end of that paragraph.

2019, c. 25, s. 80

2 The portion of section 241.3 of the Act before paragraph (a) is replaced by the following:

Failure to comply with safeguards

241.3 A medical practitioner or nurse practitioner who, in providing medical assistance in dying, knowingly fails to comply, subject to subsection 241.2(3.2), with all of the requirements set out in paragraphs 241.2(3)(b) to (h) or paragraphs 241.2(3.1)(b) to (k), as the case may be, and with subsection 241.2(8) is guilty of

2016, c. 3, s. 4

3 (1) Subsections 241.31(1) and (2) of the Act are replaced by the following:

Filing information — practitioners

241.31 (1) Unless they are exempted under regulations made under subsection (3), a medical practitioner or nurse practitioner who carries out an assessment of whether a person meets the criteria set out in subsection 241.2(1) or who receives a written request for medical assistance in dying must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

Filing information — responsible for preliminary assessments

(1.1) Unless they are exempted under regulations made under subsection (3), any person who has the responsibility to carry out preliminary assessments of whether a person meets the criteria set out in subsection 241.2(1) must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

Filing information — pharmacist and pharmacy technicians

(2) Unless they are exempted under regulations made under subsection (3), a pharmacist who dispenses a substance in connection with the provision of medical assistance in dying, or the

person permitted to act as a pharmacy technician under the laws of a province who dispenses a substance to aid a medical practitioner or nurse practitioner in providing a person with medical assistance in dying, must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

2016, c. 3, s. 4

(2) Subparagraph 241.31(3)(a)(i) of the Act is replaced by the following:

(i) the information to be provided, at various stages, by medical practitioners, nurse practitioners, persons referred to in subsection (1.1) who have the responsibility to carry out preliminary assessments, pharmacists and pharmacy technicians, or by a class of any of them, including the elements considered in the course of the assessments — preliminary or otherwise — of whether a person meets the criteria set out in subsection 241.2(1),

(3) Paragraph 241.31(3)(d) of the Act is replaced by the following:

(d) exempting, on any terms that may be specified, a class of persons from the requirements set out in subsections (1) to (2).

2016, c. 3, s. 4

(4) The portion of subsection 241.31(4) of the Act before paragraph (a) is replaced by the following:

Offence and punishment

(4) A medical practitioner or nurse practitioner who knowingly fails to comply with subsection (1), a person having the responsibility to carry out preliminary assessments who knowingly fails to comply with subsection (1.1) or a pharmacist or pharmacy technician who knowingly fails to comply with subsection (2),

Transitional Provision

Request made prior to assent

4 A medical practitioner or nurse practitioner who provides medical assistance in dying to a person who, before the day on which this Act receives royal assent, had signed and dated a written request for medical assistance in dying must provide it in accordance with section 241.2 of the Criminal Code as it read immediately before that day, other than paragraph 241.2(3)(g), and with subsections 241.2(3.2) to (3.5) of that Act, as enacted by this Act.

EXPLANATORY NOTES

Criminal Code

Clause 1: (1) Relevant portion of subsection 241.2(2):

(2) A person has a grievous and irremediable medical condition only if they meet all of the following criteria:

...

(d) their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining.

(2) New.

(3) to (6) Relevant portion of subsection 241.2(3):

(3) Before a medical practitioner or nurse practitioner provides a person with medical assistance in dying, the medical practitioner or nurse practitioner must

...

(c) be satisfied that the request was signed and dated by the person — or by another person under subsection (4) — before two independent witnesses who then also signed and dated the request;

...

(g) ensure that there are at least 10 clear days between the day on which the request was signed by or on behalf of the person and the day on which the medical assistance in dying is provided or — if they and the other medical practitioner or nurse practitioner referred to in paragraph (e) are both of the opinion that the person's intolerable pain is either physical or psychological, or the loss of their capacity to provide informed consent, is imminent — any shorter period that the first medical practitioner or nurse practitioner considers appropriate in the circumstances;

...

(i) if the person has difficulty communicating, take all necessary measures to provide a reliable means by which the person may understand the information that is provided to them and communicate their decision.

(7) New.

(8) New.

(9) Relevant portion of subsection 241.2(6):

(6) The medical practitioner or nurse practitioner providing medical assistance in dying and the medical practitioner or nurse practitioner who provides the opinion referred to in paragraph (3)(e) are independent if they

Clause 2: Relevant portion of section 241.3:

241.3 A medical practitioner or nurse practitioner who, in providing medical assistance in dying, knowingly fails to comply with all of the requirements set out in paragraphs 241.2(3)(b) to (i) and subsection 241.2(8) is guilty of

Clause 3: (1) Existing text of subsections 241.31(1) and (2):

241.31 (1) Unless they are exempted under regulations made under subsection (3), a medical practitioner or nurse practitioner who receives a written request for medical assistance in dying must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

(2) Unless they are exempted under regulations made under subsection (3), a pharmacist who dispenses a substance in connection with the provision of medical assistance in dying must, in accordance with those regulations, provide the information required by those regulations to the recipient designated in those regulations.

(2) and (3) Relevant portion of subsection 241.31(3):

(3) The Minister of Health must make regulations that he or she considers necessary

(a) respecting the provision and collection, for the purpose of monitoring medical assistance in dying, of information relating to requests for, and the provision of, medical assistance in dying, including

(i) the information to be provided, at various stages, by medical practitioners or nurse practitioners and by pharmacists, or by a class of any of them,

...

(d) exempting, on any terms that may be specified, a class of persons from the requirement set out in subsection (1) or (2).

(4) Relevant portion of subsection 241.31(4):

(4) A medical practitioner or nurse practitioner who knowingly fails to comply with subsection (1), or a pharmacist who knowingly fails to comply with subsection (2),