

BRIEF TO THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS

It is our opinion that Bill C-14 allows more protections for those who *commit* “Medical Aid in Dying” than the vulnerable on the receiving end, and we therefore respectfully submit the following recommendations.

1. Conscience Protection

Bill C-14 has omitted to include any protections for objecting physicians. We see this as a serious infringement on the Charter rights of doctors, nurses and pharmacists who should in no way be coerced, pressured or discriminated against for taking a conscientious stand against any involvement in assisted suicide or euthanasia.

Where is the right to choose for those millions of Canadians who do not want to be served by physicians who have been involved in or accomplices in the deaths of their patients?

We strongly urge the Government to implement rigorous conscience protection for objecting physicians. There is no jurisdiction in the world that forces physicians and other medical practitioners to act against their conscience. This should not be left to the Provinces to decide.

2. Allowing “anyone” to assist in “MAID”

One of the most surprising aspects of this legislation is the ability for “anyone” to take part in aiding an assisted death. In Section 241(5) under “Exemption for person aiding patient” *anyone can help administer a lethal medication in the assisted suicide of another person, presumably in a “home death”*.

We feel that, unlike medical or nurse practitioners, those assisting in this way, have no obligation to report the circumstances. Our concern is that this would enable euthanasia advocates, for example, who might ‘shepherd’ patients towards doctor assisted death. For obvious reasons, this is a clear opportunity for abuse, even from family members.

We are also concerned about having lethal medications at home and the possibility of the death not going well. If there is an error in the administration or the patient does not die, this could be extremely traumatic and dangerous for all involved.

LifeCanada recommends that this provision be removed.

3. No Third Party Oversight

Section 241.2 (3) of Bill C-14 requires approval for euthanasia or assisted suicide be done by two physicians or nurse practitioners, **without requiring oversight from an independent third-party**. Further to this, the bill permits that the same practitioners who do the killing also be the ones who file the report after the fact. Any incompetence or coercion on the part of these two practitioners would not be admitted.

We recommend that there is always a competent, independent third party to oversee the death of any patient, preferably through judicial oversight.

4. Subjective definition of “Grievous and irremediable medical condition”

Palliative care is administered solely in the care of the dying. Being near death is a natural prerequisite for the administration of such care. “Medical aid in dying” is dangerous because defining who is in a terminal state is open to interpretation. For this reason, we find the language of Section 241.2 (2) too vague.

We believe that the definition of “Grievous and irremediable medical condition” is far too broad, allowing for multiple interpretations of whether one’s natural death is “reasonably foreseeable”.

The subjectivity of the definition does not protect vulnerable, mentally ill or depressed persons who may be reacting to a temporary situation, from making a final decision in error. It also risks removing from the diagnosis the professional opinion of competent medical personnel.

We would recommend a much more stringent definition that takes into account the objectivity of a doctor’s diagnosis, to protect those who are suffering temporary psychological distress because of their condition.

5. “Reasonable but mistaken belief” provides a loophole for outright murder

Finally, under section 241 (6) there are exemptions in place for people who either commit or assist in a “medical death” but who do so in error. Presumably this would involve the killing of a patient who did not intend to be killed.

We believe that this provides loopholes for those who wrongfully cause another’s death. Safeguards, with third party oversight, should under no circumstances allow a person to be killed in error.

If passed in its current state, Section 241 (6) will enable outright murder of vulnerable people who have no one to advocate for them. It is our recommendation that this section be removed, and that those who cause a wrongful death be prosecuted.

6. Additional Legal Opinion

An independent legal analysis commissioned by ARPA Canada has proven that Parliament can still prohibit all euthanasia and assisted suicide – without invoking the notwithstanding clause – by clarifying in law that the purpose of an absolute prohibition goes beyond what the Supreme Court mistakenly concluded it was in the *Carter* decision. The Court thought that the objective of the criminal prohibition on assisted suicide was merely to protect vulnerable persons from being induced to commit suicide at a moment of weakness. The Court thought that the objective was not to protect life broadly speaking, or even to prevent suicide. This distinction effectively determined the outcome of the case.

But what if the purpose or objective of the assisted suicide law was actually much broader than the SCC thought? Parliament has opportunity now to clarify.

Parliament can enact a complete prohibition on assisted suicide, without relying on the notwithstanding clause, by explicitly stating in a new law that the purpose of the prohibition is broader than merely protecting vulnerable persons in a moment of weakness.

Along with ARPA, we respectfully urge Parliament to seize this opportunity while it still can to pass a new law which maintains and enforces the longstanding common law principle of the inviolability of life by prohibiting assisted suicide and euthanasia as acts that are intrinsically legally and morally wrong. The full legal opinion and draft law to this effect is available at <https://arpacanada.ca/assisted-suicide-total-ban.pdf>

Respectfully submitted,

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LifeCanada