



Government
of Canada

Gouvernement
du Canada

Medical Assistance in Dying

Overview of Federal Government Response



Supreme Court of Canada *Carter* Decision

Criminal laws prohibiting physician assistance in dying were found to limit the rights to life, liberty and security of the person (s. 7 of the *Charter*)

Declaration that sections 241(b) and 14 of the *Criminal Code* are void:

“insofar as they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life; and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition”

Effect of declaration was suspended for 12 months and extended on January 15, 2016 to June 6, 2016 to allow time to develop legislation

In the interim, Superior Courts may grant individual exemptions

Overview of Federal Government Response *to Carter*

Re-enacts general prohibition

Creates exemptions for medical assistance in dying carried out in accordance with rules

Provincial and territorial health jurisdiction

- Other federal measures:
 - work with provinces and territories on options for access to medical assistance in dying
 - support improvements of end-of-life care options
 - further studies on requests by mature minors, advance requests and where mental illness is the sole underlying medical condition, after legislation comes into force

Key Legislative Objectives

- Recognize personal autonomy and dignity
- Recognize inherent and equal value of every life
- Include robust safeguards to protect vulnerable persons and guard against errors or abuse
- Set out eligibility for competent adults where death is reasonably foreseeable and who are suffering intolerably
- Balance different interests, including personal autonomy toward the end of life and the protection of vulnerable persons
- Encourage consistent approach across Canada

Brief Outline of the Legislation

“Medical assistance in dying” is defined as:

- the administration of substance by medical practitioner or authorized nurse practitioner that causes the person’s death (i.e., voluntary euthanasia)
- the prescription or provision of substance by medical practitioner or authorized nurse practitioner that the person self-administers to cause their death (i.e., assisted suicide)

Brief Outline of the Legislation, cont'd

Proposed patient eligibility criteria:

- At least 18 years old and competent
- Has a grievous and irremediable medical condition, i.e.,:
 - serious and incurable illness, disease or disability, and
 - advanced state of irreversible decline in capabilities, and
 - enduring physical or psychological suffering, caused by the medical condition, that is intolerable to the person, and
 - natural death has become reasonably foreseeable (precise proximity to death is not required)
- Voluntary request required
- Informed consent required
- Eligible for publicly funded health care services in Canada

Brief Outline of the Legislation, cont'd

Exemptions from criminal liability would apply to:

- medical practitioner
- nurse practitioner
- pharmacist
- person who aids medical practitioner or nurse practitioner
- other person who aids patient to self-administer substance

Brief Outline of the Legislation, cont'd

Safeguards that must be respected:

- Medical opinion – patient meets all criteria
- Second independent medical opinion
- Request in writing (or by proxy if patient cannot write) before two independent witnesses
- Right to withdraw request at any time
- 15 day waiting period, unless death or loss of capacity is imminent
- Consent must be confirmed immediately before medical assistance in dying is provided

Medical assistance in dying would not result in loss of federal pensions and benefits

Parliamentary review to occur in 5 years

Federal Monitoring System and Offences

Minister of Health will make regulations on:

- Information to be provided by medical practitioners, nurse practitioners and pharmacists
- Use, protection and disclosure of information

Offences

- Failing to comply with regulations on monitoring
- Failing to comply with safeguards in providing medical assistance in dying
- Forging or destroying documents

Other Federal Responses (non-legislative)

Studies to look at unique implications of:

- requests by mature minors
- advance requests
- where mental illness is the sole underlying medical condition

Work with provinces and territories to support access to medical assistance in dying while recognizing the personal convictions of health care providers

Support improvements of a full range of end-of-life care options

- multi-year health accord - improvements to home care, including palliative care

Work with provinces and territories on voluntary, interim protocol for the collection of data

- in place until regulations are finalized