

Friday, April 22nd, 2016

CONSTITUTIONAL EXPERT CAUTIONS AGAINST MISSING COURT DEADLINE FOR LAW ON PHYSICIAN-ASSISTED DEATH

There is much at stake as Parliamentarians prepare to debate [Bill C-14](#), *An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)*. Although [some have praised](#) the drafters' cautious approach to the right to die, some members of the [Special Joint Committee on Physician-Assisted Dying](#) have been outspoken in their opposition. [Media reports of a possible standoff](#) have raised the possibility that [legislation may not be in place](#) for the Supreme Court deadline on June 6.

In light of this possibility, constitutional law expert and Professor Emeritus Dianne Pothier has provided a [legal opinion](#) detailing the landscape for assisted death in Canada if no federal legislation is passed by June 6. Her report concludes unequivocally that **"it is not a responsible option for the Parliament of Canada to fail to act by June 6, 2016."**

Professor Pothier explains that "if Parliament does not act by June 6, 2016, there would be a legislative vacuum in the criminal law on key issues:

- One doctor's involvement would be enough...
- There would be no requirement of a written request, or other formality of consent...
- No reflection period at all would be required between request and implementation of medical assistance in dying...
- There would be no requirement to report to anybody about anything...
[and]
- There would be no requirement that medical assistance in dying be

available only to insured persons eligible for publicly funded health care services in Canada..."

In March of this year, Professor Pothier published [The parameters of a Charter compliant response to Carter v. Canada](#) in which she asserted that "it is consistent with Carter to (1) limit physician-assisted death to end-of-life conditions; (2) include a mechanism of prior review beyond doctors' assessments; (3) preclude reliance on advance directives; and (4) limit availability to those 18 and over."

Her supplementary opinion released today makes clear that in the absence of a federal legislative response, Canadians would usher in an era of medically assisted death without the "carefully designed and monitored system of safeguards" anticipated from Parliament by the Supreme Court of Canada.

DID YOU KNOW?

[Bill C-14](#), *An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)*, was introduced on April 14 and will move to second reading in the House of Commons on April 21. It has also been submitted for pre-study by the [Senate Committee on Legal and Constitutional Affairs](#). The Bill details amendments to the Criminal Code to regulate the practice of medically assisted death in Canada. It incorporates some of the important elements of the Vulnerable Persons Standard, but fails to provide the full suite of safeguards required for the protection of vulnerable Canadians.

IN THE NEWS:

- [Assisted Dying Legislation](#): CBC Power and Politics, featuring VPS advisor, David Baker
- [There's virtue in Ottawa's cautious approach to the right to die](#): Toronto Star Editorial
- [A compromise on assisted dying](#): Montreal Gazette Editorial

The Vulnerable Persons Standard was developed by a group of more than

forty advisors with expertise in medicine, ethics, law, public policy and needs of vulnerable persons. The Standard is a series of evidence-based safeguards intended to help ensure that Canadians requesting assistance from physicians to end their life can do so without jeopardizing the lives of vulnerable persons who may be subject to coercion and abuse.

To learn more about the Standard and the many Canadians and organizations endorsing the Standard, please visit us at www.vps-npv.ca.

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