Requirements	Safeguards	VPS Compliance Assessment (As of May 2017)
1. Equal Protection for Vulnerable Persons The right to the equal protection and equal benefit of the law without discrimination must be preserved for all. Amendments to the Criminal Code concerning physician-assisted death must not perpetuate disadvantage or contribute to social vulnerability.	**1.1** The Criminal Code exemption includes a preamble affirming that all lives, however they are lived, have inherent dignity and are worthy of respect. **1.2** The operational implementation of the Criminal Code exemption will be carefully regulated and publicly reported. **1.3** Independent research into the social impacts of Canada's assisted death policies will be promoted, financially supported and publicly reported. Any adverse impacts of the law which directly or indirectly cause harm or disadvantage to Canadians, or to Canada's social fabric, will be identified and addressed without delay. **1.4** The provision of palliative care	**1.1 Compliant:** The *Act* states that, "it is important to affirm the inherent and equal value of every person's life and to avoid encouraging negative perceptions of the quality of life of persons who are elderly, ill or disabled; that it is important "to avoid encouraging negative perceptions of the quality of life of persons who are elderly, ill or disabled;" and that autonomy interests must be balanced with the interests of protecting the vulnerable and of society. **1.2 Partially Compliant:** The *Act* requires that "The Minister of Health must make regulations that he or she considers necessary 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… (clause 4(3)(a)). However, since no such regulations have been forthcoming pursuant to this discretionary authority, there is in fact no systematic federal oversight, nor any sufficiently detailed public reporting of medical assistance in dying over the first 10 months of the practice in Canada. The public review required in five years time by section 10(1) will, without properly regulated data collection, have limited evidence on which to base its findings. See, for additional details, the Nov. 2016 submission from the VPS Community to Canadian Institute for Health Information. **1.3 Not Compliant:** The *Act* does not address promotion or support for

	options for all Canadians with end-of-life conditions will be prioritized and the impact of the practice of physician-assisted death will be subject to ongoing and rigorous attention.	independent research into the social impacts of medical assistance in dying. There has yet to be any assurance that detailed descriptive data relevant to such inquiries will be collected and publicly available, nor funding provided to conduct such research. The public review required in five years time by section 10(1) will, in the absence of funding for independent research, have limited evidence on which to base its findings. **1.4 Partially Compliant:** The *Act* commits the Government of Canada, in principle, to "facilitate access to palliative and end-of-life care", but requires no specific action by the federal government other than a review of "the state of palliative care in Canada" to be undertaken as part of a parliamentary review of the *Act* in five years' time, specified in clause 10(1). Similarly, the impact of the practice of medical assistance in dying is not prioritized for ongoing attention in any specific provision of the *Act*.
2. End-of-life Condition Physician-assisted death is only authorized for end-of-life conditions for adults in a state of advanced weakening capacities with no chance of improvement and who have enduring and intolerable suffering as a result of a grievous and irremediable	**2.1** Two physicians must independently assess the adult's medical condition as grievous and irremediable, meaning an advanced state of weakening capacities, with no chance of improvement, and at the end of life. **2.2** The physicians who make these threshold assessments must have specific expertise in relation to the person's medical condition as well as the range of appropriate care options. They must have met with	**2.1 Compliant:** Two independent medical practitioners or nurse practitioners must confirm the person's eligibility, including that the person is at least 18 years of age and capable, has a grievous and irremediable medical condition, is in an advanced state of irreversible decline, and that "their natural death has become reasonably foreseeable" (clause 3, replacing section 241 of the Criminal Code) The requirement for 'reasonably foreseeable natural death' is linked to the requirement that "vulnerable persons must be protected from being induced, in moments of weakness, to end their lives", as specified in the *Act*'s preamble. This is a new legal threshold whose precise meaning has yet to be considered by the courts. It should also be noted that clause 9.1 commits the government, among other things, to further study issues related to requests for medical assistance in dying from mature minors or persons whose mental illness is the 'sole underlying medical condition'. See, for

medical condition.	the patient and diligently explored their request.	additional details, the submission from the VPS Community to Federal Ministers of Justice and Health regarding the mandate of these studies. **2.2 Partially Compliant:** The patient must be well informed, and the medical or nurse practitioners must provide medical assistance in dying with 'reasonable knowledge, care and skill and in accordance with any applicable provincial laws' (clause 3 of the *Act*, amending Criminal Code section 241.2(7)). However, the issue of the medical practitioners' specific expertise in relation to the person's medical condition and care options is not addressed, nor does the *Act* require that medical practitioners actually meet the patient.
3. Voluntary and Capable Consent Voluntariness, non-ambivalence and decisional capacity are required to request and consent to an assisted death, including immediately prior to death.	**3.1** In evaluating the request, physicians must separately attest that the person: A) has made the request independently, free of undue influence or coercion; B) has capacity to make the request; C) is informed and understands all alternatives; and, D) has been supported to pursue any acceptable alternatives, including palliative care. **3.2** A physician must attest at the time when assistance is provided that the person has the capacity to give	**3.1 Partially Compliant:** The *Act* is broadly consistent with this safeguard but fails to require that the patient be supported to pursue alternative courses of action, including palliative care. The *Act* requires only that patients be "informed of the means that are available to relieve their suffering, including palliative care" (See clause 3 of the *Act*, which amends Criminal Code section 241.2) **3.2 Partially Compliant:** The medical or nurse practitioners must be of the opinion that the person made a voluntary request that was not the result of "external pressure" and has given informed consent. The person must be informed that they may, at any time and in any manner, withdraw their request, and then the person must wait at least 10 days. Immediately before providing medical assistance in dying, the medical or nurse practitioners must give the person an opportunity to withdraw their request and also ensure that the person gives express consent (clause 3 of the *Act*, which amends Criminal Code section 241.2(1)(d) and (e)). However, the *Act* does not explicitly address the important issues of

	consent, and that consent is voluntary and non-ambivalent. **3.3** In all discussions related to physician-assisted death with the patient, neutral, independent and professional interpretation services, including ASL/LSQ, must be provided as required. **3.4** The use of advance directives to authorize physician-assisted death is prohibited.	ambivalence and inducement. The *Act* does not define "external pressure", identify any means or standard for the identification of such pressure, or give any express direction about whether practitioners can introduce the subject of medical assistance in dying with a patient who has made no such request. **3.3 Partially Compliant:** The *Act* provides that "if the person "has difficulty communicating," the medical or nurse practitioners must "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" (clause 3 of the *Act*, which amends Criminal Code section 241.2(1)(d) and (e)). What constitutes 'reliable means', however, remains undefined. The *Act* does not stipulate that those 'reliable means' be neutral or independent, nor that they extend to include the services of professional speech language pathologists, sign language interpreters, deafblind intervenors and / or translators. **3.4 Compliant:** Although the use of advance directives is prohibited, the *Act* commits the government to further study of this issue (clause 9.1).
4. Assessment of Suffering and Vulnerability A request for physician-assisted death requires a careful exploration of the causes of a patient's suffering as	**4.1** Two physicians must, after consultation with members of the patient's extended health care team, attest that the person's subjective experience of enduring and intolerable suffering is the direct and substantial result of a grievous and irremediable medical condition.	**4.1 Partially Compliant:** Two medical or nurse practitioners must attest that the person's subjective experience of enduring and intolerable suffering is caused by a serious and incurable illness, disease or disability (clause 3 of the *Act*, which amends Criminal Code section 241.2(1)(d) and (e)). However, the *Act* does not require consultation with the patient's primary care physician or members of their extended health care team. **4.2 Not Compliant:** The *Act* does not require any exploration into the factors that might be influencing a person's request. The *Act* does not

well as any inducements that may arise from psychosocial or non-medical conditions and circumstance.	**4.2** If psychosocial factors such as grief, loneliness, stigma, and shame or social conditions such as a lack of needed supports for the person and their caregivers are motivating the patient's request, these will be actively explored. Every effort must be made, through palliative care and other means, to alleviate their impact upon the person's suffering.	stipulate efforts that must be made to address psychosocial factors or to alleviate suffering by alternative means. An assessment of suffering or vulnerability, which could be used to determine the effect of psychosocial factors, is not required by the *Act*, despite a strong commitment in its preamble to the protection of vulnerable persons.
5. Arms-Length Authorization The request for physician-assisted death is subject to an expedited prior review and authorization by a judge or independent body with expertise in the fields of health care, ethics and law. The law, the eligibility assessment process, and mechanisms for arms-length prior review and	**5.1** Every request along with all related clinical assessments are reviewed by a judge or an independent expert body with authority to approve or deny the request for exemption from the prohibitions on assisted death, or to request more information prior to making a determination. **5.2** Decisions will be made on an expedited basis, appropriate to the person's life expectancy prognosis and with a degree of formality and expertise appropriate to the circumstance.	**5.1-3 Not Compliant:** The *Act* does not require a prior review by an independent body. Instead, it requires two medical/nurse practitioners to provide written opinions confirming that the patient meets all criteria, with a waiting period lasting no fewer than 10 days (unless death is imminent) between the request and provision of medical assistance in dying. Although specifying that these two medical practitioners must "be independent", the *Act* does not define independence in this context. **5.4 Partially Compliant:** The *Act* does establish a consistent pan-Canadian definition of "grievous and irremediable medical condition" and keeps in place the Criminal Code prohibitions relating to euthanasia and assisted suicide except where very specific criteria for medical assistance in dying are met. (clause 1, which amends Criminal Code section 227, and clause 3, which amends Criminal Code sections 241(2)-(7)). However, the *Act* makes no provision for vulnerability assessment or independent prior review.

authorization are both transparent and consistent across Canada.	**5.3** Reasons will be recorded and reported for each decision. **5.4** Legal provisions for exemption to the prohibitions on assisted death are in the Criminal Code to ensure pan-Canadian consistency, including: definitions, criteria for access, requirements of vulnerability assessments, and terms for independent prior review in each province or territory.	