BILL C-14, MEDICAL ASSISTANCE IN DYING

Submission to the Senate Standing Committee on Legal and Constitutional Affairs

By: HealthCare*CAN*

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HealthCare*CAN*
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HealthCareCAN is the national voice of healthcare organizations and hospitals across Canada. We foster informed and continuous, results oriented discovery and innovation across the continuum of healthcare. We act with others to enhance the health of the people of Canada; to build the capability for high quality care; and to help ensure value for money in publicly financed, healthcare programs.

Introduction

HealthCare*CAN* - the national voice of Canadian hospitals and healthcare organizations – appreciates the opportunity to provide comments to inform the work of the Senate Standing Committee on Legal and Constitutional Affairs with respect to Bill C-14. The implementation of medically-assisted dying services has far-reaching implications for HealthCare*CAN* members. Death and dying are realities that Canada's healthcare organizations and hospitals deal with on a daily basis.

HealthCare*CAN* would like to emphasize that there is a diversity of views among our members with respect to end-of-life care and medically-assisted dying. All HealthCare*CAN* members are committed to ensuring the highest quality of end-of-life care for patients and their families. Canadian healthcare organizations and hospitals are also deeply committed to patient-centred care and a patient-centred response.

Bill C-14: A Reasonable, Measured Approach

HealthCare*CAN* supports the overall measured approach of the federal government's proposed legislation on medical assistance in dying. HealthCare*CAN* believes that the federal government has appropriately balanced the rights of individuals and the obligations of a caring society.

Toward an Expeditious Passage of Bill C-14

HealthCare*CAN* supports the expeditious passage of Bill C-14 as an essential step toward a coordinated, harmonized and consistent approach across the country, and clear parameters, policies and procedures around medical assistance in dying.

We recognize that provinces and territories may choose to adopt additional laws and regulations around medical assistance in dying. Professional regulatory authorities also have an obligation to provide direction to their members with respect to their role-specific responsibilities for medical assistance in dying. HealthCare*CAN* strongly supports the federal government's commitment to, "work with the provinces and territories to support a consistent approach … across Canada."

A clear federal legislative response to the *Carter v. Canada* decision is required, respecting the Constitution, the *Canadian Charter of Rights and Freedoms*, and the priorities of Canadians. Without a clear exemption in the *Criminal Code* for selected health professionals in prescribed conditions, health care providers may be reluctant to provide medical assistance in dying. This is

notwithstanding the fact that medical assistance in dying will be lawful as of June 6, 2016, in accordance with the parameters set out in the *Carter* decision. A lack of clarity and absence of prescribed safeguards would be concerning for our members on a national level.

The Importance of Clarity

Clarity around medical-assisted dying is of utmost importance to our members. Although HealthCare*CAN* is not proposing specific amendments to Bill C-14 at this time, we would generally support amendments to improve the clarity of the legislation as appropriate, while maintaining the intent of Parliament to strike a reasonable balance. For example, some stakeholders have called for increased clarity with respect to the requirement/criteria that, "natural death has become reasonably foreseeable".

Conscientious Objection

HealthCare*CAN* is supportive of the language in the Preamble of Bill C-14, stating that the Government of Canada has committed to, "respect the personal convictions of health care providers" and the assurance by the Federal Health Minister, the Honourable Jane Philpott that, "under this bill, no health care provider will be required to provide medical assistance in dying." As outlined in the federal Department of Justice's analysis of Bill C-14, "freedom of conscience and religion are protected from government interference by paragraph 2(a) of the *Charter*." Respect for conscientious objection will be relevant for the range of health providers that will be involved in medical assistance in dying.

Background materials provided by the Government state that, "[b]alancing the rights of medical providers and those of patients is generally a matter of provincial and territorial responsibility." HealthCare*CAN* supports the government's commitment, "to work with provinces and territories to support access to medical assistance in dying, while respecting the personal convictions of health care providers."

Bill C-14 is silent on the role of hospitals and healthcare organizations in assisted death. Many healthcare institutions across Canada operate under a specific mission, vision, set of values and/or ethical framework. Our members across the country are seeking clarity, either federally or provincially, of their ability to honour their missions and ethical frameworks while ensuring that patient care remains a top priority.

Access to Medically-Assisted Dying

HealthCare*CAN* commends the federal government for its commitment (as outlined in Bill C-14 background materials) to:

"…work with provinces and territories on the development of mechanisms to coordinate end-of-life care for patients who want access to medical assistance in dying. This system would help connect patients with a physician or nurse practitioner willing to provide medical assistance in dying, and support the personal convictions of health care providers who choose not to participate. It would also respect the privacy of those who are willing to provide this assistance. This system could also offer other end-of-life care options to both patients and providers."

Efforts will need to be made to ensure that access to medical assistance in dying and end-of-life care is consistent both across the country and within individual provinces. Canadians receive healthcare in a wide range of settings – including the home - and in varying geographic settings. Consideration needs to be given to situations where there may be limited access to care. In some geographic areas and smaller communities, and in rural and remote regions, it may be challenging for patients to identify healthcare providers who are both willing and able to provide medical assistance in dying.

A patient-centred response is also required - processes and pathways for implementing medically-assisted dying must be patient-centred.

There will also be a need to coordinate services across healthcare settings, in collaboration with primary care and homecare providers, among others. Bill C-14 opens the door to self-administration of life-ending medications so that assisted death must not necessarily be performed in a hospital or healthcare facility.

HealthCare*CAN* supports the establishment of centralized bodies and information systems to facilitate access and a patient-centred response, and to ensure high quality information and continuity of care, while also respecting the right of a healthcare provider to conscientiously object. We support centralized systems that can be directly accessed by patients, families, health care professionals and institutions.

High Quality Palliative and End-of-Life Care Services

Although not part of the legislation, the federal government re-stated its commitment to support improvements of a full range of quality end-of-life care options when introducing Bill C-14. It specifically mentioned its commitment to improve palliative and end-of-life care during discussions with the provinces and territories of a new Health Accord.

Medical assistance in dying needs to be seen along a spectrum that includes doing all we can to provide high quality, compassionate health care services, supportive palliative care and, when required, medical assistance in dying. Far too few Canadians have access to high-quality palliative

care when they need it. Canadians also need to be made more aware of the palliative care options currently available to them.

HealthCare*CAN* strongly supports increased federal investment in, and enhancement of, high quality palliative and end-of-life care services. In this regard, HealthCare*CAN* applauds the federal government's plan to invest $3 billion over the next four years to prioritize home care services, including palliative care.

Conclusion

In conclusion, HealthCare*CAN* would like to thank the Committee for this opportunity to provide input on Bill C-14. HealthCare*CAN* is committed to continuing to work with governments, members and other stakeholders to ensure that the intent of the federal government to strike the right balance is realized in practice – ensuring access to medical assistance in dying, balanced against the obligations of a caring society, and also respecting personal convictions of health care providers.

As initiatives around medically assisted dying unfold – for instance, as steps are taken to develop coordinated systems to ensure reasonable access - HealthCare*CAN* and its members welcome the opportunity to provide ongoing input.