



**Interim Report
Select Standing Committee on Health
Fourth Session 40th Parliament**

October 28, 2015

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

I have the honour to present herewith the Interim Report of the Select Standing Committee on Health. This Interim Report provides the Committee's recommendations to the Legislative Assembly on the topic of physician-assisted dying.

In the fall of 2014, the Select Standing Committee on Health issued a call for written submissions on how to ensure the quality and sustainability of the B.C. health care system. Approximately 340 stakeholder organizations and individuals were invited to make a submission and a background document and general call for submissions was provided to all Members of the Legislative Assembly for distribution through their constituency offices. In addition, information about the consultation was posted on the Committee's website and distributed through social media. A total of 374 submissions were received by the December 31, 2014 deadline, 111 of which addressed best practices to improve end-of-life care, one of four topics proposed in the Committee's call for submissions.

Submissions received addressed a wide range of topics related to end-of-life care, including: pain management, palliative care, access to palliative care across the province and across the continuum of care; improved training for health professionals and staff who care for end-of-life patients; resources for caregivers; and integration of advance care planning as a required standard of care. Between April and September 2014, the Committee invited organizations and individuals that made submissions to appear before the Committee to provide additional details related to their submissions.

The Select Standing Committee on Health continues to review all the submissions received and anticipates releasing a report on its findings on improving end-of-life care in the coming months.

Physician-Assisted Dying

Although not part of the Committee's call for submission, 230 of the 374 submissions received addressed the specific topic of physician-assisted dying. Due to the number of submissions received on this topic, on Thursday, March 26, 2015, the Select Standing Committee on Health struck a Sub-committee to review the submissions received.¹

The Committee heard presentations on the topic of physician-assisted dying at public hearings on April 29, 2015 (Dying With Dignity Canada; Wanda Morris and Dr. David Robertson) and July 15, 2015 (British Columbia Civil Liberties Association; Josh Paterson).

Background

On February 6, 2015, the Supreme Court of Canada released its unanimous decision in the case of *Carter v. Canada (Attorney General)* 2015 SCC 5 [2015] 1 S.C.R. 331, "that the prohibition on physician-assisted dying is void insofar as it deprives a competent adult of such assistance where (1) the person affected clearly consents to the termination of life; and (2) the person 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." Further, the Court agreed that the evidence supported the trial judge's findings that "a properly administered regulatory regime is capable of protecting the vulnerable from abuse or error."

The Supreme Court allowed Parliament and the provincial legislatures 12 months to enact new legislation consistent with Canadians' *Charter* rights. However, as the Committee heard in the

¹ *That a Sub-Committee comprised of the Chair, Linda Larson, MLA; the Deputy Chair, Judy Darcy, MLA; Sue Hammell, MLA; Dr. Doug Bing, MLA; and Dr. Darryl Plecas, MLA be established to consider and make recommendations to the Select Standing Committee on Health on the topic of dying with dignity.*

The Sub-Committee shall have all of the powers of the Select Standing Committee on Health and is authorized to consider related written submissions received by the Select Standing Committee on Health during the 40th Parliament. The Sub-Committee shall convene at the Parliament Buildings or in Vancouver for the purpose of examining the evidence it has received and shall report to the full committee by November 30, 2015* its recommendations on the specific matter referred to it.*

**As agreed on July 15, 2015.*

presentation by the British Columbia Civil Liberties Association, if no action is taken, physician-assisted dying will be regulated in the same manner as other health care matters after February 6, 2016. That is, the provincial and territorial laws that apply to health care matters and the standards of the medical profession will govern physician-assisted dying.

In July 2015 the Government of Canada established a three-person External Panel on Options for a Legislative Response to the Supreme Court of Canada decision in *Carter v. Canada*, with a mandate to engage Canadians and key stakeholders on issues the federal government will need to consider in its response to the *Carter v. Canada* decision. The panel will provide a final report to the federal Ministers of Justice and Health.

While the Government of Canada provides fiscal support, the administration and delivery of health care services is the responsibility of Canada's provinces and territories, guided by the provisions of the *Canada Health Act*.

In August 2015 all Canadian provinces and territories with the exception of Quebec formed a Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying, which will provide advice to inform the development of policies, practices and safeguards required when physician-assisted dying is legalized in their jurisdictions. British Columbia is participating in the advisory group as an observer.

Quebec's National Assembly passed *An Act respecting end-of-life care* in June 2014, which is expected to come into force on December 10, 2015, establishing specific requirements for palliative sedation and medical aid in dying.

Recommendations

The Select Standing Committee on Health recognizes the difficult nature of the topic of physician-assisted dying, and divergent perspectives of British Columbians regarding appropriate limits and extent of a continuum of end-of-life care. The question before the Committee is not support or non-support for physician-assisted dying but rather, in the context of the Supreme Court of Canada *Carter v. Canada* decision, how physician-assisted dying, as a medical service, should be administered equitably in the province of British Columbia, ensuring all appropriate protections for the vulnerable. In making recommendations, it is the Committee's intention that the Province address the implications of the *Carter v. Canada* decision, respecting provision of health care services in British Columbia.

Based on its review of the written and oral submissions, and recognizing that the Committee did not seek input on the topic of physician-assisted dying, the Select Standing Committee on Health recommends to the Legislative Assembly that:

- The provincial government incorporate access to the provision of services related to physician-assisted dying across the continuum of care, including but not limited to: home care, supported living, acute care, extended care, hospice, and palliative care;
- The provincial government affirm physicians', pharmacists' and other medical professionals' right to conscientious objection in the provision of assistance in dying and their obligation, in such cases, to refer their patient to another physician or a designated public health authority;
- The provincial government designate public health authorities to (a) ensure equitable access to the provision of services related to physician-assisted dying for residents across the province, (b) provide a province-wide educational resource on available options for end-of-life care, and (c) provide a clear avenue for access to assisted dying in the event of conscientious objection by a physician, pharmacist or other medical professional;
- The provincial government assess whether current legislation respecting advance care planning directives is appropriately legally binding in light of the Supreme Court of Canada *Carter v. Canada* decision; and
- The provincial government work with other provinces and territories of Canada to ensure interjurisdictional harmonization respecting provision of services related to physician-assisted dying.

Respectfully submitted on behalf of the Committee,

Linda Larson, MLA
Chair