Physician assisted dying: Perspectives from the CMA

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Outline

- Provide a brief update on the current Canadian legal landscape on end-of-life care and assisted dying
- Clarify CMA policy and activities in this area
- Identify likely next steps in a complex process
Quebec first province to adopt right-to-die legislation

RÉAL SÉGUIN, QUEBEC CITY
The Globe and Mail
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In a historic vote in the National Assembly, Quebec has become the first province to legalize doctor-assisted death as part of comprehensive end-of-life legislation.

The Bill was adopted by a wide margin Thursday afternoon with support from all parties in the National Assembly. Liberal Premier Philippe Couillard invited his caucus to vote according to their conscience. A total of 22 Liberal MNAs voted against the Bill including 10 ministers. Members from other political parties voted in favour of the legislation. The final vote was 94 in favour and 22 against.

Parti Québécois MNA Véronique Hivon, who spearheaded the Bill when she was a minister in the recently defeated PQ government, argued the Bill should not be viewed as "medical aid-to-die" but rather as "end-of-life care."

The difference, she said, is significant because the Bill is dedicated to those who suffered intolerable pain knowing that their situation was
Supreme Court rules Canadians have right to doctor-assisted suicide

SEAN FINE  JUSTICE WRITER
The Globe and Mail
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Canadian adults in grievous, unending pain have a right to end their life with a doctor’s help, the Supreme Court ruled on Friday.

The unanimous ruling, by establishing that the “sanctity of life” also includes the “passage into death,” extends constitutional rights into a new realm. The courts have used the 1982 Charter of Rights to establish gay marriage and to strike down a federal abortion law. The new ruling will change the way some Canadians are permitted to die.

MORE RELATED TO THIS STORY

- GLOBE EDITORIAL  The Supreme Court gets it right
- ASSISTED DEATH  The story behind the CMA’s overwhelming change on assisted death
- ROBERT LECKEY  Ottawa must now draft an assisted-suicide law. It should look to Quebec

In a brief, powerful opening paragraph, the court explained why it was creating a new constitutional right to autonomy over one’s death in some circumstances: Those who are severely
The Carter Case

• Constitutional challenge of the Criminal Code section that makes physician-assisted dying illegal in Canada

• Brought by the B.C. Civil Liberties Association and a group of individuals
The Carter Case

• Madam Justice Lynn Smith of the BCSC ruled that the Criminal Code provisions indeed did “unjustifiably infringe the equality rights” of the plaintiffs in the case

• Justice Smith gave Parliament one year “to take whatever steps it sees fit to draft and consider legislation”
The Carter Case

- The BC Court of Appeals subsequently overturned the BCSC decision
- The Supreme Court of Canada agreed to hear the case
The Carter Case

• Supreme Court of Canada hearing took place on October 15, 2014

• The CMA appeared as a “friend of the court”
Supreme Court Ruling – February 6, 2015

- Held: The appeal should be allowed.

- Section 241 b and s. 14 of the Criminal Code unjustifiably infringe s. 7 of the Canadian Charter of Rights and Freedoms.
They are of no force or effect to the extent that 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

The declaration of invalidity is suspended for 12 months
Unanswered questions

- Terminal illness? – no reference in the ruling

- Oversight and reporting mechanism, data gathering and reporting

- Process for requesting aid in dying and determining patient qualification
- Obligation to refer to another physician?
  - College of Physicians and Surgeons of Ontario policy
- Just physicians or other health care professionals?
CMA Town Halls

- Five public town halls
  - St. John’s
  - Vancouver
  - Whitehorse
  - Regina
  - Mississauga

- Moderated by editor from Maclean’s magazine

- Three-person panel
CMA Town Halls

Four parts:

- Terminology
- Advance care planning
- Palliative care
- Medical aid in dying
CMA Town Halls: What we heard

- The terminology developed by the CMA to discuss end-of-life care should be widely communicated to health care providers, policy-makers and the public.

- All Canadians should discuss end-of-life wishes with their families or other loved ones.

- All Canadians should prepare advance care directives that are appropriate and binding for the jurisdiction in which they live.
CMA Town Halls: What we heard

- A national palliative care strategy should be developed
- All Canadians should have access to appropriate palliative care services
- Funding for palliative and hospice care services should be increased
- More education about palliative care approaches and as well as how to initiate discussions about advance care planning is required for medical students, residents and practising physicians
The Canadian public is divided on whether the current Canadian ban on euthanasia and physician-assisted dying should be maintained or not.

If the law in Canada is changed to allow euthanasia or physician-assisted dying, strict protocols and safeguards are required to protect vulnerable individuals and populations.
Online:

- Over 1200 registered CMA members
- Hundreds of thoughtful and respectful comments on assisted dying, palliative care and ACP
CMA Member Dialogue

- In-person member consultation
- Moderated by the CMA

St. John’s
Edmonton
Vancouver
Whitehorse
Fredericton
Regina
What we learned from our members

- Canadian physicians are ready to lead the conversation on death and dying
- These are no longer taboo subjects
- Physicians clearly recognize the need for ACP and the tremendous value of palliative care services
- The profession is divided on the issue of assisted death
Key resolution:

The Canadian Medical Association supports the right of all physicians, within the bounds of existing legislation, to follow their conscience when deciding whether to provide medical aid in dying as defined in CMA's policy on euthanasia and assisted suicide.

Passed with 91% support
Next Steps

- Advocating for the adoption of “Principles-based CMA Legislative Framework”

- Addresses some of the unanswered questions from the SCC decision and fills in some of the important gaps that are most relevant to physicians

- Being used to present the views of physicians to federal and provincial legislators and others on key issues
Provides the views of Canadian physicians on issues such as determining who should qualify for assisted dying, the process to be followed, the role of the physician and protection of conscience
Next Steps

- Framework:
  - Ongoing work with federal and provincial governments and regulatory bodies
  - Preference for national approach
  - Meetings with MP’s
  - Meetings with provincial MoH’s
  - Discussions with recently appointed federal and provincial expert advisory panels
- Ongoing support for Canadian physicians
  - In person events
  - Webinars
  - Meetings with provincial Boards and members
  - Educational program planning – major initiative
Objective:

To see the views of physicians, who will ultimately be responsible for administering assisted dying, reflected clearly in legislation and regulations so that patients who qualify will have access to assisted dying, physician rights will be protected and potential abuses will be minimized.
patients can obtain medical aid in dying if they meet the following criteria:

- be of full age,
- be capable of giving consent to care,
- be an insured