

NO LEGAL VOID if Bill C-14 Is Not Passed by June 6



There will be no legal or regulatory void if Bill C-14 does not pass. There is no need to rush to pass an unconstitutional federal bill because the provincial/territorial medical colleges have already put detailed guidelines and safeguards in place.¹ As the Federation of Medical Regulatory Authorities of Canada (FMRAC), representing all the provincial and territorial medical regulators, stated on May 19:

“FMRAC urges the Federal Government to take the necessary time to get appropriate legislation in place. In the meantime, the Supreme Court of Canada decision in Carter has provided direction to FMRAC’s members in guiding the medical profession.” –FMRAC press release, May 19, 2016.

- **Every single provincial medical regulator has already issued detailed, comprehensive guidelines instructing physicians on the process to follow for MAID.**
- **Two doctors:** Every provincial/territorial guideline requires two doctors to confirm the patient’s eligibility and voluntariness. Most require a waiting period. All require extensive documentation.
- **Provincial regulations fully govern MAID:** In the interim period until federal legislation that upholds the *Charter of Rights and Freedoms* is passed, physician-assisted dying will be regulated by the provincial and territorial laws that apply to health care matters and the standards of the medical profession. Physicians will be required to follow the mandatory directives of their governing medical colleges.
- **Carter and provincial/territorial rules set a high standard for MAID:** Competent adult patients will be required to meet the rigorous criteria set out by the Supreme Court of Canada in *Carter*: having an illness, disease or disability that is grievous and irremediable, and experiencing enduring and intolerable suffering.
- **Pharmacists and nurses will be able to assist physicians** because physician-assisted dying, lawfully conducted within the requirements of *Carter*, will not be a crime. There will therefore be no crime to “aid or abet” and no criminal liability for health professionals who participate, consult or assist a physician who is lawfully providing physician-assisted dying.
- **Conscientious objection rights of physicians are protected in all of the provincial/territorial guidelines.**

No Court-imposed deadline for legislation

The Supreme Court of Canada **did not require Parliament to pass legislation by a particular date (or, indeed, ever)**. The Court stated: “it is for Parliament and the provincial legislatures to respond, **should they so choose**, by enacting legislation consistent with the constitutional parameters set out in these reasons.” (*Carter* decision, para. 126)

What happens on June 6, 2016, is that the *Carter* judgment becomes law, it will no longer be a crime for a physician to provide assistance in dying for patients that meet the strict criteria of the judgment. The provincial/territorial medical regulators’ assisted dying standards will govern MAID along with the criminal and common law. Parliament can take the time it needs to amend Bill C-14 so that it will not violate the *Charter of Rights* by ensuring that non-terminal patients can access MAID, a right that they were guaranteed in the *Carter* ruling.

C-14 is unconstitutional: The recent Alberta Court of Appeal decision confirms: “**the Supreme Court in *Carter 2015* did not expressly limit the right to dying individuals or those with medical conditions that are terminal, life-threatening, or that reduce one’s life expectancy.**” (*E.F. v. Canada*, para. 27) Bill C-14’s restriction of MAID to those whose natural deaths are reasonably foreseeable is unconstitutional, and must be amended.

¹ON, QC, NS, NB, MB, PE, BC, AB, SK, NL and YT have guidelines in effect. NWT states it will complete guidelines by June 6. Nunavut is preparing guidelines.