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Standing Committee on Legal and Constitutional Affairs
lcjc@sen.parl.gc.ca

Dear Committee Members:

Re: Brief regarding *Bill C-14 An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)*

I appreciate the opportunity to provide you this brief with my recommendations for changes to the text of Bill C-14. Based on personal experience, I firmly believe there is a need to expand end-of-life choices that help Canadians to avoid unwanted and unnecessary suffering. For several years I have been actively engaged in conversations and efforts with others in my community to advance this matter.

I was very impressed with the unanimous decision of the Supreme Court of Canada (SCC) in *Carter v Canada* on February 6, 2015 that held the *Criminal Code* prohibition on physician-assisted dying was overbroad and could not be justified in a free and democratic society. The Court considered it cruel that with the *Criminal Code* prohibitions some patients face a choice of killing themselves while they still have quality of life. In addition the judgement said that the sanctity of life includes the passage into death, and the experience of other countries shows that the vulnerable can be protected.

The SCC struck down the *Criminal Code* prohibition on assisted dying and held that physician-assisted dying should be an option for a competent adult person who (1) clearly consents and (2) has a grievous and irremediable medical condition that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition. The August 2015 report and recommendations of the Provincial-Territorial Expert Advisory Group honour the spirit of the SCC decision by outlining a compassionate, patient-centered approach to medical aid in dying in Canada. In my view Bill C-14 falls short of the intent of the SCC decision and of the recommendations of the Provincial-Territorial Expert Advisory Group.

The following are my key concerns regarding Bill C-14 and my recommendations for changes.

- Section 241.2(2) of Bill C-14 unnecessarily defines grievous and irremediable medical condition, and in doing so interferes with the rights of patients and significantly limits those who would have access to physician-assisted dying. This section requires that to receive medical assistance in dying a person be “incurable”, “in an advanced state of irreversible decline” and that “their natural death has become reasonably foreseeable”. Here, Bill C-14 violates a patient-centered approach by interfering in the patient’s ability to define in consultation with their doctor and/or other caregiver what they find to be grievous and irremediable and to cause enduring suffering that is intolerable. It is the individual, not the State, who has the right to determine this. People suffering from MS, or ALS but whose death is not deemed to be imminent would not qualify for assisted dying under Bill C-14.

In addition, the SCC decision states that irremediable “does not require the patient to undertake treatments that are not acceptable to the individual”. This qualification is lacking in Bill C-14. For example, under Bill C-14, a doctor may deny an advanced cancer patient medical aid in dying because the doctor wishes to prescribe more chemotherapy whereas the patient does not wish to endure it.

- Sections 241.2(1) and 241.2(3) require that to receive medical assistance in dying a person must be capable of making decisions with respect to their health, give informed consent, and also give express consent immediately before providing the medical assistance in dying. Thus, under Bill C-14, providing advance consent is precluded. People with a diagnosis of dementia and other degenerative medical conditions would continue to face the cruel choice of killing themselves while they still have quality of life; a cruelty the SCC ruling was meant to address.

In conclusion, I urge you to honour the spirit and use the language of the SCC decision *Carter v Canada* in any new law as this will ensure that the law is compliant with that decision as well as the *Canadian Charter of Rights and Freedoms*.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cheryl Bradley', written in a cursive style.

Cheryl Bradley