

## Medical Assistance in Dying – An Explanation of the New Law

On June 16, 2016 a new law entitled “An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)” came into effect. If you would like a copy, which is 14 pages long, google Statutes of Canada, 2016. The new law was a result of a decision of the Supreme Court of Canada in a case called *Carter* which ruled that prohibitions in our criminal law that prohibited physician assisted death were unconstitutional. Based on my background, I now hope to offer you a brief summary of the main provisions of the new law.

Two points need to be made. The new law has raised many questions that the courts will have to interpret. Second it is important for anyone concerned about becoming involved in the provisions of the new act to get legal advice.

The new law now permits medical and nurse practitioners to assist a person in dying providing they follow the very stringent requirements of this law.

In the portions that follow I shall from time to time quote directly from the law.

The law defines medical assistance in dying. This occurs when a physician or nurse practitioner administers a substance “to a person at their request that causes their death” and goes on to release these same professionals if they prescribe a substance to a person who self administers. Pharmacists who prepare the drug are exempt from prosecution if they follow the law.

The eligibility for medically assisted death for people considering it are as follows:

1. the person must be eligible for provincial health care
2. they must be 18 and “capable of making decisions with respect to their health”
3. “they must have a grievous and irremediable medical condition”
4. they must have made a voluntary medical request that was not the result of external pressure
5. they must truly understand what they are asking for and must be first informed of other measures to relieve suffering that include palliative care

The new law then goes onto define a “grievous and irremediable condition”.

There are 4 requirements. They are:

1. The disease or condition must be serious and incurable
2. the person must be in “an advance state of irreversible decline in capability”
3. they must be experiencing physical or psychological “suffering that is intolerable” and cannot be relieved by anything acceptable
4. their “natural death has become reasonably foreseeable ... without a prognosis .. to the specific length of time they have remaining.”

The law also spells out in detail how consent must be given, who can witness the consent and requires 2 independent physicians or nurse practitioners to confirm that the conditions of the statute has been met. There is a cooling off period of 10 days after consent has been given although even that can be shortened. Although it is a short law, it is very precise in setting out detailed steps before medically assisted death can occur. Physicians and nurse practitioners are entitled to refuse to participate.

Please note that the law does not apply to minors or those incapable of making decisions with respect to their health.. It does not apply to persons who are not dying. It does not allow for advanced consent. It will be up to the courts and future reviews by Parliament, which the law requires, to answer some of these problems and questions.

The question still remains for all of us. How would Christ respond?

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July 18, 2016