



CHRISTIAN LEGAL FELLOWSHIP

— Alliance des chrétiens en droit —

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October 7, 2016

To: Ms. Karen Matty, Chair of the Fraser Health Authority Board of Directors
Mr. John Bethel, Chair of Quality Control Committee of the Fraser Health Authority Board

Re: Provision of Medical Aid in Dying (MAID) in hospices and palliative care units in the Fraser Health Authority

We understand that the Fraser Health Authority Board of Directors is considering whether to mandate all non-faith-based hospices and palliative care units to offer euthanasia and assisted suicide (MAID) on their premises. We urge you to reject this mandate, as it is neither required by the Supreme Court of Canada's decision in *Carter v. Canada*, nor by federal legislation governing MAID.

Hospices and palliative care units are intended to support patients in the natural dying process. Providing or allowing MAID within these facilities is considered by medical professionals and administrators who work there to be a form of participating in and condoning of assisted suicide or euthanasia. Many palliative care specialists wish to keep assisted suicide and euthanasia out of their discipline rather than integrate assisted suicide as another "treatment option". The World Health Organization defines palliative care as an approach that "affirms life" and "intends neither to hasten or postpone death." The CMA's General Council recently passed a motion recognizing that the "practice of assisted death as defined by the Supreme Court of Canada is distinct from the practice of palliative care". Forcing hospices or the palliative care units to participate in euthanizing or facilitating the death of a patient stands in stark opposition to the very purpose of palliative care – which is designed to maximize the quality of life of patients facing life-threatening illness – and will undermine its efficacy.

We write to you on behalf of Christian Legal Fellowship, Canada's association of Christian lawyers, law students, legal scholars, and retired judges. Christian Legal Fellowship takes the position that no person or health care unit (including hospices) should be pressured to participate, directly or indirectly, to provide or refer patients for MAID.

Our organization intervened at all three levels of court in *Carter v Canada*. The Supreme Court of Canada did not conclude that patients have a right to medically assisted suicide; it found only that the total ban on assisted suicide in the *Criminal Code* infringed the *Charter* right to life, liberty, and security of the person. That the Court found a complete prohibition on MAID to be overly broad does not mean it turned assisted suicide from a crime in 2015 to a "health care right" required in every hospice and palliative care unit in 2016.

It should come as no surprise that there is no *Charter* right to assisted suicide or euthanasia, just as there is no *Charter* right to receive every single available medical treatment in every single health care

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institution. Even if assisted death were characterized as a “right”, it would be a right vis-à-vis the state, not vis-à-vis individual health care professionals or health care institutions. As such, there is no justification for requiring all palliative care units within Fraser Health to offer this ‘service’.

Carter determined only that the law could not prohibit Gloria Taylor (the main plaintiff, a patient with ALS) and persons in her position from receiving “assistance in dying” from a willing physician. Ms. Taylor found such a doctor, who was also named as one of the parties in the case.

The Supreme Court of Canada did not say that a health care professional should, or even could, be required to participate in assisted suicide. The Court nowhere states that health care units, hospices, or the government has an obligation to ensure that physicians are available to provide such assistance. There is no *Charter* right to compel someone else – physician or otherwise – to end one’s life. In fact, the Court states in its reasons the exact opposite – that nothing “would compel physicians to provide assistance in dying”.

Carter does not say – nor could it – that the medical profession or palliative care units either individually or collectively must now embrace assisted suicide as a medical solution to suffering. Nor did *Carter* say that assisted suicide or euthanasia is in any patient’s best interest. Many if not most physicians appear to believe it is not. The World Medical Association “strongly encourages all National Medical Associations and physicians to refrain from participating in euthanasia, even if national law allows it.” The CMA stated in 2007 that “a fundamental reconsideration of traditional medical ethics would be required” in order for the medical profession to participate in assisted suicide or euthanasia. A CMA consultation in 2014 concluded that the majority of its members supported CMA’s opposition to physician assisted dying, though the CMA has since stated that it “may be appropriate” in rare circumstances.

Whatever may be the views of the Fraser Health Authority’s board on assisted suicide and euthanasia, it should not force a revolution in medical ethics onto objecting physicians and health care units. Nothing in *Carter* requires this. Instead, it ought to ensure that physicians’ constitutional freedom of conscience is protected, and allow them the professional autonomy to determine what, in their clinical judgment, and in accordance with their ethical and professional obligations, is the most appropriate treatment for their patients.

Such an approach would preserve diversity of perspectives and patient choices within the practice of medicine. Patients and their families who seek physicians and health care units that affirmatively practice medicine according to principles that unconditionally value human life should have the choice to do so.

In *Carter*, the Supreme Court said that the criminal prohibition on assisted suicide violated the *Charter* in the “factual circumstances in this case.” It did not “medicalize” assisted suicide or demand that every health care unit in Canada participate. The Fraser Health Authority shouldn’t either.

Respectfully submitted,



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