



Canadian Physicians
for Life

Canadian Physicians for Life's select summary of

The Report of the Special Joint Committee on Physician-Assisted Dying

The report, entitled *Medical Assistance in Dying: A Patient-Centred Approach*, was released by the Committee on February 25, 2016.

The Special Joint Committee on Physician-Assisted Dying was created to consider the Federal External Panel's report,¹ the views of experts and stakeholders and the Canadian public's opinions on "physician-assisted dying", and to provide recommendations on a federal response.² The Committee developed 21 recommendations, 7 of which are particularly contentious and are summarized below.

Four members of the Committee, who disagreed with recommendations that were made, expressed their views in the Dissenting Report. The following members were among those in dissent: Michael Cooper (MP, St. Albert – Edmonton), Mark Warawa (MP, Langley – Aldergrove), Gérard Deltell (MP, Louis – St. Laurent) and Harold Albrecht (MP, Kitchener – Conestoga).³

Recommendation 2: The Committee asserts that the Supreme Court did not expressly limit "medical aid in dying" (MAID) to patients with a terminal grievous and irremediable medical condition.⁴ Since the Committee recognizes that those with non-terminal grievous and irremediable medical conditions would also face intolerable suffering, they recommend that access be provided to these individuals as well.⁵

Recommendation 3: It is not recommended that persons with mental illness be precluded

from accessing MAID by virtue of their mental condition, if they otherwise meet the criteria.⁶ The basis for this recommendation is that doctors are capable of assessing whether individuals, who suffer from mental illness, are competent and voluntarily consenting.⁷ The Committee recommends that the health care professions create guidelines for their members on how to approach and assess these patients.⁸

Dissenting Report - It is particularly concerning that the Committee did not provide any recommendations on requiring a psychiatric assessment for mentally ill patients requesting MAID; reflecting a lack of adequate safeguards.⁹

Recommendation 6: The Committee recommends that "competent mature minors" have the option to access MAID.¹⁰ The Committee does not believe minors should be excluded, because mature minors have, to an extent, the right to make certain decisions about their own health care, and they also experience intolerable suffering.¹¹ Medical professionals are to be responsible for adequately determining whether the minor is capable of consenting.¹² The Committee recommends that MAID should initially be limited to those who are 18 and older, and after three years of research, mature minors should be allowed to access MAID.¹³

Dissenting Report - The four MPs expressed their disagreement with the recommendation to permit mature minors to access MAID, stating that the Supreme Court expressly



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limited the service to
"competent adult persons".¹⁴

Recommendation 7: The Committee recognizes the challenges involved in allowing patients to request MAID in advance of incapacity: patients changing their decision after becoming incapacitated, or being unable to precisely determine criteria as to when to proceed with MAID.¹⁵ However, the Committee does not want these individuals to continue to suffer after being rendered incompetent, nor does the Committee want these individuals to end their life earlier than they would have wished.¹⁶ Thus, the Committee recommends that individuals, who have already been diagnosed, be permitted to make the request in advance.¹⁷

Dissenting Report – The view is that there was insufficient time for research into the legal and policy issues around advanced directives for MAID, and that more research is required.¹⁸

Recommendation 8: The Committee recommends that only those who are insured and eligible for public health care in Canada be able to access MAID.¹⁹

Recommendation 10: The Committee recommends that the best way to accommodate a health care professional's freedom of conscience, while ensuring that the patient receives timely access to MAID, is to require the professional to provide an "effective referral."²⁰

Dissenting Report - The dissenting opinion supports the following balance between

physician rights and patient interests: physicians should only be required to provide information on access, and then notify the appropriate government agency of the request. It then becomes the agency's responsibility to connect the patient with a physician who will provide MAID.²¹

Recommendation 11: The Committee recommends that all publicly funded health care institutions provide MAID.²²

Dissenting Report – The four aforementioned MPs assert that the protection of freedom of conscience should allow for health care institutions that object to MAID to opt out of providing the service.²³

¹ The External Panel was created to consult medical authorities, intervenors in the *Carter v Canada (AG)* case and the general Canadian public, with the aim of developing proposals for legislatively responding to the decision in *Carter*.

² Parliament, Special Joint Committee on Physician-Assisted Dying, *Medical Assistance in Dying: A Patient-Centred Approach: Report of the Special Joint Committee on Physician-Assisted Dying* (February 2016) at 2 (Joint Chairs: Honourable Kelvin Kenneth Ogilvie and Robert Oliphant).

³ *Ibid* at 51.

⁴ *Ibid* at 12.

⁵ *Ibid*.

⁶ *Ibid* at 14.

⁷ *Ibid*.

⁸ *Ibid*.

⁹ *Ibid* at 53-54.

¹⁰ *Ibid* at 21.

¹¹ *Ibid* at 20-21.



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¹² *Ibid* at 21.

¹³ *Ibid*.

¹⁴ *Ibid* at 53.

¹⁵ *Ibid* at 23.

¹⁶ *Ibid* at 24.

¹⁷ *Ibid*.

¹⁸ *Ibid* at 55.

¹⁹ *Ibid* at 24.

²⁰ *Ibid* at 26.

²¹ *Ibid* at 55.

²² *Ibid* at 27.

²³ *Ibid* at 55.