



# Justice Centre for Constitutional Freedoms

June 30, 2016

Dr. Martin Owen, MD (H) CCFP  
President Calgary Catholic Medical Association  
Family Physician

VIA EMAIL: [owen.martin.g@gmail.com](mailto:owen.martin.g@gmail.com)

Dear Dr. Owen,

**RE: Question Regarding Entitlement to Medical Assistance in Dying (“MAID”)**

We write further to your question as to whether there is an “entitlement” to either euthanasia or physician-assisted suicide as a result of the passage of Bill C-14: “An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)” (“Bill C-14”).

The short answer, according to the Supreme Court of Canada, is that there is no free-standing constitutional right to health care for Canadians (see *Chaoulli v. Quebec (Attorney General)*, [2005] 1 SCR 791 paragraph 104). Since there is no constitutional right to health care, it seems clear that there is no constitutional right to have the medical establishment kill you, irrespective of how some of the Colleges of Physicians and Surgeons are treating the new paradigm.

The decision in *Carter v. Canada (Attorney General)*, [2015] 1 SCR 331 does not positively obligate physicians or anyone else to add assisted suicide or euthanasia to their medical practices. Neither does Bill C-14. The prohibitions against euthanasia and assisted-suicide in the *Criminal Code* have been struck down as a violation of s. 7 of the *Charter* in the context of MAID. There is a difference between striking down the prohibition that prevented MAID, however, and saying that there is a constitutional right to MAID. The bottom line is that it is clearly impossible that the *Charter* enshrines a right to MAID, but does not enshrine a right to the provision of health care generally.

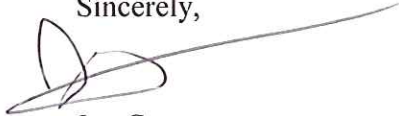
As you already know, Bill C-14 also does not confer on patients a right to require an unwilling doctor to assist with a suicide. Bill C-14 sets out the parameters which a patient has to meet to qualify for MAID. Bill C-14 creates an exception to the *Criminal Code* provisions against culpable homicide. But for Bill C-14, it would still be illegal to assist a patient to kill himself because the *Criminal Code* prohibition against assisting someone to commit suicide remain intact.

Some argue that ensuring a patient has access to all legal medical procedures is a sufficiently pressing and substantial objective to justify violating physicians’ conscientious and religious rights. However, the fact remains that patients do not have a *Charter* right to obtain whatever medical service or referral they may desire. Conversely, physicians do have a *Charter* right to

act on, and be guided by, their moral, ethical and religious beliefs, without this freedom being violated by a government body. The same applies to the provision of any other service. A law may provide individuals with the freedom to pursue an activity or course of action, but that is radically different from a law that requires others – on pain of sanction or adverse consequence – to assist (directly or indirectly) an individual in carrying out that legal activity or course of action.

I hope this helps. Please let me know if you have any further questions.

Sincerely,



for Jay Cameron

Barrister and Solicitor

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