

## **Protection of Conscience Project**

**Direct consultation with External Panel on Options for a Legislative Response to *Carter v. Canada*  
Vancouver, B.C.**

**26 October, 2015**

## **Recommendations**

### **Recommendations to avoid conflict following failed attempts**

- 1) Physicians should not undertake to provide assisted suicide unless they are also willing to provide euthanasia.
- 2) In all cases, the responsible physician should, as part of the informed consent discussion preliminary to decision making, advise the patient of the possibility that the drugs might not cause death and discuss the options available.
- 3) Immediately prior to administering or providing the lethal medication, the responsible physician should obtain written direction from the patient as to what action should be taken if the prescribed or administered drugs fail to cause death. (NB. In the case of patients incapacitated by failed euthanasia/assisted suicide, it is not known if this would be legally sufficient to invoke the exemption from prosecution provided by *Carter*.)
- 4) The responsible physician should personally administer the lethal drug or be personally present when it is ingested, and remain with the patient until death ensues.

### **Recommendations to avoid conflict in urgent situations**

- 5) A responsible physician who has agreed to provide euthanasia or assisted suicide must be continuously available to do so from the time the agreement is made to the time that the procedure is performed, unless the patient withdraws the request.
- 6) A responsible physician who has agreed to provide euthanasia or assisted suicide must also arrange for a second responsible physician to provide the procedure in the event that he is unable to be continuously present or is unable to act.
- 7) The second responsible physician must be continuously available to act in the place of the primary responsible physician.

### **Recommendations re: model policies**

- 8) It is preferable to have a single policy concerning the exercise of freedom of conscience and religion that can be applied to all morally contested procedures. This helps to avoid bias that occurs when some morally contested procedures are given a privileged position based on a predominant moral viewpoint (i.e., requiring referral for contraception but not for abortion, or for abortion but not for euthanasia, etc.)
- 9) A distinction can be made between providing information needed for informed medical decision making (required) and facilitating direct access to a morally contested service (not required).

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## **An Act to Safeguard Against Homicide and Suicide**

### **Section 241.1 Criminal Code**

#### **Compulsion to participate in homicide or suicide**

241.1(1) Every one commits an offence who, by an exercise of authority or intimidation, compels another person to be a party to homicide or suicide.

#### **Punishing refusals to participate in homicide or suicide**

241.1(2) Every one commits an offence who

- a) refuses to employ a person or to admit a person to a trade union, professional association, school or educational programme because that person refuses or fails to agree to be a party to homicide or suicide; or
- b) refuses to employ a person or to admit a person to a trade union, professional association, school or educational programme because that person refuses or fails to answer questions about or to discuss being a party to homicide or suicide.

#### **Intimidation to participate in homicide or suicide**

241.1(3) Every one commits an offence who, for the purpose of causing another person to be a party to homicide or suicide

- a) suggests that being a party to homicide or suicide is a condition of employment, contract, membership or full participation in a trade union or professional association, or of admission to a school or educational programme; or
- b) makes threats or suggestions that refusal to be a party to homicide or suicide will adversely affect
  - i) contracts, employment, advancement, benefits, pay, or
  - ii) membership, fellowship or full participation in a trade union or professional association.

#### **Definitions**

241.1(4) a) For the purpose of this section, “person” includes an unincorporated organization, collective or business.

b) For the purpose of subsection (1), “homicide” and “suicide” include attempted and suicide.

#### **Punishment**

241.1(5) a) Every one who commits an offence under subsection (1) is guilty of an indictable offence and liable to imprisonment for life.

b) Every one who commits an offence under subsection (2) is guilty of an indictable offence and liable to imprisonment for ten years.

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c) Every one who commits an offence under subsection (3) is guilty of an indictable offence and liable to imprisonment for five years.