



THE CANADIAN  
BAR ASSOCIATION  
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March 23, 2017

Via email: [Hon.Jane.Philpott@Canada.ca](mailto:Hon.Jane.Philpott@Canada.ca)

The Honourable Jane Philpott, P.C., M.P.  
Minister of Health  
70 Colombine Driveway  
Tunney's Pasture Postal Location: 0906C  
Ottawa, ON K1A 0K9

Dear Minister Philpott:

**Re: Medical Assistance in Dying – Monitoring System**

I am writing on behalf of the Canadian Bar Association's End of Life Working Group (the Working Group) regarding the monitoring system proposed as part of the government's initiative on medical assistance in dying (MAID).

The CBA is a national association of 36,000 lawyers, Québec notaries, law teachers and students, with a mandate to promote improvements in the law and the administration of justice. The CBA's End of Life Working Group comprises a cross-section of members drawn from diverse areas of expertise, including criminal justice, constitutional and human rights law, health law, wills, estates and trusts law, elder law, children's law, corporate counsel, privacy law, dispute resolution and equality issues. The members include lawyers in private practice, public sector and in-house counsel. The Working Group has a leadership role within the CBA on end of life issues, including medical assistance in dying.

The CBA has called for a system of oversight that ensures meaningful retrospective review of cases and the collection and public reporting of data on MAID. We were pleased to see acknowledgement in the Legislative Backgrounder to Bill C-14 of the importance of a comprehensive monitoring regime for MAID:

As recognized by the Court in *Carter*, by the Special Joint Committee's report, as well as by many stakeholders, a pan-Canadian monitoring system to collect and analyze data on the provision of medical assistance in dying across Canada, to monitor trends and provide information to the public on the implementation of the new law, is a critical component of the new Canadian regime. Such a monitoring system is essential to foster transparency and public trust in the system.<sup>1</sup>

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<sup>1</sup> Legislative Background: Medical Assistance in Dying ([Bill C-14](#)), June 2016, p.12; (<http://ow.ly/2QAU309KVMw>)

Section 4 of Bill C-14 requires the Minister to establish that monitoring system.

Eight months have passed since Bill C-14 received Royal Assent. We are aware that section 4 does not take effect until 12 months after Bill C-14 received Royal Assent. However, the Working Group is concerned about the lack of coordinated collection of information about medical assistance in dying - information that is essential for public accountability, to understand whether and how Bill C-14 is meeting objectives, and to provide a solid foundation for the parliamentary review process. The longer it takes to establish a monitoring system, the higher the risk of irreparable gaps in the data necessary for balanced, evidence-based decision-making.

The Working Group became aware in late November of a discussion forum sponsored by the Canadian Institute for Health Information (CIHI) at which Health Canada made a presentation on plans for regulation development. The Working Group would appreciate an opportunity to review and comment on the preliminary policy framework being prepared by Health Canada. Would it be possible to receive a copy of this presentation? We urge the Government to work expeditiously with provincial/territorial governments to develop regulations that enable the best possible data collection to inform decision-making for medical assistance in dying.

The Working Group also encourages you to consider public consultation early in the policy development process, so that stakeholders have a meaningful opportunity to provide input into the development of regulations.

In conclusion, the Working Group urges you to prioritize an accelerated plan to establish a comprehensive information collection system for MAID to ensure that reliable data is available to support the next steps for MAID.<sup>2</sup>

Thank you for your consideration,

Yours truly,

*(original letter signed Tina Head for Kimberly J. Jakeman)*

Kimberly J. Jakeman  
Chair, CBA End of Life Working Group

c.c. The Honourable Jody Wilson-Raybould, P.C., M.P.  
Minister of Justice and Attorney-General  
[mcu@justice.gc.ca](mailto:mcu@justice.gc.ca)

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<sup>2</sup> A recent article has emphasized the importance of official reporting data, including reasons for the request, complications (if any), and demographic information on the requestor, as well as larger scale death certificate studies. See E. J. Emanuel et al, "Attitudes and Practices of Euthanasia and Physician-Assisted Suicide in the United States, Canada and Europe" (2016) 316:1 *Journal of the American Medical Association* 79.