



November 2, 2015

Via email: PADadvisorygroup@ontario.ca

Jennifer Gibson and Maureen Taylor
Co-Chairs, Provincial/Territorial Expert Advisory Group on Physician-Assisted Dying

Dear Co-Chairs:

Re: *Invitation to Consult with Advisory Group*

The Canadian Bar Association (CBA) appreciates the opportunity to engage with the Provincial/Territorial Expert Advisory Group on Physician-Assisted Dying (Advisory Group).

The CBA is a national association representing more than 36,000 jurists including Canadian lawyers, notaries, law teachers and students. Its primary objectives include improvement in the law and the administration of justice. The CBA has benefited from the insights of its End of Life Working Group – a collaborative effort of members with diverse areas of expertise who consulted widely within the CBA – and whose work was instrumental in the adoption of the two resolutions attached to this letter. See: [Physician-Assisted Dying](#); [Clarifying Law About End of Life Decision-Making](#).

The CBA commends the provinces and territories for their joint commitment in working through the issues raised by the Supreme Court of Canada (SCC) decision in *Carter v. Canada*. To avoid conflict and moral distress caused by lack of clarity in the law, the CBA strongly advocates harmonized provincial and territorial legislation that would provide:

- Clear and timely access to physician assisted dying;
- Clear procedural safeguards to protect individuals who seek physician-assisted dying but without unreasonable restrictions that would prevent those who meet the SCC criteria from accessing physician-assisted dying; and,
- A system of oversight that ensures meaningful retrospective review of cases and the collection and public reporting of data on physician-assisted dying in Canada.

The CBA urges provinces, territories and regulatory bodies of health care professionals to review and, if necessary, pursue enactment of legislation and standards of practice that will reconcile the rights, under the *Canadian Charter of Rights and Freedom*, of patients and health care professionals (including both those who conscientiously object to participating in physician-assisted dying and those who are willing to participate).

More broadly, the CBA encourages provinces and territories to establish a framework to facilitate end-of-life decision-making that respects the following principles:

- An individual's right to be fully informed of the available choices;
- An individual's right to decide a course of treatment from available choices, even if it is not the course of treatment recommended by health care providers; and,
- An individual's right to refuse treatment even where the consequences lead to death.

To give effect to these rights, it is essential that there be robust, compassionate and responsive dispute resolution mechanisms.

The CBA encourages all governments to ensure, where individuals are not competent to make their own decisions, that valid substitute decision-maker appointments in one jurisdiction are recognized and enforceable in other jurisdictions in Canada.

Thank you for the opportunity to provide the CBA's perspective on these important issues.

Yours truly,

(original signed by Janet M. Fuhrer)

Janet M. Fuhrer