

Please don't make the same mistake that Canada did – a message to MPs as a doctor and a Kiwi-Canadian

Dear Members of Parliament,

I am fortunate to have two beautiful countries to call home, Canada (where I lived for 11 years and did most of my primary and secondary schooling) and New Zealand (where I was born, completed medical school and have worked as a doctor for more than 10 years). I am writing to you as I feel the Canadian experience of the last few years regarding euthanasia can be really informative to debate around NZ's End of Life Choice Bill. I can attest to the many similarities of our societies and our public health system.

I have not worked in Canada but I am informed by hearing A/Prof Leonie Herx, a palliative care physician and President of the Canadian Society of Palliative Care Physicians. I have also read a number of articles that have appeared in peer reviewed journals and the available government reports¹.

Below I discuss the current situation of assisted dying in Canada including:

- the reasons why people are requesting assisted dying
- how the initial criteria have already been relaxed and are set to relax further
- effect on palliative care
- effect on those with disabilities
- concerns around effect on suicide
- impact on doctors and the practice of medicine
- issues with reporting and not meeting regulation in abuse
- financial implications

Canada's Medical Assistance in Dying

Canada legalised assisted dying in mid 2016. This was following a February 2015 *Cater v. Canada* ruling in the Supreme Court of Canada² which gave the government until June 2016 to pass legislation. This was preceded by a provincial act in Quebec a year earlier. In the first 10 months of 2018 approximately 1.12% of deaths in Canada (excluding Quebec, the Northwest Territories, Yukon and Nunavut as information is not available) involve assisted dying³. Given the early implementation of euthanasia in Quebec and its large population this percentage is likely to be an underestimate.

In Canada assisted dying is known as medical assistance in dying (MAiD). Over 99% of these deaths it is a doctor (or in a few provinces a nurse practitioner) who administers the lethal drugs³ (euthanasia) rather than the patient self-administering prescribed medications (assisted suicide) although both are allowed under the law¹. Doctors and other health professionals, especially those who primarily work in palliative care, give people medical and other assistance in their last months, weeks and days of life to deal with symptoms. Many find the terminology of "medical assistance in dying" to refer to giving drugs to intentionally end a life offensive and confusing⁴. Therefore I will primarily use the terminology of euthanasia throughout my discussion.

It is not Physical Pain Driving requests for Euthanasia

In general, requests for euthanasia are not related to uncontrolled physical symptoms but are made because of existential suffering. A 2017 article⁵ that praises the implementation of euthanasia states: *“Those who received MAiD (Medical Assistance in Dying) tended to be white and relatively affluent and indicated that loss of autonomy was the primary reason for their request. Other common reasons included the wish to avoid burdening others or losing dignity and the intolerability of not being able to enjoy one’s life. Few patients cited inadequate control of pain or other symptoms.”* Nuhn et al report a small qualitative study⁶ where they interview people requesting euthanasia (or close family members) to determine the reasons behind this request. There were strong themes of autonomy and loss of ability to participate in meaningful activity, loss of function, and loss of independence. Fear of future suffering or deterioration was also reported. Pain was rarely mentioned. Another study⁷, which includes the subjects of Nuhn et al’s study, reviewed notes to see what doctors had written for reasons people were requesting euthanasia. This found physical symptoms (they did not differentiate between pain or other symptoms) were listed about half the time as one of the top two reasons as well as loss of control & independence and loss of ability to do enjoyable & meaningful activities. Oregon’s Death with Dignity Act every year produces a summary that among other things list the reasons people give for requesting prescriptions for lethal doses of medications⁸. The top 3 reasons given were: less able to engage in activities making life enjoyable (95.6%), losing autonomy (95.1%) and loss of dignity (79.4%). In recent years there has been an increase in those who cite being a burden on family, friends / caregivers. In 2018 63.6% listed this among their end of life concerns. While 31.2% mentioned pain this included concerns about future pain as well as current inadequate pain control.

On reviewing the evidence available from Canada and similar jurisdictions such as Oregon, it is clear that the prime reasons people are choosing euthanasia is due to existential suffering rather than physical suffering such as uncontrolled pain. This is not to minimise existential suffering but point out it is false to use people dying in pain as an argument for legalising euthanasia. It also hints at how difficult it will be to limit access to euthanasia to those who are suffering due to a primarily mental health disorder, which we are already seeing in Canada.

While most of the people who are accessing the MAiD laws have malignancies or neurological diseases, in the first 10 months of euthanasia being permitted in British Columbia, it was granted to 4 people whose primary disease was “extreme frailty”⁷. In Ontario last year an elderly couple died together through euthanasia⁹. Both had failing health and neither wanted to die without the other.

Scope will increase

Within 6 months of the legislation allowing euthanasia, the Canadian Minister of Health, Minister of Justice and Attorney General asked for a review of three complex types of MAiD that were not covered by current legislation: mature minors, advance requests, and where a mental disorder is the sole underlying medical condition¹⁰. The reports were released in December 2018 and are expected to be considered in the June 2020 review of the legislation³.

Already the largest Children's Hospital in Canada has published proposed guidelines for implementing euthanasia for children, including the position that parents should not be informed of their child's decision if the young person requests it to be kept from them (the parents will be informed after the death)¹¹.

There are ongoing calls to remove restrictions in opinion pieces in medical journals and elsewhere in the public square. Others argue for a less stringent adherence to the current guidelines¹². There is a lot of discussion around the stipulation that someone must be competent to consent at the time of the legal injection. Many suggest euthanasia should be available via an advanced care plan or the decision made by a substitute decision maker (such as a family member) if the individual loses capacity^{5, 13}. Others argue that live organ donation should be permitted by those who wish to die by euthanasia¹⁴.

The Canadian law has also undergone many challenges in court asking for it to be extended. In one landmark case, a 79-year-old woman petitioned to be allowed to access euthanasia because of her osteoarthritis. Justice Perell ruled that "natural death need not be imminent" to use the law and agreed that this woman was eligible to access medical assistance to die¹⁵.

Dr. Yves Robert, Secretary of the Quebec College of Physicians wrote in March 2017 of his discomfort of a society moving Towards death à la carte¹⁶. *'If anything has become apparent over the past year, it is this paradoxical discourse that calls for safeguards to avoid abuse, while asking the doctor to act as if there were none.'* What initially were considered safe guards are quickly reframed as barriers.

Dr Leonie Herx (Canadian palliative-care physician) describes this as a "logical progression" of expanding scope¹⁷. A group of palliative care physician working in Canada, published an article in the World Medical Journal¹⁸ arguing, among other things, that framing euthanasia as a medical treatment has contributed to the pressure to extend eligibility. If access to death is a medical treatment then surely there should be few if any barriers as to whom can access it. Health care is publicly funded in Canada (as in New Zealand) and seen as a fundamental right of its citizens.

A number of submissions to New Zealand's Justice select committee also felt that NZ's proposed law was too restrictive¹⁹.

It will Adversely Affect Palliative Care

This is having a significant impact on the palliative care community who generally see this as incompatible with the tenants of palliative care¹⁸. A study of Quebec palliative care physicians' views on euthanasia found that all opposed voluntary euthanasia²⁰. Only one of the 18 felt that religious or political beliefs had influenced their views. Rather it was their professional experience at caring for dying patients that led them to oppose legislation²⁰. There has been a reduction in those entering palliative care training in Quebec since their legislation was passed¹⁸.

There is real concern about the introduction of euthanasia in the setting of inadequate funding and resources for palliative care, with particularly concern regarding rural communities²¹. In some places funding that was allocated to palliative care is now being used for euthanasia under the banner of “End of Life Care” further limiting access to palliative care¹⁷.

Some people with terminal conditions are fearful of being given medications to treat their symptoms or even of engaging with palliative care as they are afraid they will be killed against their will¹⁷. Others are avoiding pain relief medication as they are afraid it will affect their decision-making ability and make them ineligible for euthanasia⁵.

Disabled People will be Affected – even if they don’t take advantage of the “choice”

Roger Foley, a man with physical disabilities, is currently taking a Canadian Hospital to court for denying him the “right to assisted life”²². He has released recordings of two hospital staff suggesting he consider assisted dying, one of which threaten him with bills for his ongoing hospital stay. He claimed he been declined the home support he requires. He meet with the United Nations Special Rapporteur on the rights of persons with disabilities, Ms Catalina Devandas-Aguilar on her recent visit to Canada. In her report Devandas-Aguilar criticises Canada for how the implementation of assisted dying had put people with disabilities in a vulnerable situation²³: *“I am extremely concerned about the implementation of the legislation on medical assistance in dying from a disability perspective. I have been informed that there is no protocol in place to demonstrate that persons with disabilities have been provided with viable alternatives when eligible for assistive dying. I have further received worrisome claims about persons with disabilities in institutions being pressured to seek medical assistance in dying, and practitioners not formally reporting cases involving persons with disabilities. I urge the federal government to investigate these complaints and put into place adequate safeguards to ensure that persons with disabilities do not request assistive dying simply because of the absence of community-based alternatives and palliative care.”*

We Don’t Know How it will Affect the Suicide Rate

While all agree that the suicide rate in New Zealand is too high, there are varying opinions if legalising euthanasia (and assisted-suicide) will affect this. Suicide rates are complex and affected by many factors. The assisted dying laws in Canada are too new for us to have any information on how the legislation has affected them (latest data of suicide is from 2016)²⁴. There is a clear connection between assisted dying laws and other types of suicide. After a law in the province of Quebec was passed allowing euthanasia some a brief time emergency physicians did not resuscitate people brought in with suicide attempts as they felt it was patient’s right to refuse treatment²⁵. This prompted the Quebec College of Physicians to send an ethics paper clarifying the matter to its members²⁶.

Advocates for assisted dying say that allowing people to end their life with the help of doctors will reduce the lone suicide rate of those suffering from medical conditions who do not have the option of assistance to end their life and choose to do so while they still have the physical capacity to do this, however I am not aware of any studies that demonstrate this to be the case. One study which compared suicide rates before and after legislation in a

number of American States as well as to similar states where legislation has not been introduced²⁷. They found *“no evidence that PAS is associated with reductions in the nonassisted suicide rate or with increases in the mean age of death for nonassisted suicide”*²⁷.

Two decades ago I was a teenager living in Canada. In the midst of my undiagnosed depression I stockpiled pills from the medicine cabinet planning to take my own life. I wrote in my submission to the Justice Select Committee *“In that state, I did not think my life was worth living or I could contribute to the world. I contemplated suicide as a way to end the pain I was in but thankfully never carried through these plans... If I was living in a place where assisted suicide was legal then, I believe it would have added weight to the internal argument for ending my life. I am very glad to be alive today and have not had a bout of depression for more than a decade.”*⁸⁷

It will Change the Practice of Medicine

The move from doctors as healers and those who walk alongside patients in their last illness neither seeking to hasten or delay death (as per the World Health Organisations definition of palliative care) to those who may act to purposely bring out death is no small one. Laws not only reflect society but have a role in shaping it.

My aging parents live in Canada. Next time one of them is admitted to hospital, I will be less able to trust the doctors taking care of them, given the same doctors can legally end their lives (even though it is something neither of my parents would choose).

Doctors & Others Will Not Be Able to Simply “Opt Out”

In some provinces doctors are being threatened with the loss of their license if they do not provide an effective referral for patients²⁹. Institutions, in particular hospices and faith-based hospitals, are being told they cannot stop this occurring on their premises¹⁷. There is also a push to require doctors to inform patients that they are eligible for “Medical Aid in Dying” when they are given a serious diagnosis¹¹.

It Might Save Money – but at what cost

In 2017 Trachtenberg and Mann published an analysis³⁰ that Canada could save between \$34.7 and \$138.8 million (Canadian dollars) on reduced end of life care on patients due to the introduction of euthanasia, compared to the \$1.5–\$14.8 million in direct costs associated with implementing the program. What the cost to society will be of this and if individuals will be pressured to “choose” euthanasia to save money remains to be seen. Last year 7.3% of those requesting assisted death in Oregon, USA listed financial implications of treatment among their reasons⁸.

There will be abuse

Data in Canada varies across provinces and territories¹. The 3 territories declined to provide information citing concerns about confidentiality due to small numbers³. We do not have information on a national level if the criteria are being adhered to. The most detailed

information available is from Quebec. Between July 1, 2017-March 31, 2018 708 forms were received from doctors (including 5 related to euthanasia occurring in 2016)³⁰. This differed from the 845 reported deaths by euthanasia from institutions and the Collège des médecins Quebec³⁰. Little is known about these cases of why they have not been reported by the doctor involved as required by law³¹. Of the reports received and analysed, further information needed to be requested from over 40% of reports³¹. Overall between Dec 2015 and March 2018 4.5% of cases did not comply and for a further 4.8% a determination could not be made as not enough information was received (despite attempts to clarify)³¹. Reasons for not complying were often around the second doctors not being independent of the first. In some cases the doctor did not meet with the person on different occasions to ensure their wish was persistent and to assess capacity³⁰. In others the second doctor signed off before the request for euthanasia was signed or the patient did not meet the eligibility criteria under the bill³⁰.

Summary

My experience as a doctor has led me to be strongly opposed to euthanasia and assisted suicide especially medical professionals being involved in it. Learning about the implementation of medical assistance in dying laws in Canada has strengthened my view that this is not something that New Zealand should embark on. Euthanasia is not necessary to address pain at the end of life and is unsafe. There will be an enviable increase in the circumstances in which it is permitted and it will adversely affect many vulnerable people including those with disabilities.

Kind Regards,

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References

1. Government of Canada. Medical assistance in dying [Internet]. 2019 [Cited 26 April 2019] Available from: <https://www.canada.ca/en/health-canada/services/medical-assistance-dying.html>
2. Carter v. Canada (Attorney General), 2015 SCC 5 [Internet]. 2015 [Cited April 27, 2019] Available from: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14637/index.do>
3. Health Canada. Fourth Interim Report on Medical Assistance in Dying in Canada [Internet]. 25 April 2019 [cited 29 April 2019]. Available from <https://www.canada.ca/en/health-canada/services/publications/health-system-services/medical-assistance-dying-interim-report-april-2019.html>
4. Canadian Society of Palliative Care Physicians. Submission to external panel on options for a legislative response to Carter v. Canada. Surrey, BC: Canadian Society of Palliative Care Physicians. [Internet]. 2015 [cited 27 April 2019]. Available from: <http://www.cspcp.ca/wp-content/uploads/2014/10/CSPCP-Federal-Panel-Submission-Oct-22-2015-FINAL.pdf>
5. Li M, Watt S, Escaf M et al. Medical Assistance in Dying — Implementing a Hospital-Based Program in Canada. *New England Journal of Medicine*, 2017; 376 (21): 2082

6. Nuhn A, Holmes S, Kelly M, Just A, Shaw J, Wiebe E. Experiences and perspectives of people who pursued medical assistance in dying. Qualitative study in Vancouver, BC. *Can Fam Physician* 2018;64:e380-6.
7. Wiebe E, Shaw J, Green S, Trouton K, Kelly M. Reasons for requesting medical assistance in dying. *Can Fam Physician* 2018;64:674-9.
8. Centre for Health Sciences Public Health Division. Oregon Death with Dignity Act 2018 Data Summary [Internet]. 2019 [cited 1 March 2019] Available from: <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year21.pdf>
9. Grant K. Medically assisted death allows couple married almost 73 years to die together [Internet]. *The Globe and Mail*; 2018 Apr 1 [cited 27 April 2019]. Available from: <https://www.theglobeandmail.com/canada/article-medically-assisted-death-allows-couple-married-almost-73-years-to-die/>
10. Medical Assistance in Dying <https://scienceadvice.ca/reports/medical-assistance-in-dying/>
11. DeMichelis C, Zlotnik Shaul R, Rapoport A. Medical Assistance in Dying at a paediatric hospital *Journal of Medical Ethics* 2019;45:60-67.
12. Grant DAG, Downie J. Time to clarify Canada's medical assistance in dying law. *Can Fam Physician*. 2018;64(9):641–642.
13. Bravo G, Rodrigue C, Thériault V, et al. Should Medical Assistance in Dying Be Extended to Incompetent Patients With Dementia? Research Protocol of a Survey Among Four Groups of Stakeholders From Quebec, Canada. *JMIR Res Protoc*. 2017;6(11):e208. Published 2017 Nov 13.
14. Ball IM, Sibbald R, Truog RD. Voluntary Euthanasia - Implications for Organ Donation. *N Engl J Med* 2018; 379:909-911 DOI: 10.1056/NEJMp1804276
15. A.B. v Canada (Attorney General) [Internet]. 2017 [cited 28 April 2019] Available from: <http://eol.law.dal.ca/wp-content/uploads/2017/06/20170619152447518.pdf>
16. Dr. Robert's regrets: Towards death à la carte? (Vers la mort à la carte?) [Internet]. Collège des Médecins du Québec; 2017 May 10 [cited 2019 April 29]. Available at: <http://www.cmq.org/nouvelle/fr/vers-la-mort-a-la-carte.aspx> English translation published by the Physicians' Alliance against Euthanasia. Available at: https://collectifmedecins.org/en/dr-roberts-regrets/#_ftn1
17. Herx, L. Euthanasia and Assisted Suicide in Canada: A Cautionary Tale [Internet – audio recording]. Wellington April 2, 2019 [cited 13 April 2019]. Available at <https://vstream.hosted.panopto.com/Panopto/Pages/Embed.aspx?id=0568cb2e-c6c1-4bdd-b064-aa1f002f8e0c>
18. Leiva R, Cottle MM, Ferrier C, Harding SR, Lau T, Scott JF. Euthanasia in Canada: A Cautionary Tale. *World Medical Journal*. 2018 Sep [cited 20 April 2019] 64:3 17-23. Available from: https://www.wma.net/wp-content/uploads/2018/10/WMJ_3_2018-1.pdf.
19. Justice Committee, New Zealand Parliament. Commentary: End of Life Choice Bill, Member's Bill [Internet]. April 2019 [cited 10 April 2019]. Available at: https://www.parliament.nz/en/pb/sc/reports/document/SCR_86640/end-of-life-choice-bill
20. Bélanger E, Towers A, Wright DK, et al Of dilemmas and tensions: a qualitative study of palliative care physicians' positions regarding voluntary active euthanasia in Quebec, Canada *Journal of Medical Ethics* 2019;45:48-53.

21. Collins A, Leier B. Can medical assistance in dying harm rural and remote palliative care in Canada?. *Can Fam Physician*. 2017;63(3):186–190.
22. Chronically ill man releases audio of hospital staff offering assisted death [Internet]. CTV News; 2018 Aug 02 [cited 27 April 2019]. Available at: <https://www.ctvnews.ca/health/chronically-ill-man-releases-audio-of-hospital-staff-offering-assisted-death-1.4038841>
23. Devandas-Aguilar, C. End of Mission Statement by the United Nations Special Rapporteur on the rights of persons with disabilities, Ms. Catalina Devandas-Aguilar, on her visit to Canada. [Internet]. 12 April 2019 [cited 27 April 2019]. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24481&LangID=E>
24. Statistics Canada. Table 13-10-0392-01 Deaths and age-specific mortality rates, by selected grouped causes Available from: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1310039201>
25. Hamilton G. Some Quebec doctors let suicide victims die though treatment was available: college [Internet]. National Post; 2016 Mar 17 [cited 29 April 2019] Available from: <https://nationalpost.com/news/canada/some-quebec-doctors-let-suicide-victims-die-though-treatment-was-available-college>
26. Collège des médecins du Québec. Le geste suicidaire :expression systématique d'un refus de traitement? [Internet] February 2016 [cited 29 April 2019]. Available from: <http://www.cmq.org/publications-pdf/p-1-2016-03-08-fr-geste-suicidaire-expression-refus-de-traitement.pdf?t=1556488991212>
27. Jones DA, Paton D. How does legalization of physician-assisted suicide affect rates of suicide? *South Med J*. 2015;108: 599–604.
28. Evans, RA. Submission to the Justice Select Committee [Internet]. March 6, 2018 [cited 29 April 2019]. Available at https://www.parliament.nz/resource/en-NZ/52SCJU_EVI_74307_JU53180/314583d7ae6bbd0d634814e5397794ba8e5ba7e8
29. College of Physicians and Surgeons of Ontario. Medical Assistance in Dying [Internet]. 2017 Jul [cited April 29, 2019]. Available from: <https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Medical-Assistance-in-Dying>
30. La Commission sur les soins de fin de vie. Rapport annuel d'activités 1 Jul 2017 – 31 March 2018 [Internet]. 10 Dec 2019 [cited 29 April 2019]. Available from: https://www.dropbox.com/s/1mvo0pi60lyimfg/3e%20Rapport%20annuel%20de%20la%20CSFV_1er%20juillet%202017%20au%2031%20mars%202018.pdf?dl
31. Toujours Vivant-Not Dead Yet Report #3 from the Commission des soins de fin de vie [Internet]. 14 Dec 2018 [cited 29 April 2019]. Available at <https://tvndy.ca/en/2018/12/report-3-from-the-commission-des-soins-de-fin-de-vie/>