



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

June 8, 2016

16-12

Criminal Justice Branch Issues Guidelines for Prosecutors Dealing with Physician-Assisted Death

Victoria – In response to the decision of the Supreme Court of Canada in *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331, the Criminal Justice Branch, Ministry of Justice (CJB) has provided British Columbia prosecutors with guidelines to assist them in the exercise of their charge assessment discretion when considering the involvement of healthcare professionals who are not physicians but who are involved in the provision of physician-assisted death.

These guidelines, summarized below, are intended to address a lack of clarity with respect to the application of the *Criminal Code* provisions to non-physician medical professionals.

Background

In *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331, the Supreme Court of Canada held that, insofar as sections 241(b) and 14 of the *Criminal Code* prohibit physician-assisted dying in certain circumstances, they violate the section 7 *Charter* rights of competent adults. This infringement is not justified by section 1.

In its ruling the Court declared that these sections, “... are void insofar as they prohibit physician-assisted death for a competent adult person who (1) clearly consents to the termination of life; and (2) has a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition.”

The Court suspended its declaration of invalidity to allow Parliament to pass legislation. Parliament has not passed legislation by the June 6, 2016 deadline imposed by the Court.

Branch Vision

Courageous, Fair and Efficient – A Prosecution Service that has the Confidence of the Public.

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Guidelines

The Branch recognizes that a physician-assisted death may require the involvement of various healthcare professionals, including nurses and pharmacists. When charges are assessed on a case by case basis, the conditions of physician-assisted death set out in *Carter* should be applied to physicians and to other health care professionals involved in carrying out, or providing information about, a physician-assisted death.

When the conditions in *Carter* are met, pursuant to the CJB policy on Charge Assessment Guidelines (CHA 1) there is no substantial likelihood of a conviction for charges under section 241(b) for physicians or other healthcare professionals involved in carrying out a physician-assisted death, including nurses and pharmacists, nor would the public interest test be met.

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