



Policy:

Medical Assistance in Dying and Related Prosecutions

Policy Code:

MED 2

Effective Date:

March 1, 2018

Cross-references:

CHA 1

On June 17, 2016, Parliament responded to the Supreme Court of Canada decision in *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331, (*Carter #1*), when Bill C-14 received Royal Assent, thereby amending the *Criminal Code* and other Acts to permit “medical assistance in dying.” These amendments established a comprehensive statutory framework, which authorized specified health care professionals and others to participate in medical assistance in dying and, when doing so, to be exempt from certain criminal offences. The framework also contains important patient eligibility criteria, safeguards and enforcement provisions.

Given these provisions, where police investigate a case involving assistance in dying and conclude that the person’s death did not comply with the legislation, a Report to Crown Counsel (with a recommendation for charges) may be forwarded to the BC Prosecution Service for charge assessment. The recommended charges may involve a number of situations. For example, they may allege that a non-authorized person participated in causing a person’s death, or that an authorized person, who participated in causing a person’s death, committed an offence, such as failing to comply with any of the safeguards required under section 241.2(3) of the *Criminal Code*.

In all such cases, Administrative Crown Counsel must refer the Report to Crown Counsel to a Regional Crown Counsel, Director, or their respective deputy for charge assessment.

Given the complex nature of the legal issues, including the amendments to the *Criminal Code* that authorized medical assistance in dying, charge assessment decisions will be made on a case-by-case basis following an examination of the facts and circumstances of each case and the law that was in effect at the time of the alleged offence.

In making a charge assessment decision, a Regional Crown Counsel, Director, or their respective deputy, will also be guided by the relevant policy applicable at the time of the alleged offence, in particular:

- before February 6, 2015 – the policy entitled *Euthanasia and Assisted Suicide* (EUT 1) effective March 15, 2004
- from February 6, 2015 to June 6, 2016 – to the degree applicable, the policy EUT 1
- from June 7, 2016 to June 16, 2016 – the Crown Counsel Guidelines identified in the [Media Statement](#) of June 8, 2016
- from June 17, 2016 onwards – the general *Charge Assessment Guidelines* policy ([CHA 1](#)), which provides that a prosecution will proceed only where there is a substantial likelihood of conviction and a prosecution is required in the public interest; and, this policy entitled *Medical Assistance in Dying and Related Prosecutions* (MED 2), which sets out additional considerations and requirements

A Regional Crown Counsel, Director, or their respective deputy who receives a Report to Crown Counsel covered by this policy must advise the Assistant Deputy Attorney General of the result of the charge assessment decision and, where applicable, the result of any prosecution.