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My thanks to the Co-Chairs and Honorable Members of this Committee for the opportunity to participate in these hearings. I urge the Committee not to recommend adoption of advance requests for MAiD, for three main reasons:

1. Advance requests, as a planning tool, cannot deliver meaningful consent.

What would it look like if advance requests for MAiD are adopted into the Criminal Code's regime for legal exceptions to its prohibition on assisted suicide, knowing what the Alzheimer Society of Canada has called the "rising tide" of dementia in this country? In the decades to come, more and more people who don't know what is happening to them are caused to die. Most of them are women with cognitive disabilities.

Advance care planning, in which advance requests for MAiD would be added as another tool, has been shown in a series of systematic studies and reviews to be ineffective. People are simply unable to reasonably predict future preferences, capacities, or circumstances which will impinge directly on future decisions about their health care.

If that predictability is impossible, it leaves it entirely up to substitute decision makers to determine that a person is sufficiently suffering to intentionally cause their death. Remember that advance health care plans do not represent consent to anything; they express assumptions and wishes about future states to guide prospective substitute decision makers. In this scenario, it is the consent of substitute decision makers that determines if and when a person dies. In no way would such a practice meet the Supreme Court of Canada's requirements in its 2015 Carter decision that assisted suicide is justified only in cases of "a competent adult person who… clearly consents to the termination of life" (para. 127). Valid consent was pivotal in Carter.

2. It is most likely stigma that is driving Canadians to call for advance requests rather than a defensible claim for autonomy.

Although much has been said about the 2021 Ipsos poll conducted for Dying with Dignity Canada, which reports that 83% of Canadians support access to MAiD through advance requests, consider also the 2017 Leger poll conducted for the Alzheimer Society of Canada. It shows that most Canadians believe that people living with dementia are likely to experience discrimination – that they are ignored, dismissed, taken advantage of, are feared, or met with distrust, etc. Most Canadians who live with dementia confirm this experience.

Given the stigma and fear about dementia that weighs on Canadians' consciousness and directs their actions and inactions, is it any wonder that a majority might advocate for advance requests to cause the death of the cognitive strangers we project in our midst and into our own futures?

Is this a reasonable basis for law reform? Is theirs a defensible claim for autonomy rights? Should we submit to the Ipsos poll when the Leger poll tells such a disturbing story about our collective consciousness and the current realities of growing old in Canada? Surely our law reform and public policy efforts should shift to fast-tracking strategies for dementia-inclusive communities and eliminating stigma – as the 2019 National Dementia Strategy calls for.

3. It would eventually open the door to MAiD for people who are unable to consent but who don't have advance requests.

What argument would there be to a substitute decision maker who goes to court to request access to MAiD for their family member with a significant intellectual disability or traumatic brain injury because they are suffering intolerably in the circumstances, but they are unable to consent and don't have an advance request? Opening the door to advance requests will inevitably lead to litigation charging that when it comes to providing MAiD to people who are not competent but are suffering, it is discriminatory to restrict it only to those who have advance requests, which don't constitute informed consent in the first place.

The Supreme Court reasoned in Carter that what they acknowledged as a "slippery slope" in other countries would not happen in Canada. They said explicitly that euthanasia for minors or people with psychiatric disorders would not happen here because our "medico-legal culture" is so different than Belgium, for example. Obviously, they were wrong. Authorize advance requests and the hinges start to come off the door.

We should remember that the justices deciding Carter stipulated that their reasoning applied to the case before them. They didn't even mention advance requests, I suspect because any such measure represents such a profound violation of the principle of informed consent which they so clearly established as a fundamental safeguard.

References

Supreme Court of Canada. *Carter v. Canada (Attorney General)*. Docket no. 35591, 6 February 2015. https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/14637/index.do#:~:text=%5B4%5D%20We%20conclude%20that%20the,including%20an%20illness%2C%20disease%20or.