

# **The Carter Case and Assisted Suicide: A Recipe for Elder Abuse and a Threat to Individual Rights**

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"Those who believe that legal assisted suicide . . . will assure their autonomy and choice are naive."

William Reichel, MD  
Montreal Gazette,  
May 30, 2010

[This article is provided without footnotes. To view the complete article including footnotes, links to supporting references and author bios, go here:  
<http://www.epcbc.ca/2011/11/carter-case-and-assisted-suicide-recipe.html>]

## **A. Introduction**

Carter vs. Attorney General of Canada brings a constitutional challenge to Canada's laws prohibiting assisted suicide and euthanasia. Carter also seeks to legalize these practices as a medical treatment. Last year, a bill in Parliament seeking a similar result was overwhelmingly defeated.

This article's focus is physician-assisted suicide.

Legalizing this practice would be a recipe for elder abuse. Legalization would also empower the Canadian health care system to the detriment of individual patient rights. There would be other problems.

## **B. Parliament Rejected Assisted Suicide**

On April 21, 2010, Parliament defeated Bill C-384, which would have legalized physician-assisted suicide and euthanasia in Canada. The vote was 228 to 59.

## **C. The Carter Case**

Carter seeks to allow a medical practitioner or a person "acting under the general supervision of a medical practitioner" to assist a patient's suicide. Carter's Amended Notice of Civil Claim states:

"'physician-assisted suicide' means an assisted suicide where assistance to obtain or administer

medication or other treatment that intentionally brings about the patient's own death is provided by a medical practitioner . . . or by a person acting under the general supervision of a medical practitioner . . ." [page 3, ¶ 7]

In the context of traditional medical treatment, "a person acting under the general supervision of a medical practitioner" would include a family member. An example would be an adult child who administers medication to a parent under the general supervision of a doctor who is not present. Typically, this would be in a home setting.

In Carter, the Amended Notice of Civil Claim argues that laws prohibiting physician-assisted suicide are unconstitutional for patients who are "grievously and irremediably ill." The term "grievously and irremediably ill" is not defined. The Amended Notice of Civil Claim does, however, give these examples of qualifying diseases/conditions: "cancer, chronic renal failure and/or cardiac failure, and degenerative neurological diseases such as Huntington's disease and multiple sclerosis." [page 13, ¶ 57] The phrase, "grievously and irremediably ill" would also appear to apply to chronic conditions such as diabetes and HIV/AIDS. People who have these diseases/conditions can have years and sometimes decades to live.

The Amended Notice of Civil Claim does not seek to require that the death be witnessed. The medical practitioner is not required to be present at the patient's death.

#### **D. A Comparison to the United States**

In the United States, there are two states where physician-assisted suicide is legal: Oregon and Washington. In each state, assisted suicide laws were passed via highly financed sound-bite ballot initiative campaigns. A ballot initiative is similar to a referendum in Canada. In the United States, no assisted suicide law has made it through the scrutiny of a legislature despite more than 100 attempts.

In 2010, there was a proposed bill to legalize assisted suicide in the state of Montana. During a hearing on the bill, Senator Jeff Essmann made this observation:

"All the protections [in Oregon's law] end after the prescription is written. [The proponents] admitted that the provisions in the Oregon law would permit one person to be alone in that room with the patient. And in that situation, there is no guarantee that that medication is self-administered."

#### **E. A Recipe for Elder Abuse**

Elder abuse includes physical, psychological and financial abuse. Financial abuse is the most commonly reported type. Elder abuse is, however, largely unreported and can be very difficult to detect. This is due in part to the reluctance of victims to report. The Government of Canada website states: "Older adults may feel ashamed or embarrassed to tell anyone that they are being abused by someone they trust."

Elders' vulnerabilities and relative wealth have lead to murder with the perpetrators often being family members. An example is Melissa Friedrich, the "Internet Black Widow." [29] She killed her first husband and is accused of poisoning her second husband and another elderly man in order to get their money.

If assisted suicide were to be legalized via Carter, new paths of abuse would be created against the elderly. The most obvious path would be due to Carter's lack of required witnesses at the death. Without disinterested witnesses, an opportunity is created for a family member, or someone else who will benefit from the patient's death, to administer the medication to the patient without his consent. Even if he struggled, who could know?

Consider also this comment from Nancy Elliott, a former member of the New Hampshire House of Representatives:

"Assisted suicide laws empower heirs and others to pressure and abuse older people to cut short their lives. This is especially an issue when the older person has money. There is NO assisted suicide law that you can write to correct this huge problem."

Preventing elder abuse is official Government of Canada policy.

## **F. Empowering the Healthcare System**

In Oregon, where assisted suicide has been legal since 1997, people desiring treatment under the Oregon Health Plan have been offered assisted suicide instead. The most well known cases involve Barbara Wagner and Randy Stroup. Each wanted treatment. The Plan offered them assisted suicide instead.

Neither Wagner nor Stroup saw this scenario as a celebration of their individual rights. Wagner said: "I'm not ready to die." Stroup said: "This is my life they're playing with."

Wagner and Stroup were steered to suicide. Moreover, it was the Oregon Health Plan, a government entity, doing the steering. If assisted suicide were to be legalized in Canada, the Canadian health care system would be similarly empowered to steer patients to suicide.

With legal assisted suicide, the healthcare system, doctors and the government would be empowered, not individual patients.

## **G. Suicide Contagion**

Oregon's suicide rate, which excludes suicides under its physician-assisted suicide law, has been "increasing significantly" since 2000. Just three years prior, Oregon legalized physician-assisted suicide. This increase in other suicides is consistent with a suicide contagion. In other words, one type of suicide encouraged other suicides. In Canada, preventing suicide is a significant public health issue.

## **H. Conclusion**

Carter's claim that legalization of assisted suicide will enhance individual rights is untrue. Legalizing assisted suicide would instead be a recipe for elder abuse. Heirs and other predators would be empowered at the expense of the individual rights of older Canadians to safety and security. Legalization would also empower the health care system, doctors and the government to steer patients to suicide. In Oregon, other suicides have increased with legalization of assisted suicide. Canada does not need the "Oregon experience."