

Submission to the Advisory Committee on Physician-Assisted Death Alberta Health Consultation

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Thank you for inviting Covenant Health's feedback regarding physician-assisted death. Certainly, physician-assisted death is an extremely value laden issue that evokes a diverse range of societal views. We thank the Government for engaging in a public consultation process to seek the input of all Albertans to inform the delivery and regulation of this activity in our province. We support the Government in serving and protecting patients, health care providers and our most vulnerable.

Our feedback focuses on four primary areas.

1. Social justice and care of the most vulnerable

Covenant Health's commitment to respond

As a Catholic organization, Covenant Health is steeped in a longstanding ethical tradition that affirms the intrinsic dignity of all human beings, from conception to natural death. It follows from this foundational tenet that the intentional hastening of a person's death will never be morally permissible in a Catholic hospital, without risk of compromising the organization's very identity and core values. Much as a government's identity is shaped by a coherent set of philosophical and social principles giving expression to its ethos or character, Catholic health care also continuously strives to make decisions, align programs and services, and advocate for patients and the most vulnerable that are consistent with its fundamental identity and values.

The Supreme Court of Canada ruling in *Carter vs. Canada* changes nothing insofar as our commitment to both our mission and values as well as responding to the diverse needs of the people we serve, including those who may verbalize a request for physician-assisted death. In all of our programs and facilities, Covenant Health will continue to meet its legal and service obligations, collaborating with others as a partner in an integrated health system to co-ordinate care according to the policy and direction set by Government.

We have only to look at our experience in how we have addressed such requests in the past, even before the *Carter* decision. The very same ethical tradition that characterizes Covenant Health's opposition to physician-assisted death nevertheless calls us to respond to individuals considering this option with compassion and respect.

This response is defined by an earnest desire to understand the nature of the person's request, while also addressing their pain and symptom management needs, as well as any concomitant psychosocial-spiritual and emotional needs in keeping with basic palliation principles. Our proven track record in quality palliative and hospice care lends confidence that we will remain fully present to a person in need regardless of the nature of their expressed wishes, without ever abandoning our tradition, or the person in care.

This principle of non-abandonment that gives shape to our positive response is a hallmark of Covenant Health’s long-standing reputation and service to the people of Alberta. It is a position that recognizes any person who verbalizes a desire for assistance to end their lives is a human being in great need, deserving of unconditional support.

While our response to that individual will not result in us providing physician-assisted death, there is a positive response required nonetheless that we remain committed to provide. We maintain that even in facilities where physician-assisted death will be offered, the response we describe should serve as a starting point for exploratory discussion regardless of the provider or organization’s particular views.

For example, consent for therapeutic treatment is a process that typically evolves over time, involving multiple conversations, and informed by the provision of factually relevant information free of coercion. A person verbalizing a request for physician-assisted death will benefit from honest conversation that is focused on the patient’s needs and the drivers underlying their request. Given the lingering public confusion and misunderstanding regarding palliative care, we are concerned that prematurely moving a person along a trajectory leading to physician-assisted death at the first instance a request is voiced without a thorough understanding of the patient’s needs—let alone an assessment of their decision making capacity if indicated—is not in keeping with the fundamental principles of informed consent.

The need to reconcile the multiple perspectives on such a value-laden issue as physician-assisted suicide is important not only for Covenant Health, but for all Albertans who seek a way forward through the aid of balanced legislation and regulatory frameworks. Through this consultation process Government can model their expectations for the same respectful dialogue that the person in care would expect when disclosing to his or her provider a desire for physician-assisted death without the person subject to the imposition of anyone’s values.

We commend the Government’s consultation as a practical step to help reconcile such perspectives—one of which is the ongoing question regarding the validity of both personal and institutional conscience rights, to which we will now turn.

2. The right of conscience and the principle of non-abandonment

The need for provider and institutional conscience rights

The Supreme Court of Canada decision recognized the fundamental rights of freedom of religion and of conscience enshrined in the *Canadian Charter of Rights and Freedoms*. We believe this is a constitutional right for both individuals and organizations. Moreover, the *Carter* decision acknowledged both a patient’s right to choose physician-assisted death and the right of a physician to conscientiously object, and that such competing rights would need to be *reconciled*. The Court left it to the provinces and regulatory bodies to articulate a framework that best allows genuine reconciliation of perspectives to be accomplished, without neither abandoning the person in care, nor the provider and institution themselves.

This requires conscience protection clauses and other appropriate safeguards that will not force a provider to act against their moral conscience. The literature widely documents the harm resulting from moral compromise, and the risk of providers leaving the profession altogether in the face of persistent moral conflict that forces a person from having to act contrary to their deeply held views.

Moreover, reflecting on our addictions and mental health program experience, we also work closely with persons in care to support their integration of all aspects of their being within a holistic model of health. As both a provider and employer of choice, we uphold our value of *integrity* as an essential element of health and healthy communities.

The affirmation of conscience and the necessity of acting in concert with one's entire being therefore is more than just a Charter right; it is health prerogative. Support for conscience rights is entirely consistent with mainstream health policy and should be recognized in all legislative and regulatory frameworks governing physician-assisted death. For faith-based organizations like Covenant Health, the question of whether individual conscience rights, duly recognized by the *Carter* decision, are the same as or morally equivalent to institutional conscience is a matter of obvious concern. The recent Supreme Court of Canada decision in *Loyola* would appear to favour an organization's right to be governed by its own faith and morals as a matter of conscience, which Covenant Health affirms.

However, aside from the legal arguments, we want to emphasize why protection of both individual and institutional conscience rights is in the interest of all Albertans. Public health care is a social good that is dependent upon the confidence and trust Albertans place in their individual practitioners and hospitals. Public trust is earned; it is not guaranteed. It is demonstrated over time, in which consistent statements, positions, and non-negotiable values are explicitly communicated to the public as to what a person in care can expect in our facilities, with the corresponding supporting evidence that the patient or resident can actually experience. Public trust in health care is strengthened when there is congruence between practitioner and hospital behaviour with their professed public declarations or commitments. This is what is meant to be a "professional."

Typically these public declaratory commitments take the form of mission and values statements, codes of conduct, ethical frameworks and other key policies. These are in turn widely communicated through an organization's website and other brand messaging and public messaging. As mentioned previously, Covenant Health's position on physician-assisted suicide is entirely consistent with what is upheld by Catholic health care organizations in jurisdictions around the world in which physician-assisted death exists, and what has been inherent in Catholic health care in Alberta for the past 150 years in terms of its commitment to the sanctity of life.

In fact, work that Covenant Health has done to think through the issue of responding to requests for physician-assisted death has led our organization to develop policy beginning in 2014, which we have subsequently shared in the spirit of good faith and collaboration with provincial regulatory bodies and other key stakeholders, including Alberta Health Services (AHS). Given the *Carter* decision recognizes an objecting physician's right to not participate in physician-assisted death, it is very likely that health authorities such as AHS, which intends to provide physician-assisted death, will be faced with exactly the same issues as Covenant Health in arranging safe and timely transfer elsewhere if the medical staff at the facility all morally object.

Moreover, it is reasonable to infer that that the range of societal opinion on this issue would be reflected in any large organization or physician cohort. We have certainly seen this in our own consultations with physicians and staff in terms of Covenant Health's draft policy. We expect our health care partners would also see a range of opinion reflected within their own institutions, and thus, in this way, we can all learn and benefit from our collective experience, especially given the unknowns we face as a society as we all grapple with this new, unprecedented reality.

Therefore, provider and institutional conscience rights is not just an issue for Covenant Health. There will be aspects of this issue for providers across the country to grapple with, given the range of views among their own medical staff and the public they serve. As mentioned, this may result in AHS health centres and hospitals arranging safe and timely transfer elsewhere as will Covenant Health, and the need for us to all work together to find practical solutions. We are confident that our draft policy and consultations to date with key stakeholders reflects this commitment, helping to lend public confidence.

A copy of our draft policy can be found at: <http://www.covenanthealth.ca/newsroom/news-bank/news-events-bank/covenant-health-response-to-physician-assisted-death/> , including a link to our Palliative Institute and other foundational documents, submissions, and educational resources.

3. The value of dialogue and thoughtful ethical reflection

The need for proactive solutions and creative problem-solving

As noted throughout this submission and as reflected in Covenant Health's own draft policy, we ascribe to a problem-solving strategy to minimize potential harm to patients, providers, and institutions alike. The question of safeguards is therefore very important, and while Covenant Health has elected not to comment on the operationalizing of physician assisted death *per se*, we do, however, recognize that if it is to occur, then all due attention should be given to protect the vulnerable.

In humility, given the myriad issues and the diversity of societal perspectives we believe it is in the public interest that a spirit of collaboration and mutual respect characterize public debate. Lessons will be learned over time and no doubt risk of medical error is possible as evident in any other clinical setting when systemic issues are operative, requiring a willingness to learn from one another, and valuing the input each person and institutional may bring to the table. We believe Covenant Health has an important voice in shaping the public discourse, and that our voice is broader and much more imaginative than simply being described as, "No, we don't do that," but rather one that asks, "What are your needs?" We are grateful for Government in lending its voice to help acknowledged the needs of all Albertans and its commitment to embrace the principle of collaboration to help reconcile divergent opinions.

Covenant Health will continue to provide the best quality palliative, end-of-life experience to the patients it serves, and for those who present to our facilities verbalizing a request for intentionally hastened death, we will respond, as we have always done, with equal compassion and respect in seeking to understand their needs. We will continue to model a problem-solving attitude to address a person's underlying pain and symptom management needs and other psychosocial-spiritual and emotional concerns to support the whole person. We will provide factually relevant information to facilitate a free and informed consent. For a patient who has consistently verbalized a request for physician assisted death and has been respectfully informed of our organization's position, we will arrange safe and timely transfer of the patient elsewhere where that exploratory discussion of their needs will continue, which may or may not result in the provision of physician-assisted death being provided.

We work every day with our partners in AHS to transfer patients to and from our respective facilities to ensure patients have timely access to necessary services wherever they are located, and together we do this with the focus always on the patient's needs coming first. We are confident we will

continue this collaborative approach with our partners, as colleagues in one, integrated health care system.

4. The importance of quality, compassionate end-of-life care

The need for proportionate attention, resources, and advocacy for palliative and end-of-life care

Lingering public confusion and misunderstanding regarding the essential differences between palliative care medicine and physician-assisted death provides an opportunity to give proportionate attention to the hundreds of Albertans each year who are served well by comprehensive, quality palliative care services. This includes serving persons confronting their mortality regardless of the diagnosis or setting in which care is provided. Unfortunately, recent media attention on physician-assisted death dwarfs, and sometimes, even distorts public understanding of what quality palliative resources can offer all dying Albertans and their families.

For example, it is often reported that Covenant Health operates 90% of palliative care beds in the Edmonton zone. The inference is drawn that because Covenant Health will not provide physician-assisted death our organization will, in effect; obstruct Albertans from this legal right. These mistaken views are certainly not held by the Canadian Society of Palliative Care Physicians or the Albertan palliative care specialists themselves who argue physician-assisted death compromises their very professional identity and philosophy of palliative care. It is also forgotten that many Albertans receive excellent palliative care in their home; some even throughout their entire end-of-life journey, without ever requiring hospitalization.

This underscores that the public does not have an adequate understanding of essential differences between palliative care and physician-assisted death, and when erroneous reporting goes unchecked, risks undermining public confidence in the care of Albertans at the end-of-life. It is conceivable that some Albertans may elect to pursue physician-assisted death based on the mistaken assumption that no other options are available to address their pain and suffering.

Rather, we believe through this public consultation process Government can help clarify and alleviate concerns raised by Albertans through the robust array of palliative care resources that are already available to the community. Moreover, we see this as an opportunity for Government to strengthen this invaluable resource.

Over the past several years Covenant Health has participated in parliamentary and other national stakeholder consultations, as well as sponsored clinical research, advanced therapeutic innovations and launched a world class Palliative Institute to strengthen an integrated palliative care model in the province. Given Covenant Health's strategic priority in palliative and end-of-life care, we will continue this work in collaboration with Government and our health care partners. Despite this collective effort, we know that more can be done, especially to ensure a person has access to palliative care regardless where a person lives, in whatever geographical community, diagnosis, or circumstance.

It has been widely assumed, based on the experience in other jurisdictions, that physician-assisted death will probably always remain a choice for some individuals, but the vast majority of Albertans will seek traditional palliative care resources at the time of their deaths. To this end, we thank Government for bringing proportionate attention, support and funding to serve the thousands of Albertans in the years to come who will ultimately access this traditional resource. We have much to

be proud of and we hope we can continue to build on the excellent palliative care programs we already have in Alberta to support patients and families at the most vulnerable moment of their lives.

Thank you for this opportunity to comment. At the Government's pleasure, we would be pleased at any time to provide a tour of our palliative and hospice programs, and provide an opportunity to meet with clinicians, and most importantly, learn firsthand from the patients and families who are willing to share their experience what these services have meant to them personally.

We look forward to dialoguing with Government regarding the rights of patients, professionals, and institutions to ensure the system meets the needs of we serve. In humility, we seek to work together with Government to find creative solutions in navigating the many unknowns we all face as a society given the unprecedented and momentous change the Supreme Court of Canada ruling has introduced.

As in other jurisdictions where physician-assisted death exists, we are confident that the example of Catholic health care institutions working together with local governments in serving the needs of all, especially the most vulnerable, can be duplicated, even advanced in Alberta as a model for others to follow.

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