

Bill 84

An Act to amend various Acts with respect to medical assistance in dying

Motion to be moved in Committee

M_____

Subsection 2 (1) of the Bill (Section 1 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (1) of the Bill be amended by adding the following definition to the *Excellent Care for All Act, 2010*:

“registered nurse” means a member of the College of Nurses of Ontario who holds a certificate of registration as a registered nurse under the *Nursing Act, 1991*; (“infirmière autorisée” or “infirmier autorisé”)

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Subsection 2 (2) of the Bill (Subsection 13.8 (1) of the *Excellent Care for All Act, 2010*)

I move that subsection 13.8 (1) of the *Excellent Care for All Act, 2010*, as set out in subsection 2 (2) of the Bill, be amended by striking out “physician or nurse practitioner” and substituting “physician, nurse practitioner, registered nurse”.

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Subsection 2 (2) of the Bill (Section 13.8 of the *Excellent Care for All Act, 2010*)

I move that section 13.8 of the *Excellent Care for All Act, 2010*, as set out in subsection 2 (2) of the Bill, be struck out and the following substituted:

Immunity, MAID

13.8 (1) No action or other proceeding for damages shall be instituted against a physician, nurse practitioner, other registered nurse, pharmacist as defined in subsection 1 (1) of the *Drug and Pharmacies Regulation Act* or any other person assisting such a person for any act done or omitted in good faith in the performance or intended performance of medical assistance in dying.

Exception

(2) Subsection (1) does not apply to an action or proceeding that is based upon the alleged negligence of a physician, nurse practitioner, other registered nurse, pharmacist as defined in subsection 1 (1) of the *Drug and Pharmacies Regulation Act* or other person.

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Subsection 2 (2) of the Bill (Section 13.8 of the *Excellent Care for All Act, 2010*)

I move that section 13.8 of the *Excellent Care for All Act, 2010*, as set out in subsection 2 (2) of the Bill, be struck out and the following substituted:

Immunity, MAID

13.8 No action or other proceeding for damages shall be instituted against a health care practitioner, including a physician, nurse practitioner, registered nurse or any other person assisting him or her, or against a health sector organization, a director, officer or employee of a health sector organization, for anything done in good faith in the exercise or intended exercise of providing medical assistance in dying, or for any alleged neglect or default in the exercise of good faith in the provision or intended provision of medical assistance in dying.

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M _____

Subsection 2 (2) of the Bill (Section 13.8 of the *Excellent Care for All Act, 2010*)

I move that section 13.8 of the *Excellent Care for All Act, 2010*, as set out in subsection 2 (2) of the Bill, be amended by adding the following subsections:

Care providers

(3) No action or other proceeding for damages based on direct or vicarious liability shall be instituted against a care provider or a director, officer or employee of a care provider for any act done or omitted in good faith,

- (a) by the care provider in relation to the delivery of medical assistance in dying;
or
- (b) by a physician or nurse practitioner or any other person assisting him or her in the performance or intended performance of medical assistance in dying.

Exception, negligence

(4) Subsection (3) does not apply to an action or proceeding that is based upon the alleged negligence of the care provider, director, officer, employee, physician, nurse practitioner or other person.

Definition, “care provider”

(5) In this section,

“care provider” means,

- (a) a health service provider as defined in subsection 2 (2) of the *Local Health System Integration Act, 2006*,

- (b) a licensee as defined in subsection 2 (1) of the *Retirement Homes Act, 2010*,
and
- (c) any other prescribed person or entity.

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Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section after section 13.9:

Participation in MAID Voluntary

13.10 (1) Participation in medical assistance in dying shall be voluntary. A person may refuse to do something that is for the purpose of medical assistance in dying. This includes refusing to,

- (a) assess an individual’s capacity to give informed consent for the purpose of medical assistance in dying;
- (b) diagnose an individual for the purpose of medical assistance in dying;
- (c) determine an individual’s prognosis for the purpose of medical assistance in dying;
- (d) facilitate an individual’s access to medical assistance in dying;
- (e) provide medical assistance in dying;
- (f) assist in providing medical assistance in dying;
- (g) dispense a substance to an individual for the purpose of medical assistance in dying;
- (h) refer an individual to a person who will not refuse these things.

Access to records of personal health information

(2) This section does not alter a health information custodian's obligations respecting an individual's right of access to a record of personal health information about the individual.

No adverse legal or practical consequences

(3) The following provisions apply with respect to refusing to do something that is for the purpose of medical assistance in dying:

1. No action or other proceeding for damages shall be instituted against a person for refusing to do something that is for the purpose of medical assistance in dying.
2. A contract is void to the extent that it would prevent a person from refusing to do something that is for the purpose of medical assistance in dying.
3. No board as defined in section 1 of the *Public Hospitals Act* shall deny a physician appointment or reappointment to a group of the medical staff of a hospital as defined in section 1 of the *Public Hospitals Act*, change a physician's hospital privileges or deny a physician a change in hospital privileges for refusing to do something that is for the purpose of medical assistance in dying.
4. No employer or person acting on behalf of an employer shall intimidate, dismiss or otherwise penalize an employee or threaten to do so because the employee refused to do something that is for the purpose of medical assistance in dying. This paragraph may be enforced as if it formed part of the *Employment Standards Act, 2000*.
5. No administrative sanction, professional discipline, suspension or other adverse consequence shall be imposed on a person for refusing to do something that is for the purpose of medical assistance in dying, nor shall a refusal to do something that is for the purpose of medical assistance in dying affect a person's eligibility to be a student, licensed, credentialed or a member of a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*.
6. In the event of a conflict between this section and any other Act, including any rule or policy set by a College as defined in subsection 1 (1) of the *Regulated Health Professions Act, 1991*, this section prevails.

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M_____

Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section after section 13.9:

Participation Voluntary

13.10 (1) Participation in activities authorized pursuant to sections 241.1, 241.2, 241.3 of the *Criminal Code* (Canada) shall be voluntary.

No adverse consequences

(2) A person is not subject to civil, administrative, disciplinary, employment, credentialing, regulatory or other sanction or penalty or loss of privileges, loss of membership or any other liability for refusing to participate, directly or indirectly in activities authorized pursuant to sections 241.1 through 241.3 of the *Criminal Code* (Canada).

Clarification

(3) For the purposes of this section, participate includes, but is not limited to, performing, assisting in the performance of or making a referral for any activities related to, or for the purpose of, medical assistance in dying

(4) For the purposes of this section participate does not include:

- (i) the provision, upon request, of information about services that can provide access to medical assistance in dying
- (ii) the provision, upon request, of a patient's relevant medical record, to the patient, or
- (iii) communicating to the appropriate person in authority a patient's request for a complete transfer of care so that the person in authority can facilitate the transfer.

Conflicts with other legislation

(2) In the event of a conflict between section 13.10 and other legislation, section 13.10 prevails.

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Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section:

No duty to participate

13.10 (1) A physician, nurse practitioner, pharmacist as defined in subsection 1 (1) of the *Drug and Pharmacies Regulation Act* or other person shall not be under any legal duty, including by contract, to participate in the provision of a lethal dose of medication to a patient.

No professional consequences

(2) A health care facility or health care provider shall not subject a person to discipline, suspension, loss of licence, loss of privileges or other penalty for actions taken in good faith reliance on subsection (1) or a refusal to act under subsection (1).

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M_____

Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section:

No compulsion to participate

13.10 Nothing in this Act requires a physician or nurse practitioner to provide or participate in medical assistance in dying.

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M _____

Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section:

Copy of medical records

13.10 If a health care provider is unable or unwilling to carry out a request under paragraph 241.2 (1) (d) of the *Criminal Code* (Canada) and the individual transfers care to a new health care provider, the individual may request a copy of his or her medical records under the *Personal Health Information Protection Act, 2004*.



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M _____

Subsection 2 (2) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that subsection 2 (2) of the Bill be amended by adding the following section to the *Excellent Care for All Act, 2010*:

Care co-ordination service

13.10 The Minister shall establish a care co-ordination service to support patient access to medical assistance in dying and other end-of-life options in Ontario.

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M_____

Subsection 2 (3) of the Bill (Section 13.10 of the *Excellent Care for All Act, 2010*)

I move that section 2 of the Bill be amended by adding the following subsection:

(3) The Act is amended by adding the following section:**Care co-ordination service**

13.10 The Minister shall establish a care co-ordination service to assist patients and caregivers in accessing additional information and services for medical assistance in dying and other end-of-life options.

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M_____

Section 3 of the Bill (Subsections 65 (11) and (12) of the *Freedom of Information and Protection of Privacy Act*)

I move that subsections 65 (11) and (12) of the *Freedom of Information and Protection of Privacy Act*, as set out in section 3 of the Bill, be struck out and the following substituted:

Non-application of Act

(11) This Act does not apply to identifying information in a record relating to medical assistance in dying.

Interpretation

(12) In subsection (11),

“identifying information” means information,

- (a) that relates to medical assistance in dying, and
- (b) that identifies an individual or facility, or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual or facility; (“renseignements identificatoires”)

“medical assistance in dying” means medical assistance in dying within the meaning of section 241.1 of the *Criminal Code* (Canada). (“aide médicale à mourir”)

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M _____

Section 3 of the Bill (Subsection 65 (12) of the *Freedom of Information and Protection of Privacy Act*)

I move that the definition of “identifying information” in subsection 65 (12) of the *Freedom of Information and Protection of Privacy Act*, as set out in section 3 of the Bill, be amended by striking out “a person or facility” in both places it appears and substituting “an individual”.

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M_____

Section 3 of the Bill (Subsection 65 (12) of the *Freedom of Information and Protection of Privacy Act*)

I move that subsection 65 (12) of the *Freedom of Information and Protection of Privacy Act*, as set out in section 3 of the Bill, be amended by striking out “or facility” wherever it appears.

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M_____

Section 3.1 of the Bill (Section 181.1 of the *Long-Term Care Homes Act, 2007*)

I move that the Bill be amended by adding the following section:

3.1 The *Long-Term Care Homes Act, 2007* is amended by adding the following section:**Immunity, medical assistance in dying**

181.1 (1) No action or other proceeding for damages shall be instituted against a licensee or against a director, officer or employee of a long-term care home for anything done in good faith in the exercise or intended exercise of providing medical assistance in dying, or for any alleged neglect or default, in good faith, in the exercise or intended exercise of providing medical assistance in dying.

Definition, “medical assistance in dying”

(2) In this section,

“medical assistance in dying” means medical assistance in dying within the meaning of section 241.1 of the *Criminal Code* (Canada).

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(On peut obtenir la version française de cette motion auprès du greffier.)

M_____

Section 4 of the Bill (Subsections 52 (5) and (6) of the *Municipal Freedom of Information and Protection of Privacy Act*)

I move that subsections 52 (5) and (6) of the *Municipal Freedom of Information and Protection of Privacy Act*, as set out in section 4 of the Bill, be struck out and the following substituted:

Non-application of Act

(5) This Act does not apply to identifying information in a record relating to medical assistance in dying.

Interpretation

(6) In subsection (5),

“identifying information” means information,

- (a) that relates to medical assistance in dying, and
- (b) that identifies an individual or facility, or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual or facility; (“renseignements identificatoires”)

“medical assistance in dying” means medical assistance in dying within the meaning of section 241.1 of the *Criminal Code* (Canada). (“aide médicale à mourir”)

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M _____

Section 4 of the Bill (Subsection 52 (6) of the *Municipal Freedom of Information and Protection of Privacy Act*)

I move that the definition of “identifying information” in subsection 52 (6) of the *Municipal Freedom of Information and Protection of Privacy Act*, as set out in section 4 of the Bill, be amended by striking out “a person or facility” in both places it appears and substituting “an individual”.

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M _____

Section 4 of the Bill (Subsection 52 (6) of the *Municipal Freedom of Information and Protection of Privacy Act*)

I move that subsection 52 (6) of the *Municipal Freedom of Information and Protection of Privacy Act*, as set out in section 4 of the Bill, be amended by striking out “or facility” wherever it appears.

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Explanatory Note of the Bill

The *Regulated Health Professions Act, 1991* is amended to provide that no member can be compelled to participate in medical assistance in dying if to do so would violate their conscience or religion.

Section 7 of the Bill (Section 29.2 of the *Regulated Health Professions Act, 1991*)

I move that Bill be amended by adding the following section after section 29.1:

Medical Assistance in Dying

29.2(1) Member participation in medical assistance in dying shall be voluntary.

Definition

(2) “medical assistance in dying” means medical assistance in dying within the meaning of section 241.1 of the *Criminal Code* (Canada)

No penalty

(3) A member shall not be subject to civil, administrative, disciplinary, employment, credentialing, regulatory or other sanction or penalty, or loss of privileges, loss of membership or any other liability for refusing to participate, directly or indirectly in medical assistance in dying.

Clarifications

(4) For the purposes of this section, participate includes, but is not limited to, performing, assisting in the performance of or making a referral for any activities related to, or for the purpose of, medical assistance in dying.

(5) For the purposes of this section participate does not include the provision, upon request,

of information about services that can provide access to medical assistance in dying
of a patient's relevant medical record to the patient, or

communicating to the appropriate person in authority a patient's request for a
complete transfer of care so that the person in authority can facilitate the transfer.

Conflicts with other legislation

(6) In the event of a conflict between section 29.2 and other legislation, section 29.2
prevails.