



Submission
to the
External
Panel on
Options for
a Legislative
Response to
*Carter v.
Canada*

2015



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Pharmacy in Canada

Pharmacists in Canada

Canada has approximately 39,000 licensed pharmacists. Of those, 27,500 work in 9600 community pharmacies and 6500 work in hospitals. Almost 5000 pharmacists work in other settings such as the pharmaceutical industry, governments, associations, colleges and universities.

What Can Pharmacists Do In Canada?

Today's pharmacists are highly respected as the medication management experts of the health care team. They collaborate with patients, their families and other health care providers to benefit the health of Canadians. The pharmacist's traditional role is expanding, and pharmacists across Canada deliver a range of innovative services, including medication reviews, chronic disease management, immunization services and wellness programs. Most provincial governments have approved pharmacist prescribing with varying scopes of authority, a service that complements the care provided by a doctor and can result in more convenient refills, less time spent dealing with prescription changes and collaborative medication management.



About the Canadian Pharmacists Association

The Canadian Pharmacists Association was founded in 1907 and is the national professional voluntary association providing leadership to pharmacists in all areas of practice. Our members are active in community and hospital pharmacies, long-term care facilities, home care, academia and industry. In addition to advocacy, CPhA also publishes therapeutic guides and delivers continuing education courses to empower pharmacists in providing optimal patient-centred care.

Our Mission

Advancing the health and well-being of Canadians through excellence in pharmacist care.

Our Vision

Pharmacists providing world-class pharmacy leadership.

How CPhA Helps Pharmacists

We help pharmacists and achieve our mission and vision by collaborating with our member organizations, pharmacists and key stakeholders through:

- Speaking as the national voice for the profession.
- Leading practice advancement to enable pharmacists to utilize the full extent of their knowledge and skills in providing health care.
- Protecting the safety, security and integrity of the medication system through the development of and participation in medication safety and quality improvement initiatives.
- Supporting pharmacists in providing medication management, health promotion and disease prevention services.
- Collaborating with other health care providers and key stakeholders to optimize health outcomes for Canadians.
- Being the trusted source of education, information, tools and resources to support safe and effective medication use and optimal drug therapy outcomes.



Introduction

CPhA's submission is informed by the Panel's request for input, through the lens of Canadian pharmacy practice. Specifically, this submission highlights the pharmacy community's views on eligibility criteria and definition of key terms, and safeguards to address risks and procedures for assessing requests for assistance in dying (for pharmacists) and the protection of physicians' – and pharmacists' – freedom of conscience. While CPhA does not yet have a formal policy position on assisted dying, and therefore does not offer specific recommendations to the Panel, this submission seeks to highlight early considerations in the development of legislation as it pertains to pharmacy practice.

Depending upon the scenario, there will be a role to play for hospital and community pharmacists. In jurisdictions where assisted dying is legal, experience shows there are profound implications for pharmacy practice. In the case of physician-assisted suicide¹, a patient is provided with a prescription at a high enough dosage to cause their death. This would require a community pharmacist to fill the prescription and may necessitate pharmacist counseling. In the case of voluntary euthanasia², a doctor could inject the patient with a lethal dose of medication. This would require a hospital or community pharmacist to fill the prescription, and may also necessitate pharmacist counseling.

While it is difficult to predict the impact of assisted dying legislation in Canada, jurisdictions where assisted dying is legal indicate potential practice issues for the pharmacy profession. For example, research shows that most pharmacists in the Netherlands are directly affected by assisted dying. Results of a survey published in 2000 show that 78% of community pharmacists had received at least one request to dispense drugs for euthanasia or physician-assisted suicide in the years 1991-93 and 11% received at least one request in 1993.³ While assisted dying is less common in other jurisdictions which allow it, a defined role for pharmacy has emerged in government legislation and formal guidance from professional and regulatory pharmacy bodies. See Appendix 2 (Pharmacy Involvement Where Assisted Suicide and Euthanasia Are Permitted) for a complete overview of international assisted dying legislation as it pertains to pharmacy, and a description of practice guidance issued by pharmacy regulators in other jurisdictions. See Appendix 3 for more information about existing policies which govern a pharmacist's refusal to fill a prescription for moral or religious reasons.

¹ CPhA notes that the term 'physician-assisted suicide' is politically sensitive. It is employed in this submission in accordance with the consultation materials produced by the Panel.

² CPhA notes that the term 'voluntary euthanasia' is politically sensitive. It is employed in this submission in accordance with the consultation materials produced by the Panel.

³ Lau HS, Riezebos J, Abas V, Porsius AJ, De Boer A. A nationwide study on the practice of euthanasia and physician-assisted suicide in community and hospital pharmacies in the Netherlands. *Pharmacy World and Science* 2000; 22: 3-9.



Pharmacist Survey on Assisted Dying: Early Considerations for Pharmacy Practice

CPhA does not hold a formal position on assisted dying as it relates to pharmacy practice. As a first step toward the development of a policy, CPhA surveyed nearly 1000 individual members of the Canadian pharmacy community to seek their input on assisted dying. Respondents shared diverse views on a contentious and emotional issue, including protection of conscience, pharmacist participation, pharmacist counseling and drug information issues. The survey garnered 978 individual responses, the majority from community hospital pharmacists representing every province and territory. While these findings are preliminary, pharmacists from across Canada expressed their concerns clearly on a number of key issues.

1. Protection of Conscience

The Supreme Court of Canada's decision in *Carter v Canada* noted that a physicians' decision to participate in assisted dying is a matter of conscience, and in some cases, religious belief, and that nothing in its decision would compel physicians to provide assistance in dying.⁴ Pharmacists agreed overwhelmingly that there must be equal consideration given to the role of pharmacists, who must not be compelled to dispense lethal medication for the purpose of assisted dying. Pharmacists believe strongly that any federal legislation which protects physicians' freedom of conscience should apply equally to pharmacists. Similar to other health care professionals, pharmacists are divided on the obligation to refer to another pharmacist who is willing to fill a prescription for the purpose of assisted dying. Many respondents referenced provincial pharmacy regulators' existing policies on refusal to fill for moral or religious reasons (see Appendix 2) which were introduced to respond to concerns from pharmacists who do not wish to dispense emergency contraception.

2. Pharmacist Counseling

In certain jurisdictions where assisted dying is legal, pharmacists are not only asked to dispense lethal drugs, but they can be expected to offer advice to patients and physicians. For example, in the state of Oregon, community pharmacists may dispense lethal doses of medication to a physician, patient or family member.⁵ Pharmacists are also required by law to offer oral medication counseling to the patient or patient's agent.⁶ CPhA's survey found that Canadian pharmacists favour a requirement for pharmacist counseling to the patient, physician, or patient's family as part of dispensing lethal medication. However, many pharmacists expressed concerns about the need for training in order to dispense prescriptions intended for assisted dying, and to provide appropriate counselling.

⁴ *Carter v. Canada (Attorney General)*, 2015 SCC 5, [2015] 1 S.C.R. 331

⁵ Meek, C. Pharmacy involvement where assisted suicide and euthanasia are permitted. *The Pharmaceutical Journal* 2006.

⁶ *Ibid.*



3. Drug Information Issues

In dispensing a prescription, a pharmacist assumes a proportion of the responsibility for that prescription and therefore must be assured that it is entirely appropriate for the patient. The same principle would apply for prescriptions use in assisted dying. In the absence of a specific requirement, pharmacists may not be privy to certain aspects of the doctor/patient relationship which plays an essential role in the end-of-life decision process. Given that there are currently no medications that are uniquely indicated for physician-assisted suicide, and that dispensing pharmacists may be unaware of the intended purpose of a prescription, pharmacists strongly agree that they should have full access to the patient's diagnosis and care plan when filling prescriptions intended for the purpose of assisted dying.

4. Additional Considerations

Pharmacists volunteered a number of additional considerations in addition to the questions posed by the survey:

- Pharmacists expressed concern that they presently lack the training to dispense prescriptions for lethal medication and provide appropriate counseling.
- Pharmacists highlighted the need to consider the unique practice environments of hospital and community pharmacists.
- Pharmacists expressed concerns about limiting liability associated with their participation in assisted dying.
- Pharmacists were divided on whether or not a requirement to refer is adequate protection for those who object to participate for reasons of conscience.

Next Steps

CPhA has convened an Assisted Dying Policy Working Group to review the survey results and develop a formal policy position. Membership includes community and hospital pharmacists, and experts in the fields of palliative and end-of-life care. CPhA will keep the External Panel apprised of policy developments on this file.



Appendix 1: CPhA Pharmacist Survey on Assisted Dying

1. The Supreme Court of Canada’s decision in *Carter v. Canada* noted that a physician’s decision to participate in assisted dying is a matter of conscience and in some cases religious belief, and that nothing in its decision would compel physicians to provide assistance in dying.

To what extent do you agree with the following statement?

Pharmacists should be obligated to participate in assisted dying.

Total Response Count Answer	978	
	Count	Percent
Strongly Disagree	549	56.13%
Disagree	131	13.39%
Neutral	103	10.53%
Agree	94	9.61%
Strongly Agree	92	9.41%
Prefer Not To Say	9	0.92%

2. The Panel is seeking input from stakeholders on “safeguards to address risks and procedures for addressing requests for assistance in dying and the protection of physicians’ freedom of conscience.”

To what extent do you agree with the following statement?

CPhA should advocate that safeguards in legislation should apply equally, where appropriate, to pharmacists.

Total Response Count Answer	978	
	Count	Percent
Strongly Disagree	36	3.68%
Disagree	14	1.43%
Neutral	46	4.70%
Agree	126	12.88%
Strongly Agree	734	75.05%
Prefer Not To Say	22	2.25%



3. Assuming that conscience protections will apply equally to pharmacists in legislation, to what extent do you agree with the following statement?

If a pharmacist does not wish to participate in any aspect of assisted dying, they must refer the patient and/or physician to another pharmacist who will fulfill the request.

Total Response Count Answer	978	
	Count	Percent
Strongly Disagree	177	18.10%
Disagree	58	5.93%
Neutral	78	7.98%
Agree	128	13.09%
Strongly Agree	518	52.97%
Prefer Not To Say	19	1.94%

4. Do you have any additional comments with respect to conscientious objection by pharmacists as it relates to a federal legislative framework for physician-assisted dying? If so, please describe below.

Pharmacists answered individually and provided a range of comments.

5. Where assisted dying is legal, pharmacists are not only asked to dispense lethal drugs, but they can be expected to offer advice to patients and physicians.

In the case of physician-assisted suicide, to what extent do you agree with the following statement?

A federal legislative framework for assisted dying should require pharmacist counseling as part of dispensing lethal medications to physicians, patients or family members.

Total Response Count Answer	978	
	Count	Percent
Strongly Disagree	204	20.86%
Disagree	56	5.73%
Neutral	111	11.35%
Agree	180	18.40%
Strongly Agree	379	38.75%
Prefer Not To Say	48	4.91%



6. In dispensing a prescription, a pharmacist assumes a proportion of the responsibility for that prescription and therefore must be assured that it is entirely appropriate for the patient. The same principle would apply for prescriptions used in assisted dying. In the absence of legislation, pharmacists may not be privy to certain aspects of the doctor/patient relationship which plays an essential role in the end-of-life process.

Given that there are currently no medications that are uniquely indicated for physician-assisted suicide, and that dispensing pharmacies may be unaware of the intended purpose of a prescription, to what extent do you agree with the following statement:

If pharmacists are to participate in dispensing prescriptions for use in assisted dying, legislation should require that pharmacists have full access to the patient’s diagnosis and assisted dying care plan.

Total Response Count Answer	978	
	Count	Percent
Strongly Disagree	45	4.60%
Disagree	21	2.15%
Neutral	44	4.50%
Agree	114	11.66%
Strongly Agree	694	70.96%
Prefer Not To Say	60	6.13%

7. Do you have any additional comments with respect to safeguards to address risks and procedures for assessing requests for assistance in dying as they relate to a federal legislative framework for physician-assisted dying? If so, please describe below.

Pharmacists answered individually and provided a range of comments.

8. Which occupation best describes your pharmacy background?

Total Response Count Answer	971	
	Count	Percent
Community Pharmacist	686	70.65%
Hospital Pharmacist	179	18.43%
Pharmacy Technician	10	1.03%
Academic / Research	25	2.57%
Advocacy / Public Affairs	9	0.93%
Other	62	6.39%



9. What is your province or territory of practice?

Answer	Count	Percent
Alberta	258	26.41%
British Columbia	265	27.12%
Manitoba	36	3.68%
New Brunswick	39	3.99%
Newfoundland	28	2.87%
Nova Scotia	43	4.40%
Northwest Territories	4	0.41%
Nunavut	1	0.10%
Ontario	183	18.73%
Prince Edward Island	4	0.41%
Quebec	7	0.72%
Saskatchewan	105	10.75%
Yukon	4	0.41%



Appendix 2: Pharmacy involvement where assisted suicide and euthanasia are permitted

The Netherlands

The Dutch Termination of Life on Request and Assisted Suicide (Review Procedures) Act, which came into force in 2002, codified requirements that have evolved in case law and medical ethics since 1973 and defines the conditions that doctors must satisfy in order to perform euthanasia or PAS without prosecution. For example, doctors must be satisfied that the patient has made a voluntary and considered request, and be satisfied the patient's suffering is unbearable and there is no prospect of improvement. The doctor must also consult a colleague who has seen the patient.

Under the Act, an advance directive counts as a well-considered request for euthanasia, meaning that treatment can be withdrawn from a patient who is unable to consent. The Act does not cover neonates but, with additional safeguards, the law is not limited to adults and the patient does not have to be terminally ill.

Pharmacy practice and Dutch law Research shows that most pharmacists in the Netherlands are directly affected by PAS or euthanasia. Results of a survey published in 2000 show that 78 per cent of community pharmacies had received at least one request to dispense drugs for euthanasia or PAS in the years 1991–93 and 11 per cent received between six and 10 requests. The same research found that 88 per cent of the hospital pharmacies received at least one request in 1993.¹

Despite pharmacists' involvement, the Act does not explicitly refer to their role. If a doctor is prosecuted for illegal euthanasia, however, the pharmacist who supplied the drugs will not be prosecuted under normal circumstances. The pharmaceutical inspectorate holds the position that although the pharmacist and doctor should discuss the prescription, the pharmacist does not have to investigate whether the doctor is conforming with legal requirements.

The Royal Dutch Pharmaceutical Society (KNMP) has issued guidance for pharmacists on dispensing drugs for euthanasia and PAS. These state, for example, that pharmacists have a right to refuse to dispense. Practice protocols in hospitals and the community setting also exist for co-operation between pharmacists and doctors. One local protocol has made standard packages of drugs available (an intravenous one for performing euthanasia and an oral one for performing assisted suicide) and detailed technical guidelines exist on the drugs that should be used for the purposes of euthanasia and PAS.

Despite these efforts to ensure best practice there is some research to show that GPs do not always adhere to KNMP guidance on administration. One study published in 1992 found that GPs sometimes used inappropriate drugs (for example, a combination of morphine and brallobarbitol or insulin) or dosages that were too low. Sometimes drugs were administered in inappropriate ways (for example, rectally or subcutaneously). In 12 per cent of cases there were complications such as the drug not leading to death or doing so too slowly.² Four years on from the introduction of the Act, Royal Dutch Medical Association says that its focus of policy development is now on the improvement of the quality of medical decision-making in cases of euthanasia and assisted suicide.



There is also evidence to show that the role pharmacists play in reality is often different to the role that is defined in the professional guidance. The KNMP guidelines state that written requests for drugs for euthanasia must comply with requirements for opioid drug prescriptions, yet one study has found that more than 40 per cent of requests that are dispensed by community and hospital pharmacists do not comply.

The KNMP guidelines also state that requests from doctors must be made in writing and pharmacy technicians should not be involved. But this study also found that 26 per cent of honoured requests were not made in writing (to community pharmacists) and pharmacy technicians were involved in 6 per cent of cases in the community and 31 per cent of cases in hospitals.¹

Switzerland

The Swiss penal code states that a person who assists someone else to commit suicide will only be punished if that person is motivated by self-interest. This is the legal basis for PAS. However, this penal code provision is qualified by a number of other laws that impact on a physician's ability to assist a suicide. For example, the civil code states that if a person lacks capacity then his or her request for PAS has no legal validity. Furthermore, under the Swiss penal code, euthanasia remains a crime.

Pharmacy practice and Swiss law Pharmacists in Switzerland are rarely involved in PAS for three reasons. First, it is estimated that the number of physician-assisted deaths amounts to only 0.2 per cent of all deaths. Secondly, most PAS cases are carried out by voluntary organisations such as EXIT. These organisations offer services to people who want to commit suicide including facilities where the suicide can take place. Although the Swiss Academy of Medical Sciences has set out strict guidance for doctors on PAS, most suicides are not directly supervised by doctors. Lastly, according to the Swiss Law on Pharmaceutical Products, pharmacists cannot dispense drugs that may result in death. The one exception to that general rule permits the prescription of lethal barbiturates to relieve pain. This means that pharmacists who work with doctors in institutions such as hospitals and hospices can dispense barbiturates according to strict end-of-life protocols.

Pharmacists are not mentioned in the various relevant laws that make PAS legal in Switzerland and the Swiss Association of Pharmacists (SAP) has not issued any guidance to the profession about PAS. SAP says, however, that local protocols between doctors and pharmacists probably exist. Pharmacists who ask the association for advice when they receive prescriptions for drugs that may be lethal are advised not to dispense because they cannot check whether the patient is terminally ill or has legal capacity.

Pharmacists have no right to a conscience clause. On the contrary, they must dispense products requested in a prescription unless they suspect that the prescription may result in the death of a patient.

Belgium

Belgium's Euthanasia Act of May 2002 is similar to the one in place in the Netherlands and details how doctors can perform euthanasia without being prosecuted. The Belgian Act differs from the law in the Netherlands (and that in place in Oregon and Switzerland) because PAS remains illegal.



Pharmacy practice and Belgian law As in the Netherlands, many pharmacists in Belgium are directly affected by the legislation. Officially, PAS or euthanasia accounted for 0.6 per cent of all deaths in 2004. A study in 1998, however, looked at 1,925 deaths and the authors concluded that 1.3 per cent of all deaths in the country occurred as a result of PAS or euthanasia. It is predicted that the official figure of 0.6 per cent will rise sharply as more doctors comply with the new law.³

Pharmacists in Belgium are given good protection from prosecution. Revisions to the law on euthanasia in 2004 state that the pharmacist who dispenses a lethal drug does not commit any offence if the doctor states on the prescription that he or she is acting in accordance with the law. The pharmacist must deliver the drugs for euthanasia in person to the requesting doctor.

The Belgian Pharmaceutical Association (APB) has finalised guidance for pharmacists on the Euthanasia Act and this describes in detail how drugs for euthanasia should be prescribed, delivered, administered and returned if they are not used. It also includes information on how the products should be ordered and priced.

Prescriptions must make the intended use of the drug clear. This gives pharmacists the opportunity to refuse to participate and that right is legally protected. If the pharmacist is suspicious that the intended use of a prescription is for euthanasia, but the prescription does not make this clear, then the pharmacist can refuse to dispense. Many hospitals also have their own protocols and guidance for euthanasia.

Since the Euthanasia Act is so young it is difficult to know if Belgian pharmacists are deviating from their own guidelines. The APB, however, states that the current law is strictly observed.

Oregon

Under the Oregon Death with Dignity Act that came into force in 1997 a physician can help a patient commit suicide without fear of prosecution as long as strict conditions are met. For example, patients must make one written request to die (signed in front of two witnesses) and two oral requests to die separated by at least 15 days, and two doctors must independently judge that the patient has six months or less to live and determine whether the patient is capable. The Act legalises PAS, but prohibits euthanasia and any lethal drugs that are prescribed must be self-administered. Those eligible must be 18 years of age or older, capable, be a resident of Oregon and have a terminal disease (this must be incurable and irreversible and expected to lead to death within six months).

Pharmacy practice and Oregon law Any pharmacist can receive a prescription for a lethal drug but, in reality, only a small number are asked to dispense as PAS accounts for less than 0.1 per cent of all deaths in the state.

In 1999 the Act was amended to ensure that pharmacists are told about the intended use of the drug and physicians and pharmacists are under no obligation to take part. PAS is monitored by the Oregon Department of Human Services through a system of physician and pharmacist compliance reports, death certificate reviews and follow-up interviews. Pharmacists and physicians must take part in the official reporting procedure if they honour a PAS request.



Most drugs for PAS cases are dispensed by pharmacists who are members of the American Society of Health-System Pharmacists. Professional guidance from this body, however, represents “guiding principles” for pharmacists’ participation in the legal and ethical debate about PAS rather than best practice advice.

Rules for doctors have a big impact on the way pharmacists and physicians communicate when a patient makes a request for PAS. Doctors must personally find out if the pharmacist is willing to dispense drugs for the purposes of PAS. This Board of Medical Examiners’ rule also states that physicians must personally issue prescriptions for lethal drugs to pharmacists. This rule is also intended to encourage co-operation and communication between pharmacists and physicians.

There are no standard recommendations for drugs for assisted suicide. The Department of Human Services has said that neither the Board of Pharmacy nor the pharmacists’ body in Oregon was willing to make recommendations on drugs for assisted suicide because of the fear of litigation. The ASHP has not issued any guidance on which drugs should be used for PAS and how they should be administered.

Statement This article was commissioned by Eileen Neilson, head of policy development, Royal Pharmaceutical Society, on behalf of the Society’s Law and Ethics Committee.

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2. Onwuteaka-Philipsen BD, Muller MT, Van Der Wal G. Euthanatics: implementation of a protocol to standardise euthanatics among pharmacists and GPs. *Patient Education and Counselling* 1997;31:131–7.
3. Deliens L, Mortier F, Bilsen J, Cosyns M, Stichele RV, Vanoverloop J et al. End-of-life decisions in medical practice in Flanders, Belgium: a nationwide survey. *Lancet* 2000;356:1806–11.



Appendix 3: Regulatory and Practice Guidance (Refusal to Fill)

Most provincial and territorial pharmacy bodies already have policies in place which outline the circumstances under which a pharmacist is permitted to decline providing certain pharmacy products or services if it appears to conflict with the pharmacist's view of morality or religious beliefs and if the pharmacist believes that his or her conscience will be harmed by providing the product or service.

Pharmacists shall hold the health and safety of the public to be their first consideration in the practice of their profession. Pharmacists who object, as a matter of conscience, to providing a particular pharmacy product or service must be prepared to explain the basis of their objections. Objecting pharmacists have a responsibility to participate in a system designed to respect a patient's right to receive pharmacy products and services.

British Columbia College of Pharmacists: Professional Practice Policy 35 – [Refusal to Provide a Product or Service for Moral or Religious Reasons](#)

Alberta College of Pharmacists: [Code of Ethics](#)

Saskatchewan College of Pharmacists: [Statement Regarding Pharmacists' Refusal to Provide Products or Services for Moral or Religious Reasons](#)

College of Pharmacists of Manitoba: Standards of Practice – [Pharmacist's Responsibilities in the Refusal to provide Products or Services for Moral or Religious Reasons](#)

Ontario College of Pharmacists: [Position Statement on Refusal to Fill for Moral or Religious Reasons](#)

New Brunswick College of Pharmacists: [Code of Ethics – Statement V](#)

Nova Scotia College of Pharmacists: [Code of Ethics – Value V – Responsibility to the Patient](#)

Prince Edward Island College of Pharmacists: [Code of Ethics – Value V – Respect the patient's right to receive care](#)

The Newfoundland and Labrador Pharmacy Board: [Pharmacy Practice Manual – Guidelines for Application – Registrants respect the patient's right to receive care](#)