

## Quebec's doctor-assisted dying law challenged

Quebec's new law permitting physician-assisted death may be short lived pending a legal appeal. After four years of consultations, unanimous approval in the provincial legislature and recent court challenges, the province says **Bill 52, an act respecting end-of-life care**, came into effect Dec. 10. But on Dec. 18, the Quebec Court of Appeal will consider an earlier Superior Court decision and the subsequent ruling could stop Bill 52. It's not known when that appeal ruling will be delivered.

The legal challenges began in November, when Lisa D'Amico, a disabled woman, and The Coalition of Physicians for Social Justice sought an injunction from the Quebec Superior Court to prevent Bill 52 from being enacted. D'Amico and the coalition believe palliative care is a better solution than physician-assisted death.

Rather than issue an injunction, Justice Michel Pinsonnault ruled on Dec. 1 that Bill 52 contravened key provisions of the Canada *Criminal Code*. He stated that federal law takes precedence over provincial law.

The Quebec government appealed Pinsonnault's decision, and on Dec. 9 the Court of Appeal suspended the ruling until it has heard arguments from all sides on the merits of an appeal. Those arguments will be heard beginning Dec. 18.

The Quebec government interpreted this suspension as allowing Bill 52 to be enacted Dec. 10. Both Health Minister Gaétan Barrette and Justice Minister Stephanie Vallée have **repeated their belief that the law is perfectly valid**. Vallée has instructed Crown prosecutors not to take legal action against doctors who help terminally ill patients end their lives.

But that may not hold. Federal Justice Minister Jody Wilson-Raybould says the



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The province of Quebec maintains that its new physician-assisted dying law has been enacted; the courts may disagree.

existing *Criminal Code* ban on physician-assisted death is still valid until the federal government can come up with new protocols for how the changes can be implemented. She said she fears Bill 52 would put Quebec doctors in a vulnerable situation, subject to criminal action.

Meanwhile, changes at the federal level are also underway. On Feb. 6, the Supreme Court of Canada suspended the application of the *Criminal Code* provisions prohibiting physician-assisted dying. But it gave the federal government a year to rewrite those provisions. Now the federal government has asked for an extension until Aug. 6 to form a response and put in safeguards to protect patients.

Under Quebec's Bill 52, physician-assisted death will be an option only in extreme cases, when unbearable pain cannot be eased. The patient must be a Quebec resident with a valid provincial medicare card, be 18 years or older, able and willing to give consent, at the end of his or her life and suffering from a serious, incurable disease. A second doctor must come to the same conclusion before medication can be administered.

The Quebec College of Physicians has

urged its members to **wait until after the Quebec Court of Appeal hearing** before agreeing to help patients end their lives.

Quebec's doctors are not obliged to help suffering patients end their lives. However, if they decline, they must refer patients to another doctor.

Some doctors may have moral objections, says Dr. Roch Bernier, the former president of The College of Family Physicians of Canada. "It's a reversal of everything they've been taught, that is, to save a life and to accompany a patient throughout the different phases of his life."

Physician-assisted dying "will never be taken lightly," adds Bernier. "It is reserved for exceptional clinical cases

where no comfort can be provided to a dying, consenting patient who is experiencing unbearable suffering."

In Quebec, safeguards have been built in to ensure consent, says Dr. Ian Mitchell, an ethicist and professor at the Cumming School of Medicine at the University of Calgary. He says he's comfortable with the idea, which now is widely accepted by the Canadian population, "but one has to see how it works in practise."

Those who fear it could lead to euthanasia-on-demand down the road are misguided, Mitchell adds. "There is little evidence of slippery slope in the Europe or United States experience."

"Ninety-nine percent of those dying will not want this," Mitchell says, and instead will opt for palliative care.

Many palliative care centres in the province, including the unit at the Centre hospitalier de l'Université de Montréal, have decided not to provide physician-assisted death, because that approach is not seen as care. — Huguette Young, Ottawa, Ont.

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