

A British Columbia court challenge to end forced transfer for medical assistance in dying



For immediate release

Dying With Dignity Canada (DWDC), the national human-rights charity committed to protecting end-of-life rights, and Arvay Finlay, the legacy firm of Joe Arvay who was lead legal counsel in the *Carter* case, will join forces in a British Columbia court challenge to ensure that the rights of vulnerable patients to access medical assistance in dying (MAID) are protected within all British Columbia care facilities.

Right now, in some publicly-funded health care facilities, those rights can be significantly impaired on the basis of someone else's religious beliefs that a patient does not share. In some cases, patients may not be able to access MAID at all. In others, they may be forced to endure a painful and traumatic transfer to a different facility at the most vulnerable time of their lives or may be denied admission to hospice or palliative care because they wish to access MAID.

A 2023 poll conducted by Ipsos on behalf of DWDC shows that 73% of people across Canada believe that publicly-funded health care facilities should be required to provide the full range of health care services, including MAID, if they have the proper equipment and staff to do so.

The legal team will be led by Robin Gage, Kate Phipps, and Catherine Boies Parker, KC, all partners in the firm with considerable experience in constitutional litigation. DWDC will act as public interest litigant on behalf of patients, their families and loved ones, and clinicians, who have suffered egregious harm caused by the denial of their section 7 and 2a *Charter* Rights.

Arvay Finlay filed the claim in the Supreme Court of British Columbia on Monday June 17, 2024.

If you, or someone you know has or is experiencing a forced transfer, and you would like support or to share your experience, please contact us at [1.800.405.6156](tel:18004056156) or info@dyingwithdignity.ca.

Quotes

“A religiously affiliated health care facility’s primary purpose is to provide health care. Religious beliefs should never interfere with a patient’s health care choices; it is unconstitutional and compromises the patient’s care when they are most vulnerable. We believe that a person should have access to all their end-of-life choices no matter where they access health care. Addressing this issue is long overdue, and it is incumbent on all of us to restore rights to patients, their loved ones and their clinicians.”

Helen Long, CEO, Dying With Dignity Canada

“Health care is publicly funded by taxpayers in Canada. Many patients who end up in faith-based institutions did not choose to be there and do not share the beliefs of the organization. Government actors must remain neutral in matters of religion and not offer preferential treatment to particular religious institutions. Institutions do not have souls or consciences—the people in them do. The *Charter* demands respect for individual rights, including the right to be free from religious coercion.”

Professor Daphne Gilbert, Faculty of Law at the University of Ottawa and Vice-Chair of DWDC Board of Directors

“Vulnerable patients are severely harmed by health care facilities refusing to allow MAID to be provided within their walls. For example, their access can be delayed resulting in extended intolerable suffering. It can be denied because they are too medically fragile to be transferred or there may be nowhere they can be transferred to. They may experience excruciating suffering throughout the transfer. They may feel profoundly shamed and stigmatized.

They are denied the ability to make the choice to live or die and to control the when, how, and where of their death – all because of religious beliefs that they do not share.”

Jocelyn Downie, Professor Emeritus, Faculties of Law and Medicine at Dalhousie University

“As health care providers we have a duty to our patient to relieve suffering by all legal means acceptable to them, while remaining true to our own conscience. When confronted with forced transfers we, as providers of medical assistance in dying, are forced to tell the frail and vulnerable patients who are eligible for and who have requested MAID that they will have to endure the additional suffering of being transferred to a different place to access their assisted death. And, this is not because we cannot provide MAID at their bedside but because of institutional policy forbidding MAID on the basis of religion. This means, the last hour of their lives is spent in transit, in corridors, in unfamiliar rooms and often sedated to endure the pain of the transfer. MAID clinicians are forced to participate in these transfers against their beliefs and their conscience causing enduring and severe moral distress.”

Jyothi Jayaraman, Palliative care physician, Clinical Assistant Professor in the Department of Family Practice and an Associate Member, Department of Medicine, Division of Palliative Care at the University of British Columbia in Vancouver, B.C.

“Our beautiful 34-year-old daughter, Sam O’Neill, was in excruciating pain when she tried to exercise her legal right to MAID. She knew her cancer was terminal. The doctors at the St Paul’s had explained there was nothing more they could do to help her. The cancer was quickly and painfully spreading through her tiny frame and life, as she knew it, was over. At this most painful and vulnerable time of her young life, St. Paul’s Hospital refused to honour her decision, forcing her to leave its premises and receive MAID elsewhere. She endured a painful, undignified forced transfer. Sam and our family lost our chance to say a final goodbye as she never woke up after being sedated for the transfer. Sam suffered because her beliefs did not align with that of a religious group. There was no peace in Sam’s passing. It was violent and cruel. We don’t know if we will ever heal from this experience, but we know we owe it to Sam to make sure this never happens to another family.”

Gaye and Jim O’Neill, parents of Sam O’Neill

Media inquiries:

media@dyingwithdignity.ca

647-477-0831

rgage@arvayfinlay.ca

778-557-2405