Professional Memorandum

To: Pharmacists, Certified Dispensers, Pharmacy Technicians, Pharmacy Students and Interns
From: Beverley Zwicker, Registrar
Date: March 14, 2016
Re: Update on Physician Assisted Death in Nova Scotia

Over the past several months, there has been much discussion about physician-assisted dying among Canadians. It is important to highlight that at this point, there is no change to the law for pharmacists and pharmacy technicians with regard to being involved in assisted death (the existing criminal provisions still currently apply to pharmacists and pharmacy technicians).

The Nova Scotia College of Pharmacists (NSCP) has been working to achieve clarity on the pharmacist’s role in this practice. The following is a brief summary of key events and an update on the current status of issues pertinent to pharmacists and pharmacy technicians.

- On February 6, 2015, the Supreme Court of Canada in the Carter decision struck down the law prohibiting physician-assisted death for Canadians if the individual has a grievous and irremediable medical condition causing intolerable suffering. The Court ordered that the Criminal Code provisions remain in force until February 6, 2016 in order to provide the federal government time to respond.

- There are a lot of uncertainties that flow from The Carter decision such as:
  o It was silent on the role of health care professionals other than physicians, therefore there has been no change to the law with regard to pharmacists (the existing criminal provisions still currently apply to pharmacists and pharmacy technicians). The NSCP has been advised that the federal and provincial governments are aware that the legislation under development needs to address this issue.
  o There is no definition of what constitutes a grievous and irremediable medical condition. It is expected that the legislation under development will provide clarity on this criteria.

- In November 2015, Council provided feedback to the College of Physicians and Surgeons of Nova Scotia (CPSNS) on standards the CPSNS had drafted for physicians in Nova Scotia on physician-assisted death. This feedback included the NSCP’s support for collaborating with the CPSNS in the development of standards, particularly with respect to sections pertaining to medication.
On January 13, 2016, the College of Physicians and Surgeons of Nova Scotia (CPSNS) posted draft *Standards of Practice: Physician-Assisted Death* for public consultation. The CPSNS included unfinished sections in the standards, indicating that these sections were beyond the jurisdiction of the CPSNS and would need to be addressed by legislation. The CPSNS also highlighted that changes would be made to the standards as necessary for alignment with the pending federal legislation.

- On January 15, 2016, the Supreme Court of Canada granted the federal government a four month extension to the previous deadline of February 6, 2016 so that the federal government could complete its drafting of legislation on physician-assisted dying. However, it also included a provision for individuals needing relief during this period to apply to the superior court of their jurisdiction (province) for an exemption to the Criminal Code.

- Recently, the Alberta College of Pharmacists (ACP) and Ontario College of Pharmacists (OCP) provided guidance documents to their registrants about physician-assisted death in the absence of guiding federal and provincial legislation.

Given the limitations of the Carter decision as described above, the ACP advice document not surprisingly ends with the following caution to its members:

“As the Carter decision does not explicitly address pharmacists, pharmacy technicians, and the overall health team, you may wish to consult with your own legal counsel before providing services to support a physician’s prescription for PAD.”

The NSCP is involved in ongoing discussions with the government and provincial and federal colleagues as the rules, standards and policies pertaining to this issue are worked out at all levels, and will communicate updates to you as developments warrant.

As a health care professional, you have a responsibility to keep yourself informed on this issue as developments in policies, legislation and regulation continue to unfold. Listed below are resources to help inform you of the issue.

**Supplementary Reading**

- [Report of the External Panel on Options for a Legislative Response to Carter v. Canada](#)

On July 17, 2015 the federal government established the *External Panel on Options for a Legislative Response to Carter v. Canada*. Its mandate was to consult with Canadians and key stakeholders on important issues relating to physician-assisted dying. The final report of the Panel was publically posted on January 18, 2016. Pharmacists and pharmacy technicians are encouraged to review this report to support their understanding of the pertinent issues and the associated varying opinions and perspectives that exist.

On August 14, 2015, the provinces and territories appointed a nine member Provincial-Territorial Expert Advisory Group on Physician-Assisted Dying. Its final report, published November 30th 2015, provided recommendations to Provincial – Territorial Ministers of Health and Justice on policies and procedures that should be implemented within their jurisdiction in response the *Carter* decision.

• **Canadian Pharmacists Association (CPhA) Submission to the Special Joint Committee on Physician Assisted Dying 2016**

CPhA provided a submission to the *External Panel on Options for a Legislative Response to Carter v. Canada* and the *Special Joint Committee on Physician-Assisted Dying* to highlight some early considerations in the development of legislation as it pertains to pharmacy practice. The submission was largely based on a survey CPhA conducted which gathered the views of nearly 1000 pharmacists from across the country. It also looked at implications for pharmacy practice as experienced in jurisdictions where assisted dying is legal.

• **Report of the Special Joint Committee on Physician-Assisted Dying** (February 2016)

The *Special Joint Committee on Physician-Assisted Dying* was appointed to review the report of the *External Panel on Options for a Legislative Response to Carter v. Canada* and, following consultations, make recommendations on the framework of a federal response on physician-assisted dying.

• **Toward a Framework for Assisted Dying in Canada** (CPhA, February 2016)

CPhA prepared this document as a policy statement to provide information on the requirements of the pharmacy profession to government policymakers, other professional bodies, health care colleagues, patients, and the public in the development of legislation and/or regulations to govern assisted dying in Canada.

• **Supreme Court of Nova Scotia Draft Temporary Practice Memorandum on Physician Assisted Death (March 2016)**

The Supreme Court of Canada issued an order extending the suspension of the declaration about the unconstitutionality of the relevant sections of the Criminal Code until June 6, 2016. However, a majority of the court imposed a condition allowing the superior courts of Canada to grant “relief during the extended period of suspension” to “those who wish to seek assistance from a physician in accordance with the criteria set out in para. 127 of our reasons in *Carter*”. The Nova Scotia Supreme Court drafted a practice memorandum to assist applicants with the procedures that may be followed in Nova Scotia for that relief. The court invited lawyers, prothonotaries and the public to comment on its memorandum. The court’s rules committee will be discussing the draft memorandum later in March.