

SCHEDULE B:

LEGISLATIVE CRITERIA ACROSS JURISDICTIONS

Q1: Process to follow after patient requests medical aid in dying (Not reproduced here)

Q2: What oversight and data reporting mechanisms should exist? (Not reproduced here)

Q3: Reconcile refusal and equitable access?

	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Netherlands	Silent		Silent		

Misleading and biased. In fact, there is NO legal duty to refer. "Physicians are never lawfully required to fulfil a request for euthanasia. If, for whatever reason, they object to euthanasia they are not required to cooperate." (Royal Dutch Medical Association, Euthanasia in the Netherlands (<http://knmg.artsennet.nl/Dossiers-9/Dossiers-thematrefwoord/Levensinde/Euthanasia-in-the-Netherlands-1.htm>))

Q3: Reconcile refusal and equitable access?

	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Luxembourg	Not really [No]	Should the physician refuse, then he/she must inform patient with reasons within 24 hrs.*	No	No doctor is obliged to perform euthanasia or assisted death.	Timely disclosure requirement.

Incomplete and confusing: As the revised document now states, the physician has NO duty to help the patient find someone to provide the service.

* Omitted: "A physician who refuses to comply with a request for euthanasia or assisted suicide is required, at the request of the patient or support person, to communicate the patient's medical record to the doctor *appointed by him or by the support person.*" (Legislation Regulating Palliative Care, Euthanasia and Assisted Suicide, Art. 15). This is a transfer of records initiated by the patient, not by the objecting physician. It is not "evidence" related to referral.

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	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Belgium	Not really [No]	Should the physician refuse, then he/she must inform patient with reasons. At the request of the patient,* the physician (who refuses to perform euthanasia) must communicate the medical record to the physician designated.	No	No physician may be compelled to perform euthanasia.	

Confusing: As the revised document now states, the physician has NO duty to help the patient find someone to provide the service.

* This is a transfer of records initiated by the patient, not by the objecting physician. It is not “evidence” related to referral.

Q3: Reconcile refusal and equitable access?

	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Oregon	Not really [No]	If unable or unwilling to carry out a patient's request the provider shall transfer, upon request,* a copy of the patient's medical records to the new provider. Participation in physician-assisted death does not include providing a patient with a referral to another physician.**	No	No health care provider is under any duty to participate.	Upon request, transfer record to new provider.

Erroneous, misleading, confusing and biased. As the revised document now states, the physician has NO duty to help the patient find someone to provide the service.

*This is a transfer of records initiated by the patient, not by the objecting physician. It is not “evidence” related to referral.

**This definition of "participation" applies only to the section of the Act that allows health care facilities to prohibit "participation" in assisted suicide on their premises. In that particular situation - when a physician *wants* to refer a patient for assisted suicide - "participation" does not include referral, "participation" does not include referral, so the health care facility may prohibit the provision of a lethal drug on its premises, but not a referral to an external source. [Oregon *Death with Dignity Act*, Section 5(3)d(B)iii] Contrary to the impression created by the table, this definition does not apply to physicians who object to referral.

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	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Washington	Not really [No]	There is a requirement to transfer records.* Participation in physician-assisted death does not include referral of a patient to another physician.***	No	Only willing providers shall participate in the provision of medication to end life in a humane and dignified manner.	Upon request, transfer record to new provider.

Erroneous, misleading, confusing and biased. As the revised document now states, the physician has NO duty to help the patient find someone to provide the service.

*A physician is not required to initiate a transfer. "If a health care provider is unable or unwilling to carry out a patient's request under this chapter, and the patient transfers his or her care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider." [Washington *Death with Dignity Act*, 70.245.190(1)d] This is a transfer of records initiated by the patient, not by the objecting physician. It is not "evidence" related to referral.

**This definition of "participation" applies only to the section of the Act that allows health care facilities to prohibit "participation" in assisted suicide on their premises. In that particular situation - when a physician *wants* to refer a patient for assisted suicide - "participation" does not include referral, so the health care facility may prohibit the provision of a lethal drug on its premises, but not a referral to an external source. [Washington *Death with Dignity Act*, 70.245.190(2)d(ii)C] Contrary to the impression created by the table, this definition does not apply to physicians who object to referral.

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	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Vermont	Silent		No	No person shall be under any duty to participate in the provision of a lethal dose of medication.	Silent

Misleading and biased. In fact, the physician has NO duty to help the patient find someone to provide the service.

Vermont’s *Patient Choice and Control at the End of Life Act* is not silent on the subject of referral. It imposes a duty of referral *only* on physicians who *wish to provide* assisted suicide [Act 39- *Patient Choice and Control at the End of Life* § 5283.a(7)]. The statute does *not* impose a duty of referral on physicians who *refuse* to participate in assisted suicide. Instead, the statute states that “a physician, pharmacist, *nurses or other person* shall *not* be under *any* duty, *by law*, or contract, to *participate* in the provision of a lethal dose of medication to a patient.” [Act 39- *Patient Choice and Control at the End of Life* § 5285(a). Emphasis added] Since, in Vermont, only physicians can prescribe a lethal dose of medication and only physicians or pharmacists can dispense it, the extension of protection to nurses or other persons indicates that the term “participate” is used in the statute in its normal sense, to encompass other acts that may contribute to the provision of lethal medication, such as referral.

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Quebec Bill 52	Modified: Yes - to Executive Director [Yes]	To the Executive Director of the institution or local authority.	No	May refuse because of personal convictions; in such a case, must ensure that continuity of care is provided to the patient, in accordance with their code of ethics and the patient's wishes.	Continuity of care obligation.

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	Is there a duty to refer to another physician? Yes/No or Silent	Evidence	Is participation mandatory? Yes/No or Silent	Evidence	Other
Senate Bill 225	Silent		Silent		<p>Misleading and biased. The bill could require physicians to provide or refer for euthanasia or assisted suicide only by including explicit provisions to that effect. Contrary to the impression created by Schedule B, the “silence” of the bill means that referral nor participation are <i>not</i> required. This is confirmed by the sponsor of the bill, Senator Nancy Ruth. “No doctor is coerced to do this,” she said. “This is about choice. The choice of doctors who want to assist in it.” [CBC Television, <i>Power and Politics</i> (2 December, 2014)]</p> <p>Further: Bill S-225 defines “assist” to mean “to provide the person with the knowledge or means to commit suicide, or to perform an act with the intent to cause the person’s death.” Thus, the bill indicates that indirectly facilitating suicide <i>even by providing information</i> for that purpose is equivalent to more direct forms of assistance, like providing a lethal prescription. Further, it implies that both providing information to facilitate suicide and actually killing someone are of comparable legal or moral significance.</p> <p>This is exactly the position taken by many physicians and health care workers who refuse to facilitate assisted suicide or euthanasia by referral. Bill S-225 supports their reasoning. This point is more relevant to the purpose of Schedule B than the bill’s so-called “silence.”</p>

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Carter Trial Decision		Trial level – quotes from Royal Society of Canada Report "...if unwilling should refer the individual to another professional."*			<p>Seriously misleading and biased. *The inclusion of this out-of-context statement is seriously misleading because it is likely to cause readers to believe that the trial judge supported the views of the Royal Society panel on referral. This is false.</p> <p>In discussing the feasibility of safeguards, Madame Justice Smith quoted its recommendations for "the core elements of a permissive regime" which included reference to referral (under Justice Smith's sub-heading "Features of the provider"):</p> <p style="padding-left: 40px;">Health care professionals should be permitted to provide assistance with suicide or voluntary euthanasia. They must not be obligated to provide such assistance but, if unwilling, should refer the individual making the request to another professional who is willing to consider it. (<i>Carter v. Canada (Attorney General)</i> 2012 BCSC 886. Supreme Court of British Columbia, 15 June, 2012. Vancouver, British Columbia. (Hereinafter "Carter-BCSC") para. 866e).</p> <p>However, Madame Justice Smith stated that she was <i>not</i> relying upon it in relation to any "contentious matters, such as the efficacy of safeguards" (<i>Carter-BCSC</i>, para. 120-129). In fact, she used the report (and other evidence) to illustrate a lack of social consensus concerning euthanasia and assisted suicide (<i>Carter-BCSC</i>, para. 290-292, 343-348). Further, she noted that physicians would <i>not</i> be required to "participate" in a theoretical assisted suicide/euthanasia regulatory model proposed by the plaintiffs (<i>Carter-BCSC</i>, para. 881).</p> <p>Finally, since the plaintiffs did not assert that physicians should be compelled to "perform euthanasia" or "assist in suicide," the judge explicitly declined to deal with the issue in her ruling (<i>Carter-BCSC</i>, para. 311).</p>

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Carter SCC Decision	Silent	In making their observation (see quote to the right), the court said that the rights of patients and physicians will need to be reconciled.*	No	"Nothing in the declaration of invalidity would compel physicians to provide assistance in dying"... "we note...that a physician's decision to participate in assisted dying is a matter of conscience..."**	Charter rights of both patients and physicians need to be reconciled.

Misleading and biased. *The Court's comment is not "evidence" concerning referral, since compulsory referral is hardly the only means by which reconciliation might be attempted.

**Moreover, the Court distinguished between *providing* and *participating* in euthanasia and assisted suicide.