

Day of decision nears for Quebec's end-of-life legislation

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Quebec is on the eve of passing the most comprehensive end-of-life legislation in North America, a law that will institutionalize extensive palliative care for dying patients and allow doctors to euthanize adult patients who meet a strict set of criteria.

The bill is expected to be voted on this week. Véronique Hivon, the province's Minister for Social Services and Youth Protection, has steered the consultation process and the final bill through more than four years of sometimes heart-wrenching debates. She refuses to use the word euthanasia for the process that will give patients a legal option to ask doctors to end their suffering with a lethal injection, preferring the term medical aid in dying.

In Canada, there are laws against both assisted suicide (where another person, for example a doctor or a relative, supplies the means of suicide, such as pills) and voluntary euthanasia (where a doctor or someone else takes a person's life at the person's request).

Bill 52 would allow "terminal palliative sedation or medical aid in dying."

Quebeckers applying for doctor-assisted suicide under Bill 52 would have to be over 18, be suffering from a grave incurable illness or an advanced state of irreversible decline, and face unbearable physical or mental pain. In addition, the application has to be made in a free and informed manner.

Bill 52's template is similar to Belgium's Loi relative à l'euthanasie of May, 2002. That law allows voluntary euthanasia for adults who make informed, conscious requests because they suffer from serious, incurable ailments and "physical or mental" pain that cannot be alleviated.

"Unlike euthanasia, the term medical aid in dying implies two fundamental principles: First, the request must come from the patient, no one else, and second it involves offering a patient medical assistance," Ms. Hivon said in an interview.

That is confusing and only represents a way to get around the Canadian Constitution, said Balfour Mount, the physician who imported the British hospice tradition to the Royal Victoria Hospital in Montreal in the 1970s and named it palliative care. "I have been at the bedsides of dying people for 40 years," Dr. Mount said, "and I deeply resent Premier [Pauline] Marois and her party implying that medical aid in dying includes intentionally ending the patient's life."

Nevertheless, Bill 52 has broad support across party lines in the Quebec legislature and the endorsement of the province's College of Physicians. It is modelled closely on similar legislation passed in Belgium in 2002, which twinned improved palliative care with

euthanasia. On Thursday, the Belgian parliament voted to extend euthanasia to terminally ill children who are at least 12 years of age.

That is not cause for alarm, according to Jocelyn Downie, professor of law and medicine at Dalhousie University in Halifax. There is no such provision in the Quebec bill, which restricts medical aid in dying to adults who qualify for health insurance in the province, are suffering from a serious and incurable illness, are at the end of their lives and of sound mind.

The bill has been “strengthened [in committee hearings] from a substantive and a procedural perspective,” Prof. Downie said. “It reflects the care with which the community approached the issues and the way in which they listened to people.”

Many of the nearly 60 amendments are housekeeping items to clarify terminology. For example, “terminal palliative sedation” is now called “continuous palliative sedation” to make clear that the sedation doesn’t cause death; rather, it eases the patient’s symptoms when they are terminal.

The biggest change was to eliminate any uncertainty about advance care directives in which people of sound mind could request euthanasia if they later developed dementia. Instead, people can obtain an advance directive enabling them to refuse treatment if they become incompetent.

“The bill specifically defines a policy for palliative care as well as the type of medical assistance a terminally ill person can request,” Ms. Hivon said. “In the same way patients can refuse to be put on life support, they will be free to decide the type of end-of-life care they want.”

Ms. Hivon said legal experts, including the Quebec Bar Association, were confident that the medical approach defined in the bill will allow the legislation to stand up to any possible court challenges.

“Let’s not forget that the debate was triggered in the fall of 2009 when the Quebec College of Physicians requested that legislators examine this issue and clarify how doctors should deal with end-of-life care,” Ms. Hivon said.

How the federal government will respond to the legislation, if passed, remains to be seen. “If they don’t challenge it, their base will be mad at them,” observed Prof. Downie, “but if they do, Quebec will be mad at them because Quebecers really want it.” Quebec is now doing a jurisdictional end-run against the federal government in declaring that Bill 52 is about health care, which is under provincial jurisdiction, and not a challenge to Criminal Code prohibitions against assisted suicide and homicide, which are federal matters.