CITATION: A.B. v. Ontario (Attorney General), 2016 ONSC 2188
COURT FILE NO.: 16-062
DATE: 20160330

ONTARIO

SUPERIOR COURT OF JUSTICE

IN THE MATTER OF THE APPLICATION OF A.B.

Ms. A.F. for the Applicant, A.B.
Mr. P. Ryan, for the Attorney General of Ontario
Nobody else appearing

REASONS FOR DECISION

Conlan J.

Introduction

[1] A.B. has brought an Application for permission to proceed with a physician-assisted death. The Application is unopposed and was heard by me today, March 30, 2016.

[2] Prior to the hearing of the Application itself, I heard a Motion brought by A.B. related to measures sought to protect A.B.'s confidentiality. Previously, in an Endorsement dated March 21, 2016 and cited as *Carter Applicant v. Attorney General of Ontario, et al.*, 2016 ONSC 2022, I postponed the Motion to March 30 and directed that A.B. give notice of the Motion to the media.

[3] Upon that notice being given, the Court received written submissions and a Book of Authorities on behalf of The Globe and Mail and Postmedia

[4] Network Inc. (hereinafter referred to collectively as the "Globe and Postmedia"). No other materials were received on behalf of any other media outlet. No media representative was present at Court on March 30. Besides the staff and myself, the only persons present at Court today were counsel for A.B. and counsel for the Attorney General of Ontario.

[5] I have written confirmation that the Attorney General of Canada takes no position on either the Motion or the Application. Mr. Ryan, counsel for the Attorney General of Ontario, confirmed at Court today that his client, likewise, takes no position on either the Motion or the Application.

[6] At the end of the hearing of the Motion at Court today, I indicated that the Motion was granted in its entirety but for one item – the request that the hearing of the Application be held *in camera* – that relief was denied. My reasons for that decision are outlined below.

[7] At the end of the hearing of the Application at Court today, I indicated that I was inclined to grant it but wanted to review, again, in private, the evidence and the terms of the draft Order being sought. It goes without saying that this is a solemn task that the Court has been asked to undertake.

[8] No *viva voce* evidence was called at Court today. The Application rests entirely on the written materials filed and the submissions made by counsel for A.B.

The Legislative Background

[9] In its decision in *Carter v. Canada (Attorney General)*, 2015 SCC 5 ("2015 decision"), the Supreme Court of Canada found that the criminal law provisions which prohibit physician-assisted dying violate section 7 of the *Charter*, are not in accordance with the principles of fundamental justice and cannot be saved by section 1 of the *Charter*. Consequently, sections 241(b) and 14 of the *Criminal Code* were declared void in certain circumstances. The declaration of invalidity was suspended for twelve months. No provision was made for personal exemptions during the twelve-month period.

[10] In its subsequent decision in *Carter v. Canada (Attorney General)*, 2016 SCC 4, the Supreme Court of Canada extended the suspension period. That period will now expire on June 6, 2016. The majority of the Court granted an exemption so that persons who, during the extended period of suspension, wish to seek assistance from a physician in accordance with the criteria set out in the Court's 2015 decision can apply to the superior court of their jurisdiction for relief.

The Motion

[11] The Motion seeks relief aimed at ensuring the anonymity of interested parties. For instance, A.B. seeks an extensive publication ban, an Order that the Application be heard in Court in the absence of the public, an Order that all documents filed use pseudonyms for all interested parties, and an Order that the Court file be sealed (subject to the Applicant's counsel making redacted copies of documents which would be accessible to the public).

[12] Initially, the Motion sought to dispense with any advance notice to the media. For reasons outlined in the March 21, 2016 Endorsement referred to above, I declined that relief.

[13] On March 21, I made an Interim Order that (i) allowed for the pseudonym "A.B.", (ii) permitted use of pseudonyms for A.B.'s family members and physicians, (iii) prohibited publication of any information that could identify A.B., a member of A.B.'s family or any regulated health professional involved in the Application, including A.B.'s name, age, gender, condition, symptoms, location and physical appearance, as well as any family member's name, age, gender, location, physical appearance and employer, as well as any involved health professional's name, age, gender, location, physical appearance, employer and specialty, (iv) permitted any person protected by clause (iii) to opt-out of the protection provided that such opting-out would not destroy the protection for any other person protected by clause (iii), (v) permitted A.B. to file two sets of materials, one redacted and one not, (vi) sealed the Court file except the redacted materials, (vii) sealed the transcript of any hearing of the Motion and the Application to the extent that any portion of it would tend to identify any person protected by clause (iii), (viii) ordered that the Attorneys General of Canada and Ontario be served with unredacted copies of the materials, (ix) ordered that the Attorneys General are bound by the confidentiality protections afforded by clause (iii), (x) adjourning the Motion and the Application to March 30, 2016, and (xi) directing that the media be provided notice of the Motion (I then delineated which media outlets were to receive that notice).

[14] The written submissions filed by the Globe and Postmedia make three points. First, it is argued that the hearing of the Application ought to proceed in open Court. I agree with that submission. Second, it is submitted that the transcript of the hearing of the Application ought not to be sealed. I agree with that submission, subject to allowing for any transcript to be redacted to be consistent with the publication ban. Third, it is argued that clause (iii) of the

Interim Order, outlined above, is too broad and ought to be narrowed in the Final Order on the Motion. I disagree.

[15] First, on whether the hearing of the Application ought to proceed *in camera,* I note that there are conflicting authorities, none of which binds this Court. In Ontario, no Application heard thus far has been held *in camera*, although of course these types of Applications are new to the landscape. In Alberta, in *HS (Re)*, 2016 ABQB 121 (CanLII), Madam Justice Martin of the Court of Queen's Bench of Alberta, whose guidance in writing such thorough reasons on the country's very first physician-assisted dying application is something that the rest of us are grateful for, granted an *in camera* hearing. More recently, in *A.A. (Re)*, 2016 BCSC 511, Chief Justice Hinkson of the Supreme Court of British Columbia denied the request for an *in camera* hearing.

[16] I prefer the approach taken in the decision of Chief Justice Hinkson. I begin by repeating what I stated at paragraph 15 of my March 21, 2016 Endorsement, beginning with the second sentence therein.

> There is a long-standing principle in Canada of open and public access to the courts. In many ways, the media helps facilitate that objective. As the Supreme Court of Canada has observed, the open court principle is a hallmark of our democratic society in that it is aimed at ensuring that justice is administered according to the rule of law and not arbitrarily. Further, the open court principle is intertwined with our constitutionally-protected freedom of expression. *Dagenais v. Canadian Broadcasting Corp.,* [1994] 3 S.C.R. 835; *R. v. Mentuck*, [2001] 3 S.C.R. 442; *Re Vancouver Sun*, [2004] 2 S.C.R. 332.

[17] As Chief Justice Hinkson observed at paragraph 24 of the oral reasons in *A.A. (Re), supra*, I acknowledge that persons in the shoes of A.B. have significant privacy interests, however, at the same time it must be

recognized that the subject matter of these types of applications is exceptional and, hence, the public's interest in the issues is strong.

[18] Chief Justice Hinkson was dealing with an application that, if granted, would have been the first constitutional exemption granted by the Supreme Court of British Columbia. Thus, at paragraph 25 of the Chief Justice's reasons, it is noted that the case was "uniquely significant" such that an *in camera* order would result in significant prejudice to the open court principle, freedom of expression and freedom of the press.

[19] Although A.B.'s Application, if granted, would not be the first constitutional exemption provided by the Ontario Superior Court of Justice, I am aware of only one other for which written reasons were delivered – the very thorough decision of Justice Perell in *A.B. v. Canada (Attorney General)*, 2016 ONSC 1912. Thus, the same rationale expressed by Chief Justice Hinkson applies here.

[20] I adopt the following passage at paragraph 26 of Chief Justice Hinkson's decision.

> Additionally, in combination with the other privacy orders sought by the petitioner, conducting these proceedings *in camera* would effectively prevent the public from having any information about the case, other than what is volunteered by the parties or provided by the Court in its reasons for judgment. The media would therefore be limited to reporting on the facts and the issues through the lens of the Court and the parties, without being able to form its own view. This would also have a significant impact on the rights of freedom of expression and freedom of the press.

[21] Consequently, as Chief Justice Hinkson decided in that case, after balancing the competing interests, I dismissed A.B.'s request that the Application

proceed *in camera*. As it turned out, the issue was somewhat academic as nobody else was present in the Courtroom during the hearing of the Application except for myself, the Court staff, counsel for A.B. and counsel for the Attorney General of Ontario.

[22] Second, on the issue of whether the transcript of the hearing of the Application ought to be sealed, with respect, it appears to me that the two sides have misunderstood the positions being advanced by one another. Contrary to what is implied in the written submissions filed by the Globe and Postmedia, there is no request by A.B. that the entire transcript of the hearing of the Application be sealed, holus bolus. There is simply a request that the Applicant's counsel, with the Court exercising a supervisory function, be permitted to redact the transcript that is made available to the public. Further, contrary to the oral submissions on the Motion made by counsel for A.B. at Court today, there is no objection made by the Globe and Postmedia to the transcript accessible to the public being redacted in order to be consistent with the publication ban, otherwise, the ban is meaningless.

[23] Thus, there is really nothing for this Court to resolve on this issue. The unredacted transcript of the hearing of the Application shall be sealed. A.B.'s counsel shall be permitted to propose redactions to it for the Court's review. I will then decide if the proposed redactions are consistent with the publication ban. If the media wishes to make submissions in that regard, I will entertain that request in writing within five business days of the release of these Reasons. To ensure that the media ia aware of these Reasons, although they will undoubtedly be reported and be available online, I direct that counsel for A.B. shall copy these Reasons to the same media outlets that were given notice of the Motion as per my March 21, 2016 Endorsement (in the case of the Globe and

Postmedia, counsel named on the documents filed shall receive a copy of these Reasons from counsel for A.B.).

[24] To be clear, the above comments relate only to the transcript of the Application itself. Nobody opposed the hearing of the Motion being held *in camera*, and thus, no opposition can be taken to the transcript of the hearing of the Motion being sealed. So ordered.

[25] Third and finally, on the issue of whether clause (iii) of the March 21, 2016 Interim Order is too broad, I conclude that it is not. I have taken in to consideration the size of the population of the jurisdiction in which the interested parties live and work, especially in comparison to the other locales of the other similarly situated applicants thus far across Canada. I have also considered the nature of A.B.'s medical condition. I am persuaded that the extent of the publication ban being sought by A.B. is necessary in these unique circumstances in order to be certain that the identity of A.B. is not likely to be discovered.

[26] For these reasons, A.B.'s Motion, but for the request for an *in camera* hearing of the Application, is granted. An Order shall issue in accordance with clauses (a), (b), (c), (e), (f) and (g) on pages 1 and 2 of the Notice of Motion dated March 22, 2016 (that is, the use of pseudonyms for all interested parties, a publication ban in accordance with the Interim Order, that the hearing of the Motion be heard *in camera*, and a sealing order subject to redacted filings and a redacted transcript of the Application being available for public consumption).

The Application

[27] For the following reasons, A.B.'s Application is granted. Counsel for A.B. filed two Orders – one using real names and one not. I have signed both Orders, with some minor amendments to the one that does not use real names.

Obviously, the one that contains real names shall be sealed. For the reader's benefit, the Order that does not contain real names, signed by me as amended, is attached to these Reasons as Schedule "A" (note that, for confidentiality considerations, the style of cause has been excised, the preamble leading up to clause 1 of the Order has been excised, and the backpage has been excised).

[28] Aside from the grounds outlined in the Notice of Application itself and the submissions by counsel for A.B., both in writing and orally at Court today, the Application is supported by the following materials: (i) an affidavit sworn by A.B., (ii) an affidavit sworn by A.B.'s spouse, (iii) an affidavit sworn by A.B.'s adult child, (iv) an affidavit sworn by A.B.'s other adult child, (v) an affidavit and attached report sworn/authored by Dr. H., psychiatrist, (vi) an affidavit sworn by Dr. G., consulting physician, and (vii) an affidavit sworn by Dr. F., the family physician and the one who will be directly assisting with the death of A.B.

[29] Every affiant, without reservation, supports the Application. Nobody, affiant or not, opposes it.

[30] To understand the details of what A.B. must prove and to appreciate the role of the Court, one need not look any further than the comprehensive reasons of Justice Perell in the *A.B., supra* decision, at paragraphs 29 through 34, reproduced below.

> The Practice Advisory
>
> [29] In anticipation of applications being brought pursuant to *Carter-2016* by individuals in Ontario's Superior Court of Justice, the Chief Justice of the Superior Court directed that a Practice Advisory providing procedural and evidentiary guidelines be prepared and published. Similar efforts were made or are being made by the superior courts in other provinces including British Columbia and Nova Scotia.

[30] The Ontario Practice Advisory provides procedural and evidentiary guidelines. For present purposes, the following provisions of the Advisory are pertinent:

Practice Advisory – Application for Judicial Authorization of Physician Assisted Death

In *Carter v. Canada (Attorney General)*, 2016 SCC 4 (CanLII), the Supreme Court of Canada directed that applications may be brought to provincial superior courts for exemptions from the *Criminal Code* prohibition against physician assisted death, in accordance with the criteria set out in *Carter v. Canada (Attorney General)*, 2015 SCC 5 (CanLII) [*Carter* (2015)].

This Practice Advisory is intended to provide guidance to counsel and parties who intend to bring applications to the Superior Court for an exemption to the *Criminal Code* prohibition against physician assisted death. The direction provided in this advisory is always subject to any orders made by the presiding judge on the application. In addition, this Practice Advisory refers to the types of evidence discussed in *Carter* (2015) to assist counsel and parties. However, the onus rests with the applicant to confirm and meet the evidentiary requirements set out in *Carter* (2015).

….

Evidence about the Applicant

9. The application record should include an affidavit from the applicant concerning,

> a. the applicant's birth date;
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> b. the applicant's place of residence and the duration of that residency;
>
> c. the applicant's medical condition (illness, disease, or disability);
>
> d. whether as a result of his or her medical condition, the applicant is suffering enduring intolerable pain or distress that cannot be alleviated by any treatment acceptable to the applicant;
>
> e. the reasons for the applicant's request for an authorization of a physician assisted death;

f. whether the applicant commenced the application after having been fully informed about his or her medical condition (illness, disease, or disability), diagnosis, prognosis, treatment options, palliative care options, the risks associated with the treatment and palliative care options, and the risks associated with a physician assisted death;

g. the manner and means and timing of the physician assisted death for which the applicant seeks an authorization;

h. whether the applicant is aware that his or her request for an authorization for a physician assisted death may be withdrawn at any time; and

i. whether the applicant is aware that if the authorization is granted, the decision to use or not use the authorization is entirely the applicant's decision to make.

Evidence of the Attending Physician

10. The application record should include an affidavit from the applicant's attending physician addressing whether,

a. the applicant has a grievous irremediable medical condition (illness, disease, or disability) that causes suffering;

b. as a result of his or her medical condition, the applicant is suffering enduring intolerable pain or distress that cannot be alleviated by any treatment acceptable to the applicant;

c. the applicant was fully informed about his or her medical condition (illness, disease, or disability), diagnosis, prognosis, treatment options, palliative care options, the risks associated with the treatment and palliative care options, and the risks associated with a physician assisted death;

d. the applicant has the mental capacity to make a clear, free, and informed decision about a physician assisted death;

e. the applicant is or will be physically incapable of ending his or her life without a physician assisted death;

f. the applicant consents without coercion, undue influence, or ambivalence to a physician assisted death;

g. the applicant is aware that his or her request for an authorization for a physician assisted death may be withdrawn at any time;

h. the applicant makes the request for authorization for a physician assisted death freely and voluntarily; and

i. the applicant is aware that if the authorization is granted, the decision to use or not use the authorization is entirely the applicant's decision to make.

Evidence of the Consulting Psychiatrist

11. The application record should include an affidavit from the applicant's consulting psychiatrist addressing whether,

a. the applicant has a grievous irremediable medical condition (illness, disease, or disability) that causes the applicant to suffer;

b. the applicant has the mental capacity to make a clear, free, and informed decision about a physician assisted death;

c. the applicant consents without coercion, undue influence, or ambivalence to a physician assisted death;

d. the applicant is aware that his or her request for an authorization for a physician assisted death may be withdrawn at any time;

e. the applicant makes the request for authorization for a physician assisted death freely and voluntarily; and

f. the applicant is aware that if the authorization is granted, the decision to use or not use the authorization is entirely the applicant's decision to make.

Evidence of Physician Proposed to Assist Death

The application record should include an affidavit from the physician who is proposed to be the physician authorized to assist death, who may be the applicant's attending physician or another physician, addressing,

a. the manner and means and timing of the physician assisted death;

b. whether the physician providing assistance is willing to assist the applicant in dying if that act were authorized by court order;

> c. whether the physician believes that his or her providing assistance would be clearly consistent with the applicant's wishes; and
>
> d. whether the physician understands that the decision to use or not use the authorization is entirely the applicant's decision to make.

[31] The Ontario Practice Advisory offers advice on such issues as notice, confidentiality, and the type, amount and form of evidence, as well as matters of timing and scheduling. The Advisory is legislative, but it is not legislation or substantive binding law and rather it is adjectival or adjunctive of the substantive law.

[32] The substantive law for physician-assisted death derives from *Carter-2015* and *Carter-2016*, which directs the superior courts to determine whether an individual applicant meets the *Carter-2015* criteria. In *Carter-2016*, the Supreme Court of Canada did not prescribe what evidence would or should satisfy the criteria, and the Practice Advisory is aimed at giving some guidance about what evidence a court is likely to require with respect to the *Carter-2015* criteria. But the Advisory is no more than suggestions, and ultimately it is up to the application judge to make his or her own determination based on the *Carter-2015* criteria. I agree with Justice Martin in *Re H.S., supra* at paras. 88 and 92, where she states:

> 88. Under accepted general principles, the claimant carries the burden to establish that she falls within the constitutional exemption granted in *Carter-2016***.** She is entitled to meet her burden based on any form of admissible, authentic and reliable evidence. The motions judge retains the discretion to accept all, some or none of the admissible evidence.
>
> ….
>
> 92. Based on *Carter-2016*, I conclude that I am entitled to take a flexible approach to the evidence on this kind of application. I note that I am bound only by the Supreme Court's directive and not by the Ontario, British Columbia or Québec approaches. It will be up to the individual judge in an individual case to assess the admissibility, authenticity and reliability of the evidence before him or her.

C. THE ROLE OF THE COURT

[33] An application for a physician-assisted death imposes a solemn responsibility on the superior courts across this country. In *Carter-2016*, the majority of the Supreme Court stated at para. 6: "Requiring judicial authorization during that interim period ensures compliance with the rule of law and provides an effective safeguard against potential risks to vulnerable people."

[34] The responsibility to ensure compliance with the rule of law, which is an everyday occupation and preoccupation of the court, is, however, not a routine matter in the context of an application for a physician-assisted death. The court's role in enforcing the rule of law is a special and not routine exercise in at least five ways.

- First, while the court typically employs an adversarial system of adjudication, an application for a physician-assisted death is more investigatory than adversarial. The role of the court is to investigate and to be satisfied that the criteria for a physician-assisted death are satisfied. There may be no opponents or adversaries in an assisted death application, but regardless of whether there is opposition or whether there is consent and concurrence by the persons before the court, the court's role is not to decide a dispute, its role is to determine whether the criteria for an assisted death are satisfied.

- Second, the court is not engaged in its *parens patriae* jurisdiction, where the court acts for the protection of those who cannot care for themselves. The *parens patriae* jurisdiction is essentially protective and does not create substantive rights nor change the means by which claims are determined: *Wu Estate v. Zurich Insurance Co.*, 2006 CanLII 16344 (ON CA), [2006] O.J. No. 1939 (Ont. C.A.); *Tsaoussis (Litigation Guardian of) v. Baetz*, 1998 CanLII 5454 (ON CA), [1998] O.J. No. 3516, 41 O.R. (3d) 257 at 268 (Ont. C.A.), leave to appeal refused [1998] S.C.C.A. No. 518 (S.C.C.).

- Third, the court has no discretion. If the applicant satisfies the criteria, he or she is entitled to the constitutional exemption for a physician-assisted death.

- Fourth, the court is not dispensing justice. A physician-assisted death application is not a matter of granting awards and remedies to victims or righteous persons or of punishing wrongdoers; it is a matter of investigating and determining whether the criteria for a physician-assisted death are satisfied.

> • Fifth, it is by investigating and determining whether the criteria for a physician-assisted death are satisfied that the court will fulfill its mission of providing an effective safeguard against potential risks to vulnerable people. The criteria have within them safeguards to ensure that the applicant is not being coerced, controlled, or manipulated and safeguards to ensure that the applicant is making a fully-informed decision in the exercise of his or her personal autonomy, personal dignity, and free will. The criteria emphasize the personal autonomy of the applicant and that the decision is a decision of a competent adult person that clearly consents to the termination of life.

[31] First, before considering substantive eligibility, I have asked myself whether A.B. has addressed any preliminary issues that must be considered, such as notifying the media of a sealing order request and notifying the Attorneys General of the Motion and the Application. The answer is yes. The one hiccup was the failure to give the media notice of the Motion, which was rectified after March 21, 2016.

[32] Second, I have asked myself whether A.B. meets all of the procedural eligibility requirements: resident of Ontario, an adult, and a request that is not premature. The answer is yes.

[33] Third, I have asked myself whether the Order being sought is appropriate: for examples, a physician required to be present at the time of death, dispensation of notice to the coroner and a direction of how to deal with the cause of death on the death certificate. The answer is yes.

[34] Fourth and finally, I turn to substantive eligibility.

[35] A.B. is a person who is married and has two adult children. A.B. is between 40 and 75 years old. A.B. was diagnosed with a serious medical condition several years ago and has since lost all degree of independence and

mobility. Family devotion and strength has kept A.B. alive, notwithstanding the excruciating pain and loss of enjoyment of life.

[36] Does A.B. have an eligible medical condition? Yes. A.B. has a relatively rare form of a progressive, permanent and irreversible disease. Assessed both subjectively from A.B.'s perspective and objectively from the uncontroverted medical evidence filed, the condition is grievous and irremediable. There is no cure. There is no treatment that will halt or even materially delay the continued worsening of the condition.

[37] Is A.B. experiencing enduring and intolerable suffering caused by the medical condition? Yes. Frankly, it was difficult for me to read the evidence. The degree to which this medical condition has curtailed even the most basic activities of daily living for A.B. cannot be overstated.

[38] Is A.B. capable of making this request? Yes. The medical evidence confirms that A.B. is competent and capable of asking this Court to do what it is being asked to do. Remember, I have evidence from three physicians to rely upon.

[39] Is A.B.'s request to terminate life a clear and unequivocal one, cloaked with informed consent and not clouded by any hint of involuntariness, hesitancy, coercion or undue influence? Yes. The evidence from A.B. is crystal clear. Those wishes are fully supported by all of the immediate family members. The medical professionals have explained to A.B. the details of the medical condition, the prognosis, the procedure for and the gravity of terminating life. I have not the slightest concern that this is anything but A.B.'s sincere, unwavering and completely free choice.

[40] As such, A.B. has met all of the requirements for the relief being sought – procedural and substantive. I grant the Application.

Conclusion

[41] To respect the dignity of A.B. and the family, I have prepared these Reasons forthwith. As much as I have been affected by the process of doing so, I remind myself of what A.B. has gone through.

[42] A.B.'s Application for physician-assisted dying is granted.

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Conlan J.

Released: March 30, 2016

SCHEDULE "A"

1. THIS COURT ORDERS that the Applicant, meets the criteria to avail the Applicant of the constitutional exemption granted in *Carter v. Canada (Attorney General)*, 2016 SCC 4, authorizing a physician-assisted death;

2. THIS COURT ORDERS that the Applicant is permitted to proceed with a physician-assisted death, but that the neither the Applicant nor the Applicant's physicians are obligated to proceed with the procedure of physician-assisted death, and both the Applicant and the Applicant's physicians are free to decide not to proceed with physician-assisted death at any time;

3. THIS COURT ORDERS that the Applicant's family physician, or another physician of the Applicant's choosing, may provide the Applicant with a physician-assisted death, conditional on that physician following the guidelines set out in Policy Statement #1-16 of the College of Physicians and Surgeons of Ontario entitled "Interim Guidance on Physician-Assisted Death";

4. THIS COURT ORDERS that the Applicant's family physician, or another physician of the Applicant's choosing, is authorized to administer the medication that will bring about the Applicant's death, and that the Applicant's family physician, or another physician of the Applicant's choosing, must be readily available to care for the Applicant at the time the pharmaceutical agent(s) that intentionally bring about the Applicant's death are administered and must remain with the Applicant until death ensues;

5. THIS COURT ORDERS that the Applicant's family physician, the Applicant's consulting physician, and any other physician assisting with the Applicant's physician-assisted death, as authorized by this court's order, is exempt from the application of Sections 241(b) and 14 of the *Criminal Code*, R.S.C. 1985, c. C-46;

6. THIS COURT ORDERS that any regulated health professionals, including physicians, nurses, and pharmacists, who provide the applicant with treatment or other services in connection with the Applicant's physician-assisted death, as authorized by this court's order, is exempt from the application of Sections 241(b) and 14 of the *Criminal Code*, R.S.C. 1985, c. C-46;

7. THIS COURT ORDERS that if a physician other than the Applicant's family physician administers the physician assisted death, this order applies to that physician;

8. THIS COURT ORDERS that any pharmaceutical agent(s) brought for use for the Applicant's physician-assisted death that are not administered must be returned to the pharmacy from which the pharmaceutical agent(s) were dispensed for proper storage and disposal;

9. THIS COURT ORDERS that for the purposes of Section 61 of the *Family Law Act*, R.S.O. 1990, c. F. 3, the Applicant's death will not be due to the fault or neglect of any regulated health professional who provides the applicant with treatment or other services related to the Applicant's physician-assisted death;

10. THIS COURT ORDERS that the circumstances of the Applicant's death, as authorized by this court's order, do not constitute any of the circumstances set out in Section 10 of

the *Coroner's Act*, R.S.O. 1990, c. C. 37;

11. THIS COURT ORDERS that no coroner for Ontario is entitled to notice of the Applicant's physician assisted death, as authorized by this court's order; and

12. THIS COURT ORDERS that anyone completing the Applicant's death certificate is authorized to list the Applicant's underlying illness as the Applicant's cause of death.

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Conlan J.

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