The College of Physicians and Surgeons of Ontario

Date February 8, 2016

Interim Guidance on Physician-Assisted Death

Online Survey Report and Analysis

Introduction:

The College's draft Interim Guidance on Physician-Assisted Death ("Interim Guidance") document was released for external consultation between December 4, 2015 and January 13, 2016. The purpose of this consultation was to obtain stakeholders' feedback to help ensure that the final Interim Guidance document is helpful, embodies the values and duties of medical professionalism, and is consistent with the College's mandate to protect the public.

Invitations to participate in the consultation were sent via email to a broad range of stakeholders, including the entire CPSO membership as well as key industry organizations. In addition, a general notice was posted on the College's website, Facebook page, and announced via Twitter.

Feedback was collected via regular mail, email, an online discussion forum, and an online survey. In accordance with the College's posting guidelines, all feedback received through the consultation has been posted online.

This report summarizes the stakeholder feedback that was received through the online survey.

Caveats:

624 respondents started the survey, but of these, 78 were either excluded for not having read the draft Interim Guidance document or for not completing any of the substantive questions,[1] leaving a total of 546 surveys for analysis. The results reproduced below capture the responses for both complete and partially complete surveys.

The purpose of the online survey was to collect feedback from physicians, organizations, and the public regarding the draft Interim Guidance on Physician-Assisted Death document. Participation in the survey was voluntary and one of a few ways in which feedback could be provided. As such, no attempt has been made to ensure that the sample is representative of the larger physician, organization or public populations, and no statistical analyses have been conducted.

The *quantitative* data shown below are complete and the number of respondents who answered each question is provided.

The *qualitative* data captured below are a summary of the general themes or ideas conveyed through the open-ended feedback.

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[1] These respondents completed only the initial demographic or 'warm-up' questions.

Respondent Profile:

As shown in *Table 1*, one-half of the respondents were members of the public (50%).

Table 1: Respondents (cont'd)

Are you a....?	n=546
Physician (including retired)	202
	37%
Medical Student	12
	2%
Member of the public	274
	50%
Other health care professional (including retired)	46
	8%
Organization[2]	5
	1%
Prefer not to say	7
	1%

As shown in *Table 2*, the vast majority of the respondents were from Ontario (93%).

Table 2: Respondents (cont'd)

Do you live in…	n=546
Ontario	509
	93%
Rest of Canada	33
	6%
Outside Canada	2
	0%
Prefer not to say	2
	0%

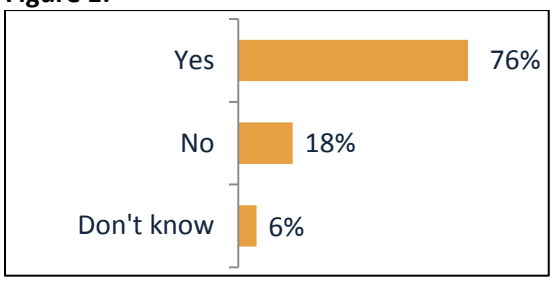
[2] Organizational respondents were: Alliance for Life Ontario; Catholic Health Sponsors of Ontario; Chinese Canadian; Christian Medical and Dental Society; & Canadian Association for Community Living.

Issues:

Q5. "Does the draft Interim Guidance document clearly explain the implications of the Supreme Court of Canada's decision in *Carter v. Canada*, specifically what has been legalized and in what circumstances?"

Three-quarters (76%) say that the draft Interim Guidance document does clearly explain the implications of the Supreme Court of Canada's decision in *Carter* (see *Figure 1*).

Figure 1:



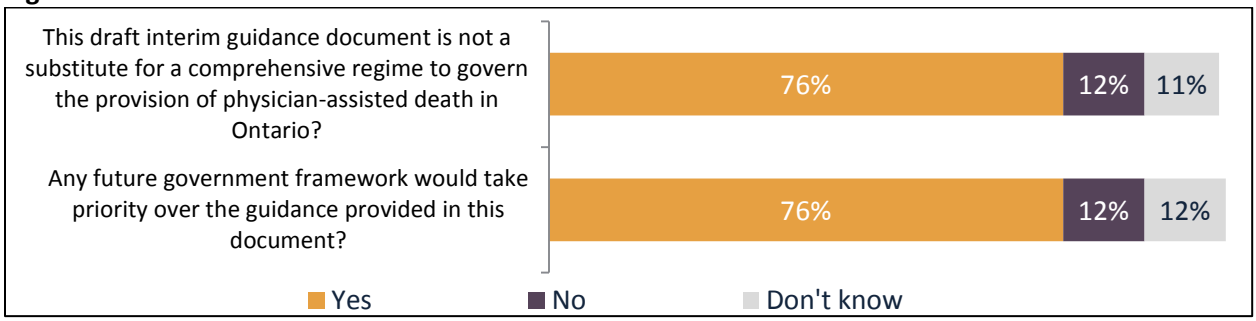
Base = 546

Q6: "How can the draft Interim Guidance document more clearly state the implications of this decision? (Optional)"

Open ended feedback was provided by 143 respondents. Many respondents sought more clarity on the criteria a patient must satisfy in order to access physician-assisted death. Most notably, respondents asked for examples of what would constitute a grievous and irremediable condition and asked for a definition of "adult". Many respondents also suggested that the draft document does not respect physicians' conscience rights and that the Supreme Court of Canada's direction that physicians' conscience rights and patients' right to access must be balanced can be achieved through other means.

Q7: "The purpose of the draft Interim Guidance document is to provide guidance on an interim basis. Does the draft Interim Guidance document make it clear that:"

Figure 2:

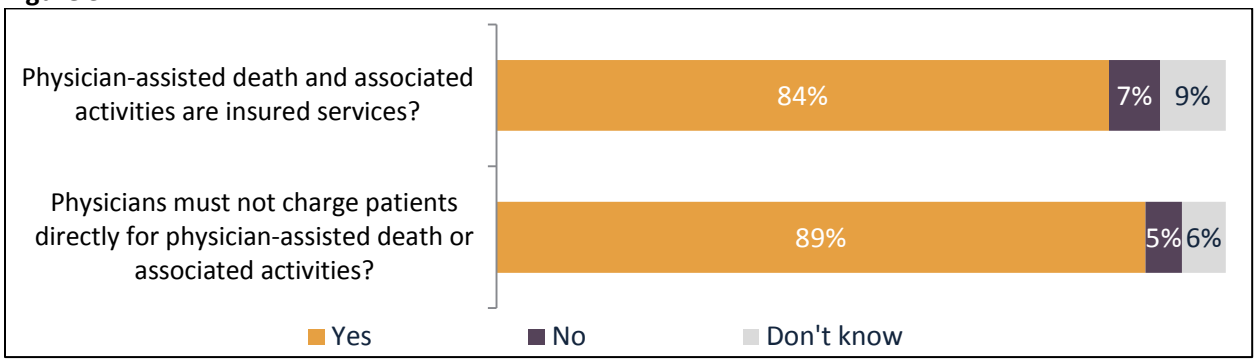


Base = 523

As shown in *Figure 2* above, three-quarters of respondents say that the draft Interim Guidance document makes it clear that it is not a substitute for a comprehensive regime to govern the provision of physician-assisted death (76%) and that any future government framework would take priority over the guidance provided in the document (76%).

Q8: "Is the draft Interim Guidance document clear that:"

Figure 3:



Base = 509

As shown in *Figure 3* above, over eight-in-ten (84%) say the document is clear that physician-assisted death and associated services are insured services and nearly nine-in-ten (89%) say that it is clear that physicians must not charge patients for physician-assisted death or associated activities.

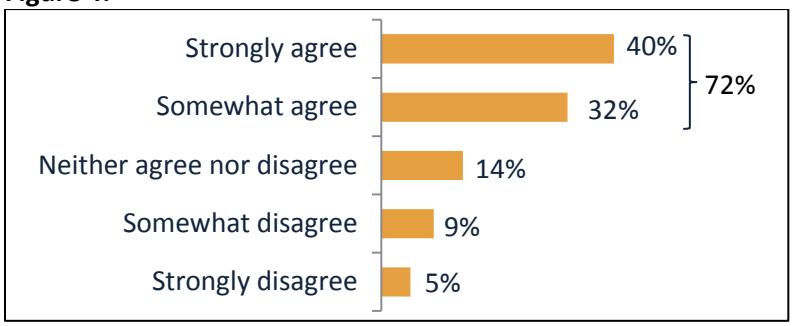
Q9. "Please feel free to elaborate on your answers above. In particular, how can the draft Interim Guidance document more clearly state that physician-assisted death and associated activities are insured services that physicians are prohibited from charging patient for? (Optional)"

Open ended feedback was provided by 93 respondents. Many respondents were unsure exactly how physician-assisted death could be billed for under OHIP, noting that there is not a specific billing code for this practice and suggesting that the document reference the specific billing codes that should be used. Some opposed to the practice of physician-assisted death expressed concern that this option would be publicly funded.

Q10. "Turning now to medical records and the documentation of physician-patient encounters related to physician-assisted death. Please indicate whether you agree or disagree that the draft Interim Guidance document provides clear guidance regarding what physicians must document in the patient's medical record."

Nearly three-quarters (72%) agree that draft Interim Guidance document provides clear guidance regarding what physicians must document in the patient's medical record (see *Figure 4*).

Figure 4:



Base: n=492

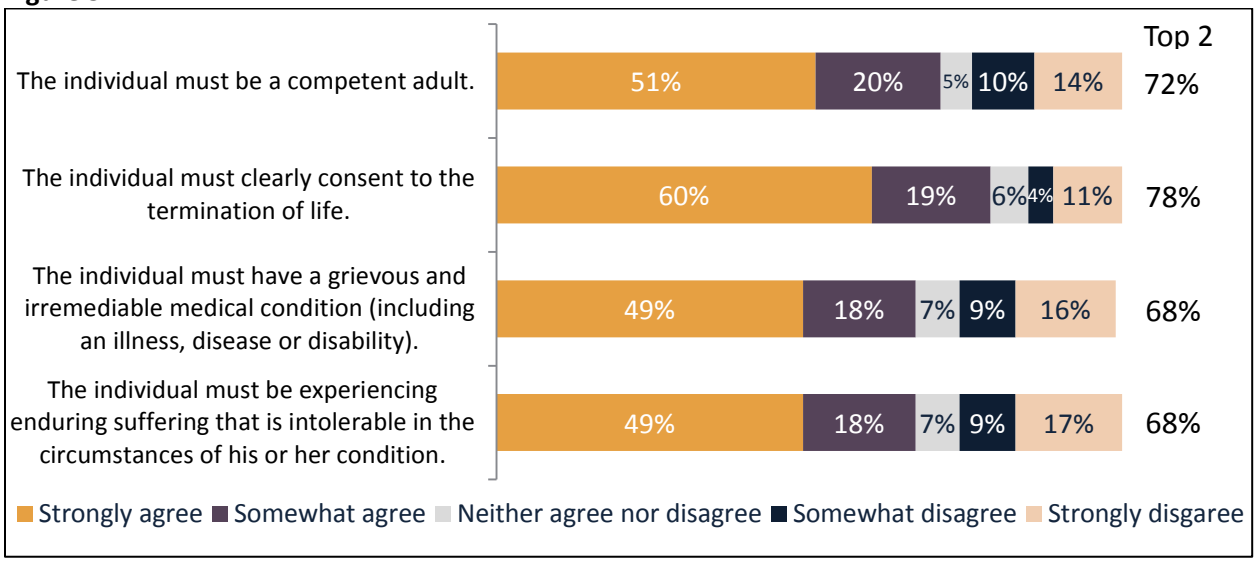
Q11. "How can the draft Interim Guidance document provide clearer guidance regarding what to document in the patient's medical record? (Optional)"

Open ended feedback was provided by 122 respondents. The majority of respondents sought clarity regarding how to record the cause of death and in particular, how to complete the death certificate. Others suggested that the medical record include documentation that other treatment options were discussed, that a capacity assessment was done, and that it capture the conditions or factors that led the patient to the request physician-assisted death. Others also sought specific guidance on precisely what should be documented and suggested that the draft document include examples.

Q12. "The SCC's decision in *Carter v. Canada* sets out the criteria a patient must meet in order to access physician-assisted death. The draft Interim Guidance document provides guidance to physicians on how to evaluate each criterion. Please indicate whether you agree or disagree that the draft Interim Guidance document provides sufficiently detailed guidance to help physicians evaluate each criterion below."

Generally speaking, survey respondents agree that the draft Interim Guidance document provides sufficiently detailed guidance to help physicians evaluate the criteria a patient must meet in order to access physician-assisted death (see *Figure 5*). However, results also suggest that many respondents believe that additional or more comprehensive guidance needs to be provided.

Figure 5:



Base n=469

Q13. "Please feel free to elaborate on your answers above. In particular, what more can be done to better help physicians assess the criteria? (Optional)"

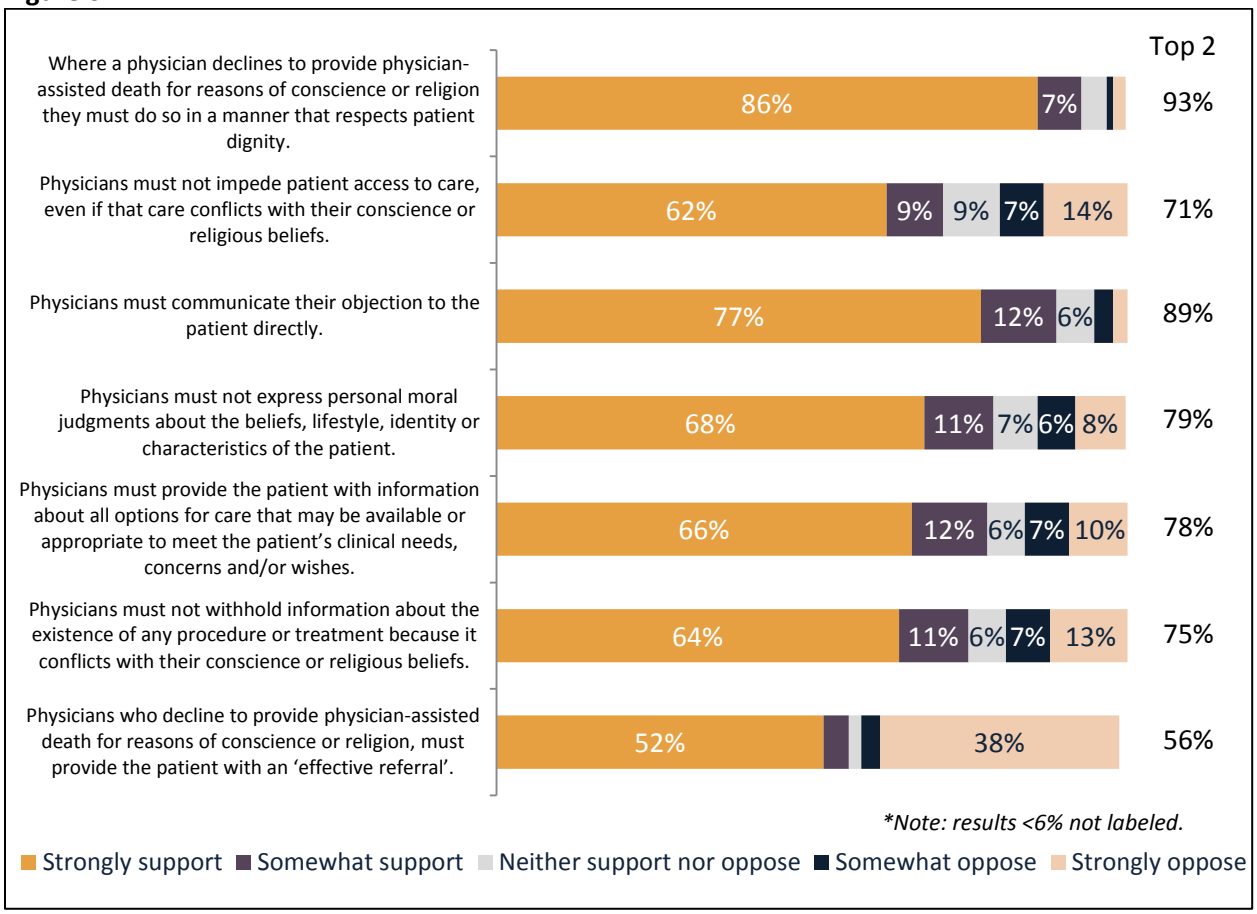
Open ended feedback was provided by 122 respondents. Again, many respondents sought more clarity on the criteria a patient must satisfy in order to qualify for physician-assisted death and many expressed concern that the criteria were too vague and/or too subjective. Similarly, many respondents also sought additional clarity regarding the term "adult", with some indicating a preference for adult to be defined as the age of majority (i.e. 18 or older). Other stakeholders expressed concern about the requirement that a patient be competent, noting that this may be particularly challenging in the end-of-life context

and in particular, that psychiatric conditions or depression may complicate capacity assessments. Finally, many stakeholders worried that patients might feel pressured by family members etc. and suggested that the document very clearly state that the request for physician-assisted death must originate from the patient directly.

Q14. "The Supreme Court of Canada decision does not compel physicians to provide physician-assisted death when it conflicts with their conscience or religious beliefs - what is often referred to as a "conscientious objection". However, the Supreme Court of Canada did note that any legislative or regulatory framework would have to reconcile patient and physician rights. In the absence of a framework to govern the provision of physician-assisted death and in order to ensure that patient access is not compromised or frustrated, the draft Interim Guidance document directs physicians to comply with the expectations for conscientious objections in general, set out in the Professional Obligations and Human Rights policy. Please indicate whether you support or oppose each of the following expectations which are consistent with the Professional Obligations and Human Rights policy, applied to the physician-assisted death context."

As shown in *Figure 6* below, survey respondents generally supported the application of the expectations found in the *Professional Obligations and Human Rights* policy to the physician-assisted death context. That said, while a slight majority (56%) support the effective referral requirement, many also oppose this requirement (41% somewhat or strongly oppose).

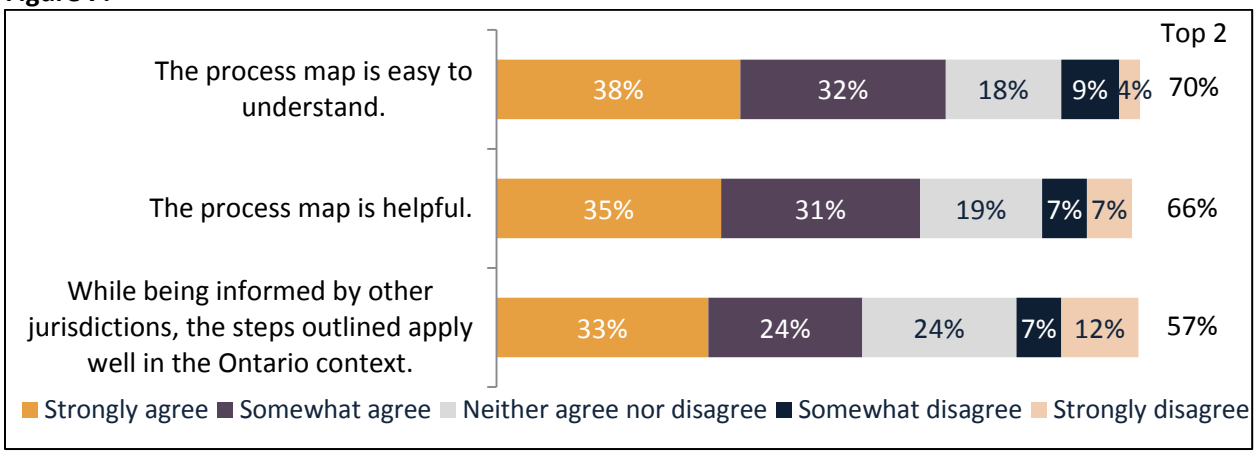
Figure 6:



Base n=458

Q15. "The draft Interim Guidance document includes a process map to outline the steps that physicians may elect to follow in circumstances where a patient requests physician-assisted death. This process map has been adapted from other jurisdictions. Please indicate whether you agree or disagree with each of the following statements:"

Figure 7:



Base: n=454

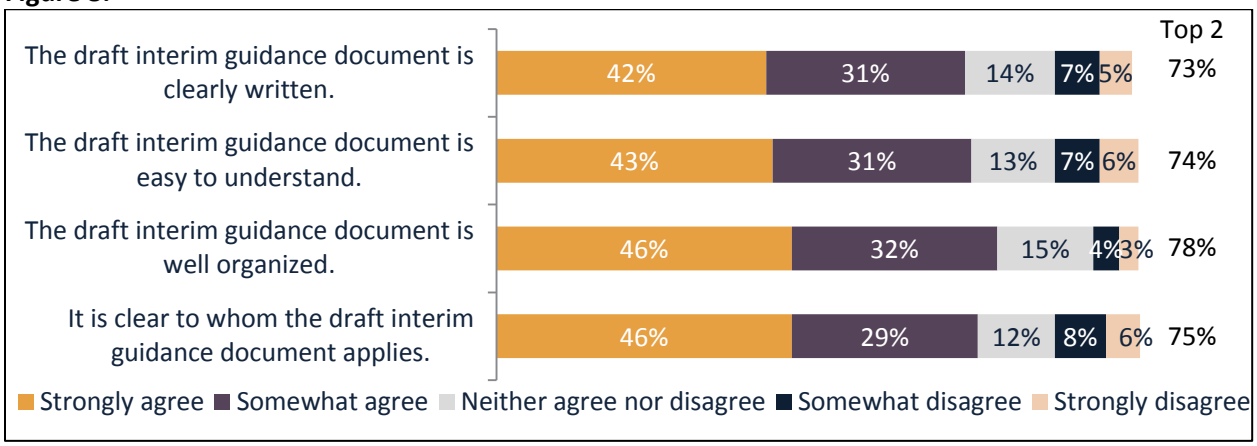
As shown in *Figure 7* above, there is moderate agreement that the process map is easy to understand, helpful, and that applies well in the Ontario context.

Assessments of the Draft Interim Guidance Document:

Q16. "Now thinking about the draft Interim Guidance document in general, we'd like to understand whether it is clear. Please indicate whether you agree or disagree with each of the following statements regarding the clarity of the draft Interim Guidance document."

As reported in *Figure 8* below, most respondents agreed that the draft Interim Guidance document is clearly written (73%), easy to understand (74%), well organized (78%), and that it is clear who the draft Interim Guidance document applies to (81%).

Figure 8:



Base: n=442

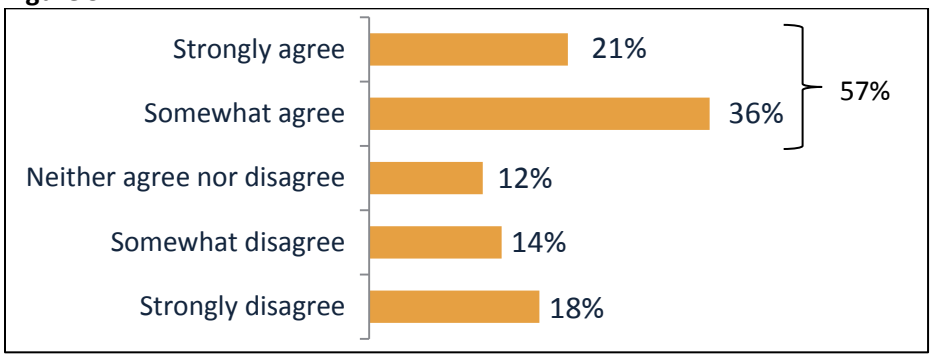
Q17. "How can we improve the draft Interim Guidance document's clarity? (Please feel free to elaborate on your answers above or touch on other issues relating to clarity) (Optional)"

Open ended feedback was provided by 120 respondents. Much of the feedback offered touched on themes explored in the previous questions (e.g. clarity regarding the criteria, clarity regarding "adult", etc.). New themes that emerged in this feedback include: how to manage disagreement between the attending and consulting physician, how to proceed if the referring physician cannot find a willing physician, clarifying to whom the document applies, and either making the language more accessible or developing a companion patient version.

Q18: "We'd also like to understand whether the draft Interim Guidance document is comprehensive. That is, addresses all of the relevant or important issues relating to physician-assisted death that warrant addressing on an interim basis. Please indicate whether you agree or disagree that the draft Interim Guidance document is comprehensive."

A small majority (57%) agreed that the draft Interim Guidance document is comprehensive (see *Figure 9*).

Figure 9:



Base n=439

Q19. "How can we make the draft Interim Guidance document more comprehensive? (Optional)"

Open ended feedback regarding the comprehensiveness of the draft policy was provided by 199 respondents. Again, much of the feedback provided touched on themes that emerged in answers to previous questions (e.g. clarity regarding the criteria, clarity regarding "adult", how to complete the death certificate, billing practices, etc.). Some stakeholders sought advice on whether the physician can initiate discussions regarding physician-assisted death and others raised issues regarding the ability of physicians to provide effective referrals (e.g. rural areas, willing physicians are unknown, etc.). Lastly, some stakeholders worried that the requirement for competency at the time of provision would prevent patients who have otherwise consented but become incapacitated prior to administration from fulfilling their wish and would prevent competent patients from setting out in an advance directive conditions under which they would like to receive assistance in dying (often referenced in relation to dementia, etc.).

Q20. "If you have any additional comments that you have not yet provided, please provide them below, by email, or through our online discussion forum. (Optional)"

When given the opportunity to provide any feedback they have not yet had the opportunity to voice, 163 respondents offered a response. Many respondents expressed support for the document, while many others expressed their opposition to physician-assisted death in general and/or the specific requirement that conscientious objectors must make an effective referral. Some respondents expressed concern with the arbitrariness of the 15 day waiting period included in the process map or expressed worry that it was too long. Others noted that the criteria for witnesses included in the process map may be too burdensome in practice.