Medical Assistance in Dying

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Educational objectives.

- To explore how the legal changes occurred.
- What the amended criminal code means to practicing physicians.
- The process legally and clinically.
- Some ethical considerations.

Conflicts of interest

› No financial conflicts.

How did we get here ?

- 1991 – the right to die society in founded in Canada .
- 1991-2010- House of Commons debates x 6 private members bills seeking to decriminalize assisted death. All fail.
- 1992 – Sue Rodriguez –ALS-begins her legal case.
- 1993 – Supreme court in the case of SR upholds criminal law 5-4 margin.
- 1994 – Sue Rodriguez takes her own life with the help of a Dr.

How did we get here – the long road

- 1998 – Dr. Maurice Genereux is the first Dr. to be sentenced under the law banning physician assisted death. One of the 2 men survived and sued him.
- 2002- Netherlands establishes regulations for PAD.
- 2007 – Dr. Ramesh Sharm B.C. conditional sentence and loss of license. Provides lethal dose of meds to 93 yr. old patient.
- 2008 – Stephan Dufour –Quebec-acquitted on assisting uncle to commit suicide. First Canadian to stand trial by jury for assisted death.

The journey of the law.

- 2011 - B.C Civil Liberties Association files a suit challenging criminal code.
- 2012– B.C. Judge rules in favour of BC. CLA , declares assisted death ban as unconstitutional.
- 2013- B.C. court of appeal over turns lower court ruling.
- 2013 – Dr. Donald Low, Microbiologist who helped with SARS crisis makes video plea for assisted death.
- 2014 – Gillian Bennett. B.C. ends her life because of dementia.
- She posts a blog saying she did “not wish to be a burden, or be a vegetable”.

The end of the legal journey – for now

- 2014 – Quebec adopts assisted death law.
- 2015 – December = Quebec law in effect.
- 2015- Feb – Supreme Court of Canada rules unanimously that Canadians have the right in some circumstances to decide how they die. Federal government has a year to draft law.

The end of the legal journey – for now

- 2016- January SCC gives FG a 4 month extension. June 6th.
- 2016 – March, 81 yr. old Toronto man is granted PAD.
- 2016 – We have the MAID law .
- 2016 – the predicted court challenges start.

Provincial Amendments to regulation

- September 2016- Nurse Practitioners can act as assessors/prescribers for MAID.
- BC Coroners service named as oversight and monitoring body for all instances of MAID in B.C.
- Physicians/NPs, who prescribe or administer MAID must complete the BC Coroners service Report of MAID form and submit to B.C. coroners service.

SCC decision

- A competent adult person who clearly consents to the termination of life and has a grievous and irremediable medical condition {including an illness, disease or disability} that causes suffering that is intolerable to the individual.

The legislative objectives.

- Recognize personal autonomy and dignity.
- Recognize the inherent and equal values of every life.
- Include robust safeguards to protect vulnerable persons and guard against errors or abuse.
- Set out eligibility for competent adults where death is reasonably foreseeable and who are suffering intolerably.
- Balance personal autonomy towards the end of life and the protection of vulnerable persons.
- Encourage a consistent approach across Canada.

Grievous and Irremediable

- Serious and incurable illness, disease or disability.
- Advanced state of irreversible decline.
- The disease process is causing them enduring physical or psychological suffering that is intolerable to them and can not be relieved under conditions they find acceptable.
- Natural death is reasonably foreseeable.
- Patients have the right to make decisions about their bodily integrity and have access to unbiased and accurate information about relevant medical issues and treatments .

What are the definitions

- “Assisted suicide” where the patient is provided assistance in intentionally ending his or her own life.
- “Voluntary euthanasia”, where the physician directly administers a lethal dose of medication in accordance with the wishes of the patient.
- What about conscientious objection definition?
- >“nothing in the declaration of invalidity which we propose to issue would compel physicians to provide assistance in dying”

Criteria for patients for patients to receive MAID

- Eligible for health services funded by a government in Canada.
- At least 18 yrs. of age.
- Be capable of making decisions with respect to their health.
- Have a "grievous and irremediable" medical condition.
- Voluntary request MAID with no external pressure.
- Informed consent.
- Made aware of other means to receive their suffering including adequate palliative care.

Medical records

- Clear diagnosis and prognosis , relevant background records.
- All alternative care offered is discussed and recorded.
- Option to rescind recorded.
- Record of the oral and written request for MAID.
- Summary of all discussions.
- The report and assessment of both MAs.
- Risks of the medication.
- Who will prescribe/administer.

Potential provincial/HA forms

- Record of request
- Assessments of both MAs
- Capacity assessment if performed.
- Pre printed orders for medications.
- Prescription in patients name with mention of indication is MAID.
- Coroners office MAID form.

Expected of physicians

- Legal, ethical and professional obligations.
- Be sure the request is voluntary.
- Allow time period from request to proceeding with MAID.
- Review patient decision.
- Pharmacist will provide RX directly to physician who will administer or give to the patient to self administer.
- Decision reviewed again by physician immediately prior to administration.
- Remain with the patient until death is confirmed.

Physicians rights and autonomy

- Physicians have an obligation to provide their patients with health information and health services in a non – discriminatory manner and an obligation not to abandon their patients.
- Culturally and spiritually appropriate end of life care should be available to all patients.
- Nothing in the criminal code compels a physician to provide MAID.

Conscientious objection

- What does this mean for the practicing physician?
- Information.
- ?Referral.
- Not discussing personal beliefs.
- Timely transfer of information/medical documentation.
- ? Arranging transfer?
- Provincial access provisions. Websites, call lines, assessors.

Patient rights and physician rights.

- Patient centered care
- Autonomy
- The right to unbiased, accurate and timely information.
- The right to access care in a timely manner.
- The right to unbiased nonjudgmental care.
- The physician must have a right to decide whether or not to be involved in the act of MAID.

How will the process work

- Hopefully the patient will have a physician/NP who knows them well {? 30% unattached patients}
- The physician/NP should have the knowledge, qualifications, experienced and competency in the patients disease process to discuss it in the patient's context. The patient should be aware of all available treatments and options and these should be communicated clearly to the patient.
- The patient must have enough information to make a fully informed choice.

Looking past the paperwork--Patients Values

- Understanding of their context
- Self worth
- Hopes – fears
- Spiritual suffering
- “Burden” of illness
- “ all human beings equal intrinsic value”

Asking the questions

- Before we talk about the process I would like to hear more how you reached this decision.

Aspects to be considered

- Is the patient’s mood adequately treated.
- Is the patient’s pain adequately treated.
- Has palliative or hospice care been fully explored.
- If the patient requesting MAID to relieve the suffering of someone other than themselves.
- The patient’s life insurance
- The pharmacological process itself.
- Does patient know what to expect.

The process

- There will be two independent assessors .
- Both MAs will be licensed for independent practice in Canada.
- At least one practitioner must be licensed in BC.
- The MAs must be independent of each other and not ethically conflicted.
- Both MAs must agree in writing that all criteria are met for MAID.
- One MA may provide their assessment by telemedicine.

Discussion of process

- The consulting physician should see the patient within a reasonable time frame. The consulting physician should be "independent" of the initial referring physician.
- Where the patient's competency to make a decision is questioned a psychiatric, geriatric, or psychological or other appropriate referral should be made.
- The patient should be reassessed by the primary physician in a reasonable time frame eg. 10 days to ascertain as to whether the patient still wishes to proceed with their desire for MAID.

Free and informed consent provided

- MAs must be sure;
- Patient remains mentally competent.
- If unsure- refer for capacity assessment.
- If capable to proceed must be aware can rescind decision at any time in process.
- If at any time in the process the patient loses capacity to rescind decision MAID is no longer an option.
- Advanced care directive or substitute decision maker is not allowed.

Rural and remote patients

- The attending and consulting physicians/NPs must be licensed in a Canadian jurisdiction and one of them must be licensed in BC.
- Both MAs must have reviewed all the appropriate medical records.
- One of these physicians may provide their opinion by video conferencing. The proviso is that there be a physician or nurse and physical attendance with the patient at the time.[to ensure that the patient is giving free an unfettered consent]
- Care where possible should be culturally sensitive.

Documentation

- To be carefully included in the patient's medical record;
- Documentation of written or oral request for PAD.
- A signed, dated and Px identified written request is required.
- If patient is unable to sign a "witness" is able to sign for them.
- The request must be witnessed by 2 independent witnesses >18 yrs of age. *

Documentation

- A summary of the discussion and information provided.
- The consultation is taken place.
- That the patient has had the opportunity to rescind their request on completion of all the documentation process.
- A final note that all steps and requirements have been met prior to medication being prescribed.
- Completion of any provincial or prescription forms.

Documentation on the death certificate.

- Underlying cause of death e.g. “lung Ca”
- Subsequent antecedent cause of death “lethal medication/MAID”
- Immediate cause of death e.g. Anoxaemia

Controversy and Challenge

- The age of consent.
- Children.
- Mental health.
- Chronic non terminal diseases.
- Advanced care directive.
- Substitute decision maker.

Advocacy

- Before the parliamentary review in 5 yrs.
- Where the promises kept;
- Access to good palliative care.
- Access to home care.
- Patient / family care giver supports.

Things my patients have taught me – gifts they have given to ponder.

Lets not forget in this process to care for the health care providers who may be left with the weight of these decisions. To care for each other.

references

- CPSBC guidance document
- CPSS guidance document
- CPSA
- FRAC working gp
- Ontario working document
- CMAJ Jan 2016
- SCC Bill C-14
- Amended CC RSC 1885, c.C-46