



Physician Assistance in Dying

Repeal of portions of the Criminal Code in *Carter v. Canada*

Key elements of decision

- “must be competent adults who clearly consent to the termination of life, and have a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering that is intolerable to the individual”

Key elements of decision

- The Court expressed confidence that the currently used informed consent model could be used by physicians to assess competency and voluntariness in this type of end-of-life decision

Key elements of decision

- The Court recognized that its decision does not compel physician participation in any regulatory scheme

Physician-assisted death (PAD)

- Do not need to have a terminal illness to consent to PAD
- Contemplates both patient-administered PAD (Oregon approach) as well as the physician-administered PAD (Quebec approach)



Physician-assisted death (PAD)

- Governments and medical regulatory authorities were given one year to develop and implement law and regulation
- Effective implementation date February 2016

Ideally we have both

- Law (federal and/or provincial) to codify those aspects of “best practice” not specifically addressed in the court decision
 - Two medical opinions
 - Cooling off period proportionate to patient’s situation
 - Legal age of majority is adult and not an emancipated minor
 - No advance directive or substitute decision-making
 - Establishment of an independent commission
 - Clarify that other providers (e.g. RNs, pharmacists) are exempt from criminal code as well



Professional guidance

- Competent adult meeting the test as set out in the court decision
- Two opinions
- 14-day cooling off period (proportionate)
- Highest test of consent (expressed, witnessed, signed, etc.)
- Not a technical act...the provider has the burden to test, document and record



Conscientious objection

- Patients have rights
 - Autonomy
 - Informed decision-making
 - Not be abandoned
- Physicians and organizations have right of conscience but
 - Duty of care and not abandon patient
 - Must provide enough information for the patient to make an informed decision and provide assistance
 - Must not impose their own beliefs



Medical certificates of death

- Unclear if amendments will be made to *Coroners Act*
- Best: PAD due to “underlying condition”



Oversight body

- Set out in legislation
- Receive reports of all requests for PAD, whether granted or not
- Act as QA body, with annual public reports
- Be an appeal body if two conflicting opinions
- Important body to assure public that vulnerable, marginalized, isolated, are not at risk



Next steps

- College has internal committee drafting professional guidance
- Provincial expert panel report delivered November 30, not public yet
- Federal panel has had letter of engagement amended (make recommendations only) but new government has announced possible legal framework....report due December 15
- A delay in implementation date has been sought

