# Medical Assistance in Dying
# What Alberta has in place

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# Disclosure

- No conflicts of interest
- Contracted to AHS for this work as Medical Advisor and Secretariat Chair, contract also supported by HQCA
- Faculty at Cumming School of Medicine, University of Calgary, and the John Dossetor Health Ethics Centre, U of A
- Member Advisor of Vulnerable Persons Standard
- Member of CMA Committee on Ethics

# Please read this book

- When Breath Becomes Air
  - Paul Kalanithi

# Case 1 - Julie

- Julie is a 64 year old divorced woman with ALS.  She has reached progressive stages of decline, each time wishing to meet those challenges and continue to live.

- She is supported by her family doctor, her neurology team, the ALS Clinic and home care nursing through the palliative care program

- She now reaches a stage that she thinks she may not wish to experience for very long

- In your regular home care visit today she suddenly says:  I think it is time. Can I have medical assistance in dying?

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# Case 2 - Alonzo

- Alonzo is an 82  year old widower with esophageal cancer
- He is no longer eligible for cancer modulating therapy
- Despite good care from you and the involvement of attentive palliative care consultants, his symptom suffering is substantial
- He will not consider medical assistance in dying, for moral and religious reasons, but his son and daughter come to see you to ask if you can convince him this is a reasonable way to remove his suffering

# Case 3 - Parvinder

- Parvinder is a 68 year old married woman who is self-estranged from her ethnic community
- She has been depressed and anxious for the past 35 years, mostly unresponsive to treatment, and still under your care and that of her psychiatrist
- She arrives in your clinic one day and asks if you will help her to receive medical assistance in dying, saying that if you do not, she will have to find a way to kill herself

# Supreme Court Decision

- February 6, 2015, SCC ruled unanimously in *Carter v. Canada*
  - Sections 241(b) and 14 of the Criminal Code
    - Sections making it illegal for anyone to assist in, or cause the death of another person
  - SCC ruled these sections violate the constitutional rights of certain grievously and irremediably ill adult individuals, and declared them invalid as applied to physicians assisting those persons

# Supreme Court Decision

- Suspension of the declaration of invalidity for one year
- Said it was up to legislatures to craft a new law, if they so chose
- Original date of February 6, 2016 that the law would be invalid
  - provided criteria for “physician assisted death”
- Extension granted to June 6, 2016
  - In the interim period allowed physicians to provide medical assistance in dying under a Court Order

# Federal Legislation

- June 6 – 17, 2016: Limbo
  - Negotiated temporary measures for Albertans
- June 17, 2016: Federal legislation - An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying) [Act] - received Royal Assent
  - allowed physicians and nurse practitioners to provide medical assistance in dying
  - limited the eligibility criteria as compared to *Carter*

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# Key Definition

Medical assistance in dying means:

(a) the administering by a medical practitioner or nurse practitioner of a substance to a person, at their request, that causes their death; or

(b) the prescribing or providing by a medical practitioner or nurse practitioner of a substance to a person, at their request, so that they may self-administer the substance and in doing so cause their own death.

As defined in the Federal Act

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# Key Legislative Objectives (Act)

- Recognize personal autonomy and dignity
- Recognize inherent and equal value 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 interests, including personal autonomy, conscience rights and the protection of vulnerable persons
- Encourage consistent approach across Canada

# Brief Outline of the Act (Federal)

***Patient eligibility criteria:***

- At least 18 years old and competent
- Has a grievous and irremediable medical condition, i.e.:
  - serious and incurable illness, disease or disability; and
  - advanced state of irreversible decline in capabilities; and
  - enduring physical or psychological suffering, caused by the medical condition, that is intolerable to the person; and
  - natural death has become reasonably foreseeable (precise proximity to death is not required)
- Voluntary request required
- Informed consent required
- Eligible for publicly funded health care services in Canada

# Brief Outline of the Act (Federal)

Exemptions from criminal liability would apply (if following the law and regulations) to:

- medical practitioner
- nurse practitioner
- pharmacist (limited)
- person who aids medical practitioner or nurse practitioner (limited)
- other person who aids patient to self-administer substance (limited)

# Process safeguards

- First medical opinion confirming patient meets all criteria
- Second independent medical opinion confirming patient meets all criteria
- Request in writing (or by proxy if patient cannot write) before two independent witnesses
- Right to withdraw request at any time
- 10 clear day waiting period, unless death or loss of capacity is imminent
- Consent must be re-confirmed immediately before medical assistance in dying is provided (right to withdraw Consent)

# Other Federal Reponses (non-legislative)

Further study to look at unique implications of:

- requests by mature minors
- advance requests and the use of surrogate decision makers
- where mental illness is the motivating underlying medical condition

# Federal messaging

- Committed to support for palliative care and better funding for it
- Medical assistance in dying is not to be considered a default or usual mode of death

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# Summary of imperative – 3 requirements

- Provide equitable access to assisted death for those eligible Canadians who want it
- Provide strong safeguards against error and coercion - assess for conditions of vulnerability and protect those who are vulnerable
- Respect and harmonize rights of conscience for providers

# Key message 1

- What we have in place is meant to support patients, providers and organizations
- Intended to be compliant with the law and with our moral commitments as caregivers

# Underpinnings

- Develop an approach that:
  - Provides equitable access to assisted death
  - Protects vulnerable persons
  - Assures conscience rights of providers are respected
- Meet all legal requirements and provide compassionate care regardless of decision
- Developing a mechanism for AHS but building for Alberta

# Key message 2

- Recognize the magnitude of this for everyone, and commit to a principle-based process

# Process

- Informed by patients and clinicians
- Informed by experts in regulation, policy, legal, ethics
- Collaboration with government, regulators, national and provincial agencies, educators
- Open sharing
- Principle-based
- Continual review

# Key message 3

- This is new and complex
- How can we help?

# Care Coordination Service (AHS)

- Available to support patients, families, and care teams through the process
  - Access to resources, consultants, transfers, forms, information, colleagues, pharmacists
  - Avoids undue barriers to access for the patient while honoring right for a provider to not participate, without abandoning
  - Mechanism to also look for special conditions of vulnerability
  - Resource will not be the provision team for assisted death

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# Care Coordination Service

- Link with designated operations and medical leads in each zone
- Accessed through maid.careteam@ahs.ca
- Accessed through Health Link (811)
- Patients, families, clinicians can access directly
- This service is available to all of you

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# Key message 4

- It is more than provision of a drug to help someone become dead at their request
- Involves an exploration of values, hopes, fears; requires deliberation with, and guidance, listening and offering – the entire art of compassionate and excellent health care

# 5 Process Phases of Medical Assistance in Dying

I. Pre-Contemplative Phase (i.e. exploring options)

II. Contemplative  Phase (i.e. thinking specifically about options and seeking more explicit info)

III. Determination Phase (i.e. assessments and decision-making)

IV. Action Phase (i.e. assessments and provision)

V. Care After Death Phase

Phases are not always distinct

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# Important considerations

- Recognize that requests for access to, or information about, medical assistance in dying, and any other end of life care option, is an opportunity for a therapeutic conversation
- Not done well, can cause harm
- Prepare, practice the conversations.  Initial response is key.
- Dialogue with your boards, management  and staff
- Offer support and debrief

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# Cultivating Respect in Diverse Workplaces

- Appreciating that there is a wide spectrum of beliefs on this subject, within teams and between colleagues we wish to cultivate an environment where health care providers feel free to either participate or not participate, consistent with their beliefs
- Language of ‘conscientious objection’
- Adherence to moral commitments
- Awareness of power differentials

# Key immutable commitments…

- To a person's ongoing care needs
- With non-judgement
- With non-abandonment
- Recognition of the impact on colleagues of the moral choices they make that are central to the provision of care

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# Being prepared

- Know the key features of the law and regulations
- Know the local processes, or at least where to find that information
- Use colleagues, CMPA, CPSA, CNPS, CARNA for advice
- Be aware of the resources for psychological support through EAFP and AMA's PFSPS
- Know your own position on the issues

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# Tips

- Responding to a request for access, or even for information, is an opportunity for a therapeutic interaction
- Practice various responses so that you are prepared
- Acknowledge the importance of this conversation for your patient
- Assure your patient that you and your colleagues will support the person's ongoing health care needs
- Assure your patients of your non-judgement

# Key message 5

- Access the web resources that AHS has produced
- Detailed process steps, background, forms, contacts, etc
- Continuously updated

# Contact points and information (AHS)

- Current emails:
  - MAID.secretariat@ahs.ca (being retired)
  - MAID.careteam@ahs.ca (ongoing)

- Website with Resources:
  - www.ahs.ca/MAID
  - Updated regularly, currently being revamped

# For Patients & Families

- [Care Coordination Service]
- [How Do I Access Medical Assistance in Dying Services in Alberta?]
- [Patient and Family FAQ]
- Forms

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# For Health Professionals

- Legislation
- Policy, Guide and Processes
- Care Coordination Service
- Regulator guidance
- Pharmacy protocols, all required forms
- Medical Examiner Role
- others

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# Common questions/issues

- Modes - both self-administered and physician/nurse practitioner-administered
- Drugs – common drug protocol
- Locations – can be almost anywhere, transfers possible
- Medical Examiner – must be involved for death certification, very limited investigation
- Costs of drugs and supplies – will not be a barrier
- Life insurance and pensions – not voided

# AHS Contacts

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# Questions, comments, ideas, advice