

A Proposed Framework for Physician Assisted Dying

I. Quality of Life Fundamentals

- A. All people, including those with disabilities, should have the support and resources necessary to live their life to its fullest capacity.
- B. All people whose condition requires it should have access to palliative care at home or in an institutional setting.
- C. No one, whether or not they have a disability, should ever feel coerced into hastening their own death because of a lack of support to achieve a quality of life acceptable to them, or because of concerns about costs associated with their ongoing care.

II. Physician Assisted Death

A. Criteria for Access

1. The patient must be a Canadian citizen, permanent resident or insured person within the meaning of the relevant provincial/territorial health insurance legislation.
2. When requesting physician assisted death, the patient must be a competent adult making a free, voluntary and informed decision.
3. The patient must have a grievous and irremediable medical condition (including an illness, disease or disability) that causes enduring suffering intolerable to the person in the circumstances of their own condition.

B. Supports and Procedures

1. Pre-Physician Assisted Death

- a. The primary physician must be of the opinion that all personal criteria are met. A written opinion that the criteria for access have been met is required from a second physician who is independent of the primary physician (i.e. not in a direct supervisory relationship).
- b. If either physician is concerned that the person may not fully understand the consequences of the decision to seek physician assisted death, no action should be taken unless and until it is evident that the person is competent to make that decision and is fully aware of the prognosis for the illness, as well as the other therapeutic options and their consequences.
- c. A specialized capacity assessment may be sought by either physician if there is uncertainty about the person's capacity to make an informed decision and to clearly consent to the termination of their life.
- d. The determination of whether the request is enduring should be part of the physicians' assessment process for approving the request, without arbitrary minimum waiting periods. In no case should a waiting period exceed three weeks. The person making the request may withdraw or postpone it at any time and by any means.
- e. Where patients are required to request assisted dying orally and/or in writing, individuals who cannot speak or write must be allowed to express their consent in other ways.

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- f. A person whose request for assistance to die is declined has the right of timely appeal.

2. Post-Physician Assisted Death

- a. If a physician is not present at an assisted death, the death must be reported to the Coroner.
- b. To ensure accurate data collection and full compliance with appropriate laws and regulations, physicians are required to report to the designated regulatory authority.
- c. In the event of non-compliance, standard instruments to enforce legislation or standards should be used (e.g. Criminal Code, provincial legislation, or standards of regulatory bodies).

C. Duty to Inform/Refer/Provide

1. Physicians and pharmacists are required to provide information about physician assisted dying according to the established norms of informed consent law.
2. Physician assisted dying is a right in Canada. To ensure that persons requesting this service are not abandoned by the health care system, physicians who are not prepared to provide assistance to die and pharmacists who are not prepared to fill prescriptions for life-ending medication are required to provide effective and timely referral.
3. Physicians' professional privileges or licenses cannot be altered solely because they provide assistance to die in full compliance with appropriate laws and regulations.
4. Health care institutions (including but not limited to hospitals, hospices, residential and long-term care facilities) that receive public funds are required to allow physician assisted death within the institution. If a person in care seeks this service but no willing staff physician is available, health care institutions that receive public funds must make reasonable efforts to grant suitable privileges to physicians willing to provide the service.

D. Other

1. Insurers cannot refuse to pay life insurance solely because death occurs with physician assistance in full compliance with appropriate laws and regulations.
2. Many Canadians want their advance care directive to enable physician assisted dying should they develop dementia or otherwise lose their capacity to make informed decisions. Advance care directives for this purpose were not addressed in the Supreme Court of Canada's ruling and will not likely be part of legislation concerning physician assisted dying.

The nature and enforceability of advance care directives must be addressed in the future because this is an issue of importance to many Canadians.

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