Medical Assistance in Dying

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Overview of Presentation

1. Overview of legislative framework
2. Considerations for the provision of MAID
3. Key components of a MAID policy
• “Bill C-14” – amended the Criminal Code to create exemption from criminal liability for “medical assistance in dying” (MAID), i.e.:
  – medical practitioner (physician) or nurse practitioner (NP) administering a substance to a person at their request that causes their death
  – physician or NP prescribing/providing to person for self-administration
. . . Legislative Framework

- Exemptions apply to physician, NP pharmacist, and any person who aids physician/NP/patient where acting in accordance with the law

- New offences:
  - Knowingly fail to comply with safeguards in providing MAID
  - Forge or destroy documents
Federal Laws
Criminal Code of Canada - prescribes:
1. Criteria that must be met for patient to be eligible for MAID
2. Safeguards that must be in place for MAID to be provided

Provincial Laws (Provision of health care)
- Consent and Capacity legislation, Coroners Act, Trillium Gift of Life Network Act, Vital Statistics Act
- Interpretation? Amendment? More to be determined?

Professional Regulatory Requirements (i.e. CPSO, CNO, OCP)
1. Roles and Responsibilities for MAID

- Physician/NP providing MAID is responsible under the Criminal Code for ensuring:
  - patient meets criteria for MAID and
  - all safeguards have been met
- All providers comply with laws and respective professional regulatory requirements
Roles and Responsibilities

- Facilities where MAID may be requested/provided have independent responsibilities:
  - Duty of care to patients/residents/clients include:
    - Overall quality of care
    - Ensuring providers involved in MAID are reasonably qualified
  - Systems/protocol to ensure compliance with laws and standards of care
Roles and Responsibilities

- Vicarious liability for acts/omissions of employees
  - Including employed physicians and NPs
  - Ensure acting within scope of practice and in accordance with laws/standards
Roles and Responsibilities

- Physician/NP-driven process → Criminal Code requirements
- Facility authority to establish parameters and institutional processes
- Important role re: support and resources for providers, patients/families
2. Do we need to have a MAID policy?

- Not legally required
- From risk management perspective, strongly recommend if facility is one where MAID may be requested
- Need to ensure legal obligations are met and staff are supported
Do we need a MAID policy?

- If not providing MAID – basis for responding to inquiries/requests
  - Cannot pose barrier to professional obligations → Information & referral

- Need to effectively define organization’s position and the manner in which MAID will be addressed
3. Structuring MAID Services

- Struggles re: how to implement
- It is clear that:
  - Complex regulatory regime – need good understanding of the law
  - Supportive roles (nursing, social work, ethics, spiritual care, legal etc.) are proving instrumental
... structuring MAID services

- Clinical competency requirements but standards not (yet) clearly defined
- Those involved directly and indirectly need to be adequately supported throughout process
- Support for those who “opt out” equally important → obligations re: referral
- Variety of factors impacting local decision-making
structuring MAID services

- Operationalizing services:
  - Most addressing at individual provider level
    - how to ensure requisite knowledge/skill/judgment (clinical and legal)?
  - Many have assessment team(s) and steering committee(s) but roles not always clearly articulated
  - Consider specialized MAID Team
4. MAID Process

- Beware of “process maps”
- “Process” → driven by safeguard requirements
- All safeguards must be met before MAID can be provided, but not necessarily sequential “steps” - may occur concurrently, in quick succession or even “out of order”
5. Documentation

- Good documentation of clinical assessments, consultations, discussions and rationale for decision-making is critical

- Forms can be helpful tool but not sufficient
Documentation

- Documentation serves as evidence legal requirements have been met
- Coroner considering as part of review of death
Key Considerations for MAID Policy

1. Must be consistent with Criminal Code requirements → **Specific language**
   - Last amendments to legislation not reflected in all resource documents

2. Intersection with other laws (e.g. consent and capacity legislation, Coroners Act, TGLNA)
3. Challenges re: certain key concepts:
   - “Grievous and irremediable medical condition” – threshold issue
   - “natural death has become reasonably foreseeable” interpretation?
   - Written request → trigger for process
   - 10 clear day “contemplation period”
4. Interface with other organizational policies/standards etc. (e.g. adverse events)

5. Communication with patient/family – need to engage early on and involve family (with consent)
6. This is new for everyone –
   - build in mechanisms and processes for collecting data, soliciting and receiving feedback, debriefings, review/analysis, and response
Looking Forward

- Constitutional challenges – cases currently before the courts
  - Mature minors? Advance requests? Mental illness?
- Working out the (regulatory) kinks
- Leverage available resources
Questions?

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