

# Organ donation and legal assisted death: Are there special ethics considerations?

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# Declarations

- No conflicts of interest
- No commercial support or research funding
- Organizational affiliations:
  - Health Quality Council of Alberta, Alberta Health Services, Canadian Medical Association Committee on Ethics, Vulnerable Persons' Standard
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# Objectives

- Address some bedside and programmatic ethics considerations at the intersection of assisted death and organ donation practices
- Make claims regarding programmatic safeguards and possibilities



## Underlying question

- Ought the fact of dying via assisted death matter for eligibility to be a donor or a directed recipient?
- Are there unique operational issues?

# Why is this important for policy-makers?

- New practice (in Canada) with legal and ethical uncertainty
- It will matter to patients and clinicians
- There are unique potentially coercive influences including shortages of organs for transplantation
- Fidelity and trust in both programs need to be maintained
- There is a risk of subjecting patients and clinicians to idiosyncratic and divergent decisions based solely on geography
- Individual transplant situations cross jurisdictional boundaries



## Limited areas I will address

- Background practicalities that might influence decisions
- Issues related to consent, timing, informing, vulnerability and coercion risk
  - Donor and recipient
- ❖ Potential ways forward



# Eligible conditions permitting donation

- While the majority of recipients of assisted death in Canada have cancer and neurodegenerative diseases as their underlying illnesses, those conditions are not an exclusive set.
- It is entirely conceivable that other chronic organ-failure conditions will rise in statistical prominence.
- There remains uncertainty regarding the potential for transmissibility of some neurodegenerative illnesses, which raises unresolved issues regarding informed organ receipt.



## Claim regarding eligible conditions

- There is no justification for medical condition eligibility standards for donation to change in the case of assisted death
- Organ eligibility should be based only on considerations of physiology, toxicology, transmissibility of conditions





# Practicalities impacting donation


- Location - hospital
- Separate teams required
- Monitoring of time of death (dead-donor rule, hands-off time, intravascular monitoring)
- heparinization

# Claim regarding practical impacts

- 'Fully informing' requires addressing all these issues with potential donors
- Managing concerns related to coercion versus respect for autonomous choosing rests with the quality of care taken in doing the informing.
- No justification to alter dead-donor rule, hands off time or need for proper monitoring to physiologic death

# Timing of conversations and decisions

- Most references and protocols strongly admonish against donation discussions occurring prior to assisted death discussions/decisions (risk of coercive influence)
  - Is this separation of thinking a reality for most patients
  - Are we being unjustifiably paternalistic
  - Does informed consent about end of life options require this information



## Or, should it be a routine request

- Are we risking being paternalistic or stigmatizing if not routine
- If not routine how do we consistently determine who/which circumstances foster appropriate timing and nature of conversations

# Concerns

- A person might proceed to assisted death for the opportunity to donate
  - How might this be problematic compared to deciding for assisted death out of concern for family burden?
  - Eligible, informed, voluntary
- A person might feel guilt at not proceeding once the 'promise' has been made
  - Will proper dialogue and consideration time provide assurance of the durability of the request

# Claim

- Need for re-examination of motivations and safeguards related to separation of timing of assisted death decisions and donation decisions.
  - are the current safeguards necessary?
  - Will research help us in policy formulation?
- If donation is a type of end of life decision, and especially one that impacts the process of death provision, it ought to be both available and well publicized and addressed during the contemplative phase.





# Operational issues

- Circumstances of prior expressed wish on organ registry, possibly remote
- Affirmation prior to death
- Family awareness
- Coroner/Medical examiner awareness and operational cooperation



# Steps taken and future considerations

- National consensus meetings amongst relevant stakeholders have occurred in Canada
- Future steps
  - Consider including patients if not already done
  - Deliberative ethics discussion challenging/affirming principles
  - Determine if prospective research can be done
  - Consider value/need for international consensus due to cross-border programs
  - Evaluation/monitoring of practice

## Selected references (full list available on request)

- Yazdani S, Buchman D, Wright L, Chandler J. **Organ Donation and Medical Assistance in Dying (MAID): Ethical and Legal Issues facing Canada** (in process, with permission).
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