

### Executive Summary

- Doctors play an integral role in the recently proposed Assisted Dying Bill. As such, it is important that doctors are fully informed of the impact that the legalisation of assisted suicide could have on medical practice and patient care.
- Legalising assisted dying would implement an unsafe medical practice that would place vulnerable individuals and the integrity of end-of-life care at risk. It does not improve care, but instead undermines patients' rights to proper care when dying.
- Doctors must consider:
  - The ability to assess criteria required in law (e.g. prognostic accuracy, detecting coercion).
  - The impact on palliative and end-of-life care provision.
  - The protection of people who are vulnerable, including those who are disabled.
  - The evidence of complications from lethal drugs.

## How will the legalisation of 'assisted dying' impact end-of-life care?

### *Moral and Psychological Injury to Clinicians*

- Most doctors are hesitant to participate in assisted suicide (only 24% of all practicing BMA respondents would be willing if legalised<sup>1</sup>).
- Doctors' hesitancy is most often due to fear of emotional burden and psychological repercussion<sup>2</sup>. Many clinicians who participate describe the experience as taking a large emotional toll on their personal wellbeing<sup>3</sup> and up to one-half experience significant psychological distress<sup>4</sup>.
- Clinicians who object to participating can face significant pressure from their patients, employers and colleagues<sup>5</sup>. "Conscience clauses" have been overturned in Belgium and Canada, requiring the practice in all such healthcare facilities.
- Some hospices in jurisdictions where assisted dying is legal have refused to incorporate the practice within the scope of their services, and have had their funding threatened or withdrawn<sup>6</sup>.

### *The Clinical Encounter*

- Legalising assisted suicide introduces new complexities to the clinical encounter.

<sup>1</sup> British Medical Association. 2021. "Physician-assisted dying survey". <https://www.bma.org.uk/advice-and-support/ethics/end-of-life/physician-assisted-dying-survey>

<sup>2</sup> Bouthillier, Opatrny. 2019. "A qualitative study of physicians' conscientious objection to medical aid in dying". *Palliative Medicine* 33, 9: 1212-20.

<sup>3</sup> Mathews, Hausner, Avery, Hannon, Zimmermann, al-Awamer. October 30, 2020. "Impact of Medical Assistance in Dying on palliative care: A qualitative study". *Palliative Medicine* 35, 2: 447-454. <https://doi.org/10.1177/0269216320968517>

<sup>4</sup> Kelly, Handley, Kissane, Vamos, Attia. July 25, 2019. "'An indelible mark' The response to participation in euthanasia and physician-assisted suicide among doctors: a review of research findings". *Palliative and Supportive Care* 18, 1: 82-88. <https://doi.org/10.1017/S1478951519000518>

<sup>5</sup> Boer, Depla, Breejen, Slottje, Onwuteaka-Philipsen, Hertogh. May 15, 2019. "Pressure in dealing with requests for euthanasia or assisted suicide Experiences of general practitioners". *BMJ Journal of Medical Ethics* 45, 7:425-429. <http://dx.doi.org/10.1136/medethics-2018-105120>

<sup>6</sup> "B.C. cuts funding to hospice that refuses to provide medical assistance in dying". February 25, 2020. The Globe and Mail. <https://www.theglobeandmail.com/canada/british-columbia/article-bc-cuts-funding-to-hospice-that-refuses-to-provide-medical/>

- In Canada, some clinicians feel they must withhold medications that could cause sedation or confusion because they would jeopardise MAiD eligibility, even if the medication could alleviate patient suffering<sup>7</sup>.
- Doctors who are unwilling to provide MAiD have described a significant challenge establishing trust with patients who are pursuing MAiD<sup>5</sup>.
- In jurisdictions where assisted dying is legal, patients are increasingly confused as to the nature of end-of-life care and are fearful that their doctors will urge them toward lethal drugs<sup>8,9</sup>.

### End-of-Life Care Crisis

- MAiD diverts time and resources that would have otherwise been allocated to patient care<sup>10</sup>.
- It is estimated that as many as 7 in 10 people with a terminal illness in the UK do not get the care they need<sup>11</sup> and over 100,000 people in the UK die each year needing palliative care but not receiving it<sup>12</sup>. There are also persistent inequalities in access to palliative care<sup>13</sup>, and this care crisis has been exacerbated by the Covid-19 pandemic<sup>14</sup>.
- The end-of-life care crisis could be exacerbated by the legalisation of assisted suicide.

## Will vulnerable patients be safe from abuse and coercion?

### 'Safeguards'

- The proposed Bill contains a number of criteria that have to be met before lethal drugs may be supplied. In reality, however, these 'safeguards' are vague and empty symbolic assurances that are neither effective nor verifiable.
- In Oregon, many ill individuals undertake "doctor shopping", in which they are put in contact with physicians who are willing to prescribe lethal drugs<sup>15</sup>. Accordingly, the duration of some of these physician-patient relationships is reported to have lasted "0 weeks"<sup>16</sup>. It is uncertain how these doctors are able to confidently assess safeguard criteria when many have very little or no relationship with their patient beyond the assisted suicide consultation.
- In Oregon, a fifth of prescribers wrote 3 to 31 lethal prescriptions in 2020<sup>17</sup>. 45% of practitioners who participated in MAiD in Canada in 2020 completed between 2 and 9 assisted

<sup>7</sup> Mathews, Hausner, Avery, Hannon, Zimmermann, al-Awamer. October 30, 2020. "Impact of Medical Assistance in Dying on palliative care: A qualitative study". *Palliative Medicine* 35, 2: 447-454. <https://doi.org/10.1177/0269216320968517>

<sup>8</sup> Anscombe Bioethics Centre. November 1, 2014. "Euthanasia and Assisted Suicide: Lessons from Belgium". <http://www.bioethics.org.uk/BELGIUMCONFERENCEf.pdf>

<sup>9</sup> Mathews, Hausner, Avery, Hannon, Zimmermann, al-Awamer. October 30, 2020. "Impact of Medical Assistance in Dying on palliative care: A qualitative study". *Palliative Medicine* 35, 2: 447-454. <https://doi.org/10.1177/0269216320968517>

<sup>10</sup> Mathews, Hausner, Avery, Hannon, Zimmermann, al-Awamer. October 30, 2020. "Impact of Medical Assistance in Dying on palliative care: A qualitative study". *Palliative Medicine* 35, 2: 447-454. <https://doi.org/10.1177/0269216320968517>

<sup>11</sup> Care Quality Commission. July, 2017. "A different ending. Addressing inequalities in end of life care. Overview report." [https://www.cqc.org.uk/sites/default/files/20160505%20CQC\\_EOLC\\_OVERVIEW\\_FINAL\\_3.pdf](https://www.cqc.org.uk/sites/default/files/20160505%20CQC_EOLC_OVERVIEW_FINAL_3.pdf)

<sup>12</sup> Hospice UK. July, 2017. "Open Up Hospice Care" [https://www.hospiceuk.org/docs/default-source/Externally-owned-docs/briefing-open-up-hospice-care\\_final.pdf?sfvrsn=4](https://www.hospiceuk.org/docs/default-source/Externally-owned-docs/briefing-open-up-hospice-care_final.pdf?sfvrsn=4)

<sup>13</sup> Davies, Sleeman, Leniz, Wilson, Higginson, Verne, Maddocks, Murtagh. April 23, 2019. "Socioeconomic position and use of healthcare in the last year of life: A systematic review and meta-analysis". *PLoS Med* 16, 4:e1002782. doi: 10.1371/journal.pmed.1002782.

<sup>14</sup> The Progressive Policy Think Tank. April 16, 2021. "The state of end of life care: building back better after Covid-19". <https://www.ippr.org/research/publications/the-state-of-end-of-life-care>

<sup>15</sup> National Council on Disability. October 9, 2019. "The Danger of Assisted Suicide Laws". [https://ncd.gov/sites/default/files/NCD\\_Assisted\\_Suicide\\_Report\\_508.pdf](https://ncd.gov/sites/default/files/NCD_Assisted_Suicide_Report_508.pdf)

<sup>16</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data Summary". <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

<sup>17</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data Summary". <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

dying procedures, and 15% completed 10 or more<sup>18</sup>.

- The post-event reporting process is inadequate to determine potential harm, relying on simple forms filled out by single doctors and without any record of how the assessment was conducted<sup>19</sup>.

### *Vulnerability at the end-of-life*

- In Oregon, 53% of the patients who died by assisted suicide in 2020 reported feeling a burden on their families, friends, or caregivers<sup>20</sup> and it is estimated that 1 in 6 patients who receive lethal drugs meet the criteria for a diagnosis of depression<sup>21</sup>.
- Instances of elder abuse are widespread and often go undetected; in Oregon, elder abuse grew by 13% in just one year<sup>22</sup>. A request for lethal drugs may appear voluntary but, in reality, can result from various pressures including the cost or burden of care, influence from family members, and psychological or emotional distress.
- Over the past 10 years, there has been a 281% increase in the number of patients in Oregon who receive prescriptions for lethal drugs<sup>23</sup>. Incremental increases in the number of people requesting 'assisted dying' suggests that the 'right to die' can become a subtle coercive influence on patients.

## **Are the drugs being used safe and effective?**

### *Experimental drug cocktails*

- Since the European Commission restricted the sale of barbiturates to the US due to their use in judicial executions<sup>24</sup>, the majority of assisted suicides in Oregon are brought about using experimental combinations referred to as "DDMA" and "DDMP"<sup>25</sup>.
- The extent to which previous and current assisted dying drugs are safe and effective is unknown, as there have been no controlled trials or observational studies. Experimental drug combinations, like "DDMA" and "DDMP" have not even undergone standard drug evaluations.

### *The reality of a 'dignified' death*

- Patients who ingest lethal drugs can experience distressing complications. In Oregon in the last two years, of the 31% of assisted suicides with available data, there is a complication rate of 8.2%. Time from drug ingestion to death has taken up to 47 hours<sup>26</sup>.

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<sup>18</sup> Health Canada. June, 2021. "Second Annual Report on Medical Assistance in Dying in Canada". <https://www.canada.ca/en/health-canada/services/medical-assistance-dying/annual-report-2020.html>

<sup>19</sup> Oregon Health Authority. "Attending Physicians Compliance Form". January, 2020.

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/at1form.pdf>

<sup>20</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data Summary".

<https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

<sup>21</sup> Ganzini, Roy, Dobscha. October 7, 2008. "Prevalence of depression and anxiety in patients requesting physicians' aid in dying: cross sectional survey". *British Medical Journal* 337, a1682. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2562435/>

<sup>22</sup> Office of Adult Abuse Prevention and Investigations. August, 2014. "OAAPI Annual Report". <https://www.oregon.gov/dhs/SENIORS-DISABILITIES/ADULT-ABUSE/Documents/2013-OAAPI-Annual-Report.pdf>

<sup>23</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data Summary". <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

<sup>24</sup> Commission Implementing Regulation (EU) No 1352. *Official Journal of the European Union*. December 12, 2011. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:338:0031:0034:EN:PDF>

<sup>25</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data Summary". <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

<sup>26</sup> Oregon Public Health Division, Center for Health Statistics. February 26, 2021. "Oregon Death with Dignity Act 2020 Data

- Patients in the United States have been asked to ingest the contents of 90-100 barbiturate pills. The result is a mixture so bitter and potent that many patients struggle to ingest the liquid and can experience choking, coughing and vomiting<sup>27</sup>.
- In Canada's oral MAiD drug protocol, another drug regimen recommended is a mixture of phenobarbital, chloral hydrate and morphine<sup>28</sup>. Chloral hydrate is known to be caustic to oral and gastric mucosa and can cause painful burning in the throat and stomach<sup>29</sup>.
- In the context of judicial execution, it has been suggested that barbiturate overdoses may result in distressing and painful deaths, even if they appear peaceful<sup>30</sup>. In a study of over 200 autopsies of executed prisoners, of those killed with a lethal dose of pentobarbital 84% showed signs of flash pulmonary oedema (their lungs were filled with fluid and weighed several times the weight of normal lungs)<sup>31</sup>.

## Conclusion

Doctors have long shared the belief that no person should have to endure an excruciating death. Deficits in care provision and in social supports exist, but the solution to failures in care is not to license doctors to provide legal drugs against criteria which are arbitrary and easily widened.

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Summary". <https://www.oregon.gov/oha/PH/PROVIDERPARTNERRESOURCES/EVALUATIONRESEARCH/DEATHWITHDIGNITYACT/Documents/year23.pdf>

<sup>27</sup> Simpson. December 17, 2017. "We were each in our own minds thinking: how is this going to happen?" Voting for aid in dying was easy, but one couple found themselves struggling toward a graceful death. The Denver Post.

<http://digital.olivesoftware.com/olive/apa/denverpost/SharedView.Article.aspx?href=TDP%2F2017%2F12%2F17&id=Ar00102&sk=FAE06174&viewMode=text>

<sup>28</sup> Harty, Chaput, Buna, Trouton, Naik. April 18, 2018. "The Oral MAiD Option in Canada Part 1: Medication Protocols". <https://camapcanada.ca/wp-content/uploads/2019/01/OralMAiD-Med.pdf>

<sup>29</sup> Aleccia. December 15, 2016. "In Colorado, a low-price drug cocktail will tamp down costs of death with dignity". USA Today.

<https://www.usatoday.com/story/news/2016/12/15/kaiser-colorado-low-price-drug-cocktail-tamp-down-cost-death-dignity/95490168/>

<sup>30</sup> Zivot. January 11, 2021. "Op-Ed: COVID, Capital Punishment, and Pentobarbital". Medpage Today.

<https://www.medpagetoday.com/publichealthpolicy/ethics/90630>

<sup>31</sup> Caldwell, Change, Myers. September 21, 2020. Gasping for Air: Autopsies Reveal Troubling Effects of Lethal Injection. NPR.

<https://www.npr.org/2020/09/21/793177589/gasping-for-air-autopsies-reveal-troubling-effects-of-lethal-injection>