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End-of-life care (part 2 of 2)

November 2, 2016

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In our newsletter No. 8, we discussed advance medical directives, which are restricted to three specific clinical situations and allow a person to consent to or refuse in advance five specific types of care in the event that the person in question becomes incapable of consenting to them.

In addition to advance medical directives, the *Act respecting end-of-life care* provides a framework for two other types of end-of-life care, that is: medical aid in dying and continuous palliative sedation. However, advance medical directives do not allow one to consent in advance to the administration of medical aid in dying or to continuous palliative sedation.

These types of end-of-life care are provided in a very precise context, which is the subject of this newsletter.

What is medical aid in dying ?

The law defines medical aid in dying as “care consisting in the administration by a physician of medications or substances to an endof- life patient, at the patient’s request, in order to relieve their suffering by hastening death.”[1] Not everyone is allowed to request medical aid in dying. Such a request is dealt with according a stringent process.

Who may request medical aid in dying?

Only a person who meets **all the following conditions** may obtain medical aid in dying in Québec:

being an insured person within the meaning of the Health Insurance Act (chapter A-29);

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being of full age and capable of giving consent to care;
being at the end of life;
suffering from a serious and incurable illness;
being in an advanced state of irreversible decline in capability;
and experiencing constant and unbearable physical or psychological suffering which cannot be relieved in a manner the patient deems tolerable.[2]

How to request medical aid in dying?

The request for medical aid in dying is made by filling out a form prescribed by the Minister. Patients must request medical aid in dying themselves. The form must be signed and dated by the patient in the presence of and countersigned by a health or social services professional. In addition, two independent witnesses of full age must be present at the signature and countersign the form (i.e. a potential heir may not be considered as being independent). The form must then be given to the patient's attending physician. If the patient cannot date and sign the form because he[3] does not know how to write or is physically incapable of doing so, an authorized third person who is not a member of the team responsible for caring for the patient may do so in the patient's presence. The authorized third party must not have a potential interest in the estate of the patient. Persons who request medical aid in dying may withdraw their request at any time and by any means.

What are the prior requirements for a physician before administering medical aid in dying?

Ten full days (excluding the day on which the request was made) must elapse between the request for medical aid in dying and it being administered, unless the life condition requires otherwise.

Before administering medical aid in dying, the physician must make sure that the patient consents. He must also:

make sure that the patient satisfies all the conditions to be eligible for medical aid in dying (see the "Who may request medical aid in dying?" section)
ascertain with the patient that the request is made in a free and informed manner
ascertain that the request is not made as a result of external pressure
ascertain that the patient is informed of the prognosis for the illness, as well as other therapeutic possibilities and their consequences
verify the persistence of suffering and that the patient's wish to obtain medical aid in dying remains unchanged
verify with the care team members who have regular contact with the patient that he consents to receive medical aid in dying
make sure that the patient has had the opportunity to discuss the request with the persons he wished to contact
make sure that the request has been made using the prescribed form, which has been signed and dated by the person making the request or the authorized third party before two independent witnesses who have also signed and dated
make sure that the patient has been advised that he could at any time and by any mean withdraw his request for medical aid in dying

In addition to making sure that the request complies with all the above conditions, the physician must also obtain the written opinion of a second physician confirming that the patient is eligible to receive medical aid in dying. The physician consulted must be independent of both the patient requesting medical aid in dying and the physician seeking the second medical opinion. The physician must consult the patient's record and examine the patient.

Once the verification of all of the above criteria is done and the second medical opinion is obtained, the physician will provide medical aid in dying after the expiry of the period of 10 full days referred to above.

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Continuous palliative sedation

The *Act respecting end-of-life care* also governs continuous palliative sedation.

Palliative care means the total and active care delivered by an interdisciplinary team to patients suffering from a disease with reserved prognosis, in order to relieve their suffering, without delaying or hastening death. Reserved prognosis refers to a disease at an advanced stage jeopardizing survival within a period of less than two years or terminal illness leading to probable death in the near future. Continuous palliative sedation is palliative care consisting in administering drugs or substances to an end-of-life patient for the purpose of relieving his suffering by rendering him unconscious in a continuous manner until he dies.[4]

Consent to continuous palliative sedation is given by using the form prescribed by the Minister according to a procedure which is similar to that applicable to medical aid in dying. The physician must therefore obtain a free and informed consent from the patient. This consent must be given by a person capable of consenting to care or, if that person is incapable, by a person authorized by law or pursuant to a protection mandate. The patient or his representative must be informed of the prognosis for the illness, the irreversible nature of the sedation and the anticipated duration of the sedation. The physician must also make sure that the decision does not result from external pressure. The patient or his representative must be informed of the patient's right to refuse or put off the procedure and the consequences of either of his choices.

Conclusion

It is important to understand that the entire end-of-life process is conducted with the greatest respect for the patient who made the request and that the patient must be treated with understanding, compassion, courtesy and fairness, with respect for his dignity, autonomy, needs and safety. Open and honest communication is also favoured by the members of the medical team in order to provide the patient with quality end-of-life care, which is adapted to his needs for the duration of the process.

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1. *An Act respecting end-of-life care*, RSQ c S-32.0001, sec. 3 para. 6.
2. *An Act respecting end-of-life care*, RSQ c S-32.0001, sec. 26.
3. The masculine gender is used in this text solely for the sake of concision.
4. *An Act respecting end-of-life care*, RSQ c S-32.0001, sec. 3 para. 4 and 5.

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