



College of Physicians and Surgeons of British Columbia

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FINAL DISPOSITION REPORT OF THE INQUIRY COMMITTEE

February 13, 2018

CPS File No: IC 2017-0836

Complainant: Internal (referral from BC Coroners Service)

Subject Physician(s): Dr. Ellen Wiebe

The above-referenced complaint is submitted to the College's Inquiry Committee for its review on January 22, 2018 pursuant to section 32(2) of the *Health Professions Act* ("HPA").

History of investigation and review

A letter from Dr. Jatinder Baidwan, Chief Medical Officer and Coroner, BC Coroners Service, was received at the College October 19, 2017 and submitted to Dr. Wiebe for her response. Both Dr. Baidwan and Dr. Wiebe submitted medical records of the late patient, Ms. _____ y.

Copies of the following were distributed to Committee members prior to the meeting:

- Letter from Coroner, received June 30, 2017
- Response of Dr. Wiebe received October 19, 2017
- Medical records from Dr. Wiebe received October 31, 2017
- Reviewer's Summary and Points for Consideration

Summary of concern:

Ms. S _____, a 56 female with a history of advanced multiple sclerosis, died peacefully at her home on March 6, 2017. She was attended by Dr. Ellen Wiebe who provided medical assistance in dying.

Dr. Baidwan is Chief Medical Officer with the Provincial Coroner. Dr. Baidwan asks the College to review this matter to ensure that the eligibility criteria for medical assistance in dying were met. In particular, Dr. Baidwan questions whether Ms. S _____ medical condition could be considered "grievous and irremediable" given that she had declined "potentially effective treatments". Dr. Baidwan asks the college to review this matter, given that "her decision to

decline treatment arguably contributed to the serious nature of her disease and her act of voluntarily stopping eating and drinking precipitated her advanced state of decline”.

Physician's response

Dr. Ellen Wiebe

Dr. Wiebe is a Vancouver Family Physician with considerable experience providing medical assistance in dying. Notably, she participated in the development of Canadian practice guidelines focused on defining “foreseeable future” with respect to a patient’s likelihood of dying (one of the criteria for medical assistance in dying).

Dr. Wiebe states that when she first met Ms. S_____ in June 2016, neither she nor Dr. Pugh or Chuck were convinced that Ms. S_____ would die in the foreseeable future, and therefore Dr. Wiebe declined her request for medical assistance in dying time at that time. She then exchanged correspondence with Ms. S_____ in December 2016 and January 2017, again that the patient’s life expectancy was not short enough to qualify for medical assistance in dying. On March 3, 2017, Dr. Wiebe attended on Ms. S_____. She states that at this time Ms. S_____ had stopped eating and drinking 14 days previously with palliative care support. The patient was suffering and Dr. Wiebe, as well as Dr. Browning and a home visit nurse agreed that her significant malnutrition and dehydration were incompatible with continuing survival. Dr. Wiebe states that Ms. S_____ was suffering from a serious and incurable illness with trigeminal neuralgia and gastrin intestinal symptoms for which treatment had been only minimal effective. She maintains that Ms. S_____’s suffering was intolerable to the patient. Dr. Sweeney does not directly respond to Dr. Baidwan’s concern that Ms. S_____’s decision to decline treatment despite the availability of potentially effective treatments arguably contributed to the serious nature of her disease and her voluntary decision to stop eating and drinking contributed to her decline. For convenience, Dr. Wiebe’s entire response to the College is reproduced below:

Medical records:

The medical records are comprehensive and appear to confirm the facts of Dr. Wiebe's response.

Inquiry Committee Discussion:

Dr. Baidwan questioned whether Ms. S's decision to decline potentially effective treatments, and to desist from eating and drinking, which undoubtedly hastened her decline and the reasonable foreseeability of her demise, rendered her ineligible for medical assistance in dying, given that one of the eligibility criteria is "grievous and irremediable suffering".

The Committee noted that the College standard on medical assistance in dying (2016) states that one of the eligibility criteria is a "grievous and irremediable condition", defined as follows:

Grievous and Irremediable Medical Condition

A person has a grievous and irremediable medical condition only if they meet all of the following criteria:

- a. they have a serious and incurable illness, disease, or disability
- b. they are in an advanced state of irreversible decline in capability
- c. that illness, disease, disability or state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable
- d. their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time they have remaining

The federal government has indicated that MAiD is intended to be restricted to those individuals who are declining towards death, allowing them to choose a peaceful death as opposed to a prolonged, painful or difficult one.

The Committee agreed that in view of the foregoing standard, a patient cannot be forced to take treatment they do not consider acceptable, i.e. patients seeking medical assistance in dying retain, as do all competent patients, right of refusal.

It was determined that Ms. S [redacted] met the requisite criteria and was indeed eligible for medical assistance in dying, despite the fact that her refusal of medical treatment, food, and water, undoubtedly hastened her death and contributed to its "reasonable foreseeability".

Given the above, the Committee agreed that Dr. Wiebe acted in compliance with the College's standard in all respects.

Respectfully submitted,



D. Esler, MD

Medical Reviewer, Complaints and Practice Investigations
On behalf of the Inquiry Committee

DE/lb

cc: Dr. E. Wiebe
Dr. J. Baidwan, Chief Medical Officer and Coroner