The **Royal Society of Canada** Presents:

An Expert Panel

End-of-Life Decision Making

- Prof. Udo Schuklenk – Chair
- Prof. Ross Upshur,
- Prof. Jocelyn Downie
- Prof. Daniel Weinstock

Monday, November 14, 2011

RSC Expert Panel
End-of-Life Decision Making

Groupe d'experts de la SRC
Prise de décisions en fin de vie

RSC
The Royal Society of Canada
The Academies of Arts, Humanities and Sciences of Canada

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La Société royale du Canada
Les Académies des arts, des lettres et des sciences du Canada

Prof. Udo Schuklenk – Professor of Philosophy, Queen's University

- Chair of RSC Expert Panel on End-of-Life Decision Making
- Joint Editor in Chief of *Bioethics*
- Founding editor of *Developing World Bioethics*
- Worked at Monash University's Centre for Human Bioethics

We hope that our Report will serve as a marker for the beginning of a new national conversation about end-of-life law, policy, and practice in Canada. This conversation will require mutual attention and respect and acknowledges the many important interests at stake and values in play.

Passions run deep in discussions about end-of-life matters.

In the face of profound disagreements, it is possible and necessary for those involved in the conversation to listen carefully to all positions presented and to work together to find a policy position consistent with the core features of Canada's parliamentary democracy and our *Charter of Rights and Freedoms*.

The Report consists of five chapters addressing the Canadian experience at the end of life:

1. End-of-life care in Canada

2. The legal situation with regard to end-of-life choices potentially available to us

3. An ethical analysis of the issues (framed by the relevant provisions in our *Charter of Rights and Freedoms*)

4. A chapter analysing the experience in jurisdictions that have decriminalised assisted dying in some form or shape

5. A chapter discussing policy options with regard to end-of-life decision making in Canada.

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MAIN FINDINGS

•Canadians need to plan for end of life personally and as a society.

•Canada continues to perform poorly in ensuring access to high quality palliative care.

•Canada needs to resolve uncertainties about the legal status of withholding and withdrawal of potentially life-sustaining treatment without the consent of the individual.

•The legal uncertainties about palliative sedation should be resolved and practice guidelines should be developed and implemented.

•Evidence from other jurisdictions does not support claims that decriminalization will result in vulnerable persons being subject to abuse or a slide down a slippery slope from voluntary to non-voluntary euthanasia.

•Assisted suicide and voluntary euthanasia should be legally permitted for competent individuals who make a free and informed decision that their life is no longer worth living to them.

•Canada should have a permissive yet carefully regulated and monitored system with respect to assisted death.

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- Member of the College of Family Physicians (CCFP) and the Royal College of Physicians and Surgeons of Canada (FRCPC)

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- Most Canadians die in institutions in their old age.

- Canadian population is ageing and becoming more diverse.

- To inform the debate on assisted suicide and euthanasia, we need to hear from ALL Canadians including the very old, those in First Nations and the ethnically and culturally diverse populations now found in Canada.

- Advance-care planning must be discussed by individuals, their families and their health care providers - the vast majority of Canadians have neither proxy nor instruction directives.

- National consensus guidelines are necessary for the use of sedation at the end of life

- A significant majority of the Canadian population appears to support a more permissive legislative framework for voluntary euthanasia and assisted suicide.

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Prof. Jocelyn Downie – Canada Research Chair in Health Law and Policy

- Professor, Faculties of Law and Medicine, Dalhousie University
- Fellow of the Royal Society of Canada
- Fellow of the Canadian Academy of Health Sciences

- The legal status of withholding and withdrawal of potentially life-sustaining treatment at the request of competent adults, assisted suicide, and voluntary euthanasia is clear.

- The legal status of some forms of end-of-life care is unclear, such as unilateral withholding and withdrawal, and terminal sedation.

- The legal status of some forms of end-of-life care is very hotly contested, such as unilateral withholding and withdrawal, assisted suicide, and voluntary euthanasia.

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- Full Professor, Department of Philosophy, Université de Montréal
- Founding Director, Centre de recherche en éthique de l'Université de Montréal
- Founding Director, Comité d'éthique de la santé publique du Québec

- That there is a moral right, grounded in autonomy, for competent and informed individuals who have decided after careful consideration of the relevant facts, that their continuing life is not worth living, to non-interference with requests for assistance with suicide or voluntary euthanasia.

- That none of the grounds for denying individuals the enjoyment of their moral rights applies in the case of assisted suicide and voluntary euthanasia. There are no third-party interests, self-regarding duties, or duties toward objective goods that warrant denying people the right to assisted suicide and voluntary euthanasia. Prophesied undesirable social consequences are not sufficient to negate the right to choose assisted suicide and voluntary euthanasia. Rather, they should be taken into account in constructing the regulatory environment within which this right can be exercised.

- That health care professionals are not duty-bound to accede to the request of competent and informed individuals who have formulated the uncoerced wish to die, but they may do so. If their religious or moral conscience prevents them from doing so, they are duty bound to refer their patients to a health care professional who will.

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International Experience

- The evidence does not support claims that decriminalizing voluntary euthanasia and assisted suicide poses a threat to vulnerable people

- The evidence does not support claims that decriminalization will lead us down a slippery slope from assisted suicide and voluntary euthanasia to non-voluntary or involuntary euthanasia.

- The evidence does not support claims that decriminalization will have a corrosive effect on access to or the development of palliative care.

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Recommendations

24 recommendations

Directed toward various entities (government, health care institutions,...)

About full spectrum of end of life decision-making

Recommendations

- Advance directives and advance care planning
  - Educate health care providers and public
  - Facilitate advance directives and advance care planning
- Palliative care
  - Improve access to and quality of palliative care services
  - Expand scope of palliative care beyond cancer

Recommendations

- Withholding and withdrawal of potentially life-sustaining treatment
  - Clarify the law and policy (especially with respect to unilateral withholding withdrawal)
  - Educate health care providers and the public
- Potentially life-shortening symptom relief and terminal sedation
  - Develop clinical practice guidelines and prosecutorial charging guidelines
  - Educate providers and the public

Recommendations

Assisted suicide and euthanasia

-Reform the Criminal Code to permit in carefully circumscribed and monitored circumstances

-Permit where competent person makes free and informed decision

-Permit but do not compel health care providers to provide

-Establish national oversight commission to monitor and report publicly

-If federal government does not act, provinces and territories should introduce prosecutorial charging guidelines and make clear that prosecutions will not follow free and informed decision to request assistance made by a competent individual

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