

Appendix 2 (as supplied by the authors): How has the issue of recording physician-assisted death (PAD) on medical certificates of death (MCDs) been handled in jurisdictions that allow PAD?

Belgium

MCDs in Belgium do not explicitly include reference to physician-assisted death.

Belgium's physician-assisted death legislation states that anyone who legally accessed physician-assisted death "is deemed to have died of natural causes for the purposes of ... insurance."¹

The Netherlands

Dutch MCDs have two broad categories of manner of death: natural and unnatural.

Physician-assisted death is considered unnatural. For a PAD case, the physician must indicate "unnatural", then in the related section of the MCD, under the heading "Termination of life", indicate whether the case was euthanasia, assistance in suicide, or other and then indicate what the underlying disease was.

The Netherlands does not have a provision in the physician-assisted death legislation safeguarding against insurance companies refusing to pay life insurance to the beneficiaries of someone who accessed physician-assisted death.³

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Oregon

MCDs in Oregon do not explicitly refer to physician-assisted suicide (the only form of physician-assisted death permitted in Oregon).⁴ Furthermore, the instructions issued by Oregon's Public Health Division and Health Authority on how to fill out death certificates do not mention physician-assisted suicide at all.⁵ However, according to testimony presented at trial in *Carter v. Canada (Attorney General)* (despite the fact that Oregon does not mandate that the underlying illness be listed as the cause of death⁶), it is "common, if not invariable" for physicians in Oregon "to record the underlying illness as the cause of death" for those who accessed physician-assisted suicide.⁷ It has been suggested that the underlying illness is listed as the cause of death to "protect patient confidentiality and to avoid any confusion with settlements from insurance companies".⁷ However, it is worth noting that Oregon's physician-assisted suicide legislation includes an insurance clause: "Neither shall a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner have an effect upon a life, health, or accident insurance or annuity policy."⁶

Vermont

The Vermont physician-assisted suicide (the only form of physician-assisted death permitted in Vermont) legislation does not mention the MCD. However, the Vermont

Department of Health mandates that the underlying disease or condition be listed as the underlying cause and that the manner of death be listed as “natural”.¹¹ Vermont has taken this approach despite a legislative provision stating that a person “shall not be denied benefits under a life insurance policy” for legally accessing physician-assisted suicide.¹⁰

Washington State

The Washington State physician-assisted suicide (the only form of physician-assisted death permitted in Washington State) legislation requires that the death certificate “shall list the underlying terminal disease as the cause of death.”⁸ This requirement is reiterated in the instructions for physicians and other medical certifiers issued by the Washington State Department of Health on how to fill out death certificates. The instructions say that “[t]he underlying terminal disease must be listed as the cause of death” (the underlying cause is the cause chosen for coding for the purposes of national mortality data) and that “[t]he manner of death must be marked as ‘Natural’.”⁹ In fact, “[t]he cause of death section may not contain any language that indicates that the Death with Dignity Act was used.”⁹ Thus, none of the following terms are permitted in the cause of death section: suicide, assisted suicide, physician-assisted suicide, Death with Dignity, I-1000 (codified as RCW 70.245), mercy killing, euthanasia, Secobarbital or Seconal, or Pentobarbital or Nembutal.⁹ Washington adopted this procedure notwithstanding a legislative provision stating that any act of legally accessing physician-

assisted death “shall not have an effect upon a life, health, or accident insurance or annuity policy.”⁹

Quebec

The Quebec euthanasia (the only form of physician-assisted death permitted in Quebec) legislation does not include provisions with respect to the reporting of euthanasia on MCDs. Like most of the other jurisdictions, it does include an insurance provision:

49. The decision of a patient or, where applicable, of the person who may give consent to care on the patient’s behalf to refuse certain life-sustaining care or withdraw consent to such care or to request continuous palliative sedation or medical aid in dying may not be invoked as a reason to refuse to pay a benefit or any other sum due under a contract.¹²

The Practice Guidelines produced by the Collège des médecins du Québec, Ordre des pharmaciens du Québec, and Ordre des infirmières et infirmiers du Québec instruct physicians not to record the fact of medical aid-in-dying on the death certificate but to include the disease that qualified the person for medical aid in dying as the “immediate cause”:

7.2 Attestation of Death and Certificate of Death

At the point of care, the physician must draw up the attestation of death²¹ (DEC-101 form, one copy of which is to be sent to the registrar of civil status and the other to the person who declared the death) and complete the certificate of death (SP-3 form, which states the cause of death) intended for the Institut de la statistique du Québec (ISQ) (Public Health Act, s. 46), the medical record or coroner's record and, lastly, the funeral director. The physician must enter the disease or morbid condition that warranted medical aid in dying and led to death as the immediate cause of death. This is not the manner of death (cardiac arrest) but the disease, injury or complication that caused death. The term medical aid in dying should not appear on the certificate of death.¹³

References

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