

# Incorporation of Legal and Human right issues in palliative care

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**“Sharing the care”**



# Legal and Human Rights in Palliative Care

- The practice of palliative medicine requires basic knowledge of medico-legal aspects
- Human Rights – refer to ‘rights’ and ‘freedoms’ to which all human beings are entitled
- Palliative care & Human Rights – require basic principles to be addressed – Dignity, non-discrimination, equality.

# Medico-legal background

- KEHPCAs main focus is to ensure that palliative care is accessible to all in need – a commitment to improving the quality of life of those with life threatening illnesses in Kenya.
- Support *acceptable, accessible and affordable quality palliative care for all.*

# Legal issues in Kenya

- KEHPCA carried out an assessment of human rights issues affecting palliative care patients in 3 hospices, which confirmed gaps in access to pain medication and unaddressed legal challenges.

# Legal Issues

- Human rights and the right to health – the concept of rights and the link to palliative care
- Law of succession and wills- inheritance and key documents for consideration when dealing with succession and inheritance.
- Land and transfer of property – the legal domain of land law, freeholds and leaseholds and the processes of acquisition, transfer and disputes resolution. Technicalities with land ownership and documents.

# Method

- KEHPCA did a purposive qualitative survey which premised on two key aspects – medical and legal issues in palliative care in 3 hospices in Kenya.
- The survey focused on patients, medical practitioners, legal practitioners, volunteers and caregivers.

## Key gaps identified

- General limited access to pain control.
- Lack of/ inadequate information about the conditions patients are suffering from.
- General lack of awareness on patients rights – no empowerment to claim
- Discrimination against those with life threatening illnesses.
- The need to review laws and policies to incorporate palliative care component in public health.

# Legal matters of concern by both patients & HCPs

- **Confidentiality;** To what extent are HCPs allowed to disclose the patient's condition to the patient's family or those attending to the patient?
- **Consent with regard to mentally incapacitated patients:** requisite consent by spouse or Parent / powers of attorney.
- **Choice of treatment;** hospices may lack certain facilities or variety of medicine to enable the patient choose
- **Right to health;** may be mere paper rights (gap)

## Cont...

- **Custody of wills;** should be kept by advocates, a trusted friend or the hospice director
- **Issues of mistresses;** The Law of succession guards against a person disinheriting their dependants/family.
- **Property registered in the name of one spouse;** Addressed under the laws on intestacy. Each family is considered a unit and the number of children in each house is a factor to be considered.
- **Illegitimate Children:** Children Act treats all children equally hence the case of illegitimate children does not arise
- **Polygamous unions:** Intestacy

# Interventions

- Capacity building for health care professionals
- PC advocacy at different administrative levels on human rights.
- Improved legal empowerment and access to justice through legal aid days/clinics
- Development of IEC materials for both medical and non-medical professionals. (Bronchures /Posters / Fliers)
- Increased access for palliative care services.

Thank you! Asante!

