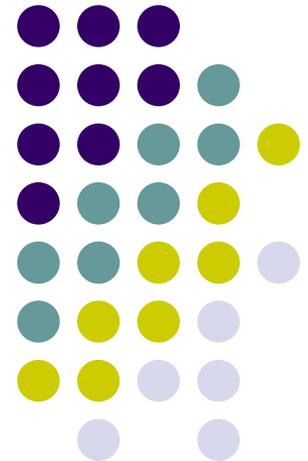
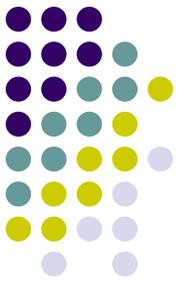


A Resource for Resolving Ethical Dilemmas: Introducing the *Code of Ethical Standards*

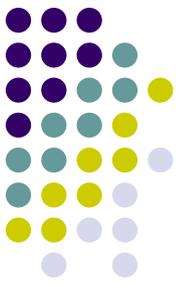
Fr Kevin McGovern,
Caroline Chisholm Centre for Health Ethics:
St Vincent's Private Melbourne,
3 June 2014



Outline



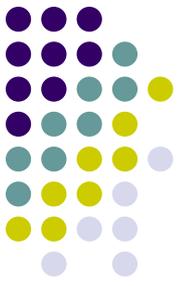
- 1. Remaining True**
- 2. Context of the *Code***
- 3. Overview of the *Code***
- 4. Catholic Distinctiveness**



1. Remaining True

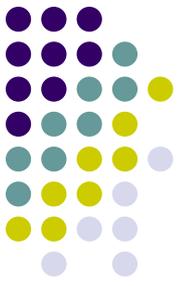
- The **nurse** and the **businessman**
 - This **nurse** is an exemplar of **traditional morality**
 - This **businessman** is an exemplar of the **‘new’ morality**
 - not all businessmen are like this **businessman**
 - are all health professionals like this **nurse**?

Traditional Morality and the 'New' Morality

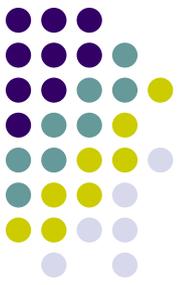


- **society**
- **the common good, solidarity, service, community**
- **'Human beings find their deepest fulfilment through service'**
- **the individual**
- **autonomy, freedom of choice, independence, contract**
- **'It's all about free choice & consumption' (materialism, consumerism)**

Traditional Morality and the 'New' Morality

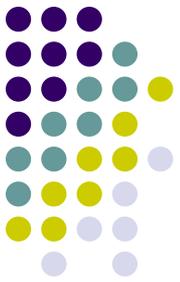


- the traditional morality of Western civilisation
- the basis of the ethos of health care
- e.g. Catholic & other faiths, CALD migrants, country towns, and the lives of many, many good people
- Its origin is the Enlightenment (C17 – C18)
- Pseudo-morality or anti-morality



Remaining True

- We are currently caught up in a clash of civilisations or cultures. Will our society choose **traditional morality** or the **‘new’ morality**?
- In this clash, both the culture of health care and the very future of civilisation are at stake. If we get this wrong, we stand at the beginning of a new Dark Ages.



2. Context of the Code

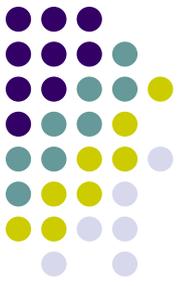
- Issues Arise
- Comment and Debate
- Official Church Teaching

Official Church Teaching

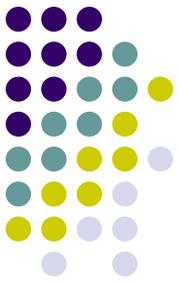


- Ecumenical Councils
 - Second Vatican Council's *Pastoral Constitution on the Church in the Modern World (Gaudium et Spes)* (1965)
- Popes
 - Encyclicals: Paul VI's *Humanae Vitae* (1968), John Paul II's *Evangelium Vitae* (1995), Benedict XVI's *Deus Caritas Est* (2005)
 - Addresses: Pius XII to Congress on Psychotherapy & Clinical Psychology (1953), Pius XII to Congress of Anaesthesiologists (1957), John Paul II to World Medical Association (1983), John Paul II to 18th International Congress of the Transplantation Society (2000), John Paul II to Congress on Vegetative State (2004)

Official Church Teaching



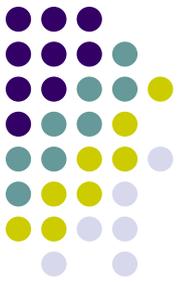
- The Vatican
 - Congregation for the Doctrine of the Faith – *Declaration on Procured Abortion* (1974), *Sterilization in Catholic Hospitals* (1975), *Declaration on Euthanasia* (1980), *Donum Vitae* (1987), *Dignitas Personae* (2008)
 - Pontifical Council for Health Pastoral Care – *Charter for Health Care Workers* (1995)
- Bishops' Conferences
 - United States Conference of Catholic Bishops – *Ethical and Religious Directives for Catholic Health Care Services* (2009)
 - Australian Catholic Bishops' Conference – *Catholic Hospitals* (1992), *On the Obligation to Provide Nutrition and Hydration* (2004)



3. Overview of the Code

- Part I is about Basic Principles/ Values/ Guiding Beliefs;
- Part II is about Specific Issues/ Guidelines/ Daily Practices:
 - Guidelines without values are blind;
 - values without guidelines are lame.

Part I: Values



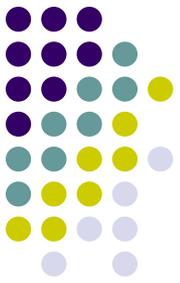
1) **Respect for persons within a culture of life**

- The foundation of our moral vision is the inherent dignity of each and every human person. We learn this through both revelation and reason.

2) **Health care and the mission of the Church**

- As a sign of the coming of God's kingdom, Jesus healed the sick. The Church continues this mission.
- "Health care is integral to the mission of the Church." (*Code*, p. 2)
- "The Church's deepest nature is expressed in her three-fold responsibility: of proclaiming the word of God, celebrating the sacraments, and exercising the ministry of charity... For the Church, charity... is a part of her nature, an indispensable expression of her very being." – Benedict XVI's *Deus Caritas Est*, #25a.

Part I: Values



3) The goals of health care

- = maintaining good health, curing illness, relieving suffering, accepting death.

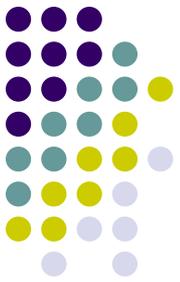
4) Justice in health care

- “Everyone has the right to receive essential health and aged care services.” (*Code*, p. 6)
- “Catholic health care should be distinguished by its willingness to work for justice in health care. We seek to serve and be advocates for those at the margins of society...” (*Code*, p. 6)

5) Collaboration in health and aged care

- “Health and aged care depends upon trusting collaboration between patients, residents, practitioners and carers.” (*Code*, p. 7)

Part I: Values

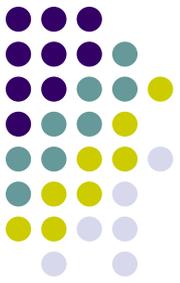


6) **Respect for personal embodiment**

- “In Catholic teaching the human person is a unity of body and spirit, in which the body... is the embodiment of a human person...” (*Code*, p. 8)

7) **Solidarity and the mystery of suffering and death**

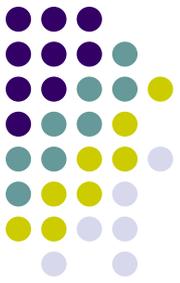
- “Suffering and death... can... acquire a positive, life-giving and redemptive value, especially from the perspective of religious faith.” (*Code*, p. 9)
- “Catholic health and aged care services should be marked by a material and spiritual solidarity with people who are sick, disabled, frail, elderly or dying...” (*Code*, p. 9)



Part II: Guidelines

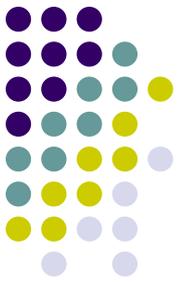
1. Decision Making in Health Care
2. Human Sexuality, Procreation & the Beginning of Life
3. Respect for Bodily Integrity
4. Older Persons and Those with Special Needs
5. End of Life
6. Research
7. Healthcare Institutions
8. Cooperation with Others

II.1 Decision Making in Health Care



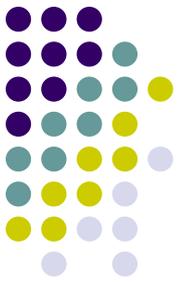
- Responsibility
- Truth-Telling
- Privacy & Confidentiality
- Futile & Overly Burdensome Treatment
- Unreasonable Requests
- Non-Therapeutic Interventions
- Self-Medication
- Tests

II.2 Human Sexuality, Procreation and the Beginning of Life



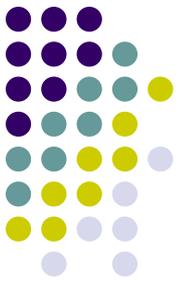
- Responsible Parenthood
- Contraception & Sterilisation
- Infertility
- Human Embryos
- Pregnancy
- Prenatal Testing & Genetic Counselling
- Abortion
- Foetal Surgery
- Neonatal Care

II.3 Respect for Bodily Integrity



- Drug Rehabilitation
- Sexual Assault
- Body Image, Gender Reassignment
- Organ & Tissue Transplantation
- Determination of Death
- Xenotransplantation

II.4 Older Persons & Others with Special Needs

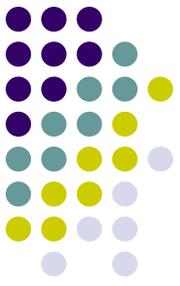


- Older Persons
- People with Chronic Illness/Physical Disabilities
- People with HIV/AIDS
- People with Intellectual Disability
- People with Mental Illness/Dementia
- Sick Children/Babies
- Abused Children
- Care of the Carers



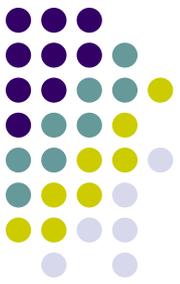
II.5 End of Life

- Care for the Whole Person
- Palliative Care
- Pastoral Care
- Withdrawal/Withholding Treatment
- Euthanasia
- Death & Clinical Markers of Death
- Respect for the Deceased, Post-Mortem Examination



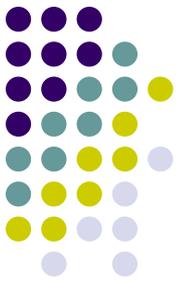
II.6 Research

- Research Involving Humans
- Consent
- Vulnerable Participants
- Incompetent Participants
- Research Design & Methodology
- Donation of Body for Research / Teaching
- Research Involving Human Embryos & Foetuses
- Genetic Research
- Health Ethics Research
- Animal Research
- Research Ethics Committees



II.7 Healthcare Institutions

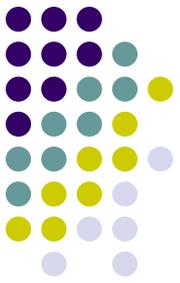
- Communities of Service
- The Australian Context
- Governance and Institutional Responsibility
- Collaborative Relationships
- Pastoral Care
- Care of Staff
- Financial Considerations
- Ethical Review & Formation



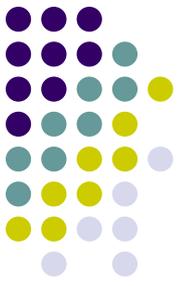
II.8 Cooperation with Others

- Issues of Cooperation
- Formal Cooperation
- Material Cooperation
- Whether Material Cooperation is Justified
- Harmful Effects of Material Cooperation
- Scandal
- Case Study

Catholic Distinctiveness

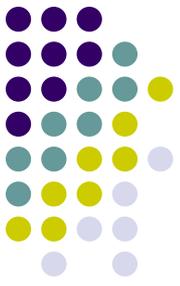


- A. Procreation
- B. Beginning of Life
- C. End of Life
- D. Cooperation with Wrongdoing



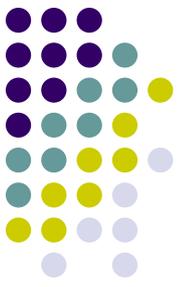
A. Procreation

- Modern Secular Ethics:
 - almost anything goes
- Catholic Ethics:
 - “Sexual union is only legitimate if a definitive community of life has been established between the man and the woman... through marriage.” (*Persona Humana*, #7)
 - The Church’s teaching about sex and procreation is “founded upon the inseparable connection, willed by God and unable to be broken by man on his own initiative, between the two meanings of the conjugal act: the unitive meaning and the procreative meaning.” (*Humanae Vitae*, #12)



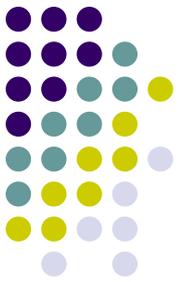
B. Beginning of Life

- Modern Secular Ethics:
 - 14 days? Birth?
- Catholic Ethics:
 - “The dignity of a human person must be recognised in every human being from conception to natural death.” (*Dignitatis Personae*, #1)



C. End of Life

- **Traditional Morality (Catholic standards)**
 - Each person has a moral responsibility to use those means of sustaining our lives that are effective, not overly burdensome and reasonably available ('ordinary' or 'proportionate' means)
 - Each person has a moral right to refuse any treatment that is futile, overly burdensome or morally unacceptable ('extraordinary' or 'disproportionate' means)



C. End of Life (cont'd)

- **'New' Morality**

- Each competent person has an unlimited right to refuse all medical treatment.

These two standards

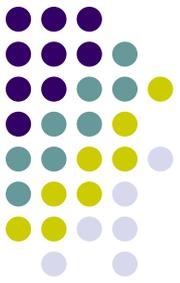
- *Traditional / Catholic morality*
- *'New' morality*

co-exist in health care,

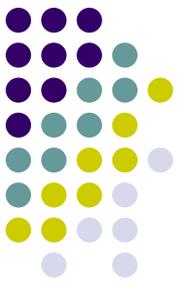
sometimes in an uneasy tension.

Refusing Treatment

(Traditional / Catholic Standard)

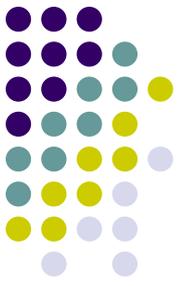


- Futile and/or
- Overly burdensome
 - physically too painful
 - psychologically too distressing
 - socially too isolating
 - financially too expensive
 - morally repugnant
 - spiritually too distressing
- ‘heroic’ or ‘cruel’ treatment
- may be refused



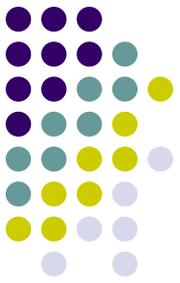
D. Cooperation with Wrongdoing

- Modern Secular Ethics:
 - Often, the ‘criterion of independence.’
- Catholic Ethics:
 - **Formal cooperation** is never morally permissible.” (*Code II*, 8.9)
 - “There must be serious reasons to justify **material cooperation** in someone else’s wrongdoing.” (*Code II*, 8.11)



D. Material Cooperation

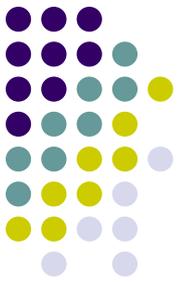
- Harmful Effects of Material Cooperation:
 - “It facilitates someone else’s wrongdoing.” (*Code II*, 8.14)
 - “There is a danger that one may become less sensitive to the wrongdoing.” (*Code II*, 8.15)
 - It “may also compromise one’s ability to witness to certain values or principles.” (*Code II*, 8.17)
- “The reasons which would justify cooperation by institutions sponsored by the Church are usually required to be more stringent than they need to be in the case of individuals...” (*Code II*, 8.17)



Where Do You Get It?

- *Code of Ethical Standards for Catholic Health and Aged Care Services in Australia*
- *Advance Care Plan*
- *A Guide for People Considering Their Future Health Care*
- *A Guide for Health Care Professionals Implementing a Future Health Care Plan*
 - Download them all for free from **Catholic Health Australia** website:
<http://www.cha.org.au/publications.html>

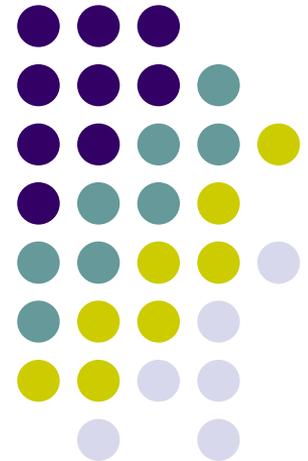
A Vision Statement

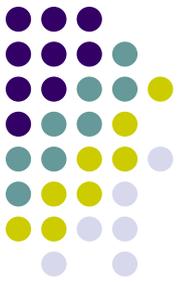


- “Lord, when was it that we saw you hungry and gave you food, or thirsty and gave you something to drink? And when was it that we saw you a stranger and welcomed you, or naked and gave you clothing? And when was it that we saw you sick or in prison and visited you?” And the Son of Man will answer them, “Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me.”
 - Matthew 25:35-40, quoted in the *Code*, p. 4.

End of Life Care (including Care Planning in Advance)

Fr Kevin McGovern,
Caroline Chisholm Centre for Health Ethics:
St Vincent's Private Melbourne,
3 June 2014

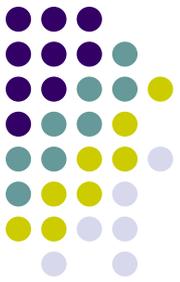




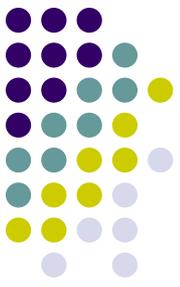
Useful Resources

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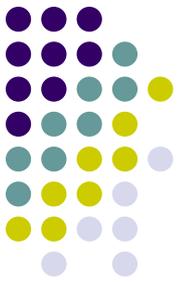


- 1. Ethical Framework**
- 2. ACP is a Revolution**
- 3. Facilitated Decision-Making**
- 4. Conversations and Paper**
- 5. More about Paper**
- 6. Realistic Goals for ACP**
- 7. Challenges for Institutions**
- 8. Cultural Competence**
- 9. Difference Blindness & Cultural Safety**
- 10. Coming to Terms with Sickness, Dying and Death**



1. Ethical Framework

- **Traditional Morality (Catholic standards)**
 - Each person has a moral responsibility to use those means of sustaining our lives that are effective, not overly burdensome and reasonably available ('ordinary' or 'proportionate' means)
 - Each person has a moral right to refuse any treatment that is futile, overly burdensome or morally unacceptable ('extraordinary' or 'disproportionate' means)



1. Ethical Framework (cont'd)

- **'New' Morality**

- Each competent person has an unlimited right to refuse all medical treatment.

These two standards

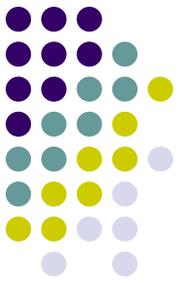
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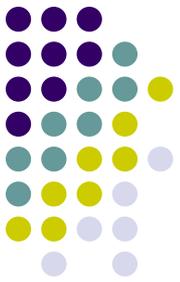
sometimes in an uneasy tension.

Refusing Treatment

(Traditional / Catholic Standard)



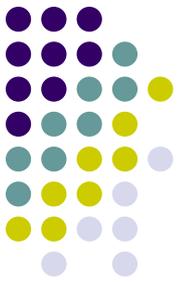
- Futile and/or
- Overly burdensome
 - physically too painful
 - psychologically too distressing
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2. ACP is a Revolution

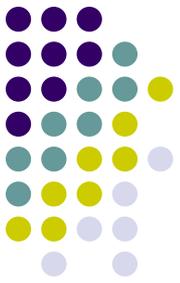
- Advance Care Planning will bring about enormous changes in health care.
- Such revolutionary change is not easy:
 - for health professionals
 - for health care institutions
 - for patients, and their families & friends

2. ACP is a Revolution (cont'd)



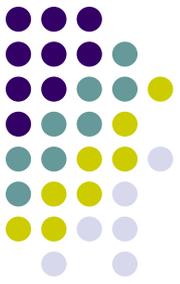
- Advance Care Planning brings many benefits:
 - People expect their health professionals to help them decide about future care. Through ACP, we meet this expectation.
 - ACP significantly increases patient satisfaction with their hospital stay.
 - ACP significantly increases the percentage of patients whose EOL wishes are both known and followed.
 - ACP significantly increases family satisfaction with the process of their loved one's dying and death.
 - If their loved one dies without ACP, 15-30% of family members experience significant stress, serious depression or severe anxiety. ACP greatly reduces all these negative reactions.

2. ACP is a Revolution (cont'd)



- It's a Copernican Revolution:
 - Copernicus taught us that the sun does not revolve around the earth, but instead that the earth revolves around the sun.
 - ACP teaches us that patients/residents/care recipients should not have to revolve around their health professionals, but instead that we health professionals should revolve around them and around their values and wishes.

3. Facilitated Decision-Making



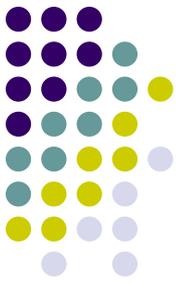
Medical Consultation

- patient reports their symptoms
- health professional provides diagnosis, prognosis, and treatment options
- health professional facilitates the patient's decision-making

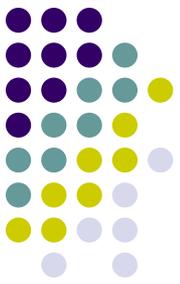
Advance Care Planning

- patient reports their state of health, their values and wishes
- health professional provides medical and other information
- health professional facilitates the patient's decision-making

4. Conversations and Paper



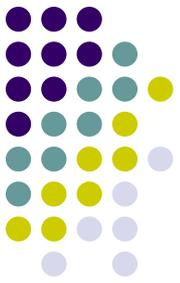
- Both facilitated decision-making and records of the conclusions from this are necessary for ACP.
- There is a reductionistic tendency to reduce ACP to ‘tick-a-box’ or ‘fill-in-a-form.’ (‘paper’)
- The heart of ACP must be facilitated decision-making. (‘conversations’)
- The reductionistic tendency must be resisted!



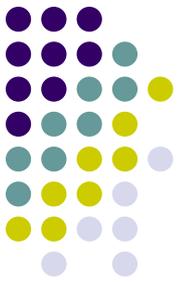
5. More about Paper

- **Forms to appoint a Substitute Decision-Maker (SDM)**
 - e.g. VIC Enduring Power of Attorney (Medical Treatment)
 - For this form, see http://www.publicadvocate.vic.gov.au/file/file/Powerofattorney/Power%20of%20attorney%20forms%202010/Enduring_power_of_attorney_medical_treatment_with_instructions2010.pdf
 - Statutory Substitute Decision-Maker
 - For VIC list, see <http://www.publicadvocate.vic.gov.au/medical-consent/175/>

5. More about Paper (cont'd)



- **Recording values, wishes, treatment preferences and so on:**
 - note in medical record
 - guiding or legally binding?
 - forms tailored for specific diseases
 - VIC Refusal of Treatment Certificate
 - For this form, see http://www.health.vic.gov.au/__data/assets/pdf_file/0004/275251/mta88_sched01.pdf
 - lapses after current bout of illness → a new form must be completed next time

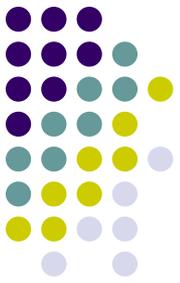


6. Realistic Goals for ACP

1. Those in reasonable health
 - appoint Substitute Decision Maker (SDM)
 - advise SDM of their values and wishes

2. Those with a serious chronic disease
 - appoint Substitute Decision Maker (SDM)
 - advise SDM of their values and wishes
 - advice about disease trajectory
 - bucket list?

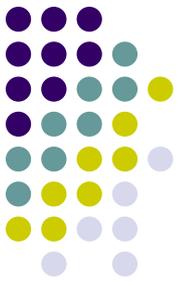
6. Realistic Goals for ACP (cont'd)



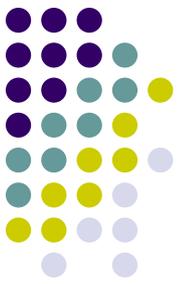
3. No to the trigger questions: ‘Would I be surprised if this person died in the next 12 months?’
 - appoint Substitute Decision Maker (SDM)
 - advise SDM of their values and wishes
 - advice about disease trajectory
 - bucket list?
 - recording treatment preferences, e.g. Advance Directive

4. Death is imminent (e.g. 48-72 hours)
 - hopefully, all the plans are in place
 - as the situation changes, new decisions may still have to be made

7. Challenges for Institutions



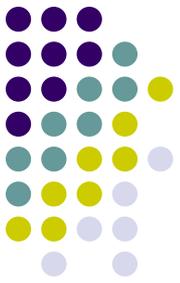
- easy to feel overwhelmed
- even so, slow and gradual progress is possible:
 - written policies and procedures
 - regular education and training
 - information for patients/residents/community members
 - appropriate forms
 - record storage enabling easy access when needed
 - are we able to communicate information to other institutions?
 - audits, leading to continuous quality improvement
 - ultimate aim is to embed ACP so it becomes standard practice



8. Cultural Competence

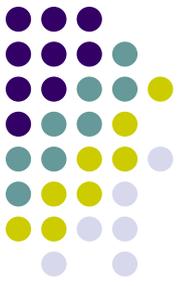
- National Health & Medical Research Council *Cultural Competency in Health* (2006), p. 7:
 - “Cultural competence is a set of congruent behaviours, attitudes, and policies that come together in a system or among professionals and enable effective work in cross-cultural situations.”
 - vitally important in Australian health care
 - recognise diversity
 - positively value diversity

9. Difference Blindness & Cultural Safety



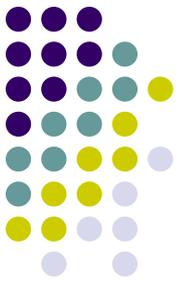
- Cultural safety is “an environment that is safe for people: where there is no assault, challenge of denial of someone’s identity, of who they are and what they need.”
- Difference blindness = ‘we treat everyone the same.’
- Difference blindness does not provide a place of cultural safety. It can be a threat to a person’s very identity.

10. Coming to Terms with Sickness, Dying and Death



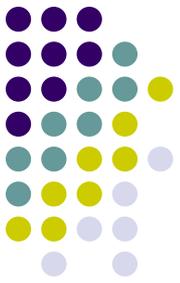
- Philip Gould's *When I Die*
 - “Intensity comes from knowing you will die and knowing you are dying.... Suddenly you can go for a walk in the park and have a moment of ecstasy.... I am having the closest relationships with all of my family.... I have had more moments of happiness in the last five months than in the last five years.” (p. 127-129)
 - “I have no doubt that this pre-death period is the most important and potentially the most fulfilling and most inspirational time of my life.” (p. 143)

10. Coming to Terms with Sickness, Dying and Death (cont'd)



- Henri Nouwen's *Our Greatest Gift*
 - “I took his hand in mine and laid my other hand on his forehead; I looked into his tearful eyes and said: ‘Rick don’t be afraid, don’t be afraid.... Please trust that the time ahead of you will be the most important time of your life, not just for you, but for all of us whom you love and who love you.’ As I said these words, I felt his body relax, and a smile came through his tears. He said, ‘Thank you, thank you.’” (p. 60)

10. Coming to Terms with Sickness, Dying and Death (cont'd)



- Michael Barbato's *Reflections of a Dying Sun: Healing experiences around death*
 - Michael's book records many significant things which happened as people became sick and as they were dying.
 - "So yes a slow journey towards death is my preference...."
 - "I would feel cheated if I died suddenly."