

Mr Steve Brine MP

Chair, Health & Social Care Select Committee
House of Commons

Sent via email

4 March 2024

Dear Mr Brine,

Re: Recommendations in the Committee's report on assisted dying

I would like to welcome last week's publication of the Committee's report on assisted dying, which the BMA believes will be a very useful resource for public and parliamentary discourse on this topic. We were pleased to engage with the inquiry during its consultation phase and, looking ahead, we will seek to highlight important recommendations the Committee has made to the Government, such as the need for comprehensive and equal access to high quality end of life care for everyone – something the BMA has been speaking out on for years.

I am writing to respond, on behalf on the BMA, to the recommendation in paragraph 40:

'...We also heard about the documentation which has had to be secured as part of the application, including a medical report for the person applying. We note that the General Medical Council's guidance for Investigation Committees assessing a doctor's fitness to practice following an allegation of a doctor's encouragement or assistance in suicide, sets out that that providing access to a patient's records where the request is made in accordance with the Data Protection Act 1998, should be considered lawful or too distant from being considered encouragement or assistance. However, the BMA's guidance recommend that doctors should not write medical reports specifically to facilitate assisted suicide abroad. Although it is not illegal to provide medical reports in this circumstance, it does not seem to be entirely clear to doctors what they are allowed to do. We would welcome revised guidance from the GMC and the BMA enabling doctors to assist their patients...'

I would like to clarify the situation, as it appears that two separate issues have been conflated in this recommendation:

- (1) In relation to the provision of copies of medical records for someone who is considering assisted dying overseas, our advice is that doctors must provide this. In our view, which is shared by the GMC, this is not assisting suicide because the doctor is simply complying with their legal obligations under the GDPR.
- (2) This is very different, however, to a doctor writing a report specifically for the patient to use to seek assisted dying overseas. Your Committee's report says, *'Although it is not illegal to provide medical reports in this circumstance ...'* – this is not correct, in our view. Providing a medical report

Co-chief executive officers: Neeta Major & Rachel Podolak

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requested by a patient with the specific intention that it should be used to seek assisted dying in another country, appears to us to be very likely to breach the law and our understanding is that the GMC also shares this view. Therefore, we are unable to revise our guidance in the way your Committee recommends as this would potentially leave our members open to criminal and professional sanctions.

As mentioned, we have liaised with the GMC – who are also referenced in this recommendation by the Committee – and it is our understanding that we are aligned in how we interpret these two distinct issues. The distinction between providing patients with copies of their existing medical records, and writing a report specifically addressing the question of eligibility for assisted dying, is an important one that we address in our recent work on assisted dying and in our responses to legislative proposals in the Isle of Man and Jersey (please see www.bma.org.uk/pad for more information).

I do hope this explanation provides important clarification regarding the Committee's recommendation relating to the BMA, and that this distinction is reflected in any future work on this inquiry/topic that the Committee might undertake. If you would like to discuss the Committee's recommendation with us further, please do get in touch with Holly Weldin, Senior Public Affairs Officer (hweldin@bma.org.uk), who would be pleased to facilitate.

Yours sincerely,



Dr Andrew Green

Deputy-chair, BMA Medical Ethics Committee
MEC lead on physician-assisted dying