General Medical Council

25 March 2024

Steve Brine MP

Chair, Health and Social Care Committee
House of Commons
London
SW1A 0AA

Sent via email

Dear Mr Brine

Re: House of Commons Health and Social Care Committee report: Assisted Dying/ Assisted Suicide

The GMC welcomes the Committee's report on assisted dying which brings together a body of up-to-date evidence on the topic and should provide a helpful resource for any future parliamentary debates. To that end, we are writing to provide you with some clarification and additional information relating to a couple of areas in the report where GMC guidance is discussed. As the Committee will be aware, we do not take a position on whether the law on assisted dying should change, which we consider to be a matter for Parliament.

Subject access requests for medical records/ medical reports
The first area concerns paragraph 40 of the Committee's report, which states that:

'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.'

This paragraph appears to be conflating the issue of subject access requests for patient records with the separate question of requesting a medical report from a doctor for the purpose of providing evidence of a patient's eligibility for an assisted death overseas. As such, the paragraph may be misunderstood to suggest that the GMC takes the view that allegations of writing such a report are unlikely to raise questions about doctors' fitness to practise. This is not, in fact, the case.

The report correctly points to a section on subject access requests (at paragraph 23b of our guidance for fitness to practise decision makers when considering allegations about a doctor's involvement in encouraging or assisting a person to end their own life) which explains that:

'*Some actions related to a person's decision to, or ability to, end their own life are lawful, or will be too distant from the encouragement or assistance to raise a question about a doctor's fitness to practise. These include but are not limited to: …. b. providing access to a patient's records where a subject access request has been made in accordance with the terms of Article 15 of the UK General Data Protection Regulation (UK GDPR) or Article 15 of the General Data Protection Regulation (GDPR)'*.

However, paragraph 20c of that same guidance also explains that doctors' conduct may give rise to a question of impaired fitness to practise by '*writing reports knowing, or having reasonable suspicion, that the reports will be used to enable the person to obtain encouragement or assistance in ending their own life'*.

Thus, our guidance for decisions makers recognises the distinction between enabling a patient to access their medical records following a subject access request and writing a report for a patient who they know or reasonably suspect will use it for the purposes of seeking an assisted death.

This conflation also appears to have led to the suggestion that the GMC and the BMA might not be aligned on these matters. This is not the case and we are aware that the BMA has also written to the Committee to clarify this matter. It may also be helpful for the Committee to note that doctors might seek advice about these issues from other bodies, such as their medical defence organisations, as well as the GMC or the BMA.

Guidance for doctors/ palliative care

Secondly, we thought it would be helpful to highlight that, in addition to our guidance for fitness to practice decision makers, we also have separate guidance for doctors on When a patient seeks advice or information about assistance to die which aims to help them decide what information they can give patients while acting within UK law. This guidance also provides some clarification which should be relevant to the Committee's discussions about palliative sedation at paragraphs 184-189 of their report. To that end, paragraphs 6-7 state that doctors should:

6.

a. be prepared to listen and to discuss the reasons for the patient's request
b. limit any advice or information in response, to:

i. an explanation that it is a criminal offence for anyone to encourage or assist a person to commit or attempt suicide, and

ii. objective advice about the lawful clinical options (such as sedation and other palliative care) which would be available if a patient were to reach a settled decision to end their own life.

For avoidance of doubt, this does not prevent a doctor from agreeing in advance to palliate the pain and discomfort involved for such a patient should the need arise for such symptom management.

c. *be respectful and compassionate and continue to provide appropriate care for the patient*
d. *explore the patient's understanding of their current condition and care plan*
e. *assess whether the patient has any unmet palliative care needs, including pain and symptom management, psychological, social or spiritual support.*

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It's important to note that, nothing in this guidance prevents doctors from prescribing medicines or treatment to alleviate pain or other distressing symptoms. Treatment and care towards the end of life: good practice in decision making places a duty on doctors to provide such care.

I hope these clarifications and additional information are helpful.

Yours sincerely

Professor Colin Melville,

Medical Director

Director, Education and Standards