

GMC Review of *Withholding and Withdrawing Life-prolonging Treatments: Good Practice in Decision-making*

1. In September 2007 the Standards and Ethics Committee agreed that work should begin to review and update *Withholding and Withdrawing Life-prolonging Treatments: Good Practice in Decision-making* (2002).

Background

2. There are a number of developments since 2002 which make a review of the guidance necessary.

Developments in the law

3. The Mental Capacity Act 2005 (MCA) came fully into force in England and Wales on 1 October 2007. This Act allows a patient to appoint an attorney to make decisions about their care when they have lost capacity to decide for themselves, including decisions about life-sustaining treatment. It introduces statutory rules and safeguards for advance decisions to refuse life-prolonging treatments. Our guidance needs to reflect the new legal framework.

4. The guidance had already taken account of the Adults with Incapacity (Scotland) Act 2000 (AWIA), but there had been limited experience of how the Act would impact on day to day practice. Since then clinicians, patients and their carers have raised a number of concerns about its impact. These include uncertainties about the role of welfare attorneys and written advance refusals of life-prolonging treatment, in decisions about a patient's end of life care. It might be possible to address these issues in updated advice on good practice.

5. There have been a number of court rulings related to end of life care since 2002. For example, some more recent cases have given fresh consideration to assessing the validity of advance refusals of treatment and avoiding discrimination on disability grounds. The implications for GMC guidance will be considered.

6. These issues are explored in greater detail in Annex A

Challenges to the guidance

7. In the 2005 Appeal Court ruling on the case of *GMC v Burke* (which focused on the issue of withdrawing artificial nutrition and hydration), it was suggested that the wording of paragraph 81 of the guidance could be improved, to avoid confusion about the exceptional cases it was intended to address. Any update of the guidance would need to consider this point.

8. The GMC has received a lot of feedback on the content of the advice about how to approach decisions about whether to attempt cardiopulmonary resuscitation for particular patients. Some aspects of this guidance appear to have caused confusion for doctors trying to apply it in palliative and intensive care settings. Revised GMC guidance might be helpful in addressing this issue.

Current problems in practice

9. Evidence has continued to emerge of serious shortcomings in the standards of end of life treatment and care provided to elderly and disabled patients in some healthcare settings. The most recent examples include Mencap's report 'Death by Indifference' (March 2007) and the Joint Committee on Human Rights report 'The human rights of older people in healthcare' (August 2007). Updated GMC guidance on good practice might help to reinforce current Government and other initiatives aimed at improving standards in end of life care for all patients.

Developing Revised Guidance

10. There is a substantial amount of work under way in England, Scotland and Wales to improve patients' access to palliative care services and raise the standard of end of life care, wherever it's provided. There are lessons emerging from these initiatives, about standards of professional knowledge and practice in end of life decision making, which should be taken into account in new GMC guidance.

11. A working group, chaired by Lady Christine Eames, has been established to take forward the review of the guidance. Members of the group are drawn from a variety of medical and nursing specialties (including palliative medicine) and from organisations representing patients, from across the UK.