End of Life Assistance (Scotland) Bill

General Medical Council

Thank you for the opportunity to submit evidence on the End of Life Assistance (Scotland) Bill.

The General Medical Council licenses doctors to practise medicine in the UK under the provisions of the Medical Act 1983 (as amended). Our purpose is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine.

In responding to the consultation we feel it is important to emphasise that we are a regulator, not a representative body: our role is not to represent the views or interests of doctors or patients. Our four main functions under the Medical Act are:

1. keeping up-to-date registers of qualified doctors
2. fostering good medical practice
3. promoting high standards of medical education and training
4. dealing firmly and fairly with doctors whose fitness to practise is in doubt.

One of the ways in which we foster good medical practice is by giving advice to the profession, primarily through our published guidance, on the standards of practice expected of them. We require doctors to observe the law (paragraph 13, Good Medical Practice 2006) and our guidance will always be consistent with the law. Consequently we have not developed policy or issued guidance on assisted suicide, since to have a ‘freestanding’ policy position on an issue which is currently illegal would undermine both the guidance and our authority to provide it.

To hold a policy position distinct from the legal position on an issue would also compromise our position in considering complaints and make our judicial process untenable. For example, if a doctor were convicted for assisting a suicide, it would be difficult for a panel to consider the doctor’s breach of the law if we, as the regulator had expressed a view that we believed such an act was ethical or acceptable. Conversely, if the law were to change to allow assisted dying and we had previously expressed the view that it was morally or ethically unacceptable, we would either be unable to discipline such a doctor, or we would have to set ourselves above the will of Parliament.

We note the reference, on page 18 of the Policy Memorandum (paragraphs 114 and 115), to our guidance on Personal beliefs and medical practice (2008). On the whole it is an accurate reflection of our guidance. However, we are concerned that the final sentence of paragraph 115, taken out of context, could be misleading. The memorandum states that “there would be a duty on registered medical practitioners who object to participating to make arrangements to see a registered medical practitioner who would be prepared
to consider a request for end of life assistance”. However, our guidance does not impose a duty on doctors to do this unless the patient is unable to make those arrangements him or herself.

At the beginning of paragraph 115 you say doctors “should not share their view”. Doctors should, in fact, tell the patient (in advance where practical) if they don't provide a particular procedure because of a conscientious objection. Doctors must, however, be careful to be respectful of the patient’s dignity and views, whatever their (the doctor's) personal beliefs about the procedure in question.

Finally, we would suggest that any references to “registered medical practitioners” in this context (certainly in relation to the practitioner providing assistance, if not also to the psychiatrist) should be changed to “licensed and registered medical practitioners” since only those registered doctors who hold a licence to practise are entitled to prescribe medicines. We have noted references in the Bill itself in section 2 and in the Policy Memorandum at paragraphs 104, 106, 108-9, and 112 although there may be others.

Thank you once again for the opportunity to comment on the Bill and accompanying papers. I hope you find this response helpful in explaining our position.

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12 May 2010