news reviews

New BMA guidance on CANH

The devil is in the detail

Review by **Peter Saunders**
CMF Chief Executive

New draft guidance from the BMA allows doctors to withdraw food and fluids from non-imminently dying patients with dementia, stroke and brain injury, provided it is in their 'best interests'.[1,2]

It comes complete with a six-page executive summary, flow charts and tick box forms to smooth the decision-making process. Definitive guidance is due out in mid-November.

Who makes these decisions? If there is an advance directive for refusal of treatment (ADRT) then the patient does. If there is an appointed health and welfare attorney then they do, and if it's not the case that 'all parties agree' then it falls to the Court of Protection. But in the remainder of cases – the vast majority – it is 'usually a consultant or general practitioner'.

What are these best interests? It boils down to whether CANH (clinically assisted nutrition and hydration) can 'provide a quality of life the patient would find acceptable'. Otherwise, continuing to provide it is 'forcing them to continue a life they would not have wanted'.

So, by a subtle twist, providing basic sustenance to someone who 'would not have wanted' to be in this 'condition' is a form of abuse.

Quite how oversight or accountability will be possible is unclear, as the death certificate need not make any reference to the fact that the patient died from dehydration after a feeding tube was removed. Instead 'the original brain injury or medical condition should be given as the primary cause of death'.

What is largely disguised here, in a lengthy and turgid 77-page document that few doctors or carers will ever read, is a simple mechanism for ending the lives of brain damaged patients who could otherwise live for months, years or even decades.

There are conceivably tens of thousands of patients in England and Wales potentially caught in the net. It will be almost impossible to work out what has happened in a given case, and there are no legal mechanisms in place for bringing abusers to justice.

How did we get here? This whole process has transpired by a small series of steps – each following logically from the one before and endorsed in case law, statute law, regulations and guidelines. They stem back to the Law Lords' decision on Hillsborough victim Tony Bland, who was the first to die in this way. But this trickle could be about to become a flood.[3]

Once we accept that CANH is 'medical treatment', rather than basic care, then we are inviting professionals to devise a simple scheme whereby the starvation of large numbers of non-dying but expensive and 'burdensome' patients can be achieved simply and efficiently, and largely undetected, without involving the courts.

references

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2. Doughty S. Doctors could be allowed to end the lives of patients with dementia or other degenerative diseases if they can't feed themselves, as one brands medics' proposals 'the most chilling thing she's ever heard'. *Daily Mail* 13 August 2018 *dailym.ai/2x1QMKb*
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Trivialising gender dysphoria

Government consultation simplifies complex issues

Review by **Rick Thomas**
CMF Public Policy Researcher

The Government's public consultation[1] on possible means to make it simpler and easier for people in England and Wales to change their legal gender concluded on 22 October 2018.

CMF made a submission. We oppose the move to a self-declaration model, not because we wish to endorse the current assessment model but because we believe the proposed changes would lead to a worse outcome.

We should take note of the accounts[2] of people seeking to 'de-transition' and re-identify with their birth gender. Self-declaration would make it both easier and quicker to change legal gender and thus encourage earlier medical transition. This would increase the possibility that people make choices they later come to regret.

There is evidence[3] that amongst those who present with gender dysphoria there is an elevated prevalence of co-morbid psychopathology, especially mood disorders, anxiety disorders and suicidality.[4] The proposed changes would deprive these people of contact with mental health professionals at the time when their assessment and advice could be crucial. This is of particular concern for teenagers struggling with the turbulent effects of puberty, social transition and identity issues in general. Pursuing legal gender transition may harmfully distract a young person from addressing issues such as anxiety and depression. There is a real risk that individuals who require psychological support will not receive it.

We believe a system of self-declaration would be harmful not only for individuals and their families, but for society as a whole. It would make gender identity simply a matter of a person's subjective feelings about themselves and changing legal gender simply a matter of personal choice. It would encourage the view that gender identity defines reality and that biological sex is but a social construct, something 'assigned' at birth. This new ideological dogma has no evidence-base in science, but self-declaration would appear to reinforce it as if proven fact.

The transgender community has moved away from a simple 'binary' view of gender, preferring to see gender identity as fluid – liable to change or fluctuate over time. It is difficult to imagine a legal process for gender change in such an environment that could be both fit for purpose and resistant to frivolous abuse. What is certain is that to remove all medical or social prerequisites for legal transition will trivialise what is a complex human developmental process.

references

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