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GPC

General Practitioners
Committee

Confirmation and certification of death

Guidance for GPs in England and Wales

BMA 

CONFIRMATION AND CERTIFICATION OF DEATH

1. Introduction

This guidance aims to clarify the distinction between confirming and certifying death in relation to GPs' obligations.

English law:

- X *does not* require a doctor to confirm death has occurred or that "life is extinct";
- X *does not* require a doctor to view the body of a deceased person;

2. Legal requirements

The law requires a doctor to notify the cause of death of any patient whom he/she has attended during that patient's last illness to the Registrar of Births and Deaths. The doctor is required to notify the cause of death as a certificate, on a form prescribed, stating to the best of his/her knowledge and belief, the cause of death. It should be noted that the strict interpretation of the law is that the doctor shall notify the cause of death, not the fact. Thus, a doctor does not certify that death has occurred, only what in his/her opinion was the cause, assuming that death has taken place. Arising out of this interpretation there is no obligation on the doctor even to see, let alone examine the body before issuing the certificate. The Broderick report recommended that a doctor should be required to inspect the body of a deceased person before issuing the certificate but this recommendation has never been implemented. Thus, there is no requirement in English law for a general practitioner or any other registered medical practitioner to see or examine the body of a person who is said to be dead.

General practitioners as a body would not, and as individuals should not, seek to use this quirk of English law to avoid attending upon an apparently deceased patient for whom the GP is responsible. However, the fact that there is no legal obligation upon a GP to attend the deceased should be remembered and, if necessary, quoted when organisations such as the emergency services ask general practitioners, either in or out of hours, to attend a the deceased as a matter of urgency. If a patient is declared to be dead by a relative, a member of staff in a nursing home, ambulance personnel or the police, GPs would be acting correctly by prioritising the needs of their living patients.

On a parallel basis, case law exists to confirm that a NHS general practitioner does not have a contractual obligation to attend upon the body of a patient declared to be dead. Once again the fact that a contractual obligation does not exist should never be used by GPs to avoid the ethical and moral responsibility to make the experience of bereavement as gentle and easy as possible for relatives and friends.

3. Sudden or unexpected deaths

These fall into two main categories:

- (i) deaths where there is prima facie evidence of violence or other unnatural causes, including deaths in road traffic accidents, falls from high places, suicides and those apparently involving criminal violence;

and

- (ii) sudden or unexpected death where there is no prima facie evidence of violence or unnatural causes.

GPs are advised to be cautious in making or attempting to make this distinction unless they are forensically trained and experienced in clinical forensic medicine. It is too easy to wrongly classify a sudden or unexpected death.

As a citizen, a doctor has an obligation to inform the police if he/she becomes aware of a serious crime but English law, contrary to popular belief, does NOT, at present, place an obligation upon a doctor to report all sudden deaths to the coroner. In practice, the wise practitioner will report a sudden death to the coroner, normally through the agency of the local police.

The most likely circumstances in which GPs may be requested to attend upon the body of a victim of sudden death are:

- (i) A call from a relative or a nursing or residential home, about a registered patient who has been found to be dead, unexpectedly, but apparently in circumstances which are not suspicious.

The GP, or OOH GP, should respond as quickly as the urgent needs of their living patients permit. On arrival the doctor should carry out an adequate examination to confirm death and then consider whether the coroner should be informed. In all but very exceptional circumstances, even where there appear to be no suspicious circumstances, the doctor would be wise to notify the coroner. When an OOH doctor attends, they OOH organisation have a duty to inform the practice at which the deceased is registered. The GP should be mindful of the considerable distress this may cause to relatives and friends and explain why the police will attend and the likely course of events subsequent to the attendance of the police.

- (ii) A request from the police, or ambulance service that the GP attend upon a body found in a public place, a deserted building or as the result of a road or other form of accident or other situation.

In these circumstances there is no obligation upon the GP to attend. Under the Regulations and Directions underpinning the various contractual arrangements for primary medical services an NHS GP is required to provide *treatment* to persons not registered but requiring immediate treatment due to an accident or other emergency only if "he is available to provide such treatment". If the request is to attend upon a dead person or persons there is no question of a GP being requested to provide treatment, therefore there is no obligation to attend.

If the request is to attend to treat a person as a result of an accident it may be that the GP, whether the call is in working hours or out of working hours, is available and considers it would be appropriate to attend and not endanger the other patients for whom he/she is responsible to attend the emergency. It would then be right and reasonable for the doctor to attend. However, if the doctor is on call and dealing with numerous calls as when on duty for a co-operative or dealing with patients attending a surgery session, then it is reasonable to give a reply which indicates that the doctor is not available to provide such treatment.

If the police request a GP to attend a sudden death, unless that doctor is trained and experienced in clinical forensic medicine and the police offer the appropriate fee for the service, then the GP would be well advised to refuse to attend and advise the police to obtain the services of a retained police surgeon. If the request comes from the ambulance service then the response should be to advise the ambulance service that a doctor is not available and suggest that they ask the police to enlist the services of a retained police surgeon.

4. Expected deaths at home or in nursing or residential homes

(i) Calls during normal working hours

A doctor who has been treating the patient during their current illness should indicate that he/she will attend as soon as the urgent needs of any living patients have been satisfied. The doctor should then attend to confirm death and issue the appropriate death certificate. If the doctor who has been treating the patient is not immediately available, a colleague should attend and then ensure that the doctor of the deceased patient is informed of the death as soon as possible and arrangements are put in place for the issuing of the MCCD and relatives informed of these.

(ii) Calls out of hours

The likelihood is that the doctor on call is not the doctor who has been attending the deceased person during their last illness, and cannot therefore initiate the death certification process. If the death is in a nursing or residential home it is unlikely that any useful purpose can be served by a duty doctor attending during the out of hours period unless there is a genuine doubt as to whether the person is dead.

The obligation upon the on-call doctor or the co-operative, in those circumstances, is to ensure that the deceased's registered GP is notified at the first possible opportunity in the next period of normal working hours. It is then the responsibility of the doctor with whom the deceased was registered to deal with the death certification procedure. If the home so requests, normally undertakers will remove bodies under these circumstances.

The circumstances are similar if the person has died at home but, on those occasions, it may well be that there is a distressed relative or friend who reasonably requires the attention of the doctor. If, however, the relative is content to make arrangements with an undertaker, without the doctor attending, then there is certainly no need for a duty doctor to attend.

5. Problem situations

It is inevitable that on occasion expected deaths will occur at times when the general practitioner who has been treating the patient during the last illness is not available at the time or during the next period of normal working hours. Whilst partners sometimes take what they deem to be the kindest action to deal with the situation and issue a death certificate, the proper course of action and very much the wisest is for the partner or colleague of the absent practitioner to notify the coroner personally in those circumstances. Coroners are understanding of the doctor's position and sympathetic to the relatives' situation and will, normally, issue appropriate instructions to allow the funeral arrangements to proceed without unnecessary bureaucratic delay.

It is wise in all circumstances to ask for details of those present at the death and in providing care during the last illness as this will enable certification for cremation to proceed more smoothly and with less distress to the family of the deceased.

Issuing cremation forms

In order to consolidate and modernise previous regulations on cremation forms, the Ministry of Justice issued new regulations and cremation forms that came into force from 1 January 2009. Although the forms ask many of the same questions and the regulations remain largely unchanged, one significant change is that applicants of cremations now have the right to inspect the medical forms (Cremation forms 4 and Cremation 5) before the medical referee authorises the cremation. The Ministry of Justice guidance that accompanies the release of the new cremation forms states that 'We (MOJ) expect the numbers of applicants wishing to exercise this right to be relatively low but we will keep the position under close review.'¹ The full cremation form regulations for England and Wales can be found at http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082841_en.pdf

The following guidance outlines procedures and eligibility for completing cremation forms 4 and 5 remains unchanged.

Cremation Form 4 (formerly cremation form B)

Cremation Form 4 is usually completed by the ordinary medical attendant in charge of the deceased at the time of death. This is often the GP, or the doctor in charge of care during a hospital stay of 24 hours or more. It is important that all parts of form 4 are completed accurately to ensure that the body is released in a timely fashion and that there are no queries about the death following the cremation.

When is Form 5 required (formerly cremation form C)?

A Form 5 is required to corroborate the medical circumstances of a death as stated by a medical practitioner in Form 4.

Eligibility to Sign Cremation Form C

Regulation 9 of the Cremation Regulations states that in order to be eligible to complete cremation Form 5, you must be a "registered medical practitioner of not less than five years' standing."² The Department for Constitutional Affairs guidance on this subject goes on to state that "This requires a continuous period of registration at the relevant time. As far as limited registration is concerned, periods of temporary or provisional registration would not seem to disqualify a registered doctor from completing a confirmatory certificate, but it will be a matter for the medical referee to decide whether an inadequate length of full registration may be a factor to be taken into account in any particular case."³

The medical practitioner who completes the confirmatory medical certificate should not be a relative of the deceased, or a partner of the doctor who has given the cremation certificate in Form 4. Locums and former partners are permitted to complete cremation Form 5, however, we would advise these doctors not to complete cremation Form 5 for practices where they regularly or have recently worked.

¹ Cremation Regulations 2008 Guidance for cremation authorities and crematorium managers, Ministry of Justice, <http://www.justice.gov.uk/docs/cremation-crematorium-guidance.pdf>

² Statutory Rules and Orders, 1930, no. 1016 Cremation, England and Wales

³ Cremation forms guidance, Advice to medical practitioners completing cremation forms B or C, http://www.dca.gov.uk/corbur/cremation_forms_guidance.pdf

The requirement to have two independent medical practitioners complete forms 4 and 5 is to ensure that the medical circumstances of the death is corroborated and removes the likelihood of questions about wrong doing by the medical practitioner and their involvement in the death.

Both Form 4 and Form 5 are not statutory under the GMS contract and therefore the medical practitioners completing the forms can make a charge. For guidance on cremation form fees please see <http://www.bma.org.uk/ap.nsf/Content/mafees~cremation>

The full cremation form regulations for England and Wales can be found at http://www.opsi.gov.uk/si/si2008/pdf/uksi_20082841_en.pdf