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End of life decisions

Views of the BMA
October 1997

Introduction
This guideline summarises the BMA's views on four issues:
Refusal of treatment
Euthanasia
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Liability of health professionals

Refusal of treatment
The law and codes of ethical practice emphasise that competent patients can refuse medical treatment, including life-prolonging procedures. A current or a well documented advance refusal of treatment are equally valid if made by a mentally competent and informed adult. Where adult patients refuse procedures which are likely to benefit them, the BMA advises health professionals to provide information in a sensitive manner about the implications and explore with the patient whether relevant alternative options would be acceptable to the patient. Ultimately, however, the patient's view must be respected.

Active and intentional termination of another person's life is morally and legally different to withdrawal of treatment. It contravenes the law and ethical codes. Despite philosophical arguments that allowing death to occur is morally equivalent to causing it, the British Medical Association sees an important difference between intentional killing and the withdrawal of treatment in a way that will foreseeably result in the patient's death. Medical treatment can legally and ethically be withdrawn when it is futile in that it cannot accomplish any improvement, when it would not be in the patient's best interest to continue treatment (because, for example, it is simply prolonging the dying process) or when the patient has refused further treatment.

This is, however, a profoundly difficult area where simplistic arguments are not helpful and some limits appear arbitrary. Particularly so as medical technology increasingly appears to blur the boundaries between existence and non-existence. This was illustrated in 1993 by the House of Lords deliberations in the case of Tony Bland. Airedale NHS Trust v Bland [1993] AC 789. In a persistent vegetative state (PVS) with no awareness of the world and no hope of recovery, Bland was not terminally ill but withdrawal of artificial nutrition would inevitably result in his death. Following judgements made in other jurisdictions and confirming that artificial nutrition constitutes a medical treatment, the Lords agreed that it could be withdrawn. In their view, this would be an omission, a failure to act, a "letting die" but not a killing. Lord Browne-Wilkinson summed up the legal complexity saying:

"How can it be lawful to allow a patient to die slowly, although painlessly over a period a weeks from lack of food but unlawful to produce his immediate death by a lethal injection?"

He said this was a difficult moral question to answer but nevertheless agreed that this represents current law and that legal boundaries must be maintained. The BMA concurred, supporting the validity of having legally enforceable limits.

Since the Bland case, a series other cases of patients in PVS have been to the courts, which have so far permitted withdrawal of nutrition and hydration in each case. An important consideration for both doctors and lawyers is how the law will develop in the future for patients who are not confirmed as being in PVS but nevertheless have low awareness and no hope of recovery. In March 1997 such a case went to court (Re D, Medical Law Review, 5, Summer 1997, pp 225-26) which agreed that artificial feeding need not be provided for the patient, who did not fulfil the criteria for PVS but had irrevocably lost sentience.

The BMA is of the view that under certain strictly defined circumstances, it is ethically acceptable to withdraw artificial nutrition and hydration from patients. However, the important factor making withdrawal of artificial nutrition and hydration ethically acceptable is not the label attached to the condition or state, but the loss of specific and definable neurological pathways, the result of which is the permanent loss of sensitivity to external stimuli and loss of sentience. As a general principle, the BMA is not happy with labelling groups of patients, but thinks that ethical decisions should be based upon the presentation and current condition of individuals. The Association hopes that this case will not be considered in terms of an extension of the categories of patients from whom nutrition and hydration can be withdrawn, but as an acknowledgement that it would be ethically acceptable to consider withdrawal of nutrition and hydration from an individual who has permanently lost his or her sentience and awareness. Wherever the continuation of treatment is futile, in that it confers no benefit to the patient, its cessation may be considered based upon the clinical facts.

The BMA strongly advises, however, that legal advice be sought from the Official Solicitor. Contact The Official Solicitor's Office, 81 Chancery Lane, London WC2A 1DD.

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Euthanasia

The British Medical Association opposes the legalisation of euthanasia or physician-assisted suicide, regarding such measures as in tension with the fundamental role of doctors. The following resolution was passed at the BMA Annual Representatives Meeting in June 1997:

That this Meeting recognises that there is a wide spectrum of views about the issues of physician assisted suicide and euthanasia and strongly opposes an change in law for the time being.

The BMA recognises that some doctors, having exhausted all other possibilities for ensuring a patient's comfort, may see the deliberate termination of life as the only solution in an individual case. Nevertheless, the BMA maintains that in such circumstances, the doctor should be accountable to the law and to the General Medical Council and be obliged to defend such an action.

Basically, the BMA's view is similar to that expressed by the House of Lords Select Committee on Medical Ethics, established in the wake of the Bland case to examine the ethical, legal and clinical implications involved in end of life decisions. In their report (Report of the Select Committee on Medical Ethics, House of Lords, HMSO 1994), the Committee referred to moving representations it had received from people who wanted euthanasia themselves or who had witnessed relatives dying in a distressing way. It recognised that every person hopes for an easy death, without suffering or dementia or dependence. The Lords concluded, however, with two comments that are germane to the BMA's position.

The first concerns protection of vulnerable people: