Introduction of Medical Examiners and Reforms to Death Certification – a consultation

Mrs V Simenoff
Chief Executive, Salford & Trafford LMC
May 2016.

- The reforms to the death certification process proposed in this document will, for the first time, introduce a unified system of scrutiny by independent medical examiners of all deaths in England and Wales that are not investigated by a coroner. The aims are to strengthen safeguards for the public, make the process simpler and more open for the bereaved, and improve the quality of certification and data about causes of death.

- This consultation builds on the earlier Consultation on Improving the Process of Death Certification (Department of Health, July 2007). The responses to Introduction of Medical Examiners and Reforms to Death Certification Page 4 of 92 that document shaped the medical examiner system and we are now being asked about details of its operation – we are not being asked whether or not there should be such a system. Also within this document the Ministry of Justice (MoJ) is consulting on draft regulations that will require doctors to notify deaths to a coroner in certain circumstances, and broadly on changes to the cremation regulations which are needed as a result of the new medical examiner role. The MoJ intend to undertake a more detailed consultation at a later date on the proposed amendments to the Cremation (England and Wales) Regulations 2008.

- Under the new system, the cause of all deaths that do not need to be investigated by a coroner will be confirmed by a medical examiner before a medical certificate of cause of death is issued, or will be established by a medical examiner. The Consultation states that it does not expect the time required for doing this to lead to any undue delay or unnecessary distress for the bereaved.

- Where the deceased is cremated, the scrutiny provided by medical examiners will replace the current arrangements for the completion of cremation forms (forms 4, 5 and 10) which, despite being improved in 2009, are often still seen as an administrative requirement or a supplementary check rather than as a valuable part of the death certification process.

- Under the new process, when someone dies, and the death is apparently natural, a doctor who attended the person in the previous days will be required to prepare a medical certificate of cause of death (MCCD). If this doctor decides that the death needs to be notified to a coroner, or if the doctor is unable to establish the cause of death, he or she will contact the coroner's office. Medical examiners will be able to provide advice to a doctor in preparing an MCCD.

- Where a death is not notified to a coroner, or it is notified but the coroner decides that it does not need to be investigated, the doctor will prepare a MCCD and provide a copy to the medical examiner together with the relevant medical records and other information.
- The statutory information that needs to accompany the copy of the MCCD and relevant medical records is less than that required in the Cremation 4 form in the current system and can also be provided as part of the records rather than written out on a separate form. In some areas / settings, the medical records may be made available to the medical examiner before the MCCD is prepared / provided; this will allow 'early scrutiny' of the records and enable any pre-certification advice requested by the doctor to be given following independent review of the death.

- The medical examiner will scrutinise the deceased person's medical records and may choose to carry out a thorough (non-forensic) external examination of the body (or arrange for it to be carried out by someone else) to determine whether or not he or she agrees with the cause of death that the attending doctor certified.

- If the medical examiner disagrees with what the attending doctor has written on the MCCD there will be a discussion and the medical examiner will either invite the doctor to prepare a new MCCD or conclude that the death needs to be referred to a coroner. If the medical examiner otherwise believes that the death needs to be notified to a coroner, the medical examiner must do so in accordance with regulations made under section 18 of the Act.

- After scrutinising the deceased person's medical records and the results of any external examination, the medical examiner (or an officer acting on his or her behalf) will speak with a member of the bereaved family (or a prospective informant where there is no family member), usually by telephone, to discuss the cause of death with them and to offer them the opportunity to raise any concerns they may have.
- If concerns are raised, the medical examiner will usually discuss them with the attending doctor and then if necessary refer the death to a coroner.
- If, as a result of the discussion the death is not subsequently referred to a coroner, the person with whom the death is discussed will be asked to sign a form confirming the discussion. This can be done prior to or at the same time that the 'informant' provides the MCCD to the local registrar of births, deaths and marriages. The 'informant' may also sign this form, even where the informant wasn't a party to the discussion providing he or she is aware that it has been held. The informant is the person who informs the local registrar of births, deaths and marriages that the death has occurred and gives the information for the registration. This process will ensure it has been confirmed to the registrar that the death has been discussed and that no concerns were raised that might require the death to be investigated by a coroner.

- If at the end of the process the death does not need to be investigated by a coroner and an agreed MCCD has been seen and checked by the medical examiner, the medical examiner will sign a Notification of Confirmed Cause of Death as soon as practicable and on the same day arrange for a copy to be sent to the registrar for the district where the death occurred.
- A copy will also be sent to the attending doctor (or the ward staff, practice staff or bereavement service acting on the doctor's behalf). The medical examiner pilots suggest that copies should be transmitted electronically to avoid delays. Within two days of receiving that notification, the original MCCD must be finalised and issued to a person who intends to be the informant in registering the death.

- When the confirmed MCCD is given to a registrar and matched to the notification provided by the medical examiner it can be used to register the death unless, in exceptional circumstances, the informant provides new information to the registrar that suggests the confirmed cause of death may be incorrect or the death may be unnatural. In these exceptional cases, the registrar will speak with a medical examiner's officer first and if necessary, invite the attending practitioner to prepare a new MCCD. There might be other reasons where the registrar might first need to contact the medical examiner's office, for example, the informant refuses to sign part B of the ME- 2 form which confirms that a conversation about the cause of death between a member of the bereaved family and the medical examiner had taken place.

- The pilot sites that have tested the new system have found that the process – from the medical examiner being notified of a death to the provision of a copy of the statutory notification confirming a cause of death – can usually be completed within one working day, and that in many cases this time can be absorbed within the one to two days taken for a MCCD to be prepared and issued in the existing process.

- Where additional time is required, the experience of the pilot sites is that this need not cause unnecessary distress to the bereaved if there is a shared understanding of when the MCCD will be available and if there are local procedures for prioritising the process, without any loss of safeguards, in cases where there is a need for urgent certification

- The most frequent reason for urgent death certification is to allow relatives to comply with faith and cultural practices that require burial as soon as possible after the death. As well as organ donation

- The feedback from the pilot sites is that the demand for urgent certification is manageable within the new process, and that in areas where it is a significant requirement it can be met by arranging for medical examiners to be available for extended hours during the week and for specified periods during the weekend and on bank holidays.

- The current arrangements for attending doctors to report deaths to a coroner will be replaced by a statutory duty to notify deaths to a Senior coroner in certain cases and circumstances.
- These are if:
- There is no attending practitioner or the attending practitioner(s) is unavailable within a prescribed period. · The death may have been caused by violence, trauma or physical injury, whether intentional or otherwise. · The death may have been caused by poisoning. · The death may be a result of intentional self-harm. · The death may be a result of neglect or failure of care. · The death may be related to a medical procedure or treatment. · The death may be due to an injury or disease received in the course of employment, or industrial poisoning. · The death occurred whilst the deceased was in custody or state detention, whatever the cause of death. · The cause of death is unknown.

- Attending doctors will continue to certify causes of death where they are able to do so but will need to be ‘qualified attending practitioners’ (QAPs). The draft regulations prescribe what is meant by this term. Currently, the medical practitioner issuing the MCCD must have attended the deceased during the deceased’s last illness. In addition, under regulation 41 of the Registration of Births and Deaths Regulations 1987, the registrar must report a death to the coroner if the practitioner who completed the MCCD has not attended the deceased after death or within 14 days before death. Under the new regulations, with a limited exception, the practitioner completing the MCCD must have attended the deceased within 28-days before the death.

- In respect of deaths followed by cremations, doctors will no longer need to complete the cremation forms 4 and 5 and will therefore no longer receive the associated fees.

- This means that it will no longer be a requirement for a doctor to have seen and examined the deceased person's body in the 75 per cent of deaths (not investigated by a coroner) where a cremation is being arranged. Instead, whether a body is examined by the doctor or subsequently the medical examiner will be subject to the discretion of the doctor/examiner in light of their assessment of risks of stated cause and circumstances. This will be the case, whether the death is followed by cremation or burial. Doctors may ask another doctor to examiner the body on their behalf. Likewise, medical examiners may instruct another person to undertake such an examination, provided the person has sufficient qualifications and is sufficiently independent.

- Attending doctors will need to provide a copy of the MCCD to a medical examiner for the cause of death to be confirmed (and the certificate checked) before it is issued.

- The copy of the MCCD provided to a medical examiner will be accompanied by additional information set out in the regulations, including relevant health records. Where necessary, this information can be provided electronically and, if it is already documented clearly in health records, there will be no need to copy it onto a new form.8

- Doctors will be able to obtain advice from a medical examiner (or from a medical examiner's officer using information documented by a medical examiner) on medical circumstances and causes of apparently natural deaths for which the cause is known but not clear. This will reduce doctors' reliance on discussions with hospital bereavement officers and coroner's officers which, in many cases, focus on ensuring that the certified cause is acceptable for registration rather than on whether it accurately reflects the medical history and circumstances documented in the records.

- Doctors will be responsible for finalising the MCCD after the cause of death has been confirmed by a medical examiner, but they may delegate that task See website with consultation documents for a copy of national exemplar forms that can be used to provide the statutory information, if it is not already recorded elsewhere in a format acceptable to a medical examiner. There are two 2-page national exemplar forms: one for others such as ward or practice staff, or to bereavement services in hospitals and hospices. This finalisation will involve writing the date of confirmation on the original MCCD and we expect that it will be added to the existing procedure for issuing the MCCD.

- At present, families who choose cremation (the large majority in England and Wales) are required to pay about £184 in fees for the cremation forms. Those forms, that process and those fees are being replaced under the new system with a fee for all deaths that are not referred to a coroner. The new service will cost less than the current system for most people, but will introduce a new fee for the minority who choose burial. The impact assessment published with this document suggests a national fee in England of around £80 to £100.

- The consultation closes on 15 June 2016. If you wish to respond online the questionnaire can be found at: www.dh.gov.uk/liveconsultations The online questionnaire will be available for the whole consultation period. If you wish to respond by e-mail please use the questionnaire at the back of this document. Once it is completed please e-mail to: deathcertificationconsultation@dh.gsi.gov.uk