Department of Health

Your reference: MJL/YD/104-18

Our reference: PFD 1125666

Mr Simon R Nelson
HM Coroner's Court
Paderborn House
Howell Croft North
Bolton
BL1 1QY

11th May 2018

Dear Mr Nelson,

Thank you for your letter of 20 March to the Secretary of State for Health and Social Care about the death of Mr Peter O'Donnell. I am responding as Minister with responsibility for hospital care quality and patient safety.

I was very saddened to read of the circumstances surrounding Mr O'Donnell's death. Please pass my condolences to his family and loved ones. I appreciate this must be a difficult time for them.

Your Report raises several matters of concern and my officials have made enquiries with the Care Quality Commission (CQC) and the Nursing and Midwifery Council (NMC) in preparation of this reply.

Firstly, I would like to make clear that independent hospitals are expected to meet the same Fundamental Standards for quality and safety of care just as any other registered provider. Indeed, you may be aware that the Secretary of State wrote to independent sector hospital provider chief executives on 7 May seeking their co-operation on a number of safety and quality issues[1]. Patient safety must be paramount in all healthcare settings which is why all NHS and independent hospitals are rated by the CQC.

[1] https://www.gov.uk/government/publications/patient-safety-letter-to-independent-healthcare-providers

Independent hospitals are required to submit the same quality and safety monitoring data for NHS patients as expected by NHS trusts. For example, never events are reported to the strategic executive information system (STEIS) and surgical outcomes are reported to the National Joint Registry. Outcomes would then be monitored as part of the contractual monitoring process with the NHS.

This is not mandatory for non-NHS patients and there is no other mandatory monitoring system in place for independent healthcare services. However, as part of CQC's inspection process it would expect providers to have developed their own robust internal systems to identify, monitor and mitigate risks and monitor quality of service provision.

I am advised that the CQC carried out an announced inspection of BMI Healthcare, Beaumont Hospital on 2 and 3 September 2015, and an unannounced visit on 17 September between 6 and 7.30pm to check how patients were cared for out of hours. The CQC carried out this inspection as part of its comprehensive inspection programme of independent healthcare hospitals.

Overall, BMI Beaumont Hospital was rated as 'Good'. The CQC's inspection of this service included a review of training and appraisal rates, staffing levels, assessment and monitoring of patient risk (including escalation and transfer processes in case of emergency) and monitoring of patient outcomes. A copy of the report can be found at www.cqc.org.uk/location/1-128758526.

Registered providers must notify the CQC about certain changes, events and incidents that affect their service or the people who use it. This includes serious injury and death of a person using the service. A full list of the notifications required can be found at www.cqc.org.uk/guidance-providers/independent-acute-hospitals.

I am advised that BMI Beaumont Hospital submitted a statutory notification regarding the death of Mr O'Donnell on 27 January 2017. The CQC inspector responsible for this service contacted the registered manager to discuss the incident and the enquiry was closed pending the outcome of the inquest and internal investigation. Information from both the investigation and the inquest will now be used as part of the CQC's monitoring intelligence in the planning of the next inspection.

I can provide assurance that the CQC reviews escalation and transfer procedures and protocols as part of its inspection process under Regulation 12: Safe care

and Treatment, Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. In accordance with Regulation 12 (2) (i) CQC would expect that where responsibility for the care and treatment of service users is shared with, or transferred to, other persons, there are systems in place for working with such other persons to ensure that timely care planning takes place to ensure the health, safety and welfare of service users.

The independent health care sector is diverse and many independent providers deliver a wide range of services for both adults and children, including specialist and enhanced healthcare in an array of settings and in a number of ways. However, we recognise that the sector delivers many of the same types of services as acute NHS providers, and is increasingly being commissioned to deliver services on behalf of the NHS.

While the CQC's regulatory model is tailored to each sector and type of service, it does also take into account the need to ensure providers are treated equally when delivering similar types of services and that all providers are regulated in an appropriate and proportionate way. This is critical to providing assurance about the quality and safety of these services. CQC has therefore, where possible, aligned its regulatory model for the independent health sector with other sectors including the NHS acute and primary medical services.

The CQC published its analysis of the quality and safety of care provided by independent acute hospitals across England on 11 April. The report, '*The state of care in independent hospitals*' is available at www.cqc.org.uk/publications/major-report/state-care-independent-acute-hospitals, and provides for the first time a comprehensive picture of the quality of care provided.

While the report found that the majority of independent acute hospitals are providing high quality care for patients, 41 per cent of hospitals were rated as requiring improvement and 1 per cent, inadequate, for safety. Relevant to the concerns of your Report, the CQC identified a lack of formalised governance procedures, meaning that hospitals were not effectively monitoring the work of consultants, and a failure to monitor clinical outcomes and to prepare for the possibility of clinical deterioration in a patient's condition.

As outlined above, the CQC is working with providers through its inspections and enforcement powers to help independent hospitals understand where

improvements are needed and to hold them to account for delivering those improvements.

Also of importance to the matters of concern you raise is the Paterson Inquiry, set up following the conviction of the surgeon Ian Paterson, to learn lessons from Ian Paterson's malpractice and other past and current practices to enhance the safety and quality of care both in the independent sector and the NHS.

The Paterson Inquiry will address issues relating to the conditions under which doctors provide services within independent hospitals, including levels of supervision. The Terms of Reference include:

'A comparison of the accountability and responsibility for the safety and quality of care received between the independent sector and in the NHS; including the roles of hospital providers and others in appraising, reporting, considering concerns and monitoring as regards healthcare professionals' activity levels, conduct and performance; ...'

And will consider, among other issues, the '*...arrangements for assuring that healthcare professionals maintain appropriate professional standards and competence, including appraisal, revalidation, scope of practice, and the role of hospital providers, professional and quality regulators, and other oversight bodies'*.

The full Terms of Reference are available at www.patersoninquiry.org.uk/terms-of-reference/. We expect the Inquiry to report and make its recommendations in the summer of 2019.

Given the relevance of the concerns you have raised, you may wish to share these with the Paterson Inquiry. The contact details for the Inquiry are:

Email: enquiries@patersoninquiry.org.uk

Tel. no: 0207 972 1295

Or you can write to the Inquiry at PO Box 879, LS1 9RZ

Finally, with regard to your last area of concern, pertaining to the referral of registered nurses to the NMC, I can confirm that the NMC's guidance applies to all employers of nurses and midwives, whether NHS or independent sector. It is for the employer to decide whether to make a referral based on the circumstances of the case. Referrals must always be made if the employer believes the conduct competence, health or character of a nurse or midwife

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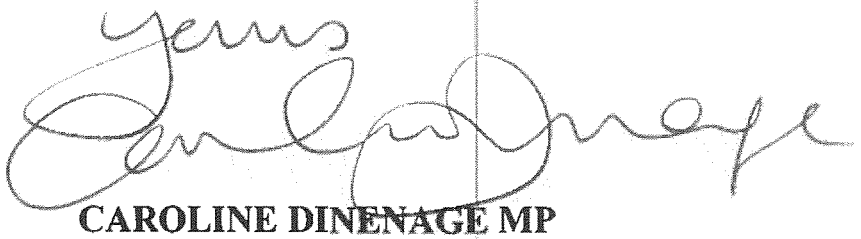
presents a risk to patient safety. Further details can be found at www.nmc.org.uk/concerns-nurses-midwives/dealing-concerns/services-employers/

I hope that you find this information helpful. Thank you for bringing the circumstances of Mr O'Donnell's death to my attention.

Yours



CAROLINE DINENAGE MP