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## Current Literature

Catholic Physicians' Guild

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## Current Literature

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**Curran WJ: The Saikewicz decision.**  
*New Engl J Med* 298:499-500 2 March 1978.

The Massachusetts Supreme Judicial Court has ruled in the case of Joseph Saikewicz that approval by Probate Court is required for all decisions either to continue or to interrupt life-support systems in dying patients who are incompetent because of mental status or legal minority. This decision has produced a devastating effect on the medical community. The court opinion was apparently made on the assumption that instances of application would be rare in everyday practice, which is not the case. Furthermore, it reveals a lack of understanding and trust of the current process whereby physicians and families have been entrusted with these decisions.

**Relman AS: The Saikewicz decision: judges as physicians.** *New Engl J Med* 298:508-509 2 March 1978.

The Saikewicz opinion abrogates the traditional process whereby decisions about continuing or terminating life-support systems in incompetent patients devolved on the physician with the support of the family and other concerned parties. In addition, the formulation of medical guidelines applicable in the emergency situation is rejected. "Such a wide-ranging effort is better left to the legislative branch after appropriate study." The results of this ruling have already proven disruptive to the practice of medicine in Massachusetts. Furthermore, it appears unlikely that the probate court system can handle the number of cases that will be generated by this decision.

**McCormick RA, Hellegers AE: The specter of Joseph Saikewicz: mental incompetence and the law.** *America* 138:257-260 1 April 1978.

The decision of the Massachusetts Supreme Judicial Court in the case of Joseph Saikewicz is of enormous importance, since "treatment and management decisions are not mere medical decisions; nor are they legal decisions. They are above all human decisions. To shift them routinely to the courts undermines this fact. What evidence is there . . . that probate judges are the only persons who can safely make such decisions?"

**Annas GJ: The incompetent's right to die: the case of Joseph Saikewicz.** *Hastings Center Rep* 8:21-23 Feb 1978.

The questions addressed in the Saikewicz decision are difficult and possibly unanswerable, but they are proper questions. "A correct resolution of them is more likely to come from a judicial decision after an adversary proceeding, in which all interested parties have fully participated, . . . than from the individual decisions of the patient's family, the attending physician, an ethics committee, or all these combined."

**Curran WJ: The brain-death concept: judicial acceptance in Massachusetts.** *New Engl J Med* 298:1008-1009 4 May 1978.

The furor over the Saikewicz decision has obscured another recent and important medicolegal decision in Massachusetts affirming the legal validity of the concept of brain death devel-

oped by the Harvard *ad hoc* Committee in 1968. Application of the ruling, however, was specifically restricted to criminal conviction for homicide. In contrast to *Saikewicz*, however, the court did not mandate that a court order be obtained before terminating life-support measures.

**Gluck M:** Overcoming stresses in communication with the fatally ill. *Milit Med* 142:926-928 Dec 1977.

Nurses may tend to avoid the patient with a terminal illness and such a communication block may aggravate the patient's sense of isolation. A group approach, involving patients, relatives, and staff, is more effective than relying on individual communication.

**Brewin TB:** The cancer patient: communication and morale. *Brit Med J* 2:1623-1627 24-31 Dec 1977.

The art of good communication is vital to the care of the cancer patient. The amount of information given to the patient should be neither too brief nor too detailed. Appropriate reassurance and encouragement are also important, as are careful observation and flexibility. Finally, there is need to remind the patient of the essential uncertainty of life for all persons.

**Vaccarino JM:** Consent, informed consent and the consent form. *New Engl J Med* 298:455 23 Feb 1978.

Failure to distinguish between informed consent and its documentation has often led to the erroneous conclusion that a signed consent form is equivalent to obtaining informed consent. Informed consent can only be achieved by a conversation between patient and physician. How this is best documented specifically is moot, although many favor a pertinent progress note rather than a consent form.

**Pellegrino ED:** Decision making in a technological society. *Pharos AOA* 41:33 Jan 1978.

The controversy over recombinant DNA research reflects the dilemmas of

democratic decision making in the face of technologic advances. The debate has crystallized the inherent tensions between science and society, with each constituency wishing to control the other. Neither, however, should gain such ascendancy. "Crucial to any genuine conception of a democratic society is the guarantee that its members ultimately shall decide what is good for the whole. Anything less, no matter how benignly intended, is paternalism at best, and tyranny at worst. In a technological society, the potential for tyranny lies as much in the power of expert knowledge as in politics or police force."

**Finley SC, Varner PD, Vinson PC, Finley WH:** Participants' reaction to amniocentesis and prenatal genetic studies. *JAMA* 238:2377-2379 28 Nov 1977.

A study was undertaken to assess the effect of amniocentesis and prenatal genetic studies on the husband and wife. Most of the women found these studies to be a positive and reassuring experience.

**Vanderpool HY:** The ethics of terminal care. *JAMA* 239:850-852. 27 Feb 1978.

"Dying with dignity" is a phrase much used in connection with the care of terminally ill patients. However, from many aspects this concept provides an insufficient base for such care. In fact, terminally ill persons "may be able to experience a loss of much honorableness or dignity without losing the conviction that life has meaning."

**Koz G, Rosenblatt A:** Psychiatric house staff on strike. *JAMA* 239:1056-1060 13 March 1978.

In October, 1976 the psychiatric house staff at Lincoln Hospital in the Bronx went on strike. The job action was considered justified by the participants because patient care was not seriously impaired. Such strikes are more likely to occur when physicians view themselves as employees of a

large bureaucracy (as during residency training) rather than as private practitioners or administrators.

(See also: Daniels N: On the picket line: are doctors' strikes ethical? *Hastings Center Rep* 8:24-29 Feb 1978).

**Siegler M:** A legacy of Osler: teaching clinical ethics at the bedside. *JAMA* 239:951-956 6 March 1978.

Bedside teaching of medicine was emphasized and popularized by Osler and has long since become an accepted approach to clinical studies. In a similar way, given the current concern with ethical decision making in medicine, programs related to the teaching of moral and ethical medicine should be developed in the clinical setting.

(For comment, see Pellegrino ED: Ethics and the moment of clinical truth. *JAMA* 239:960-961 6 March 1978).

**Shlensky R:** Informed consent and confidentiality: proposed new approaches in Illinois. *Am J Psychiat* 134:1416-1418 Dec 1977.

Although the right to privacy is emphasized in current discussions of individual rights, it deserves greater protection. This trend is supported by both common and statutory law, of which the draft legislation of the Gov-

ernor's Commission to Revise the Illinois Mental Health Code is an example.

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Of interest are papers presented at the Birnbaum Memorial Symposium entitled "Medical Research: Statistics and Ethics" held 27 May 1977 at Memorial Sloan-Kettering Cancer Center:

**Thomas L:** Biostatistics in medicine (editorial). *Science* vol 198 18 Nov 1977.

**Miké V, Good RA:** Old problems, new challenges. *Science* 198:677-678 18 Nov 1977.

**Tukey JW:** Some thoughts on clinical trials, especially problems of multiplicity. *Science* 198:679-684 18 Nov 1977.

**Gilbert JP, McPeck B, Mosteller F:** Statistics and ethics in surgery and anesthesia. *Science* 198:684-689 18 Nov 1977.

**Herbert V:** Acquiring new information while retaining old ethics. *Science* 198:690-693 18 Nov 1977.

**Cournand A:** The code of the scientist and its relationship to ethics. *Science* 198:699-705 18 Nov 1977.