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Review of 'The Physician's Responsibility Toward Hopelessly Ill Patients'

Rev. Thomas J. O'Donnell, S.J.

The following article is reprinted with permission from the September, 1984 issue of The Medical-Moral Newsletter, published by Ayd Medical Communications. Father O'Donnell is director of medical-moral education for the Diocese of Tulsa, Oklahoma.

"The Physician's Responsibility Toward Hopelessly Ill Patients" This is the title of a special article that appeared in a recent issue of the *New England Journal of Medicine* (April 12, 1984). There are several interesting things to be noted about the article. One reads in the fine print that the article emerged almost two years ago (October, 1982) from a two-day meeting of ten distinguished physicians at Harvard University's Countway Library of Medicine. The article's co-authors are all from nationally famous medical centers across the country (Minneapolis, Charlottesville, Rochester, Houston, Baltimore, Pittsburgh, and Concord), the lead by-liner being Sidney H. Wanzer, M.D. of Harvard Medical School. Hot off the press, if not hot out of the sessions in which it was forged, the article was featured on the NBC evening news on April 11th and merited a four-column review and summary in the *American Medical News* of April 27th.

Another interesting thing about the article is that, although it is by and large theologically sound from the viewpoint of Catholic principles, one wonders if it, at least subliminally, skirts pretty close to the edge of what we might call a pro-euthanasia attitude. For example, the authors state that: "Although a rare patient may contemplate suicide, the physician cannot participate by assisting in the act, for this is contrary to the law." One might wonder whether this is stated just as a matter of fact, or whether some regret about the law is subliminal. At any rate, while it is true that suicide is against the law, and thus assisting it is against the law, from a viewpoint of sound medical ethics, its being "against the law" is certainly the least important reason why it should clearly not be done. And the very next sentence states: "On the other hand, the physician is not obligated to assume that every such wish is irrational and requires coercive intervention."

Thus, in a number of places, the article seems to carefully walk a fine line between a bent toward euthanasia (which we view as the ultimate act of irresponsibility for the gift of life) and the responsible choice to refuse a therapy, even a life saving therapy, when its burden far outweighs its benefit.

Seeing the balancing act along that fine line (a fine line indeed, yet a most important distinction), it is interesting to note that the sessions at Harvard from which the article emerged were held under the auspices of the Society for the Right to Die (New York). The "Society for the Right to Die" is the most recent (1975) name for what had been, as of 1967, "The Euthanasia Educational Council," and prior to that (as of 1938) "The Euthanasia Society of America." While that fact might account for the subliminal leanings toward euthanasia, the back-balancing could be due to another fact noted in the small print: a note of indebtedness to one Edwin H. Cassem, M.D. for his review of the manuscript, but omitting to note that Edwin H. Cassem, M.D. is also a priest from the New England Province of the Society of Jesus.

That fine line of distinction between euthanasia and the refusal of therapies which are judged too burdensome may sometimes cut beyond *what* course of action is undertaken to *why* it is undertaken. There is a vast difference between the desire to relieve disproportionate therapeutic burdens and a design for death. If this distinction may appear too subtle to those not trained in ethical concepts, it was not missed by the Vatican's Congregation for the Doctrine of the Faith in its most recent declaration on euthanasia (May 5, 1980) in which we find the following: "By euthanasia is understood an action or an omission which of itself or by intention causes death, in order that all suffering may in this way be eliminated. Euthanasia's terms of reference, therefore, are to be found in the intention of the will and in the methods used."

Aside from all this, however, the authors of the *New England Journal* article make a number of very salient points that are too often overlooked in writings by physicians regarding limitations of therapy in terminal illness.

More often than not, physician authors writing in the current literature will stress that in decisions about therapy in terminal illness, the welfare of the patient should be the *only* consideration. On the other hand, most responsible theologians have noted that "extreme expense" can shift a therapeutic procedure into the realm of the "extraordinary." This article contrasts with the norm, however, in that Wanzer *et al.* properly observe "Financial ruin of the patient's family, as well as the drain on resources for treatment of other patients who are not hopelessly ill, should be weighed in the decision making process."

And, indeed, the most recent Declaration on Euthanasia by the Vatican Congregation for the Doctrine of the Faith (May 5, 1980)

explicitly states that in arriving at a judgment regarding the use of therapeutic measures, among other considerations one must study its degree of complexity and risk, its cost and the possibility of using it, and comparing these elements with the result that can be expected, taking into account the state of the sick person and his or her physical and moral resources" (emphasis added).

Another very interesting observation of the Wanzer task force has to do with the question of informing the patient of a negative prognosis. On this matter they note the following:

"Although some physicians and families avoid frank discussions with patients, in our view, practically all patients, even disturbed ones are better off knowing the truth. A decision not to tell the patient the truth because of his or her emotional or psychological ability to handle such information is rarely if ever justified, and in such cases the burden of proof rests on the person who believes that the patient cannot cope with frank discussion. The anxiety of dealing with the unknown can be far more upsetting than the grief of dealing with a known, albeit tragic, truth. A failure to transmit to the patient knowledge of terminal illness can create barriers in communication, and the patient is effectively placed in isolation at a time when emotional sharing is most needed."

While affirming the patient's right to know, these authors do not forget to comment on the patient's right *not* to know: "The dying patient should be given only as much information as he or she wishes to handle." This admonition is not without value and a delicate sense of compassion, but it must be taken as dealing mainly with the amount of information and detail that the patient desires. It should not interfere with the ethical obligation to respect the patient's right and duty to prepare for the solemn moment of death, and it should not negate the physician's duty to gently bring the patient to an awareness of a negative prognosis.

Another important point that these authors make — and the fact that they themselves are physicians adds to its significance — concerns what is sometimes the doctor's overriding zeal to *do* something. They very wisely state: "We believe that a hopelessly ill patient's refusal of life-sustaining treatment is not in itself a reason to question the patient's competency, no matter what the personal values of the physician or family may be."

Another point, which again has additional significance because it comes from authors who are also physicians, regards the fear of legal liability. Wanzer *et al.* state: "Fear of legal liability often interferes with the physician's ability to make the best choice for the patient. Assessment of legal risks is sometimes made by lawyers whose primary objective is to minimize liability, whether real or imagined. Unfortunately this may be done at the expense of humane treatment and may go against the expressed wishes, of the patient or family."

Treatment of a dying patient always takes place in the context of changing law and changing social policy, but in spite of legal uncertainties, appropriate and compassionate care should have priority over undue fears of criminal or civil liability."

Perhaps the best conclusion to this rather long critique would be to suggest that the whole article be carefully studied alongside the previously mentioned "Declaration on Euthanasia" issued by the Vatican Congregation for the Doctrine of the Faith on May 5, 1980. In this way, one might better perceive the areas in which the two documents coincide and at the same time sense what has seemed to us to be a certain subliminal bias toward euthanasia in the *New England Journal of Medicine* article. The Vatican declaration can be obtained from The National Catholic News Service, 1312 Massachusetts Avenue, N.W., Washington, D.C. 20005.

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