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The Directives on Artificial Insemination

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Doctors Ask These Questions

... Gerald Kelly, S. J.

During the last decade I have given many talks to and conducted many informal discussions with medical students and doctors. On these occasions questions were usually asked, sometimes orally, sometimes in writing. I have kept a fairly accurate record of these questions, and I believe that other doctors besides those who presented the questions or listened to the discussion of them would be interested in seeing them.

I am giving here the questions that are most typical at doctors' meetings. To these I am adding a few that are rather unusual. Regarding the typical questions, I should like to make this preliminary observation: almost all of them are already answered rather completely in the booklets entitled *Medico-Moral Problems*. I have found, however, that many Catholic doctors either do not have these booklets or, if they have them, do not have time to read them. As for the unusual questions, these are generally not covered either in my booklets or in other texts on medical ethics. I am including them in my list, not merely because they are unusual and seldom answered in print, but also because they seem to have a special practical value.

1. *Is a physician morally bound to tell a patient he is dying so that he may prepare properly for death?*

This question is answered in

Ethical and Religious Directives for Catholic Hospitals, and in the *Code of Medical Ethics for Catholic Hospitals*. The pertinent text of both *Code* and *Directives* reads as follows:

"Everyone has the right and the duty to prepare for the solemn moment of death. Unless it is clear, therefore, that a dying patient is already well-prepared for death, as regards both temporal and spiritual affairs, it is the physician's duty to inform or to have some responsible person inform, him of his critical condition."

Proper understanding of this directive requires the consideration of many factors; hence a few brief observations are in order.

First, it should be noted that the directive concerns a real moral duty, binding in conscience. That duty belongs primarily to the physician because it flows naturally from the physician-patient relationship. But, as the directive clearly indicates, the doctor can fulfill this duty by having someone else communicate the required information, e.g., the chaplain, a special friend of the patient, etc. It seems to me, however, that it is seldom advisable for the doctor to use an intermediary. Doctors often have a special facility for giving this information — call it the "bedside manner" if you wish, or call it the

grace of office. Moreover, when the proper physician-patient relationship exists, the patient usually expects to receive such information from his doctor; and the very fact that the doctor himself gives the information tends to increase the confidence of the patient in the doctor.

Secondly, the directive refers to both *spiritual* and *temporal* preparation for death. By temporal preparation is meant the paying of one's debts, arranging one's business affairs, making a will, etc. Obviously, it is not the physician's business to advise his patients in these matters. But it is the physician's duty to see that the patient has sufficient information about his condition to take care of these affairs of his own volition.

For a Catholic, the main spiritual preparation for death is the reception of the sacrament of extreme unction. This sacrament can and should be given not only to patients in *imminent* danger, but also to those who are in the *probable* danger of death from illness: that is, their condition is such that there is a good chance that they will die, even though there may be an equally good chance that they may recover. When dealing with a Catholic patient, therefore, a doctor certainly has the duty to let the patient know that his condition is sufficiently critical to warrant the reception of extreme unction. But, supposing that the patient receives extreme unction, is there any obligation to give him more definite information, e.g., that there is no hope of recovery, that he very likely has only a month or two to live?

It seems to me that, if the patient sincerely wants such information, the doctor is obliged to give it. Whether it would be advisable to *volunteer* such definite information would depend on many circumstances, especially on the judgment of what would help the patient to make a better preparation for death; and I doubt that any general rule can be given on this point.

What about non-Catholic patients, patients with no religious convictions, etc.? Even these patients, as the directive indicates, have the duty to prepare for death; and it is rare indeed that a man has no realization of this. Moreover, all have the right to know that the time has come to make this preparation; hence, whatever be his patient's religious convictions or lack of them, the doctor should see that they have the information. In fact, those who seem to be most callous spiritually are most in need of the information that their condition is critical.

Neither the doctor's question nor the wording of the directive is precisely concerned with telling the dying patient the *nature* of his illness. There is a special problem, it seems, regarding cancer patients. This problem, as well as some other important aspects of the question of notifying a patient about his condition, is discussed in the article "Should the Cancer Patient be Told?" in *Medico-Moral Problems*, II, 7-10.

Before concluding, I should like to refer to a practical point concerning the relationship of the physician to the nurses and hospital

authorities. I am often asked by chaplains, nurses, and supervisors what they are to do when they know that a patient is dying and the doctor insists on withholding the information from the patient. The answer that I usually give to this question includes the following points: (a) discuss the matter with the doctor, pointing out to him what our Code requires; (b) if he admits that the patient is dying, but still refuses to communicate the necessary information, the relatives or guardians should be informed of this; and (c) if both the doctor and the relatives or guardians refuse to let the patient be told of his true condition, the hospital authorities should get legal advice concerning the possibility of adverse action in case they should act against the wishes of doctor and relatives or guardians. I insist on this last point because, despite the great importance of the spiritual welfare of the patient, we cannot risk the greater spiritual good of our apostolate by getting involved in an adverse lawsuit. I would welcome further suggestions as to how to deal with this delicate situation.

Another rather practical aspect of this question concerns the case in which a physician refers a patient to a specialist, e.g., a surgeon. Relatives are sometimes confused as to who should give them pertinent information. I am not sure of the professional etiquette in this matter, but I should think that, as long as the referring physician remains in charge of the case, it is his duty and privilege to give the pertinent information both to the relatives and to the patient.

2. *What is the teaching of the Church as to the time when the soul enters the body?*

In answering this question, one has to distinguish between the *speculative* and the *practical*: that is, between speculative thinking and practical rules. In the sphere of speculation, there are two theories, each backed by representative Catholic philosophers and theologians. St. Thomas Aquinas, for instance, was of the opinion that the rational soul is not infused into the body until the fertilized ovum has reached a certain stage of development. Just what this stage is, is not clear. For a long time this theory was very commonly held by philosophers and theologians; then it was more or less abandoned. Today, however, the general idea of this theory—namely, that there must be some development of the material before the infusion of the rational soul—is proposed as the more acceptable explanation of the beginning of the human life by many philosophers and theologians. The other view, also with many sponsors, is that the rational soul is always infused at the moment of fertilization.

We have no divine revelation on this point, nor any official pronouncement of the Church which condemns or approves either theory. Catholics are still free to speculate on the matter. However, in the practical order, we must follow the safer course of action and always treat a living fertilized ovum, whatever be its stage of development, as a human person, with all the rights of a human being. Thus, for example, canon 747 of

the *Code of Canon Law*, orders that every aborted fetus, no matter when expelled, should be baptized absolutely if it is certainly alive and conditionally if the presence of life is dubious. Also, when theologians give doctors a practical rule as to what may be done in the case of rape, they say the doctor may do anything medically possible to remove the aggressor's semen but may not do anything to remove or kill a fertilized ovum.

3. *Is baptism in utero ever justified, provided a presenting part is within reach and there is considerable danger that the child will be mutilated before delivery?*

Canon 746 of the *Code of Canon Law* gives a number of practical rules that are pertinent to the answering of this question. In the first place, the canon directs us not to give intrauterine baptism without necessity, that is, unless there is a real danger that the child may die before delivery. When this danger exists, however, intrauterine baptism should be attempted by one who is capable of doing it. When it is given, it should be given conditionally; and then, if the child is later delivered alive, he should be re-baptized conditionally.

Intrauterine baptism supposes that the child is still entirely within the uterus. A somewhat different problem concerns the case of partial delivery, with danger that the child will die before complete delivery can be effected. In this case, the canon directs us to baptize the presenting part. If this part is the head, the baptism is given unconditionally; but if some other part is presented, e.g., an arm or a leg, the

baptism is given conditionally; then, if the child is finally delivered alive, he is to be rebaptized conditionally in the ordinary manner, namely, by pouring the water on the head.

A word about these conditions. Baptism is given conditionally whenever it is probable, but not certain, that it can take effect. Because of controversies among theologians, we can be certain about the effectiveness of baptism only when the water flows over the head. Since the Church has not seen fit to end these controversies by any official decision, we must follow the practical rule that only baptism on the head is certainly valid; hence, baptism conferred on any other part is given conditionally. As for intrauterine baptism, it is always difficult to be certain that the water flows over the head, consequently this should also be conditional.

It is not strictly necessary for the doctor or the nurse who gives intrauterine baptism or baptizes a presenting part other than the head to put the condition into words. It is sufficient to have in mind that one wants to give baptism insofar as that is possible, while using the ordinary formula: "I baptize you in the name of the Father, and of the Son, and of the Holy Ghost." The same practical rule may be followed by doctors and nurses when they rebaptize conditionally after a successful delivery. However, if one wants to put the condition into words, he may do so by saying: "If you are capable of being baptized, I baptize you in the name of the Father, and of the Son, and of the

Holy Ghost." This condition, if you are capable of being baptized, would cover all the situations visualized in this answer.

It may be helpful to note here that brief directions concerning many of the less usual, but very practical, situations concerning baptism are given in "An Instruction on Baptism," *Medico-Moral Problems*, I, 48-50.

4. *A doctor is called at night and given the information that a woman has just had a miscarriage, that the small fetus is discernible and apparently still alive. Should he go at once to baptize the fetus or should he give the directions for*

baptism to the person who has telephoned?

The question does not state whether the doctor's presence might be required for medical reasons, though it implies that it is not. However, independently of this consideration, it seems to me that the better course concerning baptism is to give the instructions over the telephone so that the fetus can be baptized without delay. If the person who has telephoned has normal intelligence and is not emotionally unstrung, he (or she) ought to be able to perform the baptism properly, following the doctor's directions.

(TO BE CONTINUED)