

Living Wills and Health Care Proxies

Church Teaching

Decisions regarding the medical care of gravely ill person have great moral significance. They require us to face the reality of suffering and death, with a Christian frame of mind. The fundamental distinction that should be borne in mind is whether medical treatment is "ordinary", and thus morally obligatory, or "extraordinary", and thus morally optional.

In this regard, the Catechism of the Catholic Church states:

2278 Discontinuing medical procedures that are burdensome, dangerous, extraordinary, or disproportionate to the expected outcome can be legitimate; it is the refusal of "over-zealous" treatment. Here one does not will to cause death; one's inability to impede it is merely accepted. The decisions should be made by the patient if he is competent and able or, if not, by those legally entitled to act for the patient, whose reasonable will and legitimate interests must always be respected.

2279 Even if death is thought imminent, the ordinary care owed to a sick person cannot be legitimately interrupted. The use of painkillers to alleviate the sufferings of the dying, even at the risk of shortening their days, can be morally in conformity with human dignity if death is not willed as either an end or a means, but only foreseen and tolerated as inevitable. Palliative care is a special form of disinterested charity. As such it should be encouraged.

Pope John Paul II, has commented on the care of those in a "persistent vegetative state:

The sick person in a vegetative state, awaiting recovery or a natural end, still has the right to basic health care (nutrition, hydration, cleanliness, warmth, etc.), and to the prevention of complications related to his confinement to bed. He also has the right to appropriate rehabilitative care and to be monitored for clinical signs of eventual recovery. I should like particularly to underline how the administration of water and food, even when provided by artificial means, always represents a natural means of preserving life, not a medical act. Its use, furthermore, should be considered, in principle, ordinary and proportionate, and as such morally obligatory, insofar as and until it is seen to have attained its proper finality, which in the present case consists in providing nourishment to the patient and alleviation of his suffering.

While individual circumstances vary greatly, we must bear in mind that it is always wrong to deliberately cause the death of an innocent person, either by our direct actions or by failing to perform a duty. No matter how grave a patient's ailment or incapacity, they always remain a person, made in the image and likeness of God. Death inevitably comes to everyone. We must accept this reality, but never directly bring it about.

Legal Considerations

Traditionally under the law, only the patient could decide about their health care treatment. The problem arises when a person is unable to make their own decisions, particularly when the issue is whether to stop life-sustaining care (such as assisted feeding and water).

Under New York State law, there has to be clear and convincing evidence of the patient's wishes before care can be discontinued. This leads to the question, how can you make sure that your wishes and values are respected when you are incapacitated? There are two alternatives: the so-called "living will" and a Health Care Proxy.

Health Care Proxy

A Health Care Proxy allows you to choose someone you trust to make decisions for you, if you can't do it for yourself. It only takes effect if you are incapacitated and it lapses if you recover. The person you appoint should be someone you trust to make a decision based on your values, in your best interests. It is their duty under the law to do so. You can also give the proxy specific instructions about what to do, and what not to do. You can put that right in the proxy itself.

We strongly recommend that give specific instructions to your proxy, particularly with regard to artificial nutrition and hydration, since the proxy cannot make any decisions about that unless there is clear evidence of your wishes. One way to do so, which would embody Catholic teachings on this issue, would be to include a statement such as:

Those making decisions for me should be guided by the moral teachings of the Catholic Church, and avoid doing anything that is contrary to the teachings of the Church. I direct that no extraordinary measures be taken to prolong my life. 'Extraordinary measures' should be considered to mean medical procedures that are excessively burdensome, dangerous, or disproportionate to the expected outcome. However, ordinary care, including the use of painkillers and the artificial provision of food and hydration, should not be considered 'extraordinary measures.' I do not intend any direct taking of my life, but only that my life not be unreasonably prolonged, when death is imminent.

Living Will

A living will is a specific instruction on a particular course of medical treatment, usually with regard to life-sustaining treatment. They are also known as "advance directives".

There are many problems with living wills. They are inflexible, and tie the hands of your doctors and loved ones. Because it's impossible to foresee your exact medical situation, they are inherently vague and can be confusing to doctors. Most "living will" forms that are generally available are actually "refuse treatment" -- "let me die" -- forms that create a presumption in favor of death.

For these reasons, we strongly recommend that you avoid a so-called "living will". Instead, we recommend that you appoint a Health Care Proxy and give them clear instructions about your Catholic values about end-of-life decisions.

Do Not Resuscitate Orders

Another common issue involves a "do not resuscitate order" (also known as a "DNR"). This kind of order that would prevent doctors, nurses and emergency medical personnel from administering emergency cardiopulmonary resuscitation (CPR) if your breathing or heartbeat stops in the event of cardiac or respiratory arrest. It does not affect any other treatment that you may be receiving, or that should be administered to you.

A DNR is generally issued at the very end of a person's life, when their death is imminent and irreversible, and there is no hope of recovery. Your wishes in regards to DNR should be carefully discussed with your physician and your beliefs should be shared with your family and your health care proxy. You may wish to include language in your health care proxy such as:

"If my death is imminent and irreversible and there is no hope of recovery, I authorize my agent to consent to a "do not resuscitate order" (DNR), pursuant to which doctors, nurses and emergency medical personnel will not attempt emergency cardiopulmonary resuscitation (CPR) if my breathing or heartbeat stops in the event of cardiac or respiratory arrest."

During hospitalization, an adult patient may consent to a DNR order orally or in writing, if two adult witnesses are present. When consent is given orally, one of the witnesses must be a physician affiliated with the hospital. If the patient is incapacitated, consent can be given by their health care proxy, or by a close relative. Prior to hospitalization, consent must be in writing in the presence of two adult witnesses, and cannot be given by a health care proxy; it must be on a form prescribed by the New York State Health Department (Form DOH-3474, available at www.health.state.ny.us)