RATIONING HEALTHCARE

Who Decides When to Pull the Plug on Grandma?

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Efforts to thwart the ever increasing costs of healthcare cannot succeed without addressing the question of how much care to provide the terminally ill. Yet, even the suggestion that physicians should be reimbursed for discussing end of life care with their patients has raised the specter of rationing healthcare and "pulling the plug" on Grandma.

As the nation's politicians run for cover, the New Jersey Courts, responsible for many of the leading right to die cases in the country, may again plow into this politically and emotionally charged territory.

The matter currently before a New Jersey appeals court involves a seventy-three year old gentleman who suffered an anoxic injury which resulted in him falling into a moribund, permanent vegetative state. He became ventilator dependent, feeding tube dependent and his renal function deteriorated into renal failure, requiring dialysis several times weekly.

His body deteriorated, and he developed severe decubitis ulcers around his body, resulting in deep infections extending into the bone. The only thing prolonging biological life was the medical care rendered. The patient's treating doctors sought to discontinue dialysis, but the family objected, so a court order was sought allowing them to discontinue treatment. At a hearing before the trial court the patient's doctors all testified that continued treatment was both futile and contrary to accepted standards of care. The family produced a physician expert, who testified, in essence, that the standard of care required physicians to provide any care requested by the family. The Trial Court concluded that because the family desired all heroic measures to be implemented, there were no circumstances which would justify withholding inappropriate treatments.

Of course, the notion that a patient or family member can require any type of care, regardless of its propriety, has long been rejected. No one would argue that a physician is obligated to cryogenically freeze a dying patient, hoping that some day technology will allow him to be thawed, his underlying condition reversed, and returned life. Nor can a patient demand experimental treatment, outside of approved protocols. Similarly, a patient cannot demand controlled, addictive drugs for medically inappropriate purposes.

The American Medical Association's Code of Medical Ethics recognized this principal since at least 1994 when it published an opinion which states that:

> Physicians are not ethically obligated to deliver care that, in their best professional judgment, will not have a reasonable chance of benefitting their patients. Patients should not be given treatments simply because they demand them.

However, in the same opinion, the AMA also found that "Denial of treatment should be justified by reliance on openly stated ethical principles and acceptable standards of care. . . not on the concept of 'futility' which cannot be meaningfully defined.

Given the AMA's position on "futility" it appears impossible to base end of life decisions on the concept of futility. However, physicians must be able to exercise their judgment, in consultation

with medical experts and appropriate hospital committees, to determine when care is appropriate and when respect for life warrants cessation of treatment.

So long as decisions of this magnitude are left to physicians, and are based upon recognized standards of practice, giving due consideration to the wishes of the patient or his representative, we can expect appropriate resolutions of these difficult problems. By leaving the ultimate decision to physicians, we can also be assured that, where physicians disagree as to what appropriate standards of care allow, the family can resolve that disagreement be choosing those physicians who are willing to accede to their wishes. Only where there is uniformity of opinion that the treatment sought deviates from accepted standards of practice, will the wishes of the family remain unfulfilled. Certainly, when all physicians agree, neither courts, government bureaucrats or insurance companies should reverse those decisions.

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