



## **Religiously-based Restrictions on End-of-Life Care Options: Will the Terri Schiavo Case Change Patients' Rights?**

***What has the Terri Schiavo case shown Americans about the potential influence of religious conservatives on patients' end-of-life care decisions?***

In a very dramatic way, the Terri Schiavo "right-to-die" case has illustrated the growing political influence of religious conservatives in asserting a "right to life" at the end of life.

Although they ultimately were rebuffed by the courts, religious conservatives succeeded in an unprecedented bid to involve Congress and the President in a family dispute over whether Terri Schiavo should be permitted to die, as her husband says would have been her wish. According to *The New York Times*, the case has united conservative Roman Catholics and Christian evangelicals behind Pope John Paul II's "culture of life" agenda.<sup>1</sup> Now, these same allies are reported to be urging the passage of federal and state laws that would prevent the withdrawal of artificial nutrition and hydration in cases like that of Terri Schiavo.<sup>2</sup>

***What has been the position of the Catholic Church on the Schiavo case?***

The Schiavo case has prompted increasingly conservative statements from the Catholic Church's hierarchy on the issue of whether artificial nutrition and hydration (feeding tubes) can be refused or withdrawn when a patient is in what is referred to as a persistent vegetative state. Catholic Bishops in Florida (where the Schiavo case has taken place) initially resisted making any statements about the case, but did indicate it would not violate Catholic teaching if artificial nutrition and hydration were discontinued for a proper intent.<sup>3</sup> The United States Conference of Catholic Bishops also seemed to resist making any absolute pronouncements.

As the situation progressed, however, the Vatican stepped in. Monsignor Elio Segreccia, Vatican spokesperson on bioethical issues, said withdrawing Schiavo's feeding tube would be a direct act of euthanasia. Segreccia explained the decision to comment directly on the Schiavo case on a March 11 Vatican radio broadcast, saying "Silence in this case would be interpreted as approval, with consequences that would go widely beyond the

individual case.” In the broadcast he noted that Church teaching does not require continuation of “extraordinary” medical care, but that feeding tubes and respiration are “ordinary” and must be provided.<sup>4</sup>

Catholic Bishops in the United States also began to offer opinions on the Schaivo case. On February 28, 2005, the Florida Catholic Bishops released a statement: “We pray that Terri Schindler Schiavo's family and friends, and all who hold power over her fate, will see that she continues to receive nourishment, comfort and loving care.”<sup>5</sup> Similarly, Cardinal Keeler, chairman of the U.S. Bishops’ Committee for Pro-Life Activities, seemed to back off from a policy that would allow for the withdrawal or refusal of life-sustaining treatment and instead described artificial nutrition and hydration as “basic care and assistance in obtaining food and water.” The statement ended with an expression of gratitude “to President Bush, members of Congress and public officials in Florida for their efforts to give her a chance to live.”<sup>6</sup>

***Do these statements represent a change from what has been the policy at Catholic hospitals and nursing homes in the United States?***

Yes. These statements appear to indicate there may be changes forthcoming in how Catholic hospitals and nursing homes apply what are known as the *Ethical and Religious Directives for Catholic Health Care Services (Directives)*, which are issued by the United States Conference of Catholic Bishops.

The Catholic Health Association (which represents more than 600 Catholic hospitals and nursing homes in the United States) has held the position that decisions to forego artificial nutrition and hydration can be permissible in certain circumstances. On March 18, 2005, the organization issued a statement that, while not commenting directly on the Schiavo case, said basic measures such as artificial nutrition and hydration can “cease to be morally obligatory, because they become useless or unduly burdensome for the patient.” The statement cautioned, however, that feeding tubes cannot be removed if the intent is to cause death.<sup>7</sup>

The *Directives* speak of respecting the dignity of the person, and reflect the fact that death is an inevitable part of being human. They acknowledge it is morally legitimate for a patient or a designated person acting on the patient’s behalf, with the authority of a health care proxy and advance directive, to decline medical treatment when it is medically futile. The *Directives* also make clear that a Catholic institution “will not honor an advance directive that is contrary to Catholic teaching” (Directive # 24), and will not engage in assisted suicide or euthanasia.

The *Directives’* guidance on forgoing life-sustaining treatment states that a person “has a moral obligation to use ordinary or proportionate means of preserving his or her life,” (Directive #56) and “A person may forgo extraordinary or disproportionate means of preserving life. Disproportionate means are those that in the patient’s judgment do not offer a reasonable hope of benefit or entail an excessive burden, or excessive expense on the family or community.” (Directive #57).

The *Directives* treat artificial nutrition and hydration differently than other medical treatments and indicate that in some situations it would not be permissible to refuse artificial nutrition and hydration: “There should be a presumption in favor of providing nutrition and hydration to all patients, including patients who require medically assisted nutrition and hydration, as long as this is of sufficient benefit to outweigh the burdens to the patient.” (*Directive #58*) This language makes it hard to specify with any certainty when a patient’s wish to forego life-sustaining care might be rejected.

Despite the somewhat ambiguous language in the *Directives*, the Catholic Health Association has repeatedly asserted that the end-of-life policies at Catholic hospitals and nursing homes are no different than those found at non-sectarian health facilities. In fact, patients may sometimes encounter refusals of end-of-life decisions at nonsectarian hospitals. For example, a hospital may challenge a decision to forego life-sustaining care if there is a dispute about the patient's wishes or medical condition, as the Schiavo family has attempted to raise in that case.

However, the difference with Catholic hospitals is that the patient’s wishes may not be honored because of a conflict with religious doctrine. The potential for this conflict to occur is suggested in the language often found in health care proxy materials distributed by Catholic hospitals, stating that the hospital “will not honor an advance directive that is contrary to Catholic teaching.” Unfortunately, that statement is so vague as to provide little guidance for a patient or a patient’s designated surrogate.

Catholic teaching on decisions for patients such as Terri Schiavo was explained by the Florida Catholic Conference in a 2003 statement that said:

“Church teaching is clear that there should be a presumption in favor of providing medically assisted nutrition and hydration to all patients as long as it is of sufficient benefit to outweigh the burdens involved to the patient.

The Church cannot make this decision, but her teaching guides those who must: the patient or those legally entitled to do so if the patient is unable. If Mrs. Schiavo’s feeding tube were to be removed because the nutrition she receives is of no use to her, or because she is near death, or because it is unreasonably burdensome for her, her family, or caregivers, it could be seen as permissible.”<sup>8</sup>

The non-interference policy that most Catholic hospitals and nursing homes have apparently applied toward honoring advance directives may soon face challenges. Statements the Vatican has made about the Schiavo case could signal the start of a “crackdown” on end-of-life issues, similar to one that forced the U.S. Catholic Bishops in 2001 to adopt stricter policies on sterilization services.

***Was this shift in Catholic policy prompted by the Schiavo case? Or were there earlier signs of changing doctrine?***

The first indication that official Catholic policies on end-of-life care might be shifting occurred in March of 2004, when the Pope issued a statement (called a Papal allocution) saying it is “morally obligatory” to continue artificial nutrition and hydration for patients in a persistent vegetative state.<sup>9</sup>

According to Richard Doerflinger, vice president of the Pro-Life Secretariat of the U.S. Conference of Catholic Bishops, the Papal allocution clarified Catholic doctrine on removing feeding tubes, which had previously been unclear enough that patients could refuse life-sustaining care without committing a sin. Doerflinger said he feels the Papal allocution made clear that refusing or removing feeding tubes violates Catholic doctrine. However, other Catholic ethicists disagree and say they feel the allocution only narrowed the circumstances under which it is permissible to forego feeding tubes.<sup>10</sup>

The impact of the Papal allocution on policies at Catholic hospitals and nursing homes was not immediately apparent. The Catholic Health Association issued a statement that said, in part, “...the guidance contained in his remarks has significant ethical, legal, clinical, and pastoral implications that must be carefully considered, especially with regard for those patients who are not in a persistent vegetative state. This will require dialogue among sponsors, bishops and providers... We assume that the guidance contained in the current *Ethical and Religious Directives for Catholic Health Care Services* ... remains in effect.”<sup>11</sup>

Although little follow-up information has been provided to the general public, the potential that the Vatican may be considering a change in end-of-life policies appears to be causing real concern among administrators of Catholic-sponsored hospitals. A report on a survey of these administrators conducted by the Catholic Health Association noted that respondents cited the March 2004 Papal allocution as one of the challenges they expect to face in the future.<sup>12</sup>

***The Catholic hierarchy’s opposition to withdrawal of feeding tubes in the Schiavo case appears to rest on the notion that such an act would be equivalent to euthanasia. Does the law also equate refusal or withdrawal of feeding tubes with euthanasia, which is illegal?***

It has been well accepted in U.S. law and in American medical societies that artificial nutrition constitutes medical treatment, or “extraordinary” care—as opposed to “ordinary” care. Catholic health care institutions have in the past appeared to have generally embraced this view. The Catholic Church hierarchy seems to be moving away from that view, if statements made about the Schiavo case can be looked upon as reliable indicators.

## Endnotes

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<sup>1</sup> Goodstein, L., "Schiavo Case Highlights Catholic-Evangelical Alliance, *The New York Times*, March 24, 2005.

<sup>2</sup> Stolberg, S.G., "Congress Ready to Again Debate End-of-life Issues," *The New York Times*, March 27, 2005

<sup>3</sup> See for example, August 27, 2003 statement issued by Florida Catholic Conference.

<sup>4</sup> Alessandra Rizzo, "Vatican calls for keeping Schiavo alive," March 21, 2005, The Associated Press.

<sup>5</sup> "Bishops express continued concerns for Terri Schiavo," statement of Florida Catholic Bishops, published in *The Florida Catholic*.

<sup>6</sup> "Cardinal Keeler Says Terri Schiavo Deserves Basic Care," US Conference of Catholic Bishops, March 24, 2005.

<sup>7</sup> "Catholic Health Association of the United States Statement in Regards to Ethical Issues Raised by the Terri Schiavo Situation," Catholic Health Association News Release, March 18, 2005.

<sup>8</sup> "Florida Bishops Urge Safer Course for Schiavo," Florida Catholic Conference, August 27, 2003.

<sup>9</sup> "Address of John Paul II to the Participants in the International Congress on 'Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas'," March 20, 2004, available from: [www.vatican.va/holy\\_father/john\\_paul\\_ii/speeches/2004/march/documents/hf\\_jp-ii\\_spe\\_20040320\\_congress-fiamc\\_fr.html](http://www.vatican.va/holy_father/john_paul_ii/speeches/2004/march/documents/hf_jp-ii_spe_20040320_congress-fiamc_fr.html).

<sup>10</sup> Manuel Roig-Franzia, "Catholic Stance on Tube-Feeding Is Evolving," *The Washington Post*, March 27, 2005.

<sup>11</sup> Catholic Health Association News Release, "Catholic Health Association of the United States Statement on the Papal Allocution on Persistent Vegetative State," April 1, 2004.

<sup>12</sup> Alan Zuckerman, "Catholic Health Care's Future," *Health Progress*, March-April 2005.