

Virtual Mentor

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Op-ed

The Catholic Health Association's response to the papal allocation on artificial nutrition and hydration

by Ron Hamel, PhD

Pope John Paul II's allocation on "Care for Patients in a 'Permanent' Vegetative State" sent shock waves through the Catholic health care system in the United States when it was released on March 20, 2004. It was probably not the practical import of the pope's comments that created such consternation, for persistent vegetative state (PVS) is not a common condition, and most patients in PVS are probably not in Catholic health care facilities. What was most disturbing was that the allocation seemed to reflect a change in church teaching about ordinary and extraordinary means of caring for the dying (now commonly referred to as proportionate and disproportionate means), which had remained consistent for over 500 years. The logic of the pope's statements could be applied beyond patients in PVS to all patients as, in fact, several bishops and others have proposed since the allocation. Such a development could have a devastating effect on end-of-life care in Catholic health care facilities.

The Catholic Health Association of the United States (CHA) has no jurisdiction over Catholic health care organizations; membership in the organization is voluntary. It is, however, looked to by system and facility members for guidance, and that was surely the case after the papal speech. After a group of theologians and ethicists completed a thorough analysis of the allocation, its possible meanings and its potential implications, the CHA issued a brief statement to its members indicating that there was a lack of clarity in the allocation, that it required further study, and that, in the meantime, Catholic health care facilities should continue to follow Directives 56, 57 and 58 of the *Ethical and Religious Directives for Catholic Health Care Services* (a document first issued in 1971 by the United States Conference of Catholic Bishops [USCCB] and approved by the Vatican's Congregation for the Doctrine of the Faith [CDF] for guiding the practice of Catholic health care facilities) [1].

Directives 56 and 57 define ordinary (or proportionate) and extraordinary (or disproportionate) care for the dying and clearly reflect the long-standing tradition and teaching on this subject. Directive 58 applies the definitions from Directives 56 and 57 to artificial nutrition and hydration (ANH). In brief, Directive 58 says that there should be a presumption in favor of providing nutrition and hydration as long as "this is of sufficient benefit to outweigh the burdens involved to the patient" [2]. By contrast, the pope's allocation claimed that ANH was "normal care" and hence not subject to the weighing of benefits and burdens.

On what grounds could the CHA take the position of deferring to the directives rather than encouraging its members to immediately adhere to the stipulations of the 2004 allocution? The allocution was, after all, papal teaching. While all papal teaching is important, it does not all have the same weight. The pope makes dozens of speeches per week, virtually all of them expressing views and sentiments on particular issues, but they are not intended as infallible or definitive teachings. In fact, allocutions are among the least authoritative of papal statements. Other statements have more authority, with the culmination of authority coming in papal encyclicals and infallible pronouncements (which are few). Within the church, teachings with different levels of authority require different types of responses. What kind of response is due by Catholics to a papal allocution?

In ecclesiastical language, a papal allocution requires “religious submission of will and mind” [3]. What this means is that one must give very serious attention to the teaching and must receive the teaching with an openness that is ready and willing to make the teaching one’s own. Essentially, this means having a presumption in favor of the teaching, rather than in favor of other positions. Therefore the burden of proof is on the person who would challenge the presumption, and the presumption holds unless there are substantial reasons to override it.

What were the “substantial reasons” that overrode the presumption in favor of this 2004 allocution on care of patients in PVS? First, the allocution did not have the weight or authority of other types of teaching. In 1980, the Congregation for the Doctrine of the Faith (CDF) issued the *Declaration on Euthanasia* in which it affirmed the principle of proportionate/disproportionate means as it had been traditionally understood. A declaration from the CDF has more authority than an allocution. The *Declaration on Euthanasia* was not rescinded before, during or after the papal allocution. It continued to be normative for the church. Although they had less authority than the Declaration on Euthanasia, the *Ethical and Religious Directives* (approved by the CDF) were not rescinded or altered. So traditional church teaching on proportionate and disproportionate care for the dying remained normative, even after the allocution.

Second, the papal allocution seemed to alter the traditional teaching of the church by stipulating that a particular means, i.e., artificial nutrition and hydration, was “normal care” and “a natural means of preserving life, not a medical act,” and, therefore, morally obligatory, independent of an assessment of benefits and burdens to the patient, the patient’s family and the community. In the Catholic tradition, no means was said to be ordinary or extraordinary in the abstract, apart from a consideration of the benefits and burdens of the means upon the patient as judged by the patient or the patient’s surrogate [4]. If Pope John Paul II was intending to alter or revise 500 years of teaching on such a significant matter, it seemed odd to CHA staff that he would choose to do so in an ordinary speech to a group of conference participants and not acknowledge that this was a revision or a development of church teaching.

Third, and related to the above, the position which the pope articulated not only seemed to alter longstanding church teaching, it also reflected a minority position within the Catholic theological community, one which seemed to be at variance with traditional teaching. The allocution was not the first time that the pope had stated that position—he had done so in remarks during one of his visits to the United States. Nor was he the first to express the position. It was articulated by several Vatican advisory bodies in 1981, 1985 and 1995 [5]. In 1992, the Committee on Pro-Life Activities of the United States Conference of Catholic Bishops issued a document called “Nutrition and Hydration: Moral and Pastoral Reflections” in which the position was advocated [6]. It was also espoused by a few State Catholic Conferences over the years [7]. Nonetheless, it has been and continues to be a minority position. This is not to say that the majority rules or that the position is wrong, but in this case the majority position has 500 years of tradition behind it and, if a change is warranted because of technological and social developments, it needs to be carefully debated and argued. To date, this has not occurred.

Fourth, the circumstances surrounding the allocution raised some doubts about the degree to which the position reflected the pope’s own thinking. The pope’s speech came at the end of a conference entitled “Life-Sustaining Treatments and Vegetative State: Scientific Advances and Ethical Dilemmas,” sponsored by the World Federation of Catholic Medical Associations and the Pontifical Academy for Life. The leaders of these organizations and a vast majority of conference speakers and participants reflected prolife views to the far right of center. One viewpoint dominated the conference, and there was little opportunity for the expression of alternative views or for honest dialogue and debate. The conclusions and recommendations were announced to the press the day before the conference began [7]. At the time (one year before his death) the pope was suffering from end-stage Parkinson’s and was extremely frail. These circumstances made it difficult to feel confident that this papal speech came out of a long and careful study and consultation process.

Finally, and surely no less important, many of the more scientific claims within the allocution fly in the face of medical and scientific literature and the current consensus among clinicians regarding persistent vegetative state. Furthermore, these claims were not substantiated by references to the literature.

In light of these considerations, it seemed reasonable to encourage Catholic health care organizations to continue as they had been until there was clarification by appropriate authorities, while taking very seriously the many positive aspects of the allocution. To date, there has been no clarification of the allocution by the CDF or the USCCB, nor did Pope John Paul II repeat the content of the allocution. Neither has the current pope, Benedict XVI, made any statements on the topic despite opportunities to do so. The concerns behind the papal allocution were and remain legitimate. Altering church teaching, however, may not be the best means to address them and may well have many harmful unintended consequences. Perhaps the lack

of clarification over these three years indicates that the church's position is being re-evaluated and that approaches to the challenges the allocution sought to address are being explored.

Notes and references

1. United States Conference of Catholic Bishops. *Ethical and Religious Directives for Catholic Health Care Services*. 4th ed. Washington, DC: USCCB; 2001. <http://www.usccb.org/bishops/directives.shtml>. Accessed April 16, 2007.
2. United States Conference of Catholic Bishops, Directive 58.
3. See Cronin DA. The moral law in regard to the ordinary and extraordinary means of conserving human life. In: Smith RE, ed. *Conserving Human Life*. Braintree, MA: National Catholic Bioethics Center; 1989:90-92. Cronin's doctoral dissertation, which is included in the book edited by Russell Smith, is the most comprehensive discussion of the Catholic tradition on the duty to prolong life and its limits.
4. See Pontifical Council *Cor Unum. Question of Ethics Regarding the Fatally Ill and the Dying*. Vatican City: Vatican Press; 1981:20-23. http://www.academiavita.org/template.jsp?sez=DocumentiMagistero&pag=pontifici_consigli/mal_mor/mal_mor&lang=english. Accessed April 13, 2007; See also Pontifical Academy of Sciences.; The artificial prolongation of life. *Origins*. 1985;15:415; Pontifical Council for Pastoral Assistance to Health Care Workers. *Charter for Health Care Workers*. Vatican City: Vatican Press; 1995.
5. United States Council of Catholic Bishops Committee on Pro-Life Activities. Nutrition and hydration: moral and pastoral reflections. *Origins*. 1992;21:705-712.
6. New Jersey Catholic Conference. Friend of the Court Brief: On Withdrawing Food and Fluids from Brain-Damaged Patients. *Origins*. 1987;16:582. See also: Bishop James McHugh. Principles in regard to withholding or withdrawing artificially assisted nutrition and hydration. *Origins*. 1989;19:314-316. In addition see, Pennsylvania Bishops. Nutrition and hydration: moral considerations. *Origins*. 1992;21:542-553.
7. Wooden C. Vatican bioethicist: All patients have right to hydration, nutrition. Catholic News Service: March 16, 2004. See also, Vatican Information Service, International Congress on Vegetative State. March 16, 2004.

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