North Coast Physician

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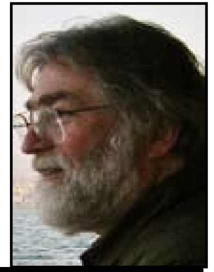
The Catholic Health Care Directives: Religious Tyranny or Religious Freedom?



Scott Sattler , M.D.

Catholic Health Care systems are expanding at a rapid rate in this country. There are now 56 separate entities that manage 629 Catholic Hospitals. One in six patients in the United States is cared for in a Catholic hospital. More than 5.5 million patients are admitted to these hospitals annually. They employ more than 640,000 full-time staff, accounting for 17% of all hospital staff in the United States. Catholic health care systems are active in all 50 states, providing acute hospital care, skilled nursing, hospice care, home health, assisted living and senior housing. Nearly one third of these facilities (32%) are located in rural areas.

Since 1994 the United States Conference of Catholic Bishops (USCCB) has meticulously regulated the delivery of healthcare throughout the entire Catholic system. Their Ethical and Religious Directives for Catholic Health Care Services define their policies, and the USCCB enforces this document through each diocesan bishop, who carries the ultimate authority and decision-making control regarding the services and care allowed in each diocesan hospital. The fifth edition of these directives issued in November 2009 is the latest. This 43-page document contains 72 specific directives and supplemental theological explanatory material.

Many Catholics and most practitioners of other faiths do not know that these directives even exist, let alone understand the scope of the restrictions that they impose upon patients, staff and employees of these health systems. Since the impact of these directives greatly effects end-of-life care, women in reproductive crisis and insurance coverage for all employees of Catholic system institutions, I urge you as physicians to familiarize yourselves with the Directives so that you may inform your patients and the community as to their content and impact.

Here are a few highlights from the current Directives. The bold captioning is mine. The quotations are taken directly from the numbered Directives.

<u>**General Directive:**</u>

All employees must adhere to the Directives regardless of their personal faith tradition and conscience:

9. "Employees of a Catholic health care institution must respect and uphold the religious mission of the institution and adhere to these Directives."

<u>**Directives regarding End-of-Life Care:**</u>

The Catholic institutional authority has the right not to honor an individual's advanced directives for health care (e.g. their Living Will) if they deem it contrary to Catholic teaching.

24. "In compliance with federal law, a Catholic health care institution will make available to patients information about their rights, under the laws of their state, to make an advance directive for their medical treatment. The institution, however, will not honor an advance directive that is contrary to Catholic teaching."

All health care decisions made by a legally designated surrogate must comply with Catholic moral principles.

25. "Each person may identify in advance a representative to make health care decisions as his or her surrogate in the event that the person loses the capacity to make health care decisions. Decisions by the designated surrogate should be faithful to Catholic moral principles."

The informed healthcare decisions of the patient or their legal surrogate will not be followed if deemed to be in conflict with Catholic principles.

28. "Each person or the person's surrogate should have access to medical and moral information and counseling so as to be able to form his or her conscience. The free and informed health care decision of the person or the person's surrogate is to be followed so long as it does not contradict Catholic principles."

Patients are deemed to have a moral obligation to preserve their lives.

56. "A person has a moral obligation to use ordinary or proportionate means of preserving his or her life."

Healthcare institutions are obligated to provide medically assisted nutrition and fluid therapy for patients, including those in a persistent vegetative state.

58. "In principle, there is an obligation to provide patients with food and water, including medically assisted nutrition and hydration for those who cannot take food orally. This obligation extends to patients in chronic and presumably irreversible conditions (e.g., the "persistent vegetative state") who can reasonably be expected to live indefinitely if given such care."

It has been shown that the use of chronic feeding tubes in patients with advanced

dementia adds to the physical discomfort of the patient and does not prolong life. The Supreme Court has ruled that artificial nutrition and hydration constitute a form of medical care, and are not obligatory.

Catholic moral teaching trumps the patient's personal end-of-life requests.

59. "The free and informed judgment made by a competent adult patient concerning the use or withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching."

<u>Directives regarding reproductive emergencies:</u>

Provision of, or referral for emergency contraception for sexual assault victims is not made available in over half of Catholic hospitals.

36. "Compassionate and understanding care should be given to a person who is the victim of sexual assault. Health care providers should cooperate with law enforcement officials and offer the person psychological and spiritual support as well as accurate medical information. A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum."

While this directive technically allows emergency contraception (EC) in sexual assault cases, many Catholic hospitals simply refuse to comply with this basic standard of medical care. The 'morning after pill' works by delaying the ovary's release of an egg and possibly by thickening cervical mucus and thus preventing the sperm from joining the egg. It will not terminate an established pregnancy. Despite this, a 2004 study of 597 Catholic hospitals found that 55% stated that they would not dispense EC, even in cases of sexual assault.

Termination of ectopic pregnancies is banned.

48. "In case of extrauterine pregnancy, no intervention is morally licit which constitutes a direct abortion."

Ectopic pregnancy occurs at a rate of 20 cases per 1,000 pregnancies and is a leading cause of maternal mortality in the first trimester. Essentially all extra-uterine pregnancies are non-viable. Such pregnancies threaten the lives and compromise future fertility of the pregnant woman if they are not promptly diagnosed and treated, for 95% of these pregnancies occur in the fallopian tubes. The international medical standard of care calls for terminating the unviable pregnancy as soon as possible. To the USCCB this action constitutes a direct abortion and it is banned. A 2011 study conducted by Ibis Reproductive Health and reported by the National Woman's Law Center assessed policies and practices regarding ectopic pregnancy and miscarriage management in facilities operating under the Ethical and Religious Directives. Their report adds to the growing evidence that the application of these directives has been used "to prohibit prompt, medically-indicated treatment of miscarriage and ectopic pregnancy, placing women's lives and health at additional and unnecessary risk, and violating the laws intended to protect patients from such serious lapses in care."

<u>Directives regarding Family Planning:</u>

All abortion is banned, from the first moment of conception.

45. "Abortion (that is, the directly intended termination of pregnancy before viability or the directly intended destruction of a viable fetus) is never permitted. Every procedure whose sole immediate effect is the termination of pregnancy before viability is an abortion, which, in its moral context, includes the interval between conception and implantation of the embryo."

In vitro fertilization is banned.

39. "Those techniques of assisted conception that respect the unitive and procreative meanings of sexual intercourse and do not involve the destruction of human embryos, or their deliberate generation in such numbers that it is clearly envisaged that all cannot implant and some are simply being used to maximize the chances of others implanting, may be used as therapies for infertility."

Artificial insemination with donor eggs or sperm is banned.

40. "Heterologous fertilization (that is, any technique used to achieve conception by the use of gametes coming from at least one donor other than the spouses) is prohibited."

Artificial insemination within the marriage relationship is banned.

41. "Homologous artificial fertilization (that is, any technique used to achieve conception using the gametes of the two spouses joined in marriage) is prohibited when it separates procreation from the marital act in its unitive significance (e.g., any technique used to achieve extracorporeal conception)."

Surrogate motherhood is banned.

42. "Because of the dignity of the child and of marriage, and because of the uniqueness of the mother-child relationship, participation in contracts or arrangements for surrogate motherhood is not permitted."

<u>Directives, Cont. Page 21</u>

"HEALTHCARE FOR ALL" MEETING WITH SHANNON MILLER - CHAIR STATE HCA

CORINNE FRUGONI, M.D.

On Jan. 28, Shannon Miller, chair of Healthcare for All, came to Humboldt County, and spoke to an interested audience of eighteen people at a local coffee house. HCA is a citizen's group lobbying for Single Payer Health Care in California. PNHP-California and HCA work together to educate and mobilize the people of California in support of Single Payer Health Care. HCA emphasizes a non-partisan educational strategy, which is aimed at future legislation.

Ms. Miller's presentation began with a review of strategies including an overview of legislative approach versus a ballot initiative to implement Single Payer for California.

Many chapters of HCA are showing the film "The Healthcare Movie," as an educational strategy. This documentary, narrated by Kiefer Sutherland, compares the Canadian health care system with that of the United States. It addresses the continuing struggle, particularly in the U.S., between the fear of government intervention and the right to healthcare for all people. The Contra Costa HCA chapter paid $100 for a screening license and is showing the film 2-3 times a month at various venues. One of the members of the local chapter of PNHP also has a copy of the film and plans to show the film in conjunction with the local chapter of HCA.

As part of the educational strategy, it is important that the public recognize the difference between the Affordable Care Act (frequently referred to as "Obamacare") and Single Payer. Shannon emphasized that it is crucial that Single Payer is not equated with the ACA so that frustrations with one do not pollute the other.

Shannon reviewed what is positive about the ACA. It does expand coverage and it covers more people. However, in the year 2019, when the ACA is completely implemented, there will still be 3 million people without any coverage and another 3 million inadequately covered in California. Also, the majority of Californians will be paying more for less than optimal healthcare coverage.

For Single Payer to happen in California, legislation will be needed, although this may not happen in 2013. A previous sponsor of Single Payer legislation, Sheila Kuehl, has characterized this legislature as "very different" from previous legislatures.

Shannon and other Single Payer advocates, including PNHP California, have been actively trying to recruit an assembly member to sponsor a bill. Pushing for an Assembly bill, even if it doesn't pass, is a tool to mobilize public opinion. "We will know the author in the next month, we are actively recruiting," Shannon reported.

It will take some courage for a new assembly member to sponsor a bill introducing Single Payer because the Democratic Party machine is invested in proving that the ACA works, and California will be the first state to fully implement it. Governor Jerry Brown is likewise committed to insuring that the ACA will work. We need a brave Democrat assembly member who recognizes that California will implement ACA, but who also believes in Single Payer as the logical and necessary next step, because it will cover all Californians and provide more services at less cost.

The ACA allows for states to implement their own plans but mandates that states must wait until 2017.

Shannon reported that she did not believe that legislation would be passed the 2013 session. The current chair of the Assembly Health Committee, Dr. Richard Pan, a pediatrician, opposes Single Payer.

Following Shannon's presentation, the audience asked questions.

Q. How is the ACA going to affect Vermont?
A. Green Mountain Healthcare currently uses Blue Cross to provide insurance to Vermont citizens. One can look at Green Mountain Healthcare as a version of the public option that was in the original ACA, but cut. In 2017, the ACA ERISA waivers will be implemented allowing Green Mountain Healthcare to substitute Blue Cross with a true nonprofit insurance system.

Q. What about costs of Single Payer?
A. Currently health care costs are $8000 per person in United States for limited coverage. In Canada, health care costs are $4000 per person providing exemplary coverage for all.

The State of California is the single largest purchaser of insurance, because they cover the insurance costs of pensioners as well as for State Employees' health coverage costs. It was estimated five years ago that Single Payer would save over $10 billion in the first year of implementation, and that figure is likely much more now.

Q. What happened with SB 810?
A. When Governor Schwarzenegger was in office, some Democrats may have voted for

810 believing that it wouldn't pass.

Q. What is good about the ACA?
A. (1). The ACA introduced the debate at a national level of the concept of Single Payer. (2). Most Americans don't feel they deserve health care unless they pay for it. Americans believe the ACA provides for universal coverage (even though it doesn't). With the ACA, the concept of universal coverage will become familiar. The seed will have been planted.

Q. How will Single Payer be financed?
A. SB 810 was a policy bill, not a finance bill. However, SB 810 mandated a commission be set up to figure out how to finance the bill. This Premium Commission would decide the premium rates.

Shannon then went on to say that there are other states working on setting up a Single Payer Health Care system, but when California implements Single Payer, the rest of the nation will follow as it is the most populous state.

Q. Is a fiscal study required to convince potential sponsors of a Single Payer bill?
A. Cynics and Opponents of Single Payer quote the need for a fiscal study. Shannon replied that "not voting for the bill because of a fiscal study is just an excuse."

Q. Where does Governor Brown stand?
A. Governor Brown initially said that if he got a lot of pressure, he would have signed Single Payer legislation, but now he does not support Single Payer because he is focused on implementation of the ACA.

Q. How does Single Payer save money?
A. (1). Reduces administrative costs by 30%

(2). Provides for bulk drug purchases

(3). Eliminates for-profit insurance corporations' exorbitant CEO salaries and shareholder dividends.

(4). Reduces the ratio of insurance billers to medical providers. [Current ratio is 2:1, billers to physicians]

(5). Reduces duplication of services.

(6). Reduces redundant care.

(7). Encourages a more uniform electronic record-keeping

Q. How can the public be convinced that "Medicare for All" is beneficial when attitudes toward Medicare are sinking?
A. Medicare is being demonized for issues which have nothing to do with Single Payer. Single Payer is an improved version of Medicare, covering everyone, with comprehensive healthcare including medications.

At the end of the session, Shannon described herself as hopeful stating, "I can prove I am an optimist because I work for Single Payer."

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Directives, Cont. FROM Page 5

Promoting or condoning contraceptive practices outside 'natural family planning' is banned.

52. "Catholic health institutions may not promote or condone contraceptive practices but should provide, for married couples and the medical staff who counsel them, instruction both about the Church's teaching on responsible parenthood and in methods of natural family planning."

Direct sterilization, whether temporary or permanent, of either men or women, is not allowed.

53. "Direct sterilization of either men or women, whether permanent or temporary, is not permitted in a Catholic health care institution. Procedures that induce sterility are permitted when their direct effect is the cure or alleviation of a present and serious pathology and a simpler treatment is not available."

Many women who have all the children they desire choose to have their fallopian tubes tied following what they hope will be their final pregnancy. For those having their child by Caesarean section, the post-partum tubal ligation is simple, safe and easily performed at the time of the C-section. Bishop Robert Vasa (pronounced "Vasha") of Santa Rosa no longer allows this procedure to be done at St. Joseph or Redwood Hospitals. Also, since the St. Joseph Health System is self-insuring, the cost of having any procedure done at an 'out of system' hospital can be prohibitive for SJHS employees. There are nearly 1,400 individuals working for SJHS, making it one of the largest employers in the county and the largest private employer in Eureka.

All ethical decisions in Catholic healthcare institutions may be discussed in an ethics committee, but the final disposition lies solely in the hands of the diocesan bishop.

37. "An ethics committee or some alternate form of ethical consultation should be available to assist by advising on particular ethical situations, by offering educational opportunities, and by reviewing and recommending policies. To these ends, there should be appropriate standards for medical ethical consultation within a particular diocese that will respect the diocesan bishop's pastoral responsibility as well as assist members of ethics committees to be familiar with Catholic medical ethics and, in particular, these Directives."

Summary:

For over 100 years the Sisters of St. Joseph have served the population of Humboldt County selflessly, with great love and compassion. They have gone out into the neighborhoods, seen what the needs were, and met them as best they could. I have watched them do this for almost 40 years. I've heard nothing from the nuns on this matter, but I can't help but feel that the imposition of these Ethical Directives upon staff and patients simply does not jibe with the benevolent history of their order. Demanding that others surrender their personal values and forswear their consciences cannot possibly mirror the Sisters' values of dignity, service, excellence or justice. There is great sadness in this, and there is great sadness that, for everyone's sake, we physicians must warn our patients and our communities about the changes that this institution and its sister institutions across the land have undergone.

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1 Source references available on request.
2 http://www.usccb.org/about/doctrine/ethical-and-religious-directives/
3 NEJM Vol. 342:206-210. Jan 20, 2000.
4 Annals of Emergency Medicine, Volume 46, Issue 2, August 2005, pp. 105-110.
5 Am Fam Physician. 2000 Feb 15;61(4):1080-1088.
6 http://www.nwlc.org/resource/below-radar-fact-sheet-religious-refusals-treat-pregnancy-complications-put-women-danger

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Public Health, Cont. From Pg. 13

• Injury prevention programs, such as buckle-up program, instruct parents on how to properly install car safety seats for their children. County public health promotion staff also work with community organizations and senior groups to offer exercise classes to increase seniors' flexibility and stability to prevent falls, a leading cause of serious injury for older adults.

PROTECT THE HEALTH OF THE COMMUNITY

Routine inspections by county environmental health inspectors to protect restaurant diners from food poisoning, swimmers from disease and provide a safe environment for all residents. Local environmental health staff:

• inspect and permit restaurant and food establishments, multiple housing units, hazardous materials storage facilities, wells, septic tanks and community swimming pools.

• oversee the clean-up of ground water and property from hazardous material releases.

• monitor solid waste transfer and disposal facilities. Monitor conditions at creeks, lakes and lagoons and beaches to be sure they are safe for recreational use.

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