

Nutrition, Hydration Considered Ordinary Basic Care

By Peter Finney Jr.

In a joint statement 10 years ago, Louisiana's Catholic bishops made it clear that providing nutrition and hydration to persons in a "permanent vegetative state" normally should be considered as basic care and not as extraordinary medical treatment.

In March 2004, speaking to participants in an international congress on the "persistent vegetative state," Pope John Paul II issued an explicit statement on the moral obligation to provide food and water for such patients.

The death of Terri Schiavo, a brain-damaged Florida woman, who died March 31, 13 days after the courts ordered her removal from a feeding tube that was her only source of nutrition and water, has ignited an intense national ethical debate about end-of-life issues.

The debate is important in Louisiana because state law considers medically assisted nutrition and hydration through a feeding tube as medical treatment.

In their 1995 statement "Approaching Death: The Moral Choices," Louisiana's bishops said the state's characterization of medically assisted nutrition and hydration as medical treatment would thus allow the feeding tube to be removed from a patient under "the same circumstances and considerations which are involved in deciding whether other medical means of supporting life can be terminated."

Father José Lavastida, academic dean of Notre Dame Seminary and a moral theologian, said "the big change" outlined by the pope in his 2004 allocution to Catholic health care professionals "is that the persistent vegetative state is not considered a terminal condition."

"**IN THE** case of Terri Schiavo, there was a brain handicap, but all of her systems were functioning," Father Lavastida said. "She should be dealt with as a mentally impaired person, but certainly as no less than any other member of the human family. So when it comes to providing ordinary care, feeding and hydration, even if artificially provided, is still seen within what should have been provided.

"The persistent vegetative state is not a terminal illness. The pope made it clear that PVS patients are to receive nutrition and hydration as long as it continues to be a benefit to them to accept food and absorb it."

Father Lavastida said the pope's allocution was the church's clearest directive about end-of-life issues, but he expects the debate to continue and conclude with "a more official document from the Holy See."

There is a presumption in favor of providing nutrition and hydration" for persons without imminently "terminal and irreversible" illnesses, Father Lavastida said.

FATHER Lavastida stressed that the church does not insist that persons with imminently “terminal *and* irreversible” illnesses be forced to continue extraordinary medical treatment. He said the key word is “and,” which means both conditions have to be met.

“The church is not saying that everyone needs to be intubated,” Father Lavastida said. “If there is a terminal and irreversible pathology, the church is very clear there is no need to do anything that would be a burden to the person. People do not need to fear that they would die intubated. People are terrified about dying with tubes.”

Father William Maestri said it was clear that in the Schiavo case, there was no underlying pathology that would have caused her death. “What made her terminal was the failure to feed and hydrate, Father Maestri said. “If none of that was done, she would have remained alive to be take care of by her parents who loved her and wanted to take care of her. She didn’t have a raging cancer or a terrible injury.”

Father Maestri also made a careful distinction of how the cases of terminal ill patients can be handled in a moral manner. “We have to be careful to avoid two extremes,” Father Maestri said. “There is medical pessimism, which says that any life which becomes a burden should be eliminated. Then there is medical vitalism, which says that life must be preserved at all costs. The Catholic tradition has always walked a middle road. When death is imminent and when a treatment becomes useless in terms of helping, then that person is no longer required to avail himself of that treatment. And that is on a case-by-case judgment.”

LOCAL catholic attorney Dorinda Bordlee, executive director of the national Bioethics Defense Fund, said Catholics should consider filling out a health care power of attorney in which a person is designated in an emergency to make decisions regarding the person’s care. “For Catholics, you want to designate someone who is faithful to Catholic teaching,” Bordlee said. “You would also want someone who understands that withholding food and water is not medical treatment.”

Bordlee said a living will is a separate document that would express a person’s wishes about medical treatment he or she would want under certain circumstances. “However, a living will can be somewhat rigid, and you can’t always anticipate the exact situation that could come up,” she said. “If it is not addressed in the living will, you should have someone with a medical power of attorney who would understand your wishes.”

State Senator James David Cain, R-Dry Creek, chairman of the Senate Insurance Committee, is sponsoring Senate Bill 40 that would tighten Louisiana law by allowing the removal of a feeding tube only in instances when a person has authorized such removal in writing.

“The bill presumes that people don’t actually want to be starved to death,” said attorney Carla Roberts, a Catholic who is legal counsel for the insurance committee. “That’s not a method people pick to die. In a situation where that could be possible, a person would

have had to fill out a living will form that says they intend starvation as one of the ways to die. As Senator Cain would say, the least people can do if they want to be starved to death is to write it on a napkin.”

ROBERTS said in 1991, the legislature amended the definition of life-sustaining procedures to include food and hydration (meaning it was considered a medical treatment), but the state never changed its standard living will form to make that clear. “Therefore, if I signed a living will form in 1984, I assumed the ‘heroic measures’ included things like being taken off a ventilator or stopping chemotherapy, but I never thought they would starve me to death,” Roberts said.

Roberts said a Monroe woman, Doris Smith, signed a Louisiana living will form but eventually had her feeding tube removed after legal squabble among family members. She later died after courts denied a petition by one of her daughters who wanted to keep the feeding tube in.

“The daughter had filed a petition that said her mother wouldn’t have wanted to be starved to death and that she was not properly informed,” Roberts said. “Most people assume food and water are basic care. But the (Louisiana) Supreme Court ruled she was presumed to have known the law.”

Monroe attorney Jack Wright added: “Informed consent means just that. If you’re going to starve me to death or if I’m going to die of lack of water, I want to specifically say that’s acceptable.”

This article appeared in the April 6, 2005 issue of the *Clarion Herald* of which Mr. Finney is the editor. The article is reproduced here with Mr. Finney’s permission. The article also announced that Father Lavastida and a medical panel that included Dr. Frank Incaprera and Dr. Joseph Crapanzano would discuss “end of Life Dilemmas and Life-Sustaining Treatments” on April 14 from 7 to 9 p.m. at St. Anthony of Padua Church, 46 Canal St., New Orleans.