

# **James L. Holly, M.D.**

## **The Most Critical Issue in Healthcare Is Communication Effective, Patient-Centered, Communication Between Healthcare Providers and Patients June 1, 2016 with Letter from August 5, 2006**

(This letter was presented to the *Beaumont Enterprise* with the family's permission. The following are the circumstances which resulted in this letter being written.)

### **Circumstances of letter Below**

I was called on a Friday in August, 2006. A family had gotten an attorney in Fort Worth who was challenging the Hospital Ethics Committee decision to terminate care of patient on the basis of the judgment that further treatment was futile. I was asked to review the case and with the family's permission, I did. I spent eight hours going through the chart on a Saturday, August 5, 2006, two hours dictating a thirteen-page, typed summary, and two additional hours explaining my findings to the family. There were 13 physicians involved in the patient's care. The controversy accorded when the family lost confidence in their primary-care physician. I examined the patient myself and could not honestly say with assurance that the patient was not responsive.

After reviewing the case, I told the family that the patient's care had been excellent but there was one test which had not been done which would give us the answers we needed. They agreed; we did the test and the result showed that the patient was "brain dead" and could not recover. Twenty-four hours later the family and I were at the bedside when we performed a TNDA (Texas Natural Death Act) and cut off the ventilator.

The attached letter was written with the family's permission to explain the results in that the newspaper had published an article about this. The primary care physician was accused of negligence in the newspaper and subsequently left the community and the practice of medicine.

Letters to the Editor  
*Beaumont Enterprise*

Dear Sir:

\_\_\_\_\_’s front page article, “Futile care-law puts life of patient in others’ hands,” continues an important discussion. However, because of its importance and emotion, one’s words must be chosen carefully so as not to inflame passions. Furthermore, this complex issue will not be resolved in this brief essay. As a physician who is absolutely pro-life from conception to the cemetery, I wrestle with these issues every day.

In many end-of-life situations, no one is right and no one is wrong, as is illustrated by \_\_\_\_\_ case. Thoughtful, committed Christians, loving and admirable, the \_\_\_\_\_ family wanted to be certain that everything that could and should be done for their loved one was. Her son’s conduct would make any parent proud. Far from any fault, they serve as an example to all of us. The thirteen physicians actively involved in \_\_\_\_\_’s care were excellent and their medical care was faultless. Memorial Hermann Baptist nursing staff, chaplains, ethics committee and administration were supportive, compassionate and professional in this case. The attorneys who obtained the injunction acted prudently.

The controversy originated from communication and time. Sometime, families want to keep their loved one’s body functioning without regard to any potential for recovery. Culturally or personally, they are unable to deal with death. They can be irrational in their desire to maintain the patient in a vegetative state indefinitely. It is these cases which resulted in the futile-care legislation. This was not the case with the \_\_\_\_\_ family. Death is no terror for them, but unnecessary or pre-mature death is unacceptable to them.

Timing is where the futile-care legislation fails. Ten days is not enough time to sort through the legitimate issues which a family, their physicians and the hospital have with a decision to terminate life support. Furthermore, it must be clearly stated, no one is terminating life. The decision is only to terminate artificial life-support. If the futile-care legislation allowed ten business days, or even a total of thirty days, many problems would be eliminated. As it is, ten days could involve four weekend days where transfers and other issues cannot be dealt with.

Additionally, the art of dialogue, rather than two simultaneous monologues, requires the understanding of other’s priorities, concerns and even fears. Communication demands that both parties comprehend what the other is saying. In healthcare, the greatest burden for this responsibility falls upon the healthcare provider. This, I believe, is where the recent problem may have arisen.

As a pro-life physician, I am very concerned that we not start down a slippery slope which allows no recovery once started. Everyone, I think, at least in Texas, is against assisted suicide or mercy killing. Yet, we must be cautious that seemingly innocent decisions do not start us down a path which will lead another generation to embrace these ideas. Nevertheless, the vigilance which these difficult issues require means that those of us who are pro-life must not use inflammatory language which obscures rather than informs.

The title of the article in question makes an assertion which is not true. However, in that it expresses a legitimate concern, a solution must be found. One has already been suggested: enough time for the family and care givers to process all of the issues involved in this complex

situation. Some hospitals have adopted policies which extend the 10-day period of the futile-care law to thirty days. That is a good start. Another option would be to give the family the opportunity to engage another physician who will evaluate the case and make a recommendation. In this case, that recommendation should be the controlling decision. This empowers the family in the care decisions about their loved one and would resolve most of the problems implied by the title to this article. It is not a perfect solution but it is an improvement.

The local attorney who filed the injunction is quoted as using language which is not helpful. To characterize the futile-care law as “a euthanasia law,” only inflames the discussion. “Euthanasia,” typically, refers to the process of actively causing death by the administration of a substance or act. To apply the term to the withholding of, or the removal of artificial means of supporting life, which would end naturally without that assistance, is not helpful. The Advanced Directive Act of Texas (Health & Safety Code Chapter 166 Section 166.002 Advanced Directives) appropriately establishes that artificial “life-sustaining” treatment is not required by medical ethics. Definition number 10 of this section defines “Life-sustaining treatment” as, “treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die.” The term “life-sustaining treatment”: includes “life-sustaining medications and artificial life support, such as mechanical breathing machines, kidney dialysis treatment, and artificial nutrition and hydration.” The legislature recognizes nutrition and hydration as “life-sustaining treatment” when it is provided other than by voluntary consumption of food and water. To call the removal of such treatments “euthanasia” is incorrect and it is wrong.

Finally, the attorney is quoted as saying, “The standard against which a physician is authorized to terminate treatment is that, in the physician’s opinion, it is not appropriate that the patient live on.” (emphasis added) If this quote is accurate, it is categorically wrong. No physician EVER determines that it is “not appropriate” that a patient live on. What the physician determines is that without “life-sustaining treatment” a “terminally ill” patient will not live on. Every physician would be pleased to never be involved in these decisions but as our population ages and as our ability to sustain biological function of the body with artificial means, these questions will continue to beg for answers.

I adored my father; I miss him every day. I have only recently stopped weeping over his death almost a year ago. Yet, I remain confident that the decision not to use artificial means of hydration, nutrition and respiration to maintain his body’s functions beyond his life was the right decision. It was the right decision for him, even though it caused me great pain. However, nothing was ever done and nothing was ever given to him to cause his death.

Whatever our position on these issues, they are serious enough that they require the careful choice of words and accurate representation of the views of those who differ with us. It is my prayer that the \_\_\_\_\_’s family continues to find comfort in their tremendous love for their loved one. It is my prayer that none of us ever take lightly the preciousness of life.

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