

## THE ETHICS OF TERMINAL CARE

Department of Philosophy  
Georgetown University  
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Target Audience: Graduate students philosophy, public policy, medical; upper level undergraduate.

### GOALS AND REQUIREMENTS

The ethical problems of the care of the terminally ill have been among the most controversial issues in medical ethics over the past decade. This course will explore those issues combining lecture, discussion, and film. The course will not emphasize the sociological and psychological aspects of death and dying, concentrating instead on philosophical, ethical, and public policy issues.

The exam and paper schedule will be discussed on the first day of class

### REQUIRED TEXTS

The primary texts for the course will be a series of articles plus two books:

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. New York: Cambridge University Press, 1989.

Tom L. Beauchamp and Robert M. Veatch, eds. *Ethical Issues in Death and Dying, second edition* Upper Saddle River, NJ: Prentice-Hall, 1996

The articles will be available in several forms. You should choose the form that is most appropriate for you. Many of them appear in the second edition of *Ethical Issues in Death and Dying* [EIDD-II]. They are also available in the library from their original sources, but many of these readings have been edited in EIDD-II to reduce their length. The edited version will always be sufficient for the course. The articles contained in this volume will be marked with EIDD-II in brackets. All articles not contained in EIDD-II will be on reserve in the library or distributed in class. Many will be in the anthologies listed below. They are identified by the anthology editors' names in brackets. Those not contained in anthologies are marked with an (\*).

## Anthologies Containing Required or Additional Readings for This Course

- Arras, John, and Nancy Rhoden. *Ethical Issues in Modern Medicine*, third edition. Mountain View, California: Mayfield Publishing Company, 1989.
- Beauchamp, Tom L. *Philosophical Ethics: An Introduction to Moral Philosophy*. New York: McGraw-Hill Book Company, 1982.
- Beauchamp, Tom L., and LeRoy Walters, editors. *Contemporary Issues in Bioethics*, third edition. Belmont, California: Wadsworth, 1989 [second edition, 1982].
- Beauchamp, Tom, and Seymour Perlin. *Ethical Issues in Death and Dying*, first edition. Englewood Cliffs, New Jersey: Prentice Hall, 1978.
- Gorowitz, Samuel, Ruth Macklin, Andrew L. Jameton, et al., editors. *Moral Problems in Medicine*, second edition. Englewood Cliffs, N.J.: Prentice Hall, 1983.
- Horan, Dennis J., and David Mall, editors. *Death, Dying, and Euthanasia*. Washington, D.C.: University Publications of America, 1977.
- Jonsen, Albert R., Robert M. Veatch, and LeRoy Walters. *Source Book in Bioethics: A Documentary History*. Washington, DC: Georgetown University Press, 1998.
- Mappes, Thomas., and Jane S. Zembaty, editors. *Biomedical Ethics*. New York: McGraw-Hill, 1981 [second edition, 1986; third edition, 1991].
- O'Rourke, Kevin D., and Philip Boyle. *Medical Ethics: Sources of Catholic Teachings*. St. Louis, Mo.: Catholic Health Association, 1989.
- Reiser, Stanley Joel, Arthur J. Dyck, and William J. Curran, eds. *Ethics in Medicine: Historical Perspectives and Contemporary Concerns*. Cambridge, MA.: MIT Press, 1977.
- Shannon, Thomas A., and Jo Ann Manfra, editors. *Law and Bioethics: Texts with Commentary on Major U.S. Court Decisions*. New York: Paulist Press, 1982.
- Weir, Robert F., editor. *Ethical Issues in Death and Dying*, first edition. New York: Columbia, 1977 [second edition, 1986].
- Veatch, Robert M., editor. *Cross Cultural Perspectives in Medical Ethics: Readings*. Boston: Jones and Bartlett, 1989, second edition 2000.

For reference you may want to consult:

- Ramsey, Paul. *Ethics at the Edges of Life*. New Haven, CT: Yale University Press, 1978.
- Cantor, Norman. *Legal Frontiers of Death and Dying*. Bloomington: Ind. Univ. Pr., 1987.
- Veatch, Robert M. *Death, Dying, and the Biological Revolution*, Revised Edition. New Haven, Connecticut: Yale University Press, 1989.
- The Hastings Center. *Guidelines on the Termination of Life-Sustaining Treatment and the Care of the Dying*. Briarcliff Manor, New York: The Hastings Center, 1987.
- President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Defining Death: Medical, Legal and Ethical Issues in the Definition of Death*. Washington, D.C.: U.S. Government Printing Office, 1981.
- President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Wash., D.C.: U.S. Gov. Printing Office, 1983.

Class 1: Introduction: The Concept of Death

Class 2: Definition of Death

Class 3: What to Tell the Dying Patient and Informed Consent

Class 4: Suicide and Physician-Assistance

Class 5: Videotape: "Please Let Me Die"

The Ethics of Decisions for Competent Patients:

1. Active killing and letting die
2. Direct/indirect Killing
3. Withholding and Withdrawing

Class 6: 4. Benefits and Burdens (Ordinary and Extraordinary Means)

Class 7: 5. Withholding Food, Fluids, and Medications

Class 8: Formerly Competent Patients: Living Wills/Powers of Attorney/Natural Death Acts

Class 9: MID-TERM EXAM

The Role of Surrogates (Quinlan, Saikewicz, Dinnerstein, Becker, Cruzan)

Class 10: The Role of Surrogates (continued)

Class 11: Hospital Ethics Committees

Class 12: Neonates and the Baby Doe Rule

Class 13: The Futile Care Debate

Class 15: The Social Ethics of Terminal Care

Class 16: The Social Ethics of Terminal Care/Review of Semester

## Assigned Reading

### January 18-25: Definition of Death

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, *Defining Death: Medical, Legal and Ethical Issues in the Definition of Death*. Washington, D.C.: U.S. Government Printing Office, 1981, pp. 1-43, 159-66. [EIDD-II, pp. 65-22, 33-36; Jonsen, Veatch, and Walters]

Jonas, Hans. "Against the Stream." In Beauchamp, Tom, and Seymour Perlin. *Ethical Issues in Death and Dying*. Englewood Cliffs, New Jersey: Prentice Hall, 1978, pp. 51-59. [Beauchamp and Perlin] [EIDD-II, pp. 23-27]

Bleich, J. David. "The Obligation to Heal in the Judaic Tradition: A Comparative Analysis." *Jewish Bioethics*. Edited by Fred Rosner and J. David Bleich. New York: Sanhedrin Press, 1979, pp. 1-44.[EIDD-II, pp. 28-32]

\*Halevy, Amir, and Baruch Brody. "Brain Death: Reconciling Definitions, Criteria, and Tests." *Annals of Internal Medicine* 119 (No. 6, 1993):519-525.

Veatch, Robert M. "The Impending Collapse of the Whole-Brain Definition of Death." *Hastings Center Report* 23 (July-August 1993, No. 4):18-24.[EIDD-II, pp. 374-6]

\*Green, Michael B., and Daniel Wikler. "Brain Death and Personal Identity." *Philosophy and Public Affairs* 9 (Winter 1980):105-133.

Olick, Robert S. "Brain Death, Religious Freedom, and Public Policy." *Kennedy Institute of Ethics Journal* 1 (Dec. 1991):275-288.[EIDD-II, pp. 52-60]

\*Bernat, James L. "A Defense of the Whole-brain Concept of Death." *Hastings Center Report* 28 (2, 1998):14-23.

In re T.A.C.P (Baby Theresa) 609 So. 2d 588 (Fla. 1992).[EIDD-II, 47-51]

Shewmon, D. A.. "The Brain and Somatic Integration: Insights into the Standard Biological Rationale for Equating 'Brain Death' with Death." *Journal of Medicine and Philosophy*. 26 (No. 5, 2001):457-78.

### Additional Reading

\*American Academy of Pediatrics, Committee on Bioethics. "Infants with Anencephaly as Organ Sources: Ethical Considerations." *Pediatrics* 89 (June 1992):1116-19.

Brierley, J.B., J.A.H. Adam, D.I. Graham, and J.A. Simpson. "Neocortical Death after Cardiac Arrest." *Lancet*, September 11, 1971, pp. 560-565.

Byrne, Paul A., Sean O'Reilly, and Paul M. Quay. "Brain Death--An Opposing Viewpoint." *Journal of the American Medical Association* 242 (1979):1985-1990.

Charron, William C. "Death: A Philosophical Perspective on the Legal Definitions." *Washington University Law Quarterly* 4 (1975):979-1008.

Cranford, Ronald B., and Harmon L. Smith. "Some Critical Distinctions Between Brain Death and the Persistent Vegetative State." *Ethics in Science and Medicine* 6 (Winter 1979):199-209.

Gervais, Karen Grandstand. *Redefining Death*, New Haven: Yale University Press, 1986.

Ramsey, Paul. *The Patient as Person*. New Haven, CT: Yale University Press, 1970, chapter 2.

Shewmon, D. Alan, et al. "The Use of Anencephalic Infants as Organ Sources--A Critique." *Journal of the American Medical Association* 261 (No.12, March 24/31, 1989):1773-1781.

Shewmon, D. Alan. "Caution in the Definition and Diagnosis of Infant Brain Death." *Medical Ethics: A Guide for Health Professionals*. Edited by John F. Monagle and David C. Thomasma. Rockville, MD: Aspen Publishers, Inc., 1988, pp. 38-57.

Task Force for the Determination of Brain Death in Children. "Guidelines for the Determination of Brain Death in Children." *Neurology* 37 (1987):1077-78.

Veatch, Robert M. "The Whole-Brain-Oriented Concept of Death: An Outmoded Philosophical Formulation." *Journal of Thanatology* 3 (1975):13-30.

Walker, A. Earl, et al. "An Appraisal of the Criteria of Cerebral Death--A Summary Statement." *Journal of the American Medical Association* 237 (1977):982-986.

Youngner, Stuart J., et al. "'Brain Death' and Organ Retrieval." *Journal of the American Medical Association* 261 (No. 15, April 21, 1989):2205-2210.

Truog, Robert D. "Is it Time to Abandon Brain Death." *Hastings Center Report* 27 (1)(1997 Jan-Feb):29-37.

Lamb, David. *Death, Brain Death and Ethics*. Brookfield, VT: Avebury, 1996.

Payne, Kirk; Taylor, Robert M.; Stocking, Carol; Sachs, Greg A.. "Physicians' Attitudes about the Care of Patients in the Persistent Vegetative State: a National Survey." *Annals of Internal Medicine* 125 (2)(1996 Jul 15):104-110.

Veatch, Robert M.. "The Definition of Death: Problems for Public Policy." <In:> Wass, Hannelore; Neimeyer, Robert A., eds. *Dying: Facing the Facts*. Third Edition. Washington, DC: Taylor and Francis, 1995, pp. 405-432.

Emanuel, Linda L.. "Reexamining Death: the Asymptotic Model and a Bounded Zone Definition." *Hastings Center Report* 25 (4)(1995 Jul-Aug):27-35.

Truog, Robert D. "Is it Time to Abandon Brain Death?" *Hastings Center Report* 27 (1, 1997):29-37.

Youngner, Stuart J., Robert M. Arnold, and Renie Schapiro, (Eds.). *The Definition of Death: Contemporary Controversies*. Edited by. Baltimore: Johns Hopkins University Press, 1999.

## Feb. 1: What to Tell the Dying Patient and Informed Consent

Novack, Dennis H., Robin Plumer, Raymond L. Smith, Herbert Ochitill, Gary R. Morrow, and John M. Bennett. "Changes in Physicians' Attitudes Toward Telling the Cancer Patient." *Journal of the American Medical Association* 241 (March 2, 1979):897-900.[Weir, second edition] [EIDD-II, pp. 64-75]

Meyer, Bernard. "Truth and the Physician." *Ethical Issues in Medicine*. Edited by E. Fuller Torrey. Boston: Little Brown, 1968, pp. 159-77. [Beauchamp and Perlin; Weir, both editions] [EIDD-II, pp. 76-78]

Sidgwick, Henry. *The Methods of Ethics*. New York: Dover Publications, Inc., 1966 [1874], pp. 312-319. [Beauchamp and Walters, 1989; Veatch, 1989] [EIDD-II, pp. 79-81]

Cabot, Richard C. "The Use of Truth and Falsehood in Medicine: An Experimental Study." *American Medicine* 5 (1903):344-49. [EIDD-II, pp. 82-84]

Kant, Immanuel. "On the Supposed Right to Tell Lies from Benevolent Motives." Translated by Thomas Kingsmill Abbott and reprinted in Kant's *Critique of Practical Reason and Other Works on the Theory of Ethics*. London: Longmans, 1909 [1797], pp. 361-365. [Mappes, 1981; Veatch, 1989.][EIDD-II, pp. 85-86]

Ross, W.D. *The Right and the Good*. Oxford: Oxford University Press, 1939, chapter 2. [Beauchamp; Reiser; Veatch, 1989][EIDD-II, p. 87]

### **Additional Reading**

Siegler, Mark. "Pascal's Wager and the Hanging of Crepe." *New England Journal of Medicine* 293 (October 23, 1975):853-857.

Bok, Sissela. *Lying: Moral Choice in Public and Private Life*. New York: Pantheon Books, 1978, pp. 224-240. [Beauchamp and Walters, 1982; Mappes and Zembaty, 1986]

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp.43-60.

Higgs, Roger. "Truth-telling, Lying and the Doctor-patient Relationship." <In:> Gillon, Raanan, ed. *Principles of Health Care Ethics*. New York: Wiley, 1994, pp. 499-509.

Veatch, Robert M. *Death, Dying, and the Biological Revolution*. New Haven, Connecticut: Yale University Press, 1989, chapter 7.

Veatch, Robert M., and Ernest Tai. "Talking About Death: Patterns of Lay and Professional Change." *Annals of the American Academy of Political and Social Science* 447 (January 1980):29-45.

## February 8: Suicide and Physician Assistance

- Velasquez, Manuel G. "Defining Suicide." *Issues in Law & Medicine* 3 (1987):37-51. [EIDD-II, pp. 101-112]
- Beauchamp, Tom L. "The Problem of Defining Suicide." In *Ethical Issues in Death and Dying*, second edition. Englewood Cliffs, New Jersey: Prentice-Hall, 1995, pp. 113-18. [EIDD-II, pp. 113-18]
- Aquinas, Thomas. "Whether It Is Lawful to Kill Oneself." *Summa Theologica*, II-II, Q. 64, Art. 5. [Beauchamp and Perlin] [EIDD-II, pp. 119-21]
- Hume, David. *On Suicide*. Edinburgh, Scotland, 1777. [Beauchamp and Perlin][EIDD-II, pp. 122-26]
- Beauchamp, Tom L. "An Analysis of Hume and Aquinas on Suicide." in Beauchamp, Tom, and Seymour Perlin. *Ethical Issues in Death and Dying*. Englewood Cliffs, New Jersey: Prentice Hall, 1978, pp. 111-21.[Beauchamp and Perlin]
- Brandt, Richard B. "The Morality and Rationality of Suicide." in *A Handbook for the Study of Suicide*. New York: Oxford University Press, 1976, pp. 61-75. {Beauchamp and Perlin, Weir, second edition]
- Lebacqz, Karen, and Engelhardt, H. Tristram. "Suicide." in Horan, Dennis J., and David Mall, editors. *Death, Dying, and Euthanasia*. Washington, D.C.: University Publications of America, 1977, pp. 688-96. [Horan; Weir, 2nd edition]
- \*Belkin, Lisa. "There's No Simple Suicide." *The New York Times Magazine*, Nov. 14, 1993, pp. 48-56, 74-75.
- Honorable David F. Breck, Circuit Judge. *People of the State of Michigan v. Jack Kevorkian*. In *Ethical Issues in Death and Dying*, second edition. Englewood Cliffs, New Jersey: Prentice-Hall, 1995, pp. 113-18. [EIDD-II, pp. 151--55; 194-98]
- Oregon Death With Dignity Act. In *Ethical Issues in Death and Dying*, second edition. Englewood Cliffs, New Jersey: Prentice-Hall, 1995, pp. 199-206. [EIDD-II]
- Quill, Timothy E.; Christine K. Cassel, and Diane E. Meier. "Care of the Hopelessly Ill: Proposed Clinical Criteria for Physician-Assisted Suicide." *New England Journal of Medicine* 327 (Nov. 5, 1992):1380-84.[EIDD-II, pp. 166-74]
- Pellegrino, Edmund D. "Distortion of the Healing Relationship" in *Ethical Issues in Death and Dying*, second edition. Englewood Cliffs, New Jersey, 1995, pp. 161- [EIDD-II, pp. 161-65]
- \*Washington et al. v. Glucksberg et al. 117 S.Ct. 2302 (1997).

### Additional Reading

- Perlin, Seymour. *A Handbook for the Study of Suicide*. New York: Oxford University Press, 1975.
- Durkheim, Emile. *Suicide: A Study in Sociology*. Translated by John A. Spaulding and George Simpson. New York: Free Press, 1966.
- Seneca. "On Suicide." *Epistles*. Translated by E. Barker. Oxford: Clarendon Press, 1932.
- Battin, M. Pabst, and David J. Mayo, eds. *Suicide: The Philosophical Issues*. New York: St. Martin's Press, 1980.
- Kamisar, Yale. "Are Laws against Assisted Suicide Unconstitutional?" *Hastings Center Report* 23 (May-June 1993):32-41.
- Quill, et al. v. Vacco et al. Docket No. 95-7028, United States Court of Appeals for the

Second Circuit.

Compassion in Dying v. Washington No. 94-35534 D.C. No. CV-94-119-BJR, United States Court of Appeals for the Ninth Circuit.

Weir, Robert F., ed. *Physician-Assisted Suicide*. Bloomington, IN: Indiana University Press, 1997.

Meier, Diane E., Carol-Ann Emmons, Sylvan Wallenstein, Timothy Quill, R. Sean Morrison, and Christine K. Cassel. "A National Survey of Physician-assisted Suicide and Euthanasia in The United States." *New England Journal of Medicine* 338 (17, 1998):1193-201.

Beauchamp, Tom L. "The Medical Ethics of Physician-Assisted Suicide." *Journal of Medical Ethics* 25 (1999):437-39.

## **February 15: Ethics of Decisions for Competent Patients**

- 1. Active Killing and Letting Die**
- 2. Direct/Indirect Killing**
- 3. Withholding and Withdrawing**

Videotape: "Please Let Me Die"

### **Reading**

\*Cewart, Dax, and Robert Burt. "Confronting Death: Who Chooses, Who Controls? A Dialogue Between Dax Cewart and Robert Burt." *Hastings Center Report* 28 (1, 1998):14-24.

Supreme Court of Canada. "Sue Rodriguez v. Attorney General of Canada and Attorney General of British Columbia." In *Ethical Issues in Death and Dying.*, second edition. Prentice-Hall: Englewood Cliffs, N.J., 1995, pp. 186-93. [EIDD-II]

"It's Over Debbie." *Journal of the American Medical Association* 259 (No. 2, January 8, 1988):272.

Rachels, James. "Active and Passive Euthanasia." *The New England Journal of Medicine* 292 (January 9, 1975):78-80.[EIDD-II, pp. 216-21]

Beauchamp, Tom L., and James F. Childress. "Rachels on Active and Passive Euthanasia." In *Ethical Issues in Death and Dying.*, second edition. Prentice-Hall: Englewood Cliffs, N.J., 1995, pp. 222-26. [EIDD-II]

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S.

Government Printing Office, 1983, pp. 63-73. [EIDD-II, pp. 230-36]

Brock, Dan W. "Cause of Death." *By No Extraordinary Means* Edited by Joanne Lynn. Bloomington, Ind.: Indiana University Press, 1986. [EIDD-II, pp. 237-39]

Pellegrino, Edmund D. "Intending to Kill and the Principle of Double Effect." In *Ethical Issues in Death and Dying.*, second edition. Prentice-Hall: Englewood Cliffs, N.J., 1995, pp. 240-42. [EIDD-II, pp. 240-42]

The Remmelink Report: Medical Practice with Regard to Euthanasia and Related Medical Decisions in the Netherlands. In *Ethical Issues in Death and Dying.*, second edition. Prentice-Hall: Englewood Cliffs, N.J., 1995, pp. 181-85. [EIDD-II]

Fenigsen, Richard. "Euthanasia in the Netherlands." *Issues in Law and Medicine* 6 (1990):229-45.[EIDD-II, pp. 175-80]



\*Pijnenborg, Loes, Paul J. Van der Maas, Johannes J. M. van Delden, and Casper W. N. Loomaan. "Life-Terminating Acts Without Explicit Request of Patient." *The Lancet* 341 (May 8, 1993):1196-99.

### **Additional Reading**

Dworkin, Gerald, R. G. Frey, and Sissela Bok. *Euthanasia and Physician-Assisted Suicide*. Cambridge, England: Cambridge University Press, 1998.

McCormick, Richard A., and Paul Ramsey, editors. *Doing Evil to Achieve Good: Moral Choice in Conflict Situations*. Chicago: Loyola University Press, 1978, pp. 7-53.

Veatch, Robert M. *A Theory of Medical Ethics*. New York: Basic Books, 1981, pp. 227-249.

Dinello, Daniel. "On Killing and Letting Die." *Analysis* 31(January 1971):83-86.

Bennett, Jonathan. "Whatever the Consequences." *Analysis* 26 (1966): 83-102.

Fletcher, George P. "Prolonging Life." *Washington Law Review* 42 (1967):999-1016. [Weir]

Menzel, Paul J. "Are Killing and Letting Die Morally Different in Medical Contexts?" *Journal of Medicine and Philosophy* 4 (September 1979):269-293.

Malm, H.M. "Killing, Letting Die, and Simple Conflicts." *Philosophy and Public Affairs* 18 (No. 3, Summer 1989):238-258.

Graber, Glenn C. "Some Questions about Double Effect." *Ethics in Science and Medicine* 6 (No. 1, 1979):65-84.

Marquis, Donald B. "Four Versions of Double Effect." *Journal of Medicine and Philosophy* 16 (1991):515-44.

Thomson, Judith Jarvis. "Killing, Letting Die and the Trolley Problem." *The Monist* 59 (April 1976):204-217.

Beauchamp, Tom L.; ed.. *Intending Death: The Ethics of Assisted Suicide and Euthanasia*. Upper Saddle River, NJ: Prentice Hall, 1996.

## **February 22: The Ethics of Decisions for Competent Patients (continued)**

### **4. Benefits and Burdens (Ordinary and Extraordinary Means)**

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press, pp. 1-93.

Pope Pius XII. "The Prolongation of Life: An Address of Pope Pius XII to an International Congress of Anesthesiologists." *The Pope Speaks* 4 (1958):393-398. [Reiser, Horan]

\*Congregation for The Doctrine of The Faith. *Declaration On Euthanasia*. Rome: The Sacred Congregation for the Doctrine of the Faith, May 5, 1980.

### **Additional Reading**

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S.

Government Printing Office, 1983, pp. 82-90, 494-545.

McCartney, James J. "The Development of the Doctrine of Ordinary and Extraordinary Means of Preserving Life in Catholic Moral Theology Before the Karen Quinlan Case." *Linacre Quarterly* 47 (1980):215-224.

Kuhse, Helga, and Gerard Hughes. "Extraordinary Means and the Sanctity of Life: Debate." *Journal of Medical Ethics* 7 (June 1981):74-82.

Veatch, Robert M. *Death, Dying, and the Biological Revolution*. New Haven, Connecticut: Yale University Press, 1989, pp. 78-85.

Levine, Robert J. "Do Not Resuscitate Decisions and Their Implementation." *Dilemmas of Dying: Policies and Procedures for Decisions Not to Treat*. Edited by Cynthia B. Wong and Judith P. Swazey. Boston: G.K. Hall Medical Publishers, 1981, pp. 23-41.

## **February 29: The Ethics of Decisions for Competent Patients (continued)**

### **5. Withholding Food, Fluids, CPR, and Medications**

Bouvia v. Super. Ct. of Los Angeles, 179 Cal.App.3d 1127, 225 Cal.Rptr. 297 (1986). [EIDD-II, pp. 257-62]

Cruzan v. Director, Missouri Dept. of Health, 110 S.Ct. 2841 (1990). [EIDD-II, pp. 286-94, 227-29]

Gostin, Larry. "Life and Death Choices After Cruzan." *Law, Medicine & Health Care* 19 (Nos. 1-2, 1991):9-12. [EIDD-II, pp. 295-98]

Bernat, James L., Gert, Bernard, and Mogielnicki, R. Peter. "Patient Refusal of Hydration and Nutrition." *Archives of Internal Medicine* 153 (December 1993):2723-28. [EIDD-II, pp. 243-47]

Lynn, Joanne, and James F. Childress. "Must Patients Always be Given Food and Water?" *The Hastings Center Report* 13 (October 1983):17-21.[Weir, second edition]

Callahan, Daniel. "On Feeding the Dying." *The Hastings Center Report* 13 (No. 5, 1983):22. [Weir, second edition]

\*May, William E., et al. "Feeding and Hydrating the Permanently Unconscious and Other Vulnerable Persons." *Issues in Law and Medicine* 3 (No. 3, 1987):203-217.

\*Quill, Timothy E., Bernard Lo, and Dan W. Brock. "Palliative Options of Last Resort: A Comparison of Voluntarily Stopping Eating and Drinking, Terminal Sedation, Physician-assisted Suicide, and Voluntary Active Euthanasia." *JAMA* 278 (23, 1997):2099-104.

### **Additional Reading**

Lynn, Joanne. *By No Extraordinary Means: The Choice to Forgo Life-Sustaining Food and Water: Medical, Ethical, and Legal Considerations*. Bloomington, Indiana: Indiana University Press, 1986.

Dresser, Rebecca S., and Eugene V. Boisauvin, Jr. "Ethics, Law, and Nutritional Support." *Archives of Internal Medicine* 145(January 1985):122-124.

Horan, Dennis J., and Edward R. Grant. "The Legal Aspects of Withdrawing Nourishment." *The Journal of Legal Medicine* 5(No. 4, 1984):595-632.

Barber v. Super. Ct. of State of Cal., 147 Cal. App.3d 1006, 195 Cal. Rptr. 484 (1983).

Siegler, Mark, and Alan J. Weisbard. "Against the Emerging Stream: Should Fluids

and Nutritional Support Be Discontinued?" *Archives of Internal Medicine* 145 (January 1985):129-131.

Brophy v. New England Sinai Hospital, Inc. 398 Mass. 417, 497 N.E.2d 626 (1986).

The New York State Task Force on Life and the Law. *Do Not Resuscitate Orders: The Proposed Legislation and Report of the New York State Task Force on Life and the Law*. NY: The New York State Task Force on Life and the Law, 1986.

The Hastings Center. *Guidelines on the Termination of Life-Sustaining Treatment and the Care of the Dying*. Briarcliff Manor, New York: The Hastings Center, 1987.

Youngner, Stuart J. "Do-Not-Resuscitate Orders: No Longer Secret, But Still a Problem." *Hastings Center Report* 17 (No. 1, February 1987):24-33.

Wachter, Robert M., et al. "Decisions about Resuscitation: Inequities among Patients with Different Diseases but Similar Prognoses." *Annals of Internal Medicine* 111 (No. 6, September 15, 1989):525-532.

Meilaender, Gilbert. "On Removing Food and Water: Against the Stream." *The Hastings Center Report* 14 (No. 6, 1984):11-13.

Cruzan, by Cruzan v. Harmon 76 S.W.2d 408 (Mo. banc 1988).

### **March 15: Formerly Competent Patients: Living Wills, Powers of Attorney, and Natural Death Acts**

\*Eichner v. Dillon, 52 N.Y. 2d 363, 438 N.Y.S. 2d 266.420 N.E. 2d 64 (1981).

\*Concern for Dying. "A Living Will." No date. [Beauchamp and Walters, 1982]

\*The Catholic Hospital Association. "Christian Affirmation of Life." St. Louis: The Catholic Hospital Association, 1974.

*California "Natural Death" Act*. Ca. Stat. Chapter 1439, Code, Health and Safety, sections 7185-95. [Beauchamp and Perlin; Reiser]

Legal Advisors Committee of Concern for Dying. "Right to Refuse Treatment: A Model Act." In Weir, Robert F., ed. *Ethical Issues in Death and Dying*, second edition. New York: Columbia University Press, 1986, pp. 194-204.[Weir, second edition]

\*"Health-Care Decisions Act." *District of Columbia Code*, 1981 edition, volume 5, 1989 replacement. Charlottesville, Va.: The Michie Company, 1989, pp. 477-85.

Emanuel, L. L., and Emanuel, E. J. "The Medical Directive." in Cate and Gill, *The Patient Self-Determination Act: Implementation Issues and Opportunities*. 1991, pp. 58-64. [EIDD-II, pp. 273-82]

In re Quinlan, 137 N.J. super 227 (1975). [Beauchamp and Perlin]

*In re Quinlan*. 70 N.J. 10, 355 A. 2d 647 (1976) [Beauchamp and Perlin; Shannon; Arras and Rhoden; Jonsen, Veatch, and Walters].

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press, pp. 93-122.

### **Additional Reading**

Cantor, Norman. *Legal Frontiers of Death and Dying*. Bloomington, Indiana: Indiana University Press, 1987.

Choice in Dying. *Right-to-Die Law Digest*. NY: Choice in Dying, 1993.

Darzens, Peteris, D. William Molloy, and Christine Harrison. "Treatment for Life-Threatening Illness." *New England Journal of Medicine* 329 (September 2, 1993):736.

Fox, Ellen, and Carol Stocking. "Ethics Consultants' Recommendations for Life-

Prolonging Treatment of Patients in a Persistent Vegetative State." *Journal of the American Medical Association* 270 (Dec. 1, 1993):2578-82.

Jayes, Robert L., Jack E. Zimmerman, Douglas P. Wagner, Elizabeth A. Draper, and William A. Knaus. "Do-Not-Resuscitate Orders in Intensive Care Units." *Journal of the American Medical Association* 270 (Nov. 10, 1993):2213-17.

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp. 136-153; 310-317; 390-392; 423-437; pp. 318-87; 393-427.

Schneiderman, Lawrence, et al. "Do Physicians' Own Preference for Life-Sustaining Treatment Influence Their Perceptions of Patients' Preferences?" *The Journal of Clinical Ethics* 4 (No. 1, 1993):28-33.

Seckler, Allison B.; Diane E. Meier; Mulvihill, Michael; and Paris, Barbara E. Cammer. "Substituted Judgment: How Accurate Are Proxy Predictions?" *Annals of Internal Medicine* 115 (July 15, 1991):92-98.

Society for the Right to Die. *Refusal of Treatment Legislation: A State by State Compilation of Enacted and Model Statutes*. New York: Society for the Right to Die, 1992.

Veatch, Robert M. *Death, Dying, and the Biological Revolution*, revised edition. New Haven, Connecticut: Yale University Press, 1989, pp. 89-106, 137-65.

Kuhse, Helga. "Some Reflections on the Problem of Advance Directives, Personhood, and Personal Identity." *Kennedy Institute of Ethics Journal* 9 (No. 4, 1999):347-64.

Wilks, Ian. "The Debate Over Risk-Related Standards of Competence." *Bioethics* 11 (No. 5, 1997):413-26.

### **March 22-29: The Role of Surrogates**

*Superintendent of Belchertown State School v. Saikewicz*. 370 NE d 417, 1977.  
[Beauchamp and Walters, 1982; Shannon; Arras and Rhoden] [EIDD-II, pp. 331-37; Jonsen, Veatch, and Walters]

\*Cruzan, by Cruzan v. Harmon 760 S.W.2d 408 (Mo. banc 1988).

\*Cruzan v. Director, Missouri Dept. of Health, 110 S.Ct. 2841 (1990) [EIDD-II, pp. 286-94; Jonsen, Veatch, and Walters] [REVIEW].

\*Areen, Judith. "The Legal Status of Consent Obtained from Families of Adult Patients to Withhold or Withdraw Treatment." *Journal of the American Medical Association* 258 (No. 2, July 10, 1987):229-235.

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press, pp. 122-189.

### **Additional Reading**

Cruzan v. Director, Missouri Dept. of Health, 110 S.Ct. 2841 (1990).

Baron, Charles H. "Assuring 'Detached but Passionate Investigation and Decision': The Role of Guardians Ad Litem in Saikewicz-type Cases." *American Journal of Law and Medicine* 4 (1978):111-130.

Veatch, Robert M. "Limits of Guardian Treatment Refusal: A Reasonableness Standard." *American Journal of Law and Medicine* 9(4, Winter 1984):427-468.

*In the Matter of Shirley Dinnerstein*. Mass. App. Ct. 380 NE 2d 134, 1978.

Veatch, Robert M. *Death, Dying, and the Biological Revolution*, revised edition. New

Haven, Connecticut: Yale University Press, 1989, pp. 107-36.  
In re Phillip B. California Court of Appeal, First District, 1979. 92 Cal. App. 3d 796, 156 Ca. Rptr. 48.  
President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp. 121-136. (Also review statutes of Arkansas, North Carolina, New Mexico, and Virginia.)

#### **April 5: Hospital Ethics Committees**

\*President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp. 153-170; 439-449.  
Veatch, Robert M. "The Ethics of Institutional Ethics Committees." In *Institutional Ethics Committees and Health Care Decision Making*, pp. 35-50. Edited by Ronald E. Cranford, M.D., and A. Edward Doudera, J.D. Ann Arbor, MI: American Society of Law & Medicine, 1984. [Beauchamp and Walters, 1989]  
\*Wolf, Susan M. "Ethics Committees and Due Process: Nesting Rights in A Community of Caring." *Maryland Law Review* 50(1991):798-858.

#### **Additional Reading**

Massachusetts General Hospital Clinical Care Committee. "Optimum Care for Hopelessly Ill Patients." *The New England Journal of Medicine* 295 (August 12, 1976):362-364.  
Freedman, Benjamin. "One Philosopher's Experience on an Ethics Committee." *Hastings Center Report* 11 (April 1981):20-22.  
Cranford, Ronald E., F. Allen Hester, and Barbara Ziegler Ashley. "Institutional Ethics Committees: Issues of Confidentiality and Immunity." *Law, Medicine & Health Care* 13(No. 2, April 1985):52-60.  
Cranford, Ronald E., and A. Edward Doudera, editors. *Institutional Ethics Committees and Health Care Decision Making*. Ann Arbor, MI: American Society of Law & Medicine, 1984.  
Weinstein, Bruce, D., editor. *Ethics in the Hospital Setting: Proceedings of the West Virginia Conference on Hospital Ethics Committees*. Morgantown, WV: The West Virginia University Press, [1986].  
Teel, Karen. "The Physician's Dilemma: A Doctor's View: What the Law Should Be." *Baylor Law Review* 27 (1975):6-9.  
New Jersey Guidelines for Prognosis Committees. "Guidelines for Health Care Facilities to Implement Procedures Concerning the Care of Comatose Non-Cognitive Patients." No date.

#### **April 12 Neonates and the Baby Doe Rule**

In re Infant Doe, No. GU 8204-00 (Cir. Ct. Monroe County, Ind. April 12, 1982, *writ of mandamus dismissed sub nom. State ex rel. Infant Doe v. Baker*, No. 482 S 140 (Indiana Supreme Ct., May 27, 1982). (Case mooted by child's death.) [EIDD-II, pp. 309-12]

U.S. Department of Health and Human Services. "Child Abuse and Neglect Prevention and Treatment Program: Final Rule: 45 CFR 1340." *Federal Register: Rules and Regulations* 50 (No. 72, April 15, 1985):14887-14892(omit pp. 14878-86). [Beauchamp and Walter, 1989; Jonsen, Veatch, and Walters] [EIDD-II, pp. 313-15]

American Medical Association, Council on Ethical and Judicial Affairs. "Treatment Decisions for Seriously Ill Newborns: Ethical Critique of Baby Doe Rule." Reports of the Council No. 43. Chicago: American Medical association, 1992, pp. 71-74. [EIDD-II, pp. 315-17]

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press, 1989, pp. 215-66.

Goldworth, Amnon. "Human Rights and the Omission or Cessation of Treatment for Infants." *Journal of Perinatology* 9 (March 1989):79-82.[EIDD-II, pp. 318-22]

Fleischman, Alan R. "The Right to Die vs. Death in the Best Interests of the Infant." *Journal of Perinatology* 9 (March 1989):86-87.[EIDD-II, pp. 323-24]

Lantos, John D., Steven H. Miles, and Christine Cassel, "The Linares Affair." *Law, Medicine, & Health Care* 17 (1989):308-15. [EIDD-II, pp. 325-30]

### **Additional Reading**

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp. 197-229.

"Nondiscrimination on the Basis of Handicap, Procedures and Guidelines Relating to Health Care for Handicapped Infants, Final Rule." 49 Federal Register No. 8, 1622, January 12, 1984 (Part 84).

Shaw, Anthony. "Dilemmas of 'Informed Consent' in Children." *The New England Journal of Medicine* 289 (October 25, 1973):885-894. [Horan]

Fost, Norman. "Putting Hospitals on Notice: Baby Doe and Federal Funding." *Hastings Center Report* 12 (August 1982):5-8.

Gustafson, James M. "Mongolism, Parental Desires, and the Right to Life." *Perspectives in Biology and Medicine* 16 (Spring 1973):529-557.

Weir, Robert. *Selective Nontreatment of Handicapped Newborns*. New York: Oxford University Press, 1983.

### **April 19: The Futile Care Debate**

Youngner, Stuart J. "Who Defines Futility?" *Journal of the American Medical Association* 260 (1980)209 4-95. [EIDD-II, pp. 353-56]

Cranford, Ronald, and Lawrence Gostin. "Futility: A Concept in Search of A Definition." *Law, Medicine & Health Care* 20 (No. 4, 1992):307-089.[EIDD-II, pp. 357-61]

In the Matter of Baby K, 1993 WL 343557 (E.D. Va.).[EIDD-II, p. 376-84; Jonsen, Veatch, and Walters]

In Re The Conservatorship of Helga Wanglie, State of Minnesota, District Court, Probate Court Division, County of Hennepin, Fourth Judicial District, June 28, 1991.[EIDD-II, pp. 362-67]

Miles, Steven H. "Informed Demand for 'Non-Beneficial' Medical Treatment." *New England Journal of Medicine* 325 (1991):512-15.[EIDD-II, pp. 386-72]

Angell, Marcia. "The Case of Helga Wanglie: A New Kind of 'Right to Die' Case." *The New England Journal of Medicine* 325 (1991):511-512.[EIDD-II, pp. 373-75]

Drane, James. L, and Coulehan, John L. "The Concept of Futility", *Health Progress* (December 1993):29-32.[EIDD-II, pp. 385-91]

Veatch, Robert M., and Carol M. Spicer "Futile Care." *Health Progress* 74, (December 1993, No. 10):22-27.[EIDD-II, pp. 392-400]

### **Additional Reading**

Alpers, Ann, and Bernard Lo. "Futility: Not Just a Medical Issue." *Law, Medicine and Health Care* 20 (No. 4, 1992):327-329.

Brennan, Troyen A. "Physicians and Futile Care: Using Ethics Committees to Slow the Momentum." *Law, Medicine and Health Care* 20 (No. 4, 1992):336-339.

Brody, Baruch. "Medical Futility: Philosophical Reflections on Death." In *Japanese and Western Bioethics: Studies in Moral Diversity*. Edited by Kazumasa Hoshino. Boston, MA: Kluwer Academic, 1997, pp. 135-44.

Coogan, Michael. "Medical Futility in Resuscitation: Value Judgement and Clinical Judgement." *Cambridge Quarterly of Healthcare Ethics* 2 (1993):197-217.

Cranford, Ronald, and Lawrence Gostin. "Futility: A Concept in Search of a Definition." *Law, Medicine, & Health Care* 20 (Winter 1992):307-09.

Hackler, J. Chris, and Charles F. Hiller. "Family Consent to Orders Not to Resuscitate." *Journal of the American Medical Association* 264 (No. 10, 1990):1281-1283.

Johnson, David H. "Helga Wanglie Revisited: Medical Futility and the Limits of Autonomy." *Cambridge Quarterly of Healthcare Ethics* 2 (1993):161-170.

Lantos, John D., Peter A. Singer, Robert M. Walker, Gregory P. Gramelspacher, Gary R. Shapiro, Miguel A. Sanchez-Gonzalez, Carol B. Stocking, Steven H. Miles, and Mark Siegler. "The Illusion of Futility in Clinical Practice." *The American Journal of Medicine* 87 (1989):81-84.

Lantos, John D., Steven H. Miles, Marc D. Silverstein, and Carol B. Stocking. "Survival After Cardiopulmonary Resuscitation in Babies of Very Low Birth Weight: Is CPR Futile Therapy?" *The New England Journal of Medicine* 318 (No. 2, 1988):91-95.

Rubin, Susan B. *When Doctors Say No: The Battleground of Medical Futility*. Bloomington, IN: Indiana University Press, 1998.

Tomlinson, Tom, and Howard Brody. "Futility and the Ethics of Resuscitation." *Journal of the American Medical Association* 264 (1990):1277 (1276-86).

Veatch, Robert M., and Spicer, Carol Mason. "Medically Futile Care: The Role of the Physician in Setting Limits." *American Journal of Law & Medicine* 18 (Nos. 1&2, 1992):15-36.

Zucker, Marjorie B., and Howard D. Zucker. *Medical Futility and the Evaluation of Life-sustaining Interventions*. New York, NY: Cambridge University Press, 1997.

Harper, William. "Judging Who Should Live: Schneiderman and Jecker on the Duty Not to Treat." *Journal of Medicine and Philosophy* 23 (No. 5, 1998):500-15.

## **April 26-May 2: The Social Ethics of Terminal Care: Resource Allocation**

Brock, Dan W. "When Is Patient Care Not Costworthy?" in Cohen, Cynthia, (Ed.). *Casebook on the Termination of Life-Sustaining Treatment and the Care of the Dying*. Bloomington, Ind.: Indiana University Press, 1988.[EIDD-II, pp. 401-11]

\*Pope Pius XII. "The Prolongation of Life: An Address of Pope Pius XII to an International Congress of Anesthesiologists." *The Pope Speaks* 4 (1958):393-398.  
[Review]

Scitovsky, A. A., and A. M. Capron. "Medical Care at the End of Life: The Interaction of Economics and Ethics." *Annual Review of Public Health* 7 (1986):59-75.[EIDD-II, pp. 422-28]

Lockwood, Michael. "Quality of Life and Resource Allocation." *Philosophy and Medical Welfare*. Edited by J. M. Bell and Susan Mendus. Cambridge, England: Cambridge University Press, 1988, pp. 33-55.[EIDD-II, pp. 429-34]

Harris, John. *The Value of Life: An Introduction to Medical Ethics*. London: Routledge & Kegan Paul, 1985), chapter 5.[EIDD-II, pp. 435-40]

Callahan, D. "Limiting Health Care for the Old," In *Aging and Ethics*. Edited by N. Jecker. Clifton, N.J.: The Humana Press, 1991, pp. 223-26.[EIDD-II, pp. 441-43]

Daniels, Norman. "A Lifespan Approach to Health Care." In *Aging and Ethics*. Ed. by Nancy Jecker. Clifton, N.J.: Humana Press, 1991, pp 235-38.[EIDD-II, pp. 444-46]

Veatch, Robert M. "How Age Should Matter: Justice as the Basis for Limiting Care to the Elderly." In *Facing Limits: Ethics and Health Care for the Elderly*. Edited by Gerald R. Winslow and James W. Walters. Boulder, Colorado: Westview Press, 1993, pp. 211-29.[EIDD-II, pp. 447-54]

Buchanan, Allen E., and Dan W. Brock. *Deciding for Others: The Ethics of Surrogate Decision Making*. Cambridge: Cambridge University Press, 1989, pp. 190-211, 267-310.

### **Additional Reading**

Bayer, Ronald, Daniel Callahan, John Fletcher, Thomas Hodgson, Bruce Jennings, David Monsees, Steven Sieverts, and Robert Veatch. "The Care of the Terminally Ill: Morality and Economics." *The New England Journal of Medicine* 309 (December 15, 1983):1490-1494.

President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research. *Deciding to Forego Life-Sustaining Treatment: Ethical, Medical, and Legal Issues in Treatment Decisions*. Washington, D.C.: U.S. Government Printing Office, 1983, pp. 95-100.

Scitovsky, Anne A. "Medical care in the Last Twelve Months of Life." *The Millbank Quarterly* 66 (No. 4, 1988):640-660.

Singer, Peter A., and Frederick H. Lowy. "Rationing, Patient Preferences, and Cost of Care at the End of Life." *Archives of Internal Medicine* 152 (1992):478-480.

Veatch, Robert M. "Justice and the Economics of Terminal Illness." *Hastings Center Report* 18 (August/September 1988):34-40.

Veatch, Robert M. "Justice and Valuing Lives." *Life Span: Values and Life-Extending Technologies*. San Francisco: Harper and Row, Publishers, 1979, pp. 197-224.



McKerlie, Dennis. "Equality and Time." *Ethics* 99 (April 1989):474-91.

May, William F. "Who Cares for the Elderly?" *Hastings Center Report* 12 (December 1982):31-37.

Callahan, Daniel. *Setting Limits: Medical Goals in an Aging Society*. New York: Simon and Schuster, 1987.

Daniels, Norman. *Am I My Parents' Keeper?: An Essay on Justice Between the Young and the Old*. New York: Oxford, 1988.

Veatch, Robert M. "Distributive Justice and the Allocation of Technological Resources to the Elderly." *Life-Sustaining Technologies and the Elderly: Working Papers, volume 3: Legal and Ethical Issues, Manpower and Training, and Classification Systems for Decisionmaking*. Washington, D.C.: U.S. Congress, Office of Technology Assessment, 1987, pp. 87-189.

*Journal of Medicine and Philosophy*, 13 (Jan. 1988), whole issue.

Jecker, Nancy S. "Toward a Theory of Age-Group Justice." *Journal of Medicine and Philosophy* 14 (1989):655-76.

Brock, Dan W. "Justice, Health Care and the Elderly." *Philosophy and Public Affairs* 18 (Summer 1989):297-312.