

ued from previous page)

times caused nausea
e, she could be kept
dictated instructions
and signed the docu-
heless, the hospital's
to prevent her from

der the hospital and
e hospital and physi-
ts in preserving life,
ndards of the medi-
ppeals held that the
which was inserted
"It is incongruous, if
eir right to preserve
ly, endure, for '15 to
icians had a duty to
self to death.

alyzed by Lou Geh-
spirator to breathe.
e with the judge. He
il employees recon-
oyees from interfer-
result in his death
e worse than what
court ordered the
or.

134

of a ruptured aneu-
survive for several
Previously, he had
tificial life support

(continued)

(continued from previous page)

and that under those circumstances he might as well be dead. At the request of the patient's family, the Massachusetts court allowed the withdrawal of the tube.

CASE 5: *In re Eichner*³⁵

Brother Joseph Fox was a member of a Catholic religious order. He was in a vegetative state, was on a respirator, and had no reasonable chance of recovery. His superior, Father Eichner, wanted the hospital staff to remove the respirator from Brother Fox.

In formal philosophical and religious discussions, Brother Fox had expressed his desire that he not receive any extraordinary means of life support, and he reiterated that view shortly before his final hospitalization. Therefore, the New York Court allowed the removal of the respirator on the grounds that there was clear and convincing evidence of the patient's desires.

CASE 6: *In re Mary O'Connor*³⁶

Mary O'Connor, 77 years old, had suffered several strokes but was not in pain. Although she was incompetent as a result of the strokes, she was not in a coma or persistent vegetative state. Rather, she was conscious and might become more alert in the future.

The hospital wanted to insert an NG tube for nutrition and hydration to avoid a potentially painful death by starvation and thirst. However, the patient's two adult daughters objected to the use of the NG tube. The only evidence of the patient's desires was in conversations with her daughters and coworkers to the effect that she would not want artificial life support. However, she had never discussed the specific issue of nutrition and hydration and had not discussed the possibility of a painful death. In this case, the New York court refused to stop the insertion of the NG tube on the grounds that there was no clear and convincing evidence of the patient's desires.

Some people have compared this case to the decision in *Eichner*, in which the New York court allowed termination of treatment for Brother Joseph Fox. Specifically, critics have charged that the New York court is

(continued)

(continued from previous page)

unfair to ordinary people like Mary O'Connor, who express their desires in conversations with family and friends and do not have the opportunity to participate in formal philosophical discussions as Brother Fox did.

CASE 7: Superintendent of Belchertown State School v. Saikewicz³⁷

Joseph Saikewicz was profoundly retarded, but he was conscious. Although he was 67 years old, he had a mental age of two years and eight months and had never learned to speak. He had leukemia, and the issue was whether he should be given chemotherapy. Most competent patients with leukemia choose to undergo chemotherapy, which can be successful. However, Saikewicz would not have cooperated with the chemotherapy and would not have understood the reason for the treatment. In this case, the Massachusetts court ruled that chemotherapy should be withheld.

CASE 8: *In re Storar*³⁸

John Storar was profoundly retarded and conscious. Although he was 52 years old, he had a mental age of only 18 months. He was terminally ill with bladder cancer and on drugs for the pain. Regardless of any treatment, Storar would die within three to six months. However, he was losing blood in his urine and would die within weeks if he did not receive blood transfusions. The facility wanted to give blood transfusions to Storar, but his mother objected. Although the patient disliked the transfusions, he could be sedated. In this case, the New York court held that the facility should be allowed to give blood transfusions to the patient over the objections of his mother.

Physician-Assisted Suicide

Even if a patient has the right to refuse life-sustaining treatment, that right does not necessarily include the right to have another person, such as a physician, assist in ending his life. Some people think access to PAS should be a right, whereas others strongly disagree. The ethical arguments in favor of PAS are based on the principle of autonomy or self-determination in making important personal decisions as well as the principle of beneficence or mercy in helping to relieve the suffering of terminally ill patients.³⁹ However, others

				Patient's
			Type of Treatment	
			Physical	
			Mental Condition	

EXHIBIT 12.1
Termination
of Treatment