



NEWS

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BISHOPS' PRO-LIFE COMMITTEE, AMERICAN JEWISH CONGRESS
ISSUE JOINT STATEMENT REGARDING 'BABY DOE' CASES

WASHINGTON--The American Jewish Congress and a Committee of the National Conference of Catholic Bishops have agreed that withholding treatment from a handicapped newborn child is not justified when such treatment offers reasonable hope of benefit and does not impose excessive suffering on the tiny patient.

The organizations have also declared that in cases where medical treatment is "clearly futile" and does no more than briefly prolong the infant's death, such intervention is not required, but "basic care" such as "nurture, sustenance and relief from pain" should be provided.

Agreement on these basic issues is reflected in a joint statement of principles on the medical treatment of handicapped newborn children announced today by the Catholic and Jewish agencies following a year of discussions growing out of the "Baby Jane Doe" controversy.

A commentary accompanying the statement says that while agreement on these basic principles does not "unambiguously" reflect every concern of the Catholic and Jewish participants,

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2/Joint Statement

it does represent "a significant consensus" on the medical ethics involved as well as the rights of individuals with disabilities. The commentary was signed by Reverend Edward M. Bryce, Director of the NCCB Office for Pro-Life Activities, and Dr. Michael Wyschogrod, Director of the Institute for Jewish-Christian Relations of the American Jewish Congress and Chairman of the Department of Philosophy at Baruch College of the City University of New York.

The National Conference of Catholic Bishops is the canonical entity representing the Catholic bishops of the U.S. The American Jewish Congress is a communal and human rights organization. In addition to Father Bryce and Dr. Wyschogrod, participants in the discussions leading up to the statement of principles included legal and theological specialists representing the two groups.

The commentary accompanying the statement expresses "satisfaction with the atmosphere of cooperation and mutual esteem in which this dialogue has been conducted". It adds that the participants look forward to further discussion on matters of joint concern to the Catholic and Jewish communities.

Text of Principles on Treatment of Handicapped Newborns is enclosed.

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Principles on Treatment of Handicapped Newborns
American Jewish Congress/Bishops' Committee for Pro-Life
Activities

1. We agree on the sanctity of human life. Every newborn has the right to basic care: nurture, sustenance and relief from pain. In cases where parents are unable or unwilling to provide such care, our government should take all reasonable steps to do so.
2. Medical intervention is not required when such intervention is clearly futile and would do no more than briefly prolong the act of dying.
3. Handicaps, in and of themselves, do not justify withholding medical treatment when such treatment offers reasonable hope of benefit and does not impose excessive pain or other burdens on the patient.
4. When there is reasonable disagreement among medical experts concerning the risks and effectiveness of alternate treatments for a life-threatening condition, parents have the right and obligation to make conscientious and medically informed choices between alternate methods of treatment. Parents who must make such difficult choices should ask themselves what course of action seems most likely to promote their child's best interest.
5. Government ought not to intervene in medical decisions made by parents of handicapped children unless there is a preponderance of evidence that one or more of the foregoing principles is being violated.
6. Government in this country should lend its support to the continuing treatment and care of handicapped children so that parents can make decisions about treatment without undue financial pressure.

COMMENTARY ON "PRINCIPLES ON TREATMENT OF HANDICAPPED NEWBORNS"

Today's joint statement on treatment of handicapped newborns was developed at a discussion between the staffs of the National Conference of Catholic Bishops and the American Jewish Congress on May 24, 1984 and refined since then by further dialogue. Our agreement on six basic principles does not unambiguously reflect all the concerns of the Catholic or Jewish participants in this area, nor could any one statement reflect the full complexity of our respective traditions in this area, but it does represent a significant consensus on both medical ethics in general and the rights of citizens with disabilities in particular. We would like to comment briefly on each of the six principles in our statement.

(1) Respect for the inherent dignity of human life demands that basic sustenance and care be provided to handicapped infants, quite aside from medical intervention that may be necessary to correct a particular life-threatening condition. Our reference to government support for such care is intended to mean that the level of government with authority to act, whether local, state or federal, should assist handicapped children as it assists others in need.

(2) Treatment which can only briefly prolong the dying process is not morally obligatory. Taken together with (1), this corresponds to the Catholic teaching that "when inevitable death is imminent in spite of the means used, it is permitted in conscience to take the decision to refuse forms of treatment that would only secure a precarious and burdensome prolongation of life, so long as the normal care due to the sick person in similar cases is not interrupted" (Declaration on Euthanasia, 1980). In dealing with dying patients, non-routine medical intervention aimed at prolonging life can also hasten the moment of death. Since Jewish teaching prohibits such hastening, parents facing such a dilemma have the right in choosing medical treatments to choose the course of action that seems to them the most prudent.

(3) Treatment of handicapped newborns should respect the principle of non-discrimination. To use terms which are common in medical ethics: morally obligatory or "ordinary" means do not become optional or "extraordinary" merely because the patient is handicapped. Treatment decisions should take a handicap into account only when it substantially decreases the benefit or increases the burden of a particular treatment. A similar policy was expressed in a May 1982 directive for the U.S. Department of Health and Human Services, which said that an infant's handicap does not justify withholding life-sustaining treatment unless it renders that treatment "medically contraindicated."

(4) Medical procedures are rarely without risks. At times, parents must choose between alternate methods of treatment or no treatment at all. It is the right of parents to weigh risks and choose the course of action that seems to them to yield the proper

risk/benefit ratio. Parental choices in such circumstances should be made in terms of what course of action will serve the child's best interest. What is best for the individual child should take precedence over any conflicting interests of parents or society. The expression "child's best interest" does not include the possibility of negative judgments about the value of handicapped children's lives.

We recognize that the phrase "best interest of the child" is not without ambiguity as a legislative standard, for the phrase could be misused to mask subjective judgments about the value of handicapped children's lives. A more complete analysis is needed to spell out the phrase "best interest" in objective terms -- for example, by stating that parents should take the option that seems to have a reasonable chance of advancing the child's long-term survival -- but this matter requires further study and discussion.

(5) Where parents are not denying basic care to their child, not discriminating on the basis of handicap, and not acting out of ignorance or lack of conscientious concern, their medical decisions should be respected by the law. But the appropriate agency of government should be able to investigate plausible claims that these principles have been violated; if it finds a preponderance of evidence for concluding that they have, it should act to protect the child. Our consensus statement does not discuss what the most appropriate mode of reporting or investigation might be in such cases, and does not specify a particular type of government intervention to protect children's rights.

(6) Parents often feel a pressure toward denying life-saving treatment to their handicapped children when they contemplate the cost of supportive services -- or the lack of such services -- for the child who survives. Increased local, state and federal assistance for these children and their families is an important ingredient in any complete solution to the problem of discrimination against handicapped newborns.

In conclusion we would like to express our satisfaction with the atmosphere of cooperation and mutual esteem in which this dialogue has been conducted. We rejoice in our common ground of concern regarding this serious contemporary problem and look forward to further discussions.

Rev. Edward M. Bryce
Director, Office of Pro-Life Activities
National Conference of Catholic Bishops

Dr. Michael Wyschogrod
Director, Institute of Jewish-Christian
Relations
American Jewish Congress

July 25, 1985