Abating Treatment with Critically Ill Patients: Ethical and Legal Limits to the Medical Prolongation of Life


Robert Weir’s objective in this book is to ‘establish reasonable ethical and legal limits to the technological prolongation of life lest we become unthinking and uncaring slaves to that technology’ (p VII). His detailed survey of moral and theological standpoints, case studies, legal rulings and recent proposals for living wills and natural death acts, provides the background to his argument in favour of greater patient autonomy with respect to the refusal of life-prolonging therapy.

Twenty years ago moral debates about the end-points of life focused on the issue of euthanasia (literally meaning a good death) which was frequently presented as a black and white issue; one was either in favour or against. Now fine distinctions have emerged between death with dignity, negotiated death, passive and active euthanasia, mercy killing and the withdrawal or withholding of life-sustaining therapy. Nevertheless, two extreme positions can be recognised in the current debate: vitalists or pro-lifers on the one hand endorse what Weir describes as a ‘technological imperative’ – doing everything possible to prevent or postpone the deaths of critically ill and terminally ill patients. On the other hand ‘right to die’ radicals and libertarians are actively seeking to promote the legalisation of euthanasia and assisted suicide. Avoiding both extremes Weir focuses attention on criteria for ‘treatment abatement’, an expression which covers ‘decisions to withhold – or not to initiate – a form of treatment’ and also a ‘reduction in degree or intensity’ or a ‘progressive diminishing’ of treatment (p10). Another meaning of ‘treatment abatement’ is the ‘nullification’ or ‘termination’ of treatment which encompasses ‘decisions by autonomous critically ill or terminally ill patients (or the surrogates of non-autonomous patients) to refuse all forms of life-sustaining treatment’ (p 10).

For Weir treatment abatement is not a form of assisted suicide and he cites numerous legal rulings to establish this point. One important feature of this book is the location of key distinctions in their appropriate historical context. The distinction between extraordinary and ordinary treatment, for example, goes back to the 16th century, and was used as an argument against surgery which, before anaesthesia and antisepsis, was certainly extraordinary, with surgical amputations compared with torture. During the Spanish Inquisition of the 17th century there were equally profound discussions about whether or not a person giving a goblet of water to a heretic burning at the stake should pour it onto his feet to provide momentary relief. Theological opinion at that time saw it as extraordinary and of no value as it would bring no benefit to the condemned man.

The modern debate on treatment abatement began in 1976 with the New Jersey court’s recognition, in the Quinlan judgement, of an ethical need to limit life-prolonging treatment. But since 1985 when the Supreme Court of New Jersey ruled that a nasogastric tube could be removed from Clair Conroy (an 84-year-old patient with serious mental impairment and limited life-expectancy) the debate has focused on removal of life-sustaining nutrition and hydration. Weir’s account of the moral issues involved in this debate is the most comprehensive available and for this reason his arguments deserve careful consideration. His distinctions between treatment abatement and various forms of euthanasia is sensible and practical, and he rightly argues that repetitious references to the etymology of euthanasia and distinctions between active-passive, omission-commission, and withhold-withdraw now need to be placed in the historical archives of biomedical ethics. Yet doubts may still linger concerning the status of nutrition and hydration as a form of therapy. Is the withholding of food, even when artificially administered, the same as the withholding of antibiotics? For many the withdrawal of nourishment may express a similar form of callousness to that which Weir discerns in unwanted life-prolongation. And finally, how widespread is the fear of life-prolongation compared, for example, with the fears of an early termination of therapy, (as expressed in the controversy over brain death and organ removal) or the reality of under-treatment which is the condition of most of the world’s population? Weir’s discussion of under-treatment is brief – rightly so for this is not the subject of the book – but in an era of waiting lists and preventable deaths it is rather odd that so much attention is applied to arguments in favour of accelerated death.

Consent and the Incompetent Patient: Ethics, Law and Medicine

Edited by Steven R Hirsch and John Harris, 101 pages, London, £7.50, Gaskell/Royal College of Psychiatrists, 1988