

Some Guidance on Disposition of Fetal Remains

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Over the past several years, and even more of late, many CHA members, as well as non-members, have inquired about the disposition of fetal remains. Interestingly, the current fourth edition of the *Ethical and Religious Directives for Catholic Health Care Services* (ERDs) does not address the issue. Nor was any guidance offered by the third edition that came out in 1995. In spite of this lack of guidance from the ERDs, many systems and facilities in Catholic health care have developed policies, quite possibly informed by earlier versions of the ERDs and by discussions of the matter by various medical moralists. What assistance do these sources provide?

The 1971 edition of the ERDs simply states that a fetus may be cremated “in a manner consonant with the dignity of the deceased human body” if there is a reasonable cause for not burying it (Directive 43). The 1956 edition of the ERDs notes that “the normal manner of disposing of a dead fetus, regardless of the degree of maturity, is suitable burial” (Directive 60). It does permit cremation if there is a serious reason such as sanitation. The 1949 edition of the ERDs also permits cremation for a serious reason, but aside from such reasons, state that “every fetus, regardless of the degree of maturity it has reached, must be suitably buried in a cemetery” (Part IV, no. 3).

Medical moralists writing in the mid-1950s echo the ERDs. Charles McFadden, for example, writes that “it is advisable to bury a fetus in a cemetery, and not on hospital grounds.”¹ Cremation should only be resorted to in order to prevent the spread of a contagious disease. Edwin Healey takes a more permissive approach. He observes that, as a general rule, if the parents of the fetus are Catholic, the fetus should be buried. However, it might be cremated for serious reasons. Healey pastorally cites as reasons for allowing cremation the avoidance of contagion, inability to afford burial, legal formalities for burial causing considerable inconvenience, or if burial would reveal the sin of an unmarried mother.² Other medical

moralists writing at this time seem not to address the issue.

Some additional insight might be gained from the Canadian and Australian ethical and religious health care directives. There are two relevant statements in the *Canadian Health Ethics Guide*. The first says that “all embryos and fetuses, including those that are malformed, deserve the same respect owed to any human being” (60). And the second notes that hospitals should have a policy in place “to ensure that all aborted embryos and fetuses, and the remains of miscarriages and stillbirths, are buried or cremated in a respectful manner and place” (63).³ Much the same advice is found in two statements in the *Code of Ethical Standards for Catholic Health and Aged Services in Australia*. One says that “when embryos and fetuses die, they should be given the same respect as is due to every human being who dies” (6.13). The second deals with pastoral care of the parents, baptism of a live but miscarried fetus, and underscores the need for procedures to be in place “to assist with the proper disposal of the body or remains in ways respectful of the dignity of human life and in keeping with the parents’ wishes” (2.25).⁴

Two other sources of guidance are found in the Congregation for the Doctrine of the Faith’s *Donum Vitae* and the Code of Canon Law. The former speaks of the respect that is to be given to embryos and fetuses: “The corpses of human embryos and fetuses, whether they have been deliberately aborted or not, must be respected just as the remains of other human beings.”⁵ The Code of Canon Law speaks to the method of disposition: “The Church earnestly recommends that the pious custom of burying the bodies of the deceased be observed; nevertheless, the Church does not prohibit cremation unless it was chosen for reasons contrary to Christian doctrine.”⁶

What, then, can be learned from these sources about the proper disposition of fetal remains? First, it is quite clear that the remains of embryos and fetuses must be treated

with respect, just as the remains of all human beings. What we would not do to the remains of more developed human beings should not be done to the remains of embryos and fetuses. Above all, such remains are not to be considered as “medical waste” or treated in the same way as medical waste. Second, the remains of embryos and fetuses should either be buried or cremated in a respectful manner and place. Cremated remains should normally either be buried or entombed. Third, hospitals should have a policy in place for the proper (i.e., respectful) disposition of fetal remains, and, to the extent possible, in a manner consistent with the parents’ wishes.

Of course, the actual disposition of fetal remains is only one dimension of the issue. Also of great importance is the pastoral care of the parents who have experienced a tragic loss. As part of this care, parents should normally be the ones to arrange for the disposition of the remains of their fetus. If, for some reason, the parents are not able to do this, the hospital should then arrange for disposition, carefully informing the family of the hospital’s procedures and ensuring that the family is comfortable with them. Needless to say, pastoral care personnel should be involved to support the parents in their grief and to lead them in prayer if

they so wish, or to assist them if they would like to ritualize their loss in some way.

What follows on Page 10 is a portion of an extensive policy and procedures about how to deal with fetal demise due to miscarriage or stillbirth. This particular portion is limited to the disposition of fetal remains. The first part of the policy is for fetuses at 20 weeks gestation or more and the second is for fetuses less than 20 weeks gestation. This policy is meant to be illustrative.

NOTES

1. Charles J. McFadden, *Medical Ethics* (Philadelphia: F.A. Davis, 1967), 242.
2. Edwin Healey, *Medical Ethics* (Chicago: Loyola University Press, 1956), 389.
3. The Catholic Health Association of Canada, *Health Ethics Guide*, (Ottawa: Catholic Health Association of Canada, 2000), 42.
4. The Catholic Health Association of Australia, *Code of Ethical Standards for Catholic Health and Aged Services in Australia* (Australian Capital Territory: The Catholic Health Association of Australia, 2001).
5. Congregation for the Doctrine of the Faith, *Donum Vitae*, 1987, Part I, para. 4. www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html.
6. Code of Canon Law, Book IV, Part II, Title III, Canon 1176, para. 3. www.vatican.va/archive/ENG1104/_P4A.HTM.

Sample Policy and Procedures: Fetal and Infant Death

Use for any infant born with signs of life or for stillborn fetus 20 weeks or more or 350 grams or more

POLICY

1. Expired fetal and neonatal bodies shall be treated with dignity and respect.
2. Care, support, and guidance is provided to the patient and family experiencing perinatal death in a flexible manner, allowing for individual expression of grief.

Nonessential material removed from this portion.

PROCEDURE

Final Disposition

29. Call security to notify them of any stillbirth or neonatal death. Each death is entered into a morgue logbook. Information needed includes: name of expired, date and time of death, mortuary (including location), if medical examiner has been notified, teaching or non-teaching case, and if baby is to have autopsy.
30. The remains of all expired infants/fetuses are taken to the pathology department in the lab.
31. Discuss final disposition plans with the mother/family of the baby. Burial or cremation is required by the State of _____ for all live births, and for stillborns gestational age 20 weeks or more or 350 gram weight or more. Parents are responsible for contacting and making arrangements with a funeral director. A list of funeral homes is available. Many funeral homes and cemeteries will bury baby for free or at a reduced rate and parents have the benefit of having control through planning the burial. This facilitates the work of grieving and helps parents' progress towards closure.
32. Obtain mother's signature on the Authorization for Release of Body form (on reverse side of Perinatal Expiration Checklist) indicating chosen mortuary and witness signature. This form **must** be signed prior to the mother leaving the hospital. If the mother is unable to sign, the father of the baby may sign the release if the parents are married, or a paternity affidavit has been completed. The completed release form and expiration checklist stay on the mother's chart. Notify Security and the pathology department per phone of the patient's chosen mortuary if not previously done. For private burial, the mortuary calls Security to schedule pickup of body. Logbook information is checked by security department prior to release of body to the indicated mortuary.
33. The body may also be transferred to an out-of-town mortuary by an authorized family member if requested by the family to avoid the expense of hiring the mortuary to transport. See "Transportation of Deceased Baby by Other Than a Licensed Mortician." Call pathology to prepare the body.
34. Assisted burial: In the case of financial hardship, other arrangements for burial can be made. A designated mortuary with whom we have an agreement will provide burial at _____ Cemetery in a special section called "Babyland." After burial, families can get the exact burial location of their infant from the cemetery office. Grave stones or other memorials can be purchased at a later date if the family desires. Nursing completes the paperwork for assisted burial, or pastoral care can be contacted for assistance. Complete the following steps:
 - A. Assess the patient for financial ability to provide burial.
 - B. Provide the patient/family with an information sheet (blue sheet) about the process and a map to the _____ Cemetery. Share information with the family that other mortuaries may provide free or low cost services with more options available, such as a graveside service.
 - C. Authorization for Release of Body form is signed by the mother and witnessed. This form must be signed prior to the mother's discharge. The current designated mortuary with whom we have an agreement is noted as the Mortuary to pick up remains. The release form always stays with mother's chart (reverse side of Perinatal Expiration Checklist).
 - D. Complete Lot Owner's order for Interment as follows:
 1. First line in top section, indicating infant name, sex, age, date of birth, etc.

2. Box on right side in bottom section labeled #2 including signature of relative of deceased, relative's address and phone number, and initials of witness.
- E. Place an orange Assisted Burial sticker on the Interment form and on the baby container. This notifies Security, pathology and designated mortuary of assisted burial.
- F. The following paperwork is taken to the lab to be given to the designated mortuary:
 1. Signed original interment form
 2. Copy of the Vital Statistics worksheet
 3. Death Certificate which has been completed by the physician (only if the infant was a live birth)
- G. Lab personnel notify the designated mortuary for pickup of the remains.

Use for fetus less than 20 weeks gestation and less than 350 grams with no signs of life

POLICY

1. Expired fetal and neonatal bodies shall be treated with dignity and respect.
2. Care, support, and guidance is provided to the patient and family experiencing perinatal death in a flexible manner, allowing for individual expression of grief.

Nonessential material removed from this portion.

PROCEDURE

Final Disposition

21. Prior to discharge, the mother chooses a disposition for her baby's remains. A release of body is completed indicating release to [the hospital] or to a private mortuary.
22. Inform patient that our **routine disposition** of the

fetus is burial in _____ Cemetery, unless they opt for private burial. Burial is in a group grave and is completed intermittently throughout the year. The cemetery does not maintain records related to group burial, and these grave sites are not individually marked. Parents may visit the general area called "Babyland" as they desire. Obtain mother's signature on the Authorization for Release of Body to [the hospital] and witness signature. This form is on the back side of the Miscarriage Checklist and remains on the mother's chart after completion.

23. Parents who desire **private burial** for a miscarried fetus are responsible for contacting and making arrangements with a funeral director. A list of funeral homes is available. Many funeral homes and cemeteries will bury expired fetus/baby for free or at a reduced rate.
24. Obtain mother's signature on the Authorization for Release of Body for private burial indicating chosen mortuary and witness signature. This form is on the back of the Miscarriage Checklist and remains on the mother's chart after completion.
25. Call security to notify them of miscarriage only if **private burial** is requested so that they can enter the fetus into their morgue logbook. Information needed includes: Name of expired, date and time of death, mortuary (including location), if medical examiner has been notified (not required for miscarriage), teaching or non-teaching case, and if fetus is to have autopsy. For private burial, mortuary calls security to schedule pickup of body. Logbook information is checked by security department prior to release of body to the indicated mortuary.
26. The remains may also be transferred to an out-of-town mortuary by an authorized family representative if requested by the family to avoid the expense of hiring the mortuary to transport. See "Transportation of Deceased Infant by Other Than a Licensed Mortician" policy. Call pathology to prepare the body for transport.