

## Contemporary Catholic Health Care Ethics

David F. Kelly

Georgetown University Press, Washington, DC, 2004, 336 pp.

David Kelly is the Gallagher Professor of Theology and Health Care Ethics at Duquesne University, Pittsburgh, and also served as an ethicist for the former St. Francis Health System in southwestern Pennsylvania. This book, which reflects his dual role in academics and health care, is intended, he writes, “as a textbook for students and a resource for practitioners” (p. xi).

Part I (“Theological Basis”) and Part II (“Method”) are appropriate primarily for an academic audience. In these theoretical sections, Kelly traces the religious roots of the contemporary discipline of health care ethics, sets out a theological anthropology in relation to health care, and introduces the concepts of philosophical ethics.

Part III (“Application”) is likely to be of greatest interest to health care professionals. Nine of the 14 chapters in this section deal with end-of-life issues, reflecting the author’s assessment that “this is the area where ethics comes into play most visibly in hospitals and nursing homes” (p. xi). Particular chapters discuss the distinction between ordinary and extraordinary means as the principle for forgoing treatment, the distinction between killing and allowing to die, decisions by competent patients, decision making for incompetent patients, advance directives, nutrition and hydration, physician-assisted suicide and euthanasia, the concept of medical futility, and pain management.

Additional chapters in this section deal with embryonic stem cell research, genetic engineering, allocating health care resources, and the nuts-and-bolts of health care ethics committees. One weakness of the book’s content is its extremely cursory discussion of the burgeoning area of assisted reproductive technologies. On the other hand, its ethical content is enriched by ample discussion of relevant court cases and by inclusion of Kelly’s own experiences working in the health care setting.

Considering the book’s title, it is fair to ask: In exactly what sense does *Contemporary Catholic Health Care Ethics* present a health care ethics that is distinctively “Catholic”? Kelly does include mention of ecclesiastical documents such as the *Dec-*

*laration on Euthanasia, the Declaration on Procured Abortion, and the Catechism of the Catholic Church*. In his chapter on nutrition and hydration the author offers a survey of statements from various bishops and state bishops’ conferences, as well as mentioning the papal allocation of March 2004. There is some citation of the *Ethical and Religious Directives for Catholic Health Care Services*, although Kelly does not refer to them in all the topical areas he discusses in which relevant directives exist.

Rather than attempting to provide a comprehensive exposition of official church teaching, Kelly explicitly places himself among the “Catholic scholars [who] are critical of some aspects of the received tradition” (p. xii). On the level of ethical theory, Kelly indicates that he has “serious problems” with the principle of double effect (p. 108) and shows a favorable disposition to the approach of proportionalism (chapter 10). Concerning particular procedures, Kelly calls into question the church’s prohibition of artificial contraception (chapter 11), takes issue with official church teaching on the treatment of ectopic pregnancies (chapter 12), and favors the use of spare frozen embryos for stem cell research (chapter 23). Rather than maintaining an absolute prohibition against euthanasia and assisted suicide, Kelly wants to recognize some exceptional cases in which these practices might be morally right (chapter 19).

Thus, if one is looking for a single text to provide an introduction to the ethical principles which must govern the operations of a facility claiming to be Catholic, this book is not a good choice. It is not a successor to or replacement for the classic *Healthcare Ethics: A Theological Analysis* by Frs. Benedict M. Ashley, OP, PhD, and Kevin D. O’Rourke, OP, JCD.

At the same time, health care professionals already well versed in ethics may find particular chapters to be thought provoking. These chapters are short enough that they may be used for discussion at, for example, the meeting of an ethics committee. Noteworthy are Kelly’s reservations about state laws regarding advance directives (chapter 17), his proposal of a particular understanding of “medical futil-

ity" (chapter 20), and his argumentation in favor of age-based rationing of health care (chapter 25). In view of recent events, Kelly's discussion of surrogate decision making for incompetent patients is of particular interest (chapter 16).

As an extension of patient autonomy, the generally accepted "gold standard" in such cases is the principle of substituted judgment, which instructs a surrogate to make treatment decisions in accord with the values and wishes of the patient. Proverbially going against the tide, Kelly argues vigorously for greater use of the objective criterion of the "best interests" of the patient. As a legal corollary of the principle of substituted judgment, some look for "clear and convincing evi-

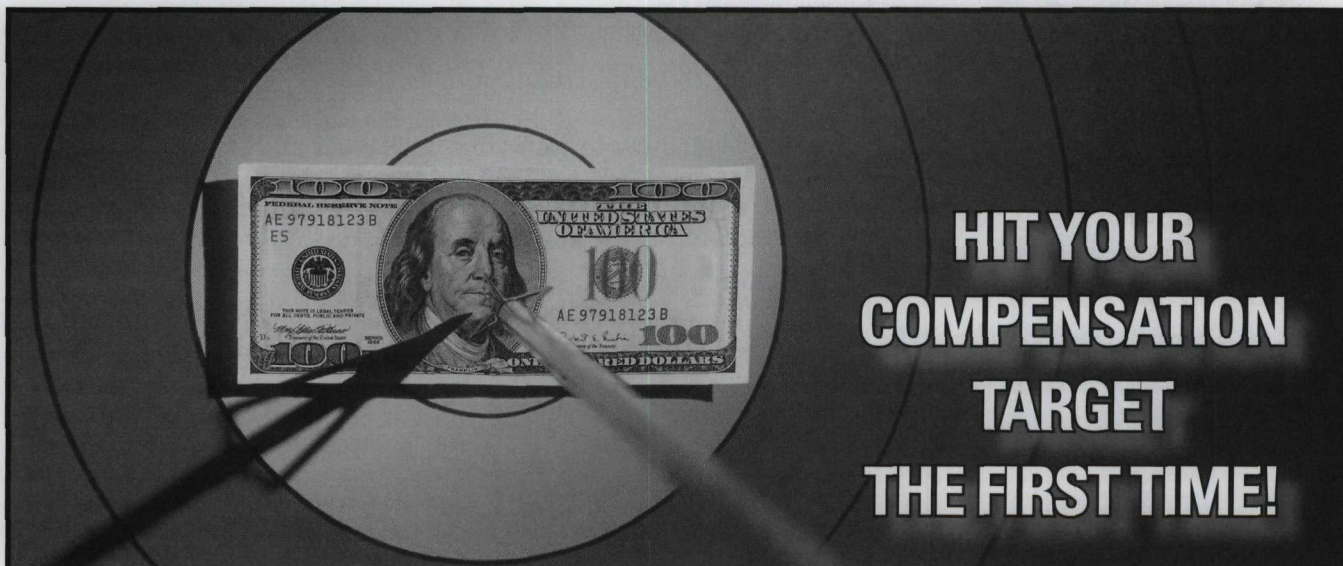
dence" that the incompetent patient would wish to forgo life-sustaining treatment. In this regard, Kelly offers a word of caution:

If states were to move toward restrictive laws requiring irrational levels of clear and convincing evidence, most of us would be unable to meet the criteria. Most persons who write living wills cannot accurately foresee which diseases they will encounter and which precise sets of treatments they will want for-gone in which medical circumstances. We can write general directives, but these might not meet the requirements of clear and convincing evidence. . . .

Clinical experience demonstrates that most people do not have living wills and durable powers of attorney. Loving relatives make the decisions for them. If states were to insist on clear and convincing evidence, many Americans would be forced to endure useless and costly medical treatments (pp. 160-61).

In the aftermath of the case of Terri Schiavo, Kelly's words of warning are well worth keeping in mind.

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A large graphic featuring a target symbol. In the center of the target is a US \$100 bill. A pencil is shown pointing at the bill. The background is dark with concentric circles representing the target's rings.

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