



MARQUETTE
UNIVERSITY

October 27, 2010

Lloyd H. Dean
President/CEO
Catholic Healthcare West
185 Berry Street, Suite 300
San Francisco, CA 94107

Dear Mr. Dean:

Thank you for your request to provide a moral analysis of the intervention that took place at St. Joseph's Hospital and Medical Center in Phoenix, AZ, on November 5, 2009. As you are likely aware, I was first contacted with this request by Dr. Carol Bayley, Vice President for Ethics and Justice Education at Catholic Healthcare West, on August 13, 2010. Prior to this, my only knowledge of the case came through various news media outlets.

You requested this analysis in order to respond to a request from Bishop Thomas J. Olmsted for a "moral analysis of the intervention," "a specific and detailed response, based upon the objective and universally valid moral principles in play, and their application in this most grave situation," "moral principles...consistent with, in particular, the teaching of *Veritatis Splendor* and *Evangelium Vitae*." Bishop Olmsted also requested a response to the moral analysis of the intervention provided by the National Catholic Bioethics Center on June 11, 2010, as well as an account of the applicability to your case of the recent statement of the USCCB Committee on Doctrine on "The Distinction Between Direct Abortion and Legitimate Medical Procedures."

The following document attempts to meet these three objectives: (1) to provide a moral analysis of the intervention, based on foundational Catholic moral principles; (2) to respond to the NCBC analysis; and (3) to evaluate the applicability of the USCCB statement. Given the serious and complex nature of the case, as well as the gravity of the implications for the Catholic identity of Catholic Healthcare West, the analysis provided is lengthy.

The conclusion of the analysis is as follows: the procedure performed at St. Joseph's Hospital and Medical Center on November 5, 2009 cannot properly be described as an

abortion. The act, per its moral object, must accurately be described as saving the life of the mother. The death of the fetus was, at maximum, non-direct and *praeter intentionem*. More likely, the fetus was already dying due to the pathological situation prior to the intervention; as such, it is inaccurate to understand the death of the fetus as an accessory consequence to the intervention. Therefore, St. Joseph's Hospital and Medical Center followed the morally correct course of action, in accord with the *Ethical and Religious Directives*, Catholic moral tradition, and universally valid moral precepts, in working to respect the sanctity and dignity of life, first doing what they could to foster the lives of both the mother and the child and then, when it was clear the child had begun the dying process, to do what they could to save the mother.

The following analysis will proceed in three parts. In part one, I provide a detailed account of the clinical history and the nature of the clinical crisis faced by the mother and her child. In part two, I provide a moral analysis of the intervention drawing on magisterial teaching and the works of two of the most reputable Catholic moral philosophers and theologians—Fr. Martin Rhonheimer and Germain Grisez. Both are expert scholars of the Thomistic tradition in Catholic moral theology, follow *Veritatis Splendor*, and have used this tradition to analyze questions of obstetric conflict. Based on this analysis, part three provides a response to the NCBC analysis and an application of the USCCB statement.

If you have any further questions, please do not hesitate to contact me. I will continue to pray for Catholic Healthcare West as well as the many participants affected by this case.

Sincerely,

A handwritten signature in cursive script, reading "M. Therese Lysaught". The signature is written in black ink and is positioned above the typed name.

M. Therese Lysaught, Ph.D.

Associate Professor and Director of Graduate Studies