

**DIOCESE OF MANCHESTER**  
*Secretariat for Administration and Community Affairs*

April 30, 2012

Senator Matthew Houde  
Senate Judiciary Committee  
107 North Main Street – Room 101  
Concord, New Hampshire 03301

**Re: HB 1216 (Relative to the Authority for Withholding or Withdrawal of Life-Sustaining Treatment)**

Dear Senator Houde and Members of the Senate Judiciary Committee:

As the Director of the Office of Public Policy of the Roman Catholic Diocese of Manchester, and on behalf of Bishop Peter Libasci, I write to express our support for a clarified version of HB 1216 which would state that the intentions of a patient expressed in an advance directive should be given priority, and we believe this would be consistent with the goal of the sponsors. We are unable to support the current version of HB 1216, however, because as written, it would remove the important role that families have in end-of-life decision-making when a patient has not executed an advance directive.

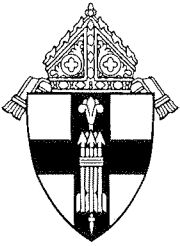
Our position on HB 1216 is informed by Catholic teaching. We are citing those teachings here because we believe they are consistent with the principles of natural law and the common good. In other words, one need not be Catholic to subscribe to the principle that the wishes of a patient expressed in an advance directive should be given priority or that a patient's family and other close loved ones should participate in treatment decisions if the patient has lost the capacity to make such decisions and has not executed an advance directive.

Catholic teaching affirms the sacredness and dignity of every human life, including how we care for human life at the end of its earthly journey. It is helpful for individuals to express their understanding and belief about their own future care in writing, but when an advance directive has not been executed, input from those who are in a position to know the wishes of the patient is critical.

The Diocese is concerned that as written, HB 1216 would remove the important role of those closest to the patient in end-of-life decision-making when the patient has not executed an advance directive or there is no existing guardianship or court order. Catholic teaching provides:

In the event that an advance directive is not executed, those who are in a position to know best the patient's wishes – usually family members and loved ones – should participate in the treatment decisions for the person who has lost the capacity to make health care decisions.

*Ethical and Religious Directives for Catholic Health Care Services, Fifth Edition, Directive 25.*  
United States Conference of Catholic Bishops, 2009.



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The Diocese also is concerned that HB 1216 reduces the standard for ethically assessing medically-administered nutrition and hydration to situations that would be “physically harmful or would hasten death.” Catholic teaching and tradition recognize other additional factors that justify foregoing or withdrawing of medically-administered nutrition and hydration that pertain to lack of reasonable hope of benefit and the causing of excessive burden. *Ethical and Religious Directives for Catholic Health Services*, ns. 56-58. In addition, Catholic teaching recognizes that the patient’s best interests are critical when there is no evidence of the patient’s wishes:

Decisions by the designated surrogate should be faithful to Catholic moral principles and to the person’s intentions and values, or if the person’s intentions are unknown, to the person’s best interests.

*Ethical and Religious Directives for Catholic Health Care Services* at Directive 25. The ethical assessment in such a case cannot be restricted to physical harm and hastened death.

The Diocese also would support HB 1216 if it were amended to clarify what is meant by a “legally incapacitated person.” A physician can determine capacity, but this is distinguished from “incompetence,” which is determined by a court.

We urge you to give serious consideration to HB 1216 because it addresses end-of-life decision-making of New Hampshire citizens. We encourage you to revise the existing law to make it clear that family members, together with clergy, physicians, and others, should serve an important role in end-of-life decisions for those who have not executed an advance directive or are not under the care of a guardianship or court order. Thank you for your consideration of our testimony and for your service to the people of New Hampshire.

Sincerely,

Meredith P. Cook, Esq.  
Director, Office of Public Policy

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