



Senator _____,

I write to you to urge you to support Senate Bill 917, which would eliminate the ten-day countdown in the Texas Advance Directives Act (TADA). Reforming the law in this manner demonstrates greater respect for the sanctity of human life that is required of all Christians and in Catholic moral teaching and medical ethics.

Section 166.046 of the Texas Health and Safety Code currently authorizes a physician to override the stated or written directives of a patient regarding life-sustaining treatment. If the physician determines the life-sustaining treatment is “medically inappropriate,” he may initiate a treatment removal process by referring the case to an established hospital committee, which is ordinarily an ethics committee. If the committee affirms the physician’s judgment, the patient and his family are then afforded only ten days to find another physician or facility willing to treat the patient, after which the physician can remove the treatment against the patient or surrogate’s wishes with complete immunity. The Ten-Day Rule deprives the patient of his God-given rights and is categorically incompatible with Catholic teaching.

The patient—and if the patient is unable, then his medical proxy— must determine that a particular medical intervention is disproportionate to the intended benefit of that particular therapy; the patient has the right to decide this, not be subjected to someone else’s value.

Indeed, the *Ethical and Religious Directives for Catholic Health Services* concludes likewise. Both directives 56 and 57 define proportionate and disproportionate means as “those that in the judgment of the patient” do not impose an excessive burden or do impose an excessive burden.¹ Directive 59 states, “The free and informed judgment made by a competent adult patient concerning the use or withdrawal of life-sustaining procedures should always be respected and normally complied with, unless it is contrary to Catholic moral teaching.”² Similarly, Directive 28 states, “The free and informed health care decision of the person or the person’s surrogate is to be followed so long as it does not contradict Catholic principles.”³

Is the continuation of life-sustaining treatment that a physician considers “medically inappropriate” contrary to Catholic principles? No. Life-sustaining treatment at dispute under

¹ US Conference of Catholic Bishops, *Ethical and Religious Directives for Catholic Health Care Services*, 6th ed. (Washington, DC: USCCB, 2018): dirs, 56-57.

² USCCB, *Ethical and Religious Directives*, dir. 59.

³ USCCB, *Ethical and Religious Directives*, dir. 28.

TADA is unlike other services that run afoul of Catholic teaching. Sterilization and contraception destroy the proper functioning of a bodily system. Abortion and euthanasia totally destroy a human person. Conversely, life-sustaining treatment substitutes for a bodily function that has been lost temporarily or permanently. It maintains homeostasis that would otherwise collapse. Therefore, life-sustaining treatment is never itself a violation of Catholic teaching.

Supporters of the current Ten-Day Rule defend the statute on two grounds: First, that the process protects patients from irremediable harm; and second, that the process protects the conscience of medical professionals. The first defense fails because the patient or medical proxy has concluded that the benefits of the treatment outweigh the potential burden of such treatment. While supporters of the Ten-Day Rule claim the treatment is futile, the disagreement exists precisely because the treatment *is physiologically effective*. If the treatment did not work (i.e., sustain the patient's life), then the Ten-Day Rule would be needless. What supporters of the Ten-Day Rule actually espouse is that even though the treatment is working and wanted, the physician must wield final authority.

The defense of conscience is also an insufficient justification for the Ten-Day Rule for three reasons. First, the decision to administer LST is properly the patient's. It is the patient's life that is most directly affected and the patient's values that most define the weighing of burdens and benefits. The patient's conscientious judgment matters the most. Second, patients can licitly choose treatment compatible with the Church teaching. Patients have a moral right to accept or reject LST as they determine appropriate. Any resolution in favor of the physician undermines this right. Finally, resolutions of legitimate conflicts of moral rights should generally favor the person encountering the more significant harms. If the physician conscientiously objects to LST but must administer it in accordance with the patient's desires, the physician incurs moral distress and guilt—profound harms that cannot stand without a serious rationale. If the patient determines LST is appropriate but faces removal anyway, the patient is likely to die—a paramount harm that cannot stand without the highest of rationales. Of the potential outcomes, the patient faces plainly the more consequential—and permanent—harm. Violating one's conscience is serious; violating the right to life is more serious yet.

Finally, it is worth noting that the medical proxy or family should make decisions when the patient does not have decision-making capacity. The principle of subsidiarity recognizes that “a community of a higher order should not interfere in the internal life of a community of a lower order.”⁴ While the physician is a medical expert with a vast array of clinical knowledge, the medical proxy is better placed to understand the patient's beliefs, desires, and values. TADA permits physicians to disregard legitimate treatment decisions of the medical proxy or parent and therefore is a direct violation of the principle of subsidiarity.

Understandably, many physicians and other members of the care team experience dismay when confronting severely ill patients. Emotional, physical, and spiritual pain often accompanies death and patients near death. People can and do adamantly disagree about the proper

⁴ John Paul II, *Centesimus annus* (September 1, 1991): n. 48.

treatment goals when a patient is gravely sick. The Ten-Day Rule, however, is not a neutral process by which to resolve these disagreements, as it undermines both the patient's judgment and the patient's life. That is why *The Catechism of the Catholic Church* prescribes that "the decisions should be made by the patient if he is competent and able or, if not, by those legally entitled to act for the patient, whose reasonable will and legitimate interests must always be respected."⁵

Senate Bill 917, by eliminating the ten-day countdown, requires the patient, the family, and the physician to cooperate for the patient's good. This solution is one in fuller harmony with Catholic teaching. For this reason, and for the many I articulated above, I ask you to support Senate Bill 917.

Blessings,

A handwritten signature in black ink, reading "Bishop Rene Henry Gracida". The signature is written in a cursive, flowing style.

Bishop Rene Henry Gracida
Bishop Emeritus of the Catholic Diocese of Corpus Christi

⁵ Catechism of the Catholic Church, 2nd ed. (Washington, DC: US Conference of Catholic Bishops/Libreria Editrice Vaticana, 2016 update): nn. 2278.