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SETTING LIMITS: MEDICAL GoALs IN AN AGING SOCIETY. By Daniel Callahan. New York: Simon & Schuster. 1987. 257 Pp. \$18.95.

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BOOK REVIEWS

SETTING LIMITS: MEDICAL GOALS IN AN AGING SOCIETY. By Daniel Callahan. New York: Simon & Schuster. 1987. 257 Pp. \$18.95.

*Reviewed by Giovanna M. Cinelli**

It is a cold morning, about 6:00 a.m. when the phone rings. You reach over to answer it, dreading the voice on the other end. "Hello," you say. "Hello, Mrs. Jones, this is Dr. Johnson. Your father took a turn for the worst this morning, but we've got him on life-sustaining systems. He's in a semi-comatose state and we need to know what kind of treatment you want us to provide; with our advice, of course." You're numb, letting Dr. Johnson's words slowly sink in. "Doctor," you ask, "does my father know what's going on? I mean really know; or is he just hanging onto . . . ?" You leave the sentence unfinished. A pause ensues, and the doctor asks you to come to the hospital. "Mrs. Jones, your father is 80 years old. I've known him for the past 20 years as a patient and as a friend and, well, ask yourself, would he want to be kept alive on a series of machines with no guarantees on the outcome? He's lived a full and happy life. Don't destroy his last ounce of pride and dignity. Think about what's at stake." The conversation ends.

Callous? Yes. Necessary? Yes. Situations such as those outlined above are becoming more and more frequent as the general population advances in age. As a matter of fact, the average life span, once considered to be somewhere in the mid-60s, has leapt recently to the late-70s. With this increasing elderly population comes new considerations of factors applying to death, dying, cost containment, and resource allocation never touched upon. These factors pervade decisions made by doctors, families, moralists, and ethicists. When asked, these factors lead to answers. But those in a position to analyze these factors very rarely confront the dilemmas, leaving those who des-

* Associate, Howrey & Simon, Washington, D.C. Formerly Judicial Clerk to the Honorable Philip Nichols, Jr., United States Court of the Appeals for the Federal Circuit and the Honorable Steffen W. Graae, D.C. Superior Court, Washington, D.C.; B.A., 1981, Loyola/Harvard University; M.A., 1982, College of William & Mary; J.D., 1986, The Catholic University of America.

perately need guidance facing a precipitous void. Daniel Callahan's book, *SETTING LIMITS: MEDICAL GOALS IN AN AGING SOCIETY*, seeks to provide society, and individuals grappling with these difficult questions, some guidance. However, due to the sensitivity of the topic, a sensitivity which is reflected in each of Callahan's chapters, no real answers are provided, representing the book's only shortcoming. This shortcoming, however, does not detract from the worthwhile elements; elements which make the book a must reading for any and all ever faced with the quandary of defining the parameters of care and costs for the elderly, whether ill or healthy.

The book is logically divided in a progressive manner, first setting definitions, then fitting the definitions into a modern framework and finally comparing the new definitions and framework with current societal norms. The author begins by asking all the right questions: Who do we classify as "elderly?" Who do we classify as "the young?" What duties or obligations do the elderly owe the young? What responsibilities do the young owe the elderly? What criteria assist decisionmakers in determining who receives life-prolonging treatment or new medical technological advancements? Each of these questions is thoroughly examined by Callahan with a vigor and sincerity unmatched by other authors dealing with a similar topic.¹

Chapter one focuses on Callahan's reconceptualization of the elderly. He argues that prior to confronting such difficult questions as prolonging death and allocating resources² one must redefine the term "elderly" in light of medical progress and renewed roles in society for those categorized as elderly. His reconceptualization requires the elderly to view their existence in terms of sacrifice as well as right. The elderly, definable more readily nowadays as the post-70 generation, must understand that medical technology does not create a right, in and of itself, to treatments which are no longer life-saving, but life-prolonging. As noted by the Greek poet, Pindar: "Do not yearn after immortality. But exhaust the limits of the possible."³ As such, the elderly must prepare themselves for the realization that resource

1. See, e.g., A. MALCOLM, *THIS FAR AND NO MORE: A TRUE STORY* (1987).

2. See also Smith, *Death Be Not Proud: Medical, Ethical & Legal Dilemmas in Resource Allocation*, 3 J. CONTEMP. HEALTH L. & POL'Y 47 (1987); Mehlman, *Rationing Expensive Lifesaving Medical Treatments*, 1985 WIS. L. REV. 239; O'Boyle, *On Attitudes Toward Death & the Cost of Dying*, 49 LINACRE Q. 48 (Feb. 1982). Several authors have dealt with the question of resource allocation or triage, but very rarely with productive results. The decision to provide limited, lifesaving resources to one and not to another member of society is anathema to the foundations of our present value system. However, Callahan's premise that the technologies are no longer producing only lifesaving resources, but life-prolonging resources refocuses the debate. The decision to deny someone a *lifesaving* resource is quite different from the decision to deny them a *life-prolonging* resource. The latter connotes an element of choice which the former cannot.

3. CALLAHAN, *SETTING LIMITS: MEDICAL GOALS IN AN AGING SOCIETY* 201 (1987).

allocation necessitates that they step aside for life-prolonging treatment when other members of society require the same care that would prolong a life that is much younger. The elderly have lived full and extensive lives and should now refocus on sacrifices, as well as obligations, which they can provide society.

By the same token, however, Callahan argues that youth must also reconceptualize their idea of the elderly, and subsequently, their ideas of themselves. The elderly are not a group of doddering fools, wandering aimlessly, just waiting for their moment of death. Retirement, which in the 1950s and 1960s heralded the onslaught of "elderly" status, no longer represents such an "end." In fact, retirement is occurring at earlier and earlier ages, permitting a new generation of retirees to engage in meaningful activities and to learn to contribute to society on a separate level. Therefore, the elderly are not to be segregated into a group which may not, in the opinion of some, deserve progressive medical treatment. Rather, the young must now understand that age is not the sole criteria upon which allocation and triage decisions are made. Yes, it is a factor. But the weight accorded that factor must now be balanced more carefully. Chapters two and three explore the implications of these reconceptualizations, noting that a shift in thinking, and subsequently behavior, will not be achieved easily. Each of these groups has a vested interest in the perpetuation of the current system. Is there a tinge of subjective "quality of life and contribution" factor which has crept into the decisionmaking process? Yes. Is that acceptable? Some argue yes, others no.

Once Callahan outlines his definitions, he moves into a cost-benefit approach to the allocation of resources. Chapters two, three and four clearly present the concept of competing needs and the results desired from this competition. In these chapters, the author explores the duties and obligations, also touched upon in chapter one, which the elderly and the young owe each other within the realm of the ultimate cost-benefit analysis. He discusses the often overstated principle that resources are limited and therefore tough decisions must be made. At this point, the reader should be prepared for some tough answers to some very tough questions. These answers, however, are slow in coming.

In subsequent chapters, Callahan deals with the question of once you have defined the elderly and youth, you must segregate the treatments which each group receives, could receive, or should receive. A precise methodology for classifying the elderly, the treatment and the question of quality of life bring the issues of death and dying closer to resolution.⁴ The treatment available

4. Callahan's asserted framework follows:

to the elderly includes nutrition, hydration, antibiotics, life-sustaining machinery, and innovative physical or chemical therapies. But when Callahan seeks to mesh the status of the patients, the level of care to be provided, and the quality of life achievable in order to maintain a balance in the cost-benefit analysis, answers elude him. The decision to provide treatment to one individual necessarily precludes treatment for another; a simple truism. It is, however, this unarticulated premise which governs the difficult questions Callahan seeks to answer, but finds too difficult. The title of his book suggests that he has found a way to set limits in an area where discussions provide the whimsical with the idea that no limits need be set. But the author realizes by the end of the book that there are no answers, just opinions, which require justification no matter which view one holds. It is at this point where the author's opinions lead him to uncomfortable answers, that Callahan strays.

Rather than probing into why such unpalatable (for current societal norms) answers present themselves as the logical conclusion to questions of resource allocation, Callahan simply shifts his focus and his premise so that the answer reached is no longer as viable as a more diluted response.⁵ Each of his chapters, thus, falls short by revising premises when dealing with hard questions rather than maintaining the validity of his initial premises and dealing with the consequences; certainly an unenviable position.

(1) CLASSIFICATIONS.

(a) PHYSICAL AND MENTAL STATUS

- (1) Patients with brain death
- (2) Patients in persistent vegetative state
- (3) Patients who are severely demented
- (4) Patients with mild to moderate impairment of competence (of fluctuating competence)
- (5) Severely ill, mentally alert patients
- (6) Physically frail, but not severely ill, mentally alert patients
- (7) Physically vigorous, mentally alert patients

(b) LEVELS OF CARE

- (1) Emergency lifesaving interventions (example, CPR)
- (2) Intensive care and advanced life support (examples, intensive-care units, respirators)
- (3) General medical care (examples, antibiotics, surgery, cancer chemotherapy, artificial hydration and nutrition)
- (4) General nursing care for comfort and palliation

(c) QUALITY OF LIFE

- (1) Criteria of quality of life: capacity to think, feel, interact with others
- (2) Impediments to quality: severe pain and suffering (or effects of medication to relieve them), and any other condition that thwarts capacity to think, feel, and interact with others.

CALLAHAN, *supra* note 3, at 181-82.

5. See also Annas, *Trying to Live Forever*, 15 L. MED. & HEALTH CARE 242 (Winter 1987/1988).

Regardless of this shortcoming, Callahan's suggested approaches to these questions always lead to the conclusion that no one really knows the right answer; no one, in fact, ever may. And because Callahan compiles a thought-provoking, rather than answer guide book, it is worth reading by anyone wrestling with the question of how to handle the shifting and expanding elderly population and scarce medical resources. It appears that some decisions are personal to the point of having several "right" answers.

THE NEW BIOLOGY: LAW, ETHICS AND BIOTECHNOLOGY. By George P. Smith, II. New York: Human Sciences Press, Plenum Publishing Corp. 1989. 292 Pp. \$36.95.

*Reviewed by Josephine Y. King, Ph.D.**

One would have to consult a wide array of texts and reports to achieve the comprehensive coverage of the subject of bioethics that Professor George P. Smith has masterfully assembled in one volume. The breadth of the work is not a signal for a cursory or summary treatment of the range of subjects; quite the contrary. The difficult, disturbing and as yet unresolved questions are brought to the surface in full light. There is no attempt to shun controversy and please all by vacuous platitudes. In addition to scope, depth and controversy Professor Smith's work is, above all timely, the Supreme Court having just accepted for review a Missouri abortion case¹ which may occasion the examination of *Roe v. Wade*.²

An eminent scholar, the Honorable Justice Michael D. Kirby, CMG, President of the Court of Appeal, Supreme Court of New South Wales, Australia, and Commissioner of The International Commission of Jurists, said this of Professor George P. Smith's new work, **THE NEW BIOLOGY: LAW, SCIENCE AND BIOTECHNOLOGY:**

This book will inform, irritate, exasperate and illuminate the reader. Such is the controversy of the topic the author has tackled. For the lawyer and the citizen who is brave enough to contemplate

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1. *Webster v. Reproductive Health Services*, probable jurisd. noted, Jan. 9, 1989, 57 U.S.L.W. 3451 (Jan. 10, 1989).

2. 410 U.S. 113 (1973).