

( [Blog de bioética y libertades públicas. Eutanasia y dignidad de la vida](#) , 7 de mayo de 2013).

Terminado el plazo de enmiendas el Comité de Bioética de España ha enviado las siguientes observaciones al

[Draft guide concerning the decision-making process regarding medical treatment in end-of-life situations \(DH-Bio/Inf 2013 1\)](#)

del

[Comité de Bioética del Consejo de Europa](#)

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Las ideas fundamentales son:

Apoyo al sentido general del documento, especialmente a la necesidad de adaptar las legislaciones y la formación médica para hacer frente a los retos que plantea la toma de decisiones en la atención médica en las fases finales de la vida.

Como posibles mejoras se proponen, entre otras, las siguientes: adaptar la definición de dignidad humana de forma que se precise como dignidad de todo "ser humano".

Considerar que en la situación de crisis económica el único riesgo no es la aplicación de medidas fútiles en los tratamientos al final de la vida sino también el abandono terapéutico.

Sustituir el termino limitation por appropriate en lo referente a la adecuación del tratamiento al final de la vida. Insistir en el estudio de la forma en que pacientes, personal sanitario y familiares se aproximan a las cuestiones referentes a la retirada de tratamientos.

Considerar que la aplicación de determinados tratamientos debe vincularse a la lex artis y que desde el punto de vista de la autonomía no es lo mismo la capacidad de rechazo a un tratamiento que el supuesto derecho a exigir un tratamiento contraindicado.

Dar la debida importancia a los deseos del paciente anotados en la historia clínica, puesta en contexto de los deseos expresados en las voluntades anticipadas.

También recomendar la celebración de "family meetings" en consonancia con lo indicado por diversas Organizaciones científicas de nivel europeo.

### **Amendments and suggestions to the Draft guide concerning the decision-making process regarding medical treatment in end-of-life situations. DH-Bio/Inf (2013) 1.**

The Bioethics Committee of Spain agrees with the need and opportunity of the working document "Draft guide concerning the decision-making process regarding medical treatment in end-of-life situations". The content and the proposals expressed in the document are welcomed. The Committee considers it to be necessary to adapt the laws of the Council of Europe member countries to the challenges that face the decision-making process regarding medical treatments in end of life situations.

Notwithstanding the above, we propose the following contributions to the text:

## 1. Replacement amendment

Introduction Page 3, n 3: We propose to substitute "The protection of human dignity and human beings" as it is written in the document for "The protection of human beings and their dignity".

Justification: We think it is more appropriate to refer to "the protection of human beings and their dignity" because the protection of the being and dignity of individuals acquires larger and concrete qualified implications than just to refer to the protection of somehow an abstract value as that of human dignity. The proposal would be in line with the Resolution 1859 (2012) of the Parliamentary Assembly, Item 4 final "Protect their human rights and dignity".

## 2. Addition Amendment

Page 4 n 10 bis: In the context of an economic crisis like the one we are in and its likely impact in a medium and long term, end of life ethical issues should not only be restricted to the consideration of the risk of adopting therapeutic futile measures. The opposite attitude should also be addressed concerning the lack in some cases of an implementation and limitation of therapeutic measures.

Justification: The introduction of the new text will prevent certain unilateralism in considering that the only risk that the patient and the medical team have concerns exclusively the therapeutic futility or non futility of the measures taken, when there is a clear risk of the contrary, that is, the abandonment or limitation of treatment in particular patient cases taking in to account the context of the economic crisis the society is going through and the doubts about the sustainability of the health systems very different from that we had a few years ago.

## 3. Replacement amendment

Page 5: Where the document says adaptation, limitation or withdrawal, we proposed to replace the term limitation for appropriate.

Justification: the term appropriate is preferable to avoid the negative connotations that the term limitation has.

#### **4. Addition Amendment**

Page 5: After adaptation, withdrawal or limitation, the following should be added: In relation to the latter term, discussions should be taken on board concerning the ways on how doctors, patients and their families approach the specific problems posed by some decisions relative to withdrawing therapeutic measures.

Justification: Clinical experience seems to show that it is more controversial, even if only for purely emotional reasons, the withdrawal of therapeutic measures than the decision not to apply them for considering futile.

#### **5. Addition Amendment**

Page 6, p 16: At the end, add the following: A large number of legislations have incorporated the right of the patient to restrict the type and amount of information he/she wants to know.

#### **6. Addition Amendment**

Page 9 p 31: Add a new paragraph 31bis indicating the following: "Treatments at the end of life must conform to the same lex artis requirements than may have other treatments in a different context. Thus, the request or demand for a specific treatment can not be equated to the request for the rejection of treatment.

Justification: There is a risk of pressure on healthcare teams to apply treatments that in some cases are not appropriate without regard to the requirements of the lex artis.

## **7. Addition Amendment**

Page 10, p 36: At the end, add the following: In this context it would be appropriate to indicate that it may be convenient that the expressed desires and wishes of the patient, manifested to the persons in care, are to be reflected in the clinical record.

## **8. Addition Amendment**

Page 13, p 50: Add at the end of the sentence: In any case, regardless of the position you hold it is important to clarify that the effectiveness of these documents must be in harmony with the context in which they are to be effectively implemented and with the requirements of the *lex artis*.

Justification: It is important to prevent the use of such documents in a routinely and indiscriminating manner. The ethical problems that may arise for its implementation in a variety of contexts should carefully be considered.

## **9. Addition Amendment**

Page 15, p 57: The importance of having family meetings during the decision making process should be stressed in order for the family members to be aware of the actual clinical situation of the patient.

## **10. Addition Amendment**

Page 16 point 1, the doctor: Include at the end of point 59 a comma and add the following text: shall ensure the benefit of patients, especially in conditions of large fragility and vulnerability.

Justification: This is at the heart of the ethical duty of the physician.