

# Editorial:

## Down the Slippery Slope

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Whatever happened to the concept of limited government, designed to protect the rights of the individual? Was it just a passing fad on the way to the “enlightened” welfare state?

And whatever became of professional medical ethics that placed the care of the individual patient above the needs and wants of society?

Managed care, capitation, physician-assisted suicide, HIPAA, the Schiavo case, the Kelo case, and plasticized cadavers on tour—we pass them like a blur of trees as we plummet down the slippery slope. The importance of the individual, and of individual rights, is fading fast.

First came managed care, which pitted physicians against patients—the less care a physician provided to an individual patient, the more profit the physician made. HMO physicians became agents of the company responsible for rationing care. Then came capitation, which we were told was the wave of the future. People were treated like cattle. “Capitated” physicians were paid by the head, and individual patients who required treatment became financial liabilities.

The ultimate solution to financial liabilities in medicine, not surprisingly, became popular about the same time as the managed care scam was flourishing. In total conflict with the traditional role of physician as healer, physician-assisted suicide gained legal acceptance as “compassionate” care and “death with dignity” in the state of Oregon. Proponents of “the right to die” are currently planning to spread this option of “compassionate” killing to other states.

Meanwhile, medical privacy and confidentiality were irreparably harmed with the passage of the Health Insurance Portability and Accountability Act (HIPAA). As a result of HIPAA, an individual’s most confidential medical records are now more easily accessible to government authorities and to government-approved researchers. To add insult to injury, HIPAA has resulted in more expensive paperwork for hospitals, physicians, and pharmacies. It has increased compliance costs, increased information technology costs, and decreased efficiency.

In March of this year, we witnessed the tragedy of the Terri Schiavo case. Hearsay, tainted by conflict of interest, was accepted as “evidence” of what Ms. Schiavo wanted, and a judge ruled that she should be deprived of food and water until she was dead.

Professional disagreements over whether Mrs. Schiavo was in a persistent vegetative state or a minimally conscious state were decided by the judge—not that it mattered to some, since a number of physicians expressed the view that “most” patients in such a neurologically impaired state would want to die, whether or not they had some consciousness. Neurologically disabled patients in the United States have every reason to be afraid of what might happen if this concept of what “most” would want ever expands to the extent that it has in the Netherlands.

The overreaching conclusions drawn from Terri Schiavo’s autopsy were astounding. Experiencing thought, swallowing food and water if offered, and visually tracking a moving object are functional abilities that one can neither confirm nor rule out with certainty based on an autopsy. The claim that Ms. Schiavo was blind conflicted with her ability to track a balloon, which was clearly apparent to anyone who viewed the video on her website.

The pronouncement that her brain damage was irreversible and that no amount of therapy would have resulted in

improvement, based solely on an autopsy finding of massive neuronal loss, defies credibility. The subsequent case of Buffalo firefighter Donald Herbert, who was in a persistent vegetative-like state for at least 10 years and then recovered to the point that he could respond and converse coherently with his friends and family, no doubt left such prophetic medical examiners red-faced and speechless. Moreover, the medical examiner’s refusal to allow an independent forensic expert, as desired by Terri’s parents, to simply observe the autopsy did nothing to answer questions that remain unsettled in the minds of many.

Individual rights also suffered this past summer with the 5-to-4 decision by the U.S. Supreme Court in the case *Susette Kelo v. City of New London, Connecticut et al.* The Corporation sought to obtain the property of Susette Kelo and other long-time homeowners under eminent domain for the purpose of providing it to a private developer to build an office complex and marina.

The town of New London, Connecticut, argued in favor of taking the private property because it would create jobs and more tax revenue. In utter disregard of the Fifth Amendment to the U.S. Constitution, which allows for the taking of private property for public use (not private use) with just compensation, Justices John Paul Stevens, Anthony M. Kennedy, David H. Souter, Ruth Bader Ginsburg, and Stephen G. Breyer ruled in favor of the “taking” by New London. Justices Sandra Day O’Connor, Clarence Thomas, Antonin Scalia, and Chief Justice William Rehnquist dissented, in favor of upholding the Constitution.

With this ruling, private property no longer exists. All property is now subject to seizure by the government. The phrase “public use” now means whatever wealthy private lobbyists say that it means. One’s home is no longer one’s secure castle, but merely a place where the government allows one to reside until it decides to take it and give it to some other private entity that has a “better use” for it.

In the Monty Python film *The Meaning of Life*, government authorities showed up one day at a house and demanded that the resident turn over his liver. The man protested that he wasn’t done using it himself. But someone else, no doubt, had a better use for it, and the government had the authority to take it, and thus they dragged him away.

Should we worry about the knock on the door if someone who is smarter, wealthier, and able to create more jobs and pay more taxes than we are should happen to need a liver, and we might be a well-matched donor? *Kelo* could be the first step in establishing the precedent for such a “taking.”

And just when we thought that individual rights and human dignity couldn’t suffer any further, we have the nadir of medical ethics—a traveling cadaver show known as *Body Worlds 2*. The show, created by German anatomist Gunther von Hagens, features approximately 200 plasticized human body parts and 20 full human cadavers stripped of their skin and posed in various action settings—figure skaters, skateboarder, baseball player, etc. It even includes the cadaver of a five-week-old fetus.

In 1978, Von Hagens created the embalming process by which cadavers are permanently preserved via replacing bodily fluids with plastic. His shows, which have been seen by 17 million people worldwide, have reportedly grossed \$160 million.

Now that entertaining the masses with a display of human death is so lucrative, can the bottom of the slippery slope be far ahead?

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