



An Irish Living Will

Michael Irwin

RECENTLY, members of the Humanist Association of Ireland and of the Humanist Association of Northern Ireland received a copy of a draft Advance Healthcare Directive form, requesting their comments. This AHD form allows individuals to state the type of medical treatment they would like to receive (usually at the end of life) if they become unable to express their views at that time - for example, if they should develop Alzheimer's disease. An alternative, popular term for an AHD is Living Will - which is "living" because it takes effect before death, and is a "will" because it states someone's wishes.

Copies of this draft form were also sent to sixteen organizations in Dublin, ranging from the Alzheimer's Society to the Medical Council, from the Law Reform Commission to the Irish Patients Association, and from the Irish Council for Bioethics to the Motor Neurone Disease Association, also for their comments - I had been in contact with officials in these various bodies during December.

In recent weeks, I have received many comments on this draft AHD form - either using the brief questionnaire at the bottom of the accompanying letter, or, in several instances, quite lengthy e-mails. Many of these responses will be most useful to me in revising the draft in the near future.

To be honest, I must tell you that this "Living Will project" began by accident! Last October, I participated in a RTE radio debate, held in the public library in Waterford, on "End-of-Life Issues", and part of the discussion naturally focused on the benefits of AHDs. There, I heard about the excellent report which had been produced, in February 2007, by the Irish Council for Bioethics on "Is It Time for Advance Healthcare Directives?". The following month, I was in Dublin for a similar debate at Trinity College and I met Ann

James, the HAI Secretary, who was also speaking at this event. She gave me a copy of the ICB report. All this led to my presenting the idea of producing an Irish Living Will to the HAI monthly meeting on December 2007. Then, on January 10th, in Belfast, I met with members of Humani, at their regular monthly meeting, and made a similar presentation.

My interest in Living Wills began when I was working as a physician with the United Nations, in New York, in the 1980s - these documents were becoming increasingly popular in the States following their introduction in the late 1960s by Luis Kutner, a human rights lawyer in Chicago (incidentally, Kutner was a co-founder of Amnesty International). After my retirement to England in 1993, I became much involved with the development of AHDs in the UK.

It is important to stress that an AHD is not asking doctors or nurses to do anything illegal

Up to that time, the typical Living Will simply allowed patients to refuse medical care which was aimed at prolonging or sustaining their lives. Thus, opponents of AHDs could condemn them as being "suicidally motivated refusals of medical treatment" - that expression was used in a letter which appeared in the *Daily Telegraph* on April 1, 1998, signed by the Roman Catholic leaders in England, Wales and Scotland.

Then, in October 1999, during an interview by the legal correspondent of the *British Medical Journal*, I stated that "Of course, a Living Will could also express the wish to stay alive with life-prolonging measures for as long as possible". Thus, in the UK, the concept of a pro-choice AHD was born. This is the essential part of the draft form which Humanists in Ireland have recently received - because one can EITHER refuse medical interventions aimed at sustaining life,

OR, equally important, one can request medical treatment to be given to continue life for as long as possible.

It is important to stress that an AHD is not asking doctors or nurses to do anything illegal. It is everyone's right to accept or refuse medical treatment. And, if death results from the withholding or withdrawing of life-sustaining treatment, it must not be considered as a suicide.

The present situation regarding AHDs in Ireland is somewhat different between the North and the South. The Mental Capacity Act adopted by the British parliament in 2005 has given legal support for AHDs in England and Wales, but not in Northern Ireland (the Scottish parliament had approved a similar law in 2000). However, in Northern Ireland, the concept of AHDs has been backed by organizations such as the British Medical Association and the Royal College of Nursing for the past ten years. So far, the equivalent organizations in Dublin have not yet taken any official position on AHDs. Fortunately, throughout Ireland, "common law" or "case law" will give increasing support for AHDs (this is equivalent to the situation which existed in Scotland, England and Wales before the 2000 and 2005 Acts were approved in these countries).

I believe that a common AHD form can be produced now for use throughout Ireland - with just minor modifications, such as replacing the "Personal Public Services Number", used in the Republic, with the "National Health Service Number" for use in the North.

In designing the draft AHD form which has been sent to Humanists throughout Ireland, I reviewed similar documents from twenty countries around the world (ranging from the United States to Australia, and from the UK to Japan), and I believe I have selected the best elements to produce a form which is, to use a modern idiom, "user-friendly", and is not too complicated or legalistic. During March and April, following a review of all the comments and questions I have received, the form will ➤