

# Law essay

[Law](#), [Criminal Justice](#)



## **Position Paper**

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Health care delivery in extreme cases of disaster often presents worst case scenarios that strain the health care providers, systems as well as other practitioners. This is apparent even to individuals who are not involved in the delivery of health care. Most people remember the aftermath of Hurricane Katrina in New Orleans and how catastrophic it was. There were alleged cases of euthanasia that were administered to patients at Memorial Medical Center (Memorial) in New Orleans who had been injured by the Hurricane is perhaps one of the most compelling and troubling examples of cases of divergence from the bioethical and legal standards. The health care providers involved included a physician, Dr. Anna Pou, a respected head and neck surgeon and two nurses. Dr. Anna had remained at the hospital all through the ordeal as she had been given the opportunity to evacuate all the patients who had been treated on the 29th of August 2005 (Fink, 2013). However two days later on a Thursday morning, an announcement had been made that the hospital was to be completely evacuated, at that time, there were nine patients in critical states still on the Life Care floor. According to the affidavit that was filed by the office of the Attorney General of Louisiana, Dr. Pou made was reports to have made statements that she was planning to administer euthanasia lethal doses to the patients. She had also allegedly asked for and received syringes and narcotics that were meant to cause the deaths and had been seen entering the patients' rooms with the two nurses (Fink, 2013). The significant question that, therefore, arises during such events is whether the standard practices that are ethically and legally

established can be deviated from.

These allegations against Dr. Pou generated intense public outrage and criticism in New Orleans. At the time, the state was still recovering from Katrina that had itself caused tremendous damage and loss of lives. There were no indictments made when the allegations were later on presented to the grand jury. Dr. Pou was however arrested a year later with charges of second-degree murder. The case is inevitably subject to a substantial amount of controversy due to its ethical, medical and legal implications. The decision to end a life and the all the issues surrounding it has been on the tables for debate for a long period (Manning, 1998). It, therefore, presents an opportunity to analyze the issues in the context of medical care provision particularly during disasters. The significant question in the Katrina case therefore is whether or not Dr. Pou had intended to euthanize or kill the patients and if she did was she acting in consistence with the legal and ethical morals of a health care provider and the country. Moreover, if she had no such intentions did the extreme circumstances justify the deviation from the set standards?

Our society lives within certain legal and ethical constraints that are all reflected in our values and ethics. The law in the criminal codes prohibits against intentional killing hence reflecting these societal values and ethics (Manning, 1998). The law has over the last half century been instrumental in resolving issues of medical care that concern propriety in the field. Health care givers have the unilateral authority of making decisions that regard the care of their patients. They are similarly allowed to surrogate with minimal accountability on patient self-determination and autonomy. Historical

evidence and early common laws that were established by a constitutional right and bodily integrity were against such a kind of autonomy to doctor. This was, for instance, evidenced in 1914 by a court headed by Justice Cardozo, in the case of *Schloendorff v. Society of New York Hospital*. In the case the doctor was required to have obtained the consent of the patient to perform any medical procedure. In 1972, similarly, in a pivotal case of *Canterbury v. Spence* at a federal court, this expanded right to include the informed consent was further reinforced in the reasoning that without any such consent then there was not any meaningful or intelligent consent that was given.

With the ruling, there was a general clarity that all medical decisions should not be exclusive to doctors and that patients need control over such crucial decisions too. These cases presented a paradigm shift on such ethical medical concerns (McDougall, Gorman & Roberts, 2007).

The *re Quinlan*, 6 in the New Jersey Supreme Court, is yet another significant case that supported the need for patients to have the autonomy of making decisions that concern their health. This was also applicable to the *Conroy* case in 1985.

All these cases had a strong support to the right of patients to informed consent and self-determination (Lo, 2013). Therefore, patients should have the right to either refuse or demand for treatment. In line with this argument, it is clearly, therefore, that Dr. Pou failed to acquire the consent of her patients before choosing to end their life. Even though their medical state was dire, it was necessary they take part in the decision that was meant to either end their life or sustain it. She should have instead sought to

obtain the views of another staff too as well as considered other applicable actions.

## **References**

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