



Republic of San Marino

**National Bioethics Committee**

Law January 29, 2010 n. 34

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***ANSWER TO THE REQUESTED URGENT  
OPINION ON ETHICAL ISSUES REGARDING  
TO THE USE OF INVASIVE ASSISTED  
VENTILATION IN PATIENTS ALL AGE WITH  
SERIOUS DISABILITIES IN RELATION TO  
COVID-19 PANDEMIC***

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**APPROVED ON MARCH 16, 2020**

Translated by Luisa Borgia

The National Bioethics Committee (CSB) of Republic of San Marino received from Hospital Department, Social Security Institution an urgent request to express an opinion on ethical issues related to the use of invasive assisted ventilation in patients all age with serious disabilities in relation to the pandemic COVID-19.

The following Opinion was drafted by Luisa Borgia, Vice chair, then submitted to the evaluation of the entire Committee and approved . Therefore,

**The National Bioethics Committee unanimously agreed to issue the following Statement:**

Since its first mandate, the National Bioethics Committee of Republic of San Marino has dedicated a particular, constant attention to the issues of disability. In particular, it dealt in depth with the delicate management of persons with disabilities in the end of life and in emergencies and catastrophes, in the following documents: **Bioethical approach to persons with disabilities** (2013); **Bioethics of Disasters** (2017); **Decision-making process in taking care of the sick person at the end of life** (2019).

Therefore, the answer to the request for an urgent opinion has to be referred to the mentioned documents, in order to identify the bioethical indications that must support the difficult and sometimes lacerating choices, of the health personnel in situations of "extraordinary" and of very high critical decision for the profound ethical values at stake.

CSB, in formulating this opinion, necessarily brief due to the urgent nature that distinguishes the request, intends to reiterate the bioethical principles that guided the drafting of these documents and which also constitute the fundamentals of disaster medicine, with reference to the management of persons with disabilities.

In the *UNESCO Universal Declaration on Bioethics and Human Rights*, a reference for all bioethical approaches in the world, addressed to "*medical, life science and related technologies*" operators, it is stated that "*respect for human dignity and the protection of human rights, ensuring respect for the life of human beings, and fundamental freedoms, based on international human rights legislation*". It follows that any bioethical evaluation must necessarily be carried out in the context of respect for the dignity of the person and their human rights.

Therefore, even the bioethical reflection on persons with disabilities can only respect the principles set out in the international bioethical maps and specifically, in the *Convention on the Rights of Persons with Disabilities of the United Nations*, approved by General Assembly (2006), ratified by 181 member countries of the UN.

The Republic of S. Marino, ratifying it in 2008, recognizes it as an integral part of the San Marino Order<sup>1</sup>.

This Convention establishes, in an innovative way, that the condition that persons with disabilities live is a matter of human rights and, therefore, every time a person with disabilities receives different treatment without justification, he suffers discrimination, that is, a violation of human rights.

The founding principles of the Convention can be briefly indicated in **equality and non-discrimination** and in the **equality of opportunity**.

In defining **discrimination** based on disability<sup>2</sup>, the Convention specifies that it discriminates when it is treated differently without justification (*distinction*); when excluding from a right or benefit (*exclusion*), when limiting access to a service or a right (*restriction*).

**Equality of opportunity** concerns the recognition of the right of access to goods and services, primarily health-related services.

In "*liminae vitae*" there is an evident risk of undermining these rights by a very strong social and cultural stigma, which highlights the unsustainability of a suffering life, considered in fact not worthy of being lived. This conception places health workers, in emergency situations, having to make difficult and lacerating choices, but oriented to allocate, as a priority, resources scarcely available to other categories of patients.

Precisely to the "*situations of risk and humanitarian emergencies*", the UN Convention dedicates a special article (art. 11) which "*obliges States Parties*" to adopt "*in accordance with the obligations deriving from international law, including international humanitarian law and international rights standards human resources, all necessary measures to ensure the protection and safety of people with disabilities in risk situations, including situations of armed conflict, humanitarian emergencies and natural disasters*", requiring "*health specialists to provide care for persons with disabilities of the same quality as those provided to others*" (art. 25).

In this sense, the World Medical Association had already expressed itself, recommending that the doctor's intervention take place without discrimination<sup>3</sup>.

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<sup>1</sup> It is useful to remember how the legislation currently in force in the Republic of San Marino recognizes its first source in the **Declaration of citizens' rights and of the fundamental principles of San Marino system** and which, in turn, recognizes the rules contained in the International Declarations on Human Rights and fundamental freedoms and conforms to them.

<sup>2</sup> **Convention on the Rights of Persons with Disabilities**, art. 2: "*discrimination based on disability*" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of affecting or canceling recognition, enjoyment and exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including refusing reasonable accommodation".

<sup>3</sup> World Medical Association **Statement on Medical Ethics in the event of disasters** (Stockholm, September 1994), in *Bulletin of Medical Ethics*, 1994, 102.

In light of these necessary bioethical premises, we agree with what is stated in the introduction to the SIAARTI Document<sup>4</sup>, which describes the possible exceptional conditions of imbalance between needs and available resources, feared in the current pandemic by COVID-19: "*a scenario of this kind, it can be substantially assimilated to the field of "disaster medicine", for which ethical reflection has over time developed many concrete indications for doctors and nurses engaged in difficult choices*".

It is precisely from the medicine of disasters that the direct indications must be drawn regarding patients who involve difficult and ethically critical management: those people who in an "ordinary" context would not have difficulty in being treated and eventually cured, but who in the context of "extraordinary" emergency, may not be treated due to the lack of specific equipment and personnel.

The attribution of priority of treatments to be delivered as well as the victims to be treated cannot fail to take into account the fundamental ethical principles, which materialize in a correct application of *triage*, trying to optimize the allocation of resources.

The only parameter of choice, therefore, is the correct application of *triage*, respecting every human life, based on the criteria of clinical appropriateness and proportionality of the treatments.

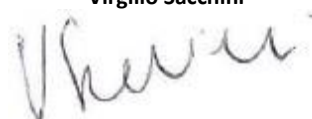
Any other selection criteria, such as age, gender, social or ethnic affiliation, disability, is ethically unacceptable, as it would implement a ranking of lives only apparently more or less worthy of being lived, constituting an unacceptable violation of human rights.

CSB, in all its documents, recognizes these criteria as essential ethical and deontological references, recommending that any decision regarding persons with disabilities should be based on respect for their human rights, as defined by the UN Convention.

Also, CSB believes that respect for human dignity is concretized allowing each person to experience a good death, through the precious tool of Palliative Care, which guarantees the control of pain and suffering, in the deep awareness that a person's life seriously ill and incurable, it never loses its intrinsic value nor the right to be supported and protected, therefore it reiterates that equal dignity must also be guaranteed to "non-treatable" victims, through taking charge and any sedation of pain.

The Chairman of the National Bioethics Committee  
of Republic of San Marino

Virgilio Sacchini



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<sup>4</sup> SIIARTI (Italian Society of Anesthesia Analgesia Resuscitation and Intensive Care), ***Clinical Ethics Recommendations for admission to intensive treatments and for their suspension***, in exceptional conditions of imbalance between needs and available resources: <http://www.siaarti.it/SiteAssets/News/COVID19%20-%20documenti%20SIAARTI/SIAARTI%20-%20Covid19%20-%20Raccomandazioni%20di%20etica%20clinica.pdf> (version 1 – March 6, 2020).

**Attachments:** Urgent opinion request on ethical aspects related to the use of invasive assisted ventilation in patients of all ages with serious disabilities in relation to COVID-19 pandemic.

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Istituto per la Sicurezza Sociale

Prot. 182/DIR - DIR. OSR

San Marino, 12 marzo 2020

Ai Componenti Comitato Etico

In merito alle problematiche cliniche ed etiche emerse in seguito alla pandemia da COVID-19 in continua e progressiva evoluzione, sono a richiedere un vostro parere urgente sugli aspetti etici legati all'uso della ventilazione assistita invasiva in pazienti di ogni età con gravi disabilità.  
Questo alla luce della verosimile scarsa efficacia della ventilazione stessa in questi pazienti e delle limitate risorse di tipo intensivistico che, come da documenti recenti della società italiana di Anestesia Analgesia Rianimazione e Terapia Intensiva, necessita di scelte a volte difficili e dolorose legate ai criteri che definiscono l'accesso alla ventilazione assistita.

Dr. Massimo Arlotti  
Commissario Straordinario



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