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Thomas W. Hilgers, MD, and Sue Hilgers at the Pontifical Academy for Life meeting in February 2012

Greetings! Welcome to the spring 2012 issue of *Connect!* In this issue, I am sharing a reprint of an article published in the Catholic Medical Association's *Linacre Quarterly*. It was originally published in 2002, but the topic is timely with the current healthcare legislation. The United States Constitution, in its first amendment, does not just protect the "freedom of worship" or the freedom to go to church on Sunday or to a temple on Saturday. It protects beyond that to the "free exercise" of one's religious beliefs. Current proposed legislation is posing as an obstacle to enforcing the Constitution and affects very directly those in the healthcare field.

I was able to share the impact that the strong scientific foundations of **NaProTECHNOLOGY** has had on gynecologic and reproductive health with the Pontifical Academy for Life in February. Their annual meeting sought to examine the current treatment approaches for infertility. NaProTechnology is providing real solutions to real women's health problems and especially the problem of infertility. A summary of the presentation, "**NaProTECHNOLOGY** (Natural Procreative Technology) and the Evaluation and Treatment of Infertility" will soon be available in the journal, *International Journal of Obstetrics and Gynecology*.

At our Education Phase in April, we welcomed 99 students who will now take the **CREIGHTON MODEL FertilityCare™ System** and **NaProTECHNOLOGY** with them to share with other women, couples, and physicians. This fall, we will be holding the first education program internationally in Poland. Please pray for the continued building of a culture of life in women's health care. It is through your prayers and example that this can happen!

— Thomas W. Hilgers, MD, Director of the Pope Paul VI Institute, Editor of *Connect*

Reproductive Medicine and Violation of the "Free Exercise" Clause of the United States Constitution

Thomas W. Hilgers, MD, CFCMC, Dip. ABOG, ALBS, SRS
(Reprinted with permission*)

Over the years of my involvement in obstetrics and gynecology, and reproductive medicine and surgery I have had the opportunity to see, first hand, how the religious liberties of individual physicians, medical students, nurses, patients, etc., have been violated by the contemporary trends in reproductive medicine. Since the advent of oral contraceptives, the practice of obstetrics and gynecology as it relates to procreative medicine has dramatically changed. Contraception, sterilization, abortion, and in vitro fertilization are the foundation upon which reproductive medicine decision making is made. These decisions are often made with a "steam roller effect" which is completely devoid of any consent from those who are impacted by the implementation of those decisions.

It has been an interesting series of events to watch over these years as the profession has become less and less diagnostically attuned and more and more "band aid" oriented. The birth control pill is used for the treatment of almost every gynecologic malady known, even though it cures none of them. Family physicians, internists, pediatricians and others tend to follow the same approach as their OB-GYN colleagues. With in vitro fertilization, instead of finding out what the underlying cause of one's infertility or reproductive problem might be, there is a "jumping over" of the underlying causes (the diseases)



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and a pursuit directly to a solution which first of all is very expensive, second is not very effective and third, is considered to be highly immoral and unethical by many people in our society.

The same could be said for the simplistic solution of abortion for all of the socioeconomic ills that seem to confront pregnant women. With the artificial reproductive technologies, the physicians involved seem to ignore the possibility that their patients might abhor even the very thought of being involved in abortion related events.

At the foundation of all this is a significant violation of the individual's liberty to pursue their own religious beliefs. This is particularly true for those who are Catholic because the Catholic Church, unlike many other religions, has a long-standing and well developed—and I might point out, quite contemporary—approach to all of these issues. Thus, the informed Catholic will understand what the Church is saying, why it is saying it, and not view it as being punitive or rigid but rather, see it as liberating to them. Their religious beliefs lead them to a kind of liberty that goes beyond simply the “witchcraft” or “superstition” notion of religion that is such a common view in American society today. ...

The “Free Exercise” Clause is found in the First Amendment to the United States Constitution. This is the first of ten amendments which were ratified December 15, 1791, and form what is known as the “Bill of Rights.” This amendment reads:

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.¹

I would like to illustrate the type of concerns that are raised in the practice of reproductive medicine with three real-life examples that I have been involved with recently. In each of these cases, an individual's First Amendment “free exercise” rights were grossly violated. I should point out that this represents three examples to which there could be many, many additional examples added and to which I have personal experience with or exposure to.

Example 1

An OB-GYN first year resident is admitted through the matching program to a residency in obstetrics and gynecology. ...the various faculty members and fellow residents place an enormous amount of pressure on the individual because of their having to “pick up the slack” for what they view as an individual who is not “carrying his load.”

Of course, the individual is more than willing to “carry his load”, he just does not wish to, by nature of his moral and conscience formation, participate in contraception, sterilization or abortion practices. ...

Nonetheless, all of this is ignored and the pressure becomes so intense that the individual resident gives up his long-standing desire to become an obstetrician-gynecologist and changes direction and goes into a family practice residency. ...

Now what really makes this of great significance is that this is a state run institution which is protected by both state and federal law and, in fact, is supported by both state and federal tax dollars. So when the first amendment to the United States Constitution says: “Congress shall make no law...prohibiting the free exercise thereof;” this residency program, while prohibiting the free exercise of this individual's religious beliefs (not to be viewed as the same as an individual who refuses to provide good medical care) and supported by various laws and taxes is in de facto violation of the first amendment to the United States Constitution and these practices should be viewed as unconstitutional.

Example 2

The second example involves a woman who has had a variety of different reproductive and infertility problems. She has had two pregnancies that have ended in classical Caesarean Section making her risk of subsequent rupture of the uterus increase particularly if she has multiple pregnancies.

She seeks medical care from a reproductive endocrinologist at a state run medical school and in the process of her care the reproductive endocrinologist hyperstimulates the woman's ovaries ... Unbeknownst to the patient, who is a Catholic, the reproductive endocrinologist is not concerned about the multiple pregnancies because if that occurs she will simply recommend to the patient “selective reduction” ...[T]he reproductive endocrinologist did not discuss any of this in advance with this patient nor did the reproductive endocrinologist discuss with the patient her and her husband's religious beliefs.

As a direct outcome of this treatment protocol the woman became pregnant with quintuplets. The reproductive endocrinologist ...told the patient not to worry because she can have a selective reduction. However, the patient was very much against this approach to managing her pregnancy. She was, nevertheless, referred to a perinatologist still at the state university who said to her that “You will die” if you do not have the selective reduction and his proposition was to kill four of the babies, leaving one remaining.

...[W]e saw her here at the Pope Paul VI Institute. ...[W]e were able to arrange for her to receive care at another institution that specialized in high order multiple pregnancies. By the time we

had seen the patient one of the babies had spontaneously died leaving a quadruplet pregnancy. She subsequently delivered, quite prematurely, but three of the four remaining babies did not survive. The one that was stillborn, incidentally, was the only one that would not have been “reduced” ...

The important issue that this example illustrates is the role again of the state run institution and the state employee (the reproductive endocrinologist and the perinatologist in the case) both of whom are supported and protected by state and federal law and funding. Again, such an approach to patient care would appear to be in de facto or significant violation of this patient’s first amendment “free exercise” rights: “Congress shall make now law...prohibiting the free exercise thereof” (or religion).

The important illustration in this case is that a patient has gone to a physician who is propped up by both state and federal law and state and federal dollars and the physician is grossly violating that individual’s free exercise of their religious beliefs.

Example 3

The third example is an individual who is covered by medical insurance which will reimburse coverage for contraceptive medications or devices, abortion and/or diagnostic testing that leads to an abortion such as triple screening, amniocentesis with genetic screening, etc. At the same time, these same insurance companies will not reimburse for natural family planning services for either avoiding pregnancy or health monitoring.

...[A]s a specialist in reproductive medicine and surgery I can guarantee the reader that almost all reproductive problems including infertility, miscarriage, etc. are due to some type of organic, hormonal or immunologic cause which not only causes the reproductive anomaly but also puts the woman at some other medical risk in terms of her long term health. The denial of insurance coverage in these areas is medically inconsistent but also forces or coerces the individual not to receive medical treatment and/or go in directions, especially when it comes to abortion, contraception, sterilization, artificial reproductive technology, etc. which violate their own religious beliefs....

The insurance companies—and this would include the government run insurance programs such as Medicaid and Medicare—are violating, day in and day out, the individual’s liberty to freely exercise their religion in a way which is consistent with their own beliefs. Since the companies are propped up by both state and federal law, they are, de facto, in violation of the first amendment to the United States Constitution which I would once more like to remind you reads: “Congress shall make no law...prohibiting the free exercise thereof” (of religion).



Thomas W. Hilgers, MD, presenting at 25th anniversary of Pope Paul VI Institute, 2011

To be able to freely exercise one’s religious beliefs in a medical setting should require at least all of the following (the RICHA Freedoms):

- Freedom from Ridicule
- Freedom from Intimidation
- Freedom from Coercion
- Freedom from Harassment, and
- Freedom from Medical Abandonment

... For a religious believer, the violation of these freedoms violates the “free exercise” clause. One of the great tragedies of this problem is the ultimate abandonment of the patient or student or physician, etc. that this produces. ...

[T]he Church is at the forefront of thinking in many of these areas allowing its believers to a life that can produce a great deal of joy, love, happiness, and peace. ...As a result of this, it is important for every Catholic and any other religious person who is of similar belief to become committed and convicted to their beliefs to the extent of being willing to challenge these program policies as an abridgment of the “free exercise” clause of the first amendment to the United States Constitution. In addition, it is vitally important that individual lawyers and legal associations, special interest law firms, constitutional attorneys, civil rights attorneys, etc. become involved in the challenge of these practices at the very core level of our constitution. I personally believe that the next great revolution in American civil rights will come about as a result of the proper implementation of the “free exercise” clause of the United States Constitution.

... [I]t is in all of our vital interests as a sane and rational, compassionate and sensitive society to see to it that the “free exercise” clause and the “establishment” clause be enforced in ways so that both are protected and neither are denied. ♪

1. The Constitution of the United States of America, Applewood Books, Bedford, MA, p 18

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Holy Mary, Mother of God,
You have given the world its true light,
Jesus, your Son—the Son of God.

You abandoned yourself completely to
God's call
and thus became a wellspring
of the goodness which flows forth from Him.

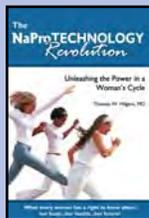
SHOW US JESUS.
LEAD US TO HIM.

Teach us to know and love Him,
so that we too can become
capable of true love
and be fountains of living water
in the midst of a thirsting world.

— Pope Benedict XVI, Closing Prayer of *Deus Caritas Est*
December 25, 2005

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Helping Priests Respond to Medical and Moral Challenges

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