unconstitutionally vague as applied to a claim involving a farmer who offered a home remedy to cure cancer. The court held that, although Minnesota Statute § 147.081 subd. 3(3) (1994) contains general language and undefined terms, the statute contains sufficient particularity to show ordinary persons what conduct is prohibited, and thereby passes the void-for-vagueness test. The court stated that, according to the statute, while a person holding a license to practice medicine is permitted to engage in a broad range of conduct, those without that license are proscribed from engaging in that same range of conduct.

The defendant, Mr. Saunders, a dairy farmer, claimed that he could cure ill people by injecting an ill person's blood into a cow and then feeding that person the cow's colostrum. In 1993, an undercover agent posed as a cancer patient who wanted to undergo the defendant's treatment. Mr. Saunders told the agent that once the ill person's blood was injected into the cow, the cow would produce antibodies to the illness. Further, the defendant maintained that the cow would produce milk with specific properties that, when ingested, would heal diseases such as AIDS, cancer, or diabetes. The defendant instructed the agent to supply him with a blood sample, to continue taking antibiotics, and to discontinue chemotherapy treatment. The agent supplied the blood sample, paid Saunders a fee, and, in return, received the "treated" milk.

The defendant was charged with one gross misdemeanor count of practicing medicine without a license under Minnesota Statute § 147.081, subd. 3(3). A mistrial was declared because the jury was deadlocked during deliberations. The defendant then moved for acquittal and for certification of four constitutional issues. The court denied the acquittal and allowed one of the four certification requests. The certified question concerned whether the statute is void for vagueness.

The court of appeals considered whether the statutory language was so vague that it denied notice of prohibited conduct to persons of ordinary intelligence. Although the statute covers a broad range of activities, the court held that it was sufficiently specific to give notice of prohibited conduct to ordinary persons—thereby passing the void-for-vagueness test.

This decision makes clear that the Minnesota statute prohibiting the practice of medicine without a license is not unconstitutionally vague pursuant to the Constitution of the United States and the Minnesota Constitution as applied to this case's facts. The court's holding affirms the public policy of protecting the public at large from unlicensed health care providers.

H.T.B.

Letters to Editors

To the Editor. Jeffrey Spike and Jane Greenlaw have provided an interesting and informative discussion of a recently noted phenomenon in their column "Ethics Consultation: Persistent Brain Death and Religion: Must a Person Believe in Death to Die?," in the Fall 1995 issue. I would only quibble with their use of the term *persistent brain death* to describe the brain dead person whose cardiopulmonary function persists for months or even years after the determination of brain death.

The term *persistent brain death* suggests that it is the "brain death" that persists, that these patients are remaining in a state of brain death for a longer period of time than other brain dead patients. That is incorrect: these patients, like all brain dead patients, will remain in a state of brain death for all eternity. We do not currently refer to a brain dead patient whose cardiopulmonary function subsequently fails as no longer being brain dead. (They may, at that later time, meet other definitions of death, but doing so does not lessen the patient's qualification for still being brain dead.) Yet *persistent brain death* would suggest exactly that, and accordingly would be appropriate only if we also redefined brain death in a manner consistent with that suggestion.

A more accurate term would be to describe such patients as *brain dead with persistent cardiopulmonary function*. This terminology has the virtue of highlighting the salient fact, which is not the brain dead status, but rather the continued functioning of other portions of the patient's body.

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To the Editor. It was with great interest that I read Diane Hoffmann and Eric Wulfsberg's article "Testing Children for Genetic Predispositions: Is it in Their Best Interest?," in the Winter 1995 issue of the journal. It raises interesting ethical issues, and I thought I would muddy the water by referencing a recent Florida Supreme Court decision, *Pate v. Threlkel et al.*, __ So. 2d __, 20 (Fla. 1995), Fla. L. Weekly S 356.

The Florida Supreme Court recently held that a physician owes to the children of a patient a duty of care to warn that patient of the genetically transferrable nature of the condition for which the physician is treating the patient.

The suit was brought by an adult daughter of the patient. The plaintiff alleged that the medical care providers knew or should have known that medullary thyroid carcinoma is an inheritable condition that can be genetically passed to offspring.

The trial court and appellate courts recognized that the case should have been dismissed for failure to state a cause of action, in that no physician-patient relationship existed between the medical care providers and the patient's daughter. However, the Florida Supreme Court reversed the lower courts opinions and unanimously held that there was sufficient enough information to allow a cause of action.

The Supreme Court held that whether a duty to warn exists depends on whether expert testimony would show that such a duty "is recognized as acceptable and appropriate by reasonably prudent similar health care providers," as

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