



# In re: K.I., 735 A.2d 448(D.C. Ct. App. 1999)

Topics Covered: Do Not Resuscitate Order, Ethics

## **Outcome: Very Favorable**

### **Issue**

The issue in this case was whether a physician can enter and then follow a do not resuscitate order (DNR) when the patient's quality of life was minimal and when the child's pain and suffering were overwhelming.

### **AMA Interest**

The AMA believes that physicians should not be required to deliver care that, in their best professional judgment, will not benefit their patients.

### **Case Summary**

A two year old child had been born prematurely with cerebral palsy, sepsis, and other serious medical conditions. She required continuous, acute medical care. Her physicians evaluated her cognitive functioning as "virtually non-existent," with no hope of improvement. She could neither hear nor see, but she did experience pain, including the pain that would arise from an extraordinary resuscitation effort. Her physicians recommended that a DNR order be entered, since the quality of her life was minimal but the pain to her of prolonging that life would be substantial.

Previously, a court had found that the child's mother had neglected her. However, as a biological parent, she objected to the DNR order and stated that she wanted everything done for her child in the event of a medical emergency. Her position was that "any amount of pain is worth it as long as she breathes." One of two men may have been the father; the trial evidence did not show the results of a paternity test. One of the putative fathers agreed with the mother and opposed the DNR order. The other putative father agreed with the experts that the court should authorize the DNR order.

The trial court found that it would be in the child's best interest if, in the event of cardiac and/or pulmonary arrest, her attending physician could perform only non-invasive means of resuscitation. The court so ordered. The biological mother appealed to the District of Columbia Court of Appeals, arguing that her judgment as to the child's wishes should be determinative. However, the Court of Appeals declined to follow the substituted judgment standard and affirmed the trial court's decision.

### **Litigation Center Involvement**

The Litigation Center, along with the Medical Society of the District of Columbia, filed an *amicus* brief to support the trial court's application of the best interests of the child standard for determining when to require resuscitation.