

CASE PRESENTATION**Jack Kevorkian: Moral Leader or Doctor Death?**

On August 5, 1993, Thomas W. Hyde, Jr., a thirty-year-old Michigan construction worker, was taken inside a battered white 1968 Volkswagen bus parked behind the apartment building in the Detroit suburb of Royal Oak, where a sixty-five-year-old retired pathologist named Jack Kevorkian lived.

Kevorkian fitted a respiratory mask over Hyde's face and connected the plastic tubing leading from the mask to a short cylinder of carbon monoxide gas. He placed a string in Hyde's hand that was attached to a paper clip crimping the plastic tubing and shutting off the flow of gas. Hyde jerked on the string, pulled loose the paper clip, then breathed in the carbon monoxide flowing into the mask. Twenty minutes later, he was dead.

Hyde suffered from amyotrophic lateral sclerosis (ALS), a degenerative and progressive neurological disorder. He was paralyzed, unable to swallow, and, without continual suction procedures, would have choked to death on his own saliva. He reported that he was in great pain and had approached Kevorkian to help him end his life.

In a videotape made on July 1, 1993, Hyde had told Kevorkian, "I want to end this. I want to die." Hyde was the twentieth person whom Jack Kevorkian had assisted in ending his own life.

Trial

After the death of Thomas Hyde, Jack Kevorkian was arrested and charged with violating a 1992 Michigan law that had been enacted specifically to stop his activities. The law applies to anyone who knows that another person intends to commit suicide and who either "provides the physical means" or "participates in a physical act" by which the suicide is carried out. However, the law explicitly excludes those administering medications or procedures that may cause death "if the intent is to relieve pain or discomfort."

On May 2, 1994, a jury found Kevorkian not guilty of the charge of assisting suicide. As one juror said, "He convinced us he was not a murderer, that he was really trying to help people out." According to another, Kevorkian had acted to relieve Hyde's pain, and that is allowed by the law.

Several jurors expressed skepticism and resentment at the attempt to legislate behavior falling within such a private sphere. "I don't feel it's our obligation to choose for someone else how much pain and suffering they can go through," one said. "That's between them and their God."

After the decision, Kevorkian reiterated his position that people have a right to decide when to end their lives. He acted, he said, to protect that right. "I want that option as I get older, and I want it unencumbered, unintimidated, free with my medical colleagues," he said. "So I did it for myself, too, just as any competent adult would want to do."

Kevorkian always insisted that he practiced physician-assisted death (PAD) only in accordance with stringent safeguards. "You act only after it is absolutely justifiable," he said. "The patient must be mentally competent, the disease incurable." He maintained that multiple physicians should determine that a candidate for assisted death was incurable and that a psychiatrist should assess the patient's mental state and determine that he or she was competent. In practice, Kevorkian did not proceed in this fashion, because other physicians refused to cooperate with him.

Critics

Critics charged that without the safeguard of a psychiatric evaluation, patients who sought out Kevorkian to help them kill themselves were likely to be suffering from depression. Hence, they couldn't be regarded as having made an informed, rational decision to end their lives.

Other critics worried that if physicians are allowed to play a role in terminating the lives of patients, that role could expand. Physicians might begin by assisting those who ask their help, but then move on to making their own decisions about who should live. Or they might even be recruited to carry out a government policy identifying those who should be "assisted" in dying. On this view, the potential for abuse is so serious that physicians should not be associated in any way with procedures intended to end the lives of patients.

Finally, some critics, though disagreeing with Kevorkian, believed he had successfully pointed out a major flaw in the U.S. health care system: the medical

profession was so committed to preserving life that it failed to humanely address cases in which death is inevitable. Rather than help people kill themselves, critics said, physicians ought to concentrate on alleviating the pain of terminally-ill patients, and allow them to spend their remaining time with their families and friends.

It was in keeping with such aims that hospitals and other institutions set up hospices to provide nursing care and support for the dying and established palliative care specialties to alleviate their suffering. Despite early resistance from the medical establishment, by 2010, over 45 percent of Americans were dying in hospice. (See this chapter's Briefing Session for more on this topic.)

A Charge of Murder

In 1998, the Michigan Department of Consumer and Industry Services, the state agency responsible for licensing physicians, charged that Jack Kevorkian was practicing medicine without a license by assisting forty-two people in committing suicide. (Kevorkian said that he had actually assisted in 120 deaths.)

Although the agency had issued a cease-and-desist order, Kevorkian continued to help terminally ill people die. That same year, the Michigan legislature passed a law making assisting in suicide a crime, but Kevorkian announced that he would continue his activities despite the law.

In September 1998, Dr. Kevorkian administered a lethal injection to Thomas Youk, a fifty-two-year-old man in an advanced stage of ALS. For the first time, Kevorkian, by his own direct action, caused the death of a person, thus moving from physician-assisted death to active euthanasia.

Kevorkian videotaped the event and offered the tape to the CBS program *Sixty Minutes*, which broadcast excerpts from the tape on national television. About 15.6 million households watched the program.

Kevorkian said he had given the tape to CBS in the hope that it would lead to his arrest and become a test case for assisted death and active euthanasia.

"I want a showdown," Kevorkian told a reporter. "I want to be prosecuted for euthanasia. I am going to prove that this is not a crime, ever, regardless of what words are written on paper."

The prosecutor of Oakland County, Michigan, filed first-degree murder charges against Jack Kevorkian. He said that Dr. Kevorkian's actions clearly fit the definition of premeditated murder and that the consent of the man killed was no legal defense.

On April 13, 1999, Jack Kevorkian was found guilty of second-degree murder and sentenced to a prison term of ten to twenty-five years. "This trial was not an opportunity for a referendum," Judge Jessica Cooper said at the sentencing.

Follow-up

Kevorkian was denied parole in 2005, but in June 2007, after eight years in prison, he was paroled on the grounds of good behavior. Kevorkian had already announced that once he was free, he would not go back to assisting people in dying, but would, rather, campaign to change laws to make such practices legal. He kept this resolution, and after his parole he gave lectures on college campuses, made an unsuccessful run for Congress, and published books advancing his views. In June 2011, he died in a Michigan hospital from a blood clot associated with liver cancer and kidney problems. He was eighty-three and had remained adamant about his views up until the end.

Jack Kevorkian continues to loom large in the public consciousness. Those sympathetic to the views espoused by Kevorkian believe he did more than anyone else to force society to face an issue that it had chosen to ignore. His critics believe he made a circus of what should be a serious and deliberative discussion about end-of-life decisions.

CASE PRESENTATION

Terri Schiavo

Early in the morning of February 25, 1990, Michael Schiavo was awakened by a dull thud. Startled, he jumped out of bed and discovered his wife Terri

collapsed in the hallway. Michael knelt down and spoke to her, but she was unconscious. He called 911, but by the time the paramedics arrived and