CATHOLIC MEDICAL ASSOCIATION

The Linacre Quarterly
2018, Vol. 85(2) 102-105

DOI: 10.1177/0024363918764479
journals.sagepub.com/home/lqr
SAGE

The American Medical Association and Physician-Assisted Suicide

Frederick J. White III, MD

In June 1993, Dr. Jack Kevorkian had assisted in the suicides of sixteen persons (Gibbs 1993, 34). At that time, a new organization, Compassion in Dying, had been formed in Seattle to promote assisted suicide and to screen patients and then instruct them in the most effective way to take a lethal dose of drugs to accomplish that end (New Group Offers to Help the Ill Commit Suicide 1993, 32).[1] "California Proposition 161" proposing to establish assisted suicide by statute had failed 46 percent to 54 percent in November 1992. However, in Oregon, a coalition of groups was organizing to place an assisted-suicide initiative on the November 1994 ballot (Groups Draft Right-to-die Initiative 1993, 2C).

At its June 1993 annual meeting, the American Medical Association (AMA) referred to its board leadership a resolution calling for a study of "the scope and contextual variables of patient requests for euthanasia/assisted suicides" (American Medical Association, Medical Student Section 1993, 460). In response, the AMA Council on Ethical and Judicial Affairs (CEJA) presented Report 8-I-93 "Physician Assisted Suicide," recommendations of which the AMA adopted in December 1993 (American Medical Association, Council on Ethical and Judicial Affairs [AMACEJA] 1994, 263–67). Since that time, AMA ethics policy has definitively stated that "Physician-assisted suicide is fundamentally inconsistent with the physician's role as healer" (AMACEJA 2017, 84).

In June 2016, this AMA policy opposing physician-assisted suicide was technically reaffirmed in an omnibus format when the AMA accepted the CEJA report to modernize the Opinions in the *Code of Medical Ethics* (AMACEJA 2016, 165–67). Noting the limitations of an omnibus process, CEJA stated that "the council is prepared to address concerns about existing Opinions, some of which have been in the code for decades, through the resolution process" (AMACEJA 2016, 165).

In that same meeting, the AMA House of Delegates rejected a resolution from Louisiana which stated:

> RESOLVED, That our American Medical Association not change its policies on opposition to physician-assisted suicide or euthanasia to policies of neutrality or endorsement on the issue of physician-assisted suicide or euthanasia. (American Medical Association, Louisiana Delegation 2016, 391)

Instead, the House of Delegates referred to AMA board leadership an Oregon resolution which read as follows:

> RESOLVED, That our American Medical Association and its Council on Judicial and Ethical Affairs [*sic*], study the issue of medical aid-in-dying with consideration of (1) data collected from the states that currently authorize aid-in-dying, and (2) input from some of the physicians who have provided medical aid-in-dying to qualified patients, and report back to the HOD at the 2017 Annual Meeting with recommendation regarding the AMA taking a neutral stance on physician "aid-in-dying." (American Medical Association, Oregon Delegation 2016, 392)

Willis-Knighton Health System, Shreveport, LA, USA

Corresponding Author:
Frederick J. White III, MD, Willis-Knighton Health System, 2600 Greenwood Rd., Shreveport, LA 71103, USA.
Email: fjwhitemd@gmail.com

The AMA board referred the request for a study to CEJA, which is conducting its work "in a very thorough, thoughtful, and open manner" (Gurman pers. comm.). AMA leadership has requested that comments be made directly to CEJA to "inform its reflections" (Gurman pers. comm). As a longtime member of the AMA and in my capacity as chair of the ethics committee of a large healthcare system, I submitted the following letter to CEJA as that body prepared for its March 2017 meeting.

To the Members of the Council on Ethical and Judicial Affairs of the American Medical Association

February 25, 2017

In the next week you will gather to reconsider the long-standing position of the American Medical Association that "physician-assisted suicide is fundamentally incompatible with the physician's role as healer, would be difficult or impossible to control, and would pose serious societal risks."[2]

You will no doubt receive testimony that this well-considered opinion is not for our time. You will be told that it is too restrictive to the autonomy of patients, that it imposes an unsympathetic rigidity upon physicians, and that it is violative of the principles of social justice. You will be pressed to consider that this policy condemns practices that are now legally authorized for physicians in seven state-level jurisdictions and that are being considered in the legislatures of twenty-one others.[3]

You must reject these arguments. In your role as those who articulate the grounding values of medicine, you must recall that, unlike interests, fundamental moral values are not subject to comparative diminution or dilution. These values are not established by popular will or plebiscite. In your 1993 report you sounded this truth, finding that, "The inability of physicians to prevent death does not imply that physicians are free to help cause death . . . . The physician's role is to affirm life, not to hasten its demise."[4] You looked to Hippocrates and his direct prohibition of physician-assisted suicide: "I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect."[5] You referenced the condemnation of physician-assisted suicide by the great religions of our world.

In this way you stood upon the natural law conclusion of the basic good of human life. That conclusion establishes a powerful and overarching principle, recently stated by Judge Neil Gorsuch, that "if human life qualifies as a basic good, it follows that we can and should refrain from actions intended to do it harm."[6] This *primum non nocere* prohibition does not require vitalism—it does not obligate us to prolong suffering or to reach for the futility of the permanent preservation of physiologic functions. In fact, it demands the opposite. But it does lay the cornerstone of a fundamental moral value for medicine—*it is never morally acceptable for a physician to hasten the death of or take the life of a patient as a primary end.*

You must not be tempted to weigh this fundamental moral value against the interests of suffering or autonomy. Though suffering imposes on the physician a demand for relief and though autonomy challenges the physician to consider actions, neither interest is sufficient to negate the controlling moral values of the practice of medicine. The relief of suffering and the respect for autonomy are informed by the basic good of human life and its derivative value-principle not to harm that life. That value is not diminished by or diluted by these particular interests. As Kant said, "Nor could one give worse advice to morality than by trying to get it from examples."[7]

You must be careful to preserve recognition of the causal role of the physician in physician-assisted suicide. When a physician in full knowledge of the desire of a patient to commit suicide then prescribes the patient a lethal dose of drug and provides the patient with instructions in its use, that physician is a proximate cause of the death of the patient just as certainly as if the doctor had injected lethal drugs directly. But for the act of the physician, the foreseeable particular consequent of the suicide of the patient who takes the prescription as instructed would not have occurred. Upon intentionally providing means and instruction for the accomplishment of the suicide, the physician becomes both a cause in fact and a proximate cause. The suicidal act of the patient is both foreseeable and intended by the physician, and thus the act of the patient is not a negating superseding cause.[8] The physical or temporal separation of the physician from the subsequent act of suicide by the patient does not exclude the physician from the causal chain. As Hart and Honoré note in their classic treatise on causation, "intended consequences can never be too remote."[9]

You must not succumb to the neutral path of least resistance. Those who advocate "studied" or "engaged" neutrality say that organized medicine should adopt a "hands-off" posture, recognizing a diversity of views on physician-assisted suicide and minimizing its potential harms.[10] Turning again to Kant, he incisively held that a moral maxim leaves

no latitude for neutrality. He held that "disposition as regards the moral law is never indifferent."[11] Firestone and Jacobs observe that in Kantian analysis, neutrality elevates the status of lesser interests and incentives to that of the moral law, and undermines the supremacy of moral distinctions.[12] Said another way, physician-assisted suicide is either moral or it is not. You as decision-makers must reach that decision point. Neutrality is not an option.

You must not allow your deliberations to be inhibited by the fact that seven state-level jurisdictions now have legal structures permitting physicians to provide a deadly drug to a patient if asked for it. Rather, that fact should charge you with a deliberate urgency to reinforce the fundamental moral values of medicine. As the American Academy of Neurology states in its formal position on physician-assisted suicide, "Even if such actions by physicians should become legally acceptable, the Academy emphasizes that this will not make them morally or ethically acceptable ipso facto."[13] In fact, the very presence of these laws casts upon you a moral imperative to act. Here I call to remembrance the admonition of Dr. Martin Luther King Jr.: "I would agree with Saint Augustine that 'an unjust law is no law at all.' . . . An unjust law is a code that is out of harmony with the moral law."[14] Of the resistance to unjust laws, Dr. King wrote, "The question is beyond rights. We have a duty to perform. We have a moral obligation to carry out."[15]

Today, you are heirs in moral responsibility to those who have gone before. Throughout the world, the great House of Medicine awaits your deliberations. Do not stand in silence and do not turn aside from your duty.

Notes

1. The Compassion in Dying Foundation merged with the Hemlock Society in 2005 to form Compassion & Choices (2016).
2. Council on Ethical and Judicial Affairs, American Medical Association, Opinion 5.7 Physician-assisted Suicide, supra note 7.
3. Bradford Richardson, "Assisted Suicide Movement Gains Newer Ground," *Washington Times*, February 23, 2017.
4. Council on Ethical and Judicial Affairs, American Medical Association, *CEJA Report 8—I-93: Physician-assisted Suicide, 2* (Chicago, IL: American Medical Association, 1993).
5. Owsei Temkin and C. Lilian Temkin, *Ancient Medicine: Selected Papers of Ludwig Edelstein* (Baltimore, MD: The Johns Hopkins University Press, 1967), 5.
6. Neil M. Gorsuch, *The Future of Assisted Suicide and Euthanasia* (Princeton, NJ: Princeton University Press, 2006), 164.
7. Immanuel Kant, *Groundwork for the Metaphysics of Morals*, Allen W. Wood, trans. (New Haven, CT: Yale University Press, 2002), 24.
8. Dan B. Dobbs, *The Law of Torts* (St. Paul, MN: West Group, 2000), 405–91.
9. H. L. A. Hart and Tony Honoré, *Causation in the Law*, 2nd ed. (Oxford, UK: Clarendon Press, 1985), 170.
10. John Frye and Stuart J. Youngner, "A Call for a Patient-centered Response to Legalized Assisted Dying," *Annals of Internal Medicine* 165 (2016): 733–34.
11. Immanuel Kant, *Religion within the Boundaries of Mere Reason, and Other Writings*, Allen Wood and George diGiovanni, trans. (Cambridge, UK: Cambridge University Press, 1998), 49.
12. Chris L. Firestone and Nathan Jacobs, *In Defense of Kant's Religion* (Bloomington, IN: Indiana University Press, 2008).
13. The Ethics and Humanities Subcommittee of the American Academy of Neurology, "Position Statement: Assisted Suicide, Euthanasia, and the Neurologist," *Neurology* 50 (1998): 596–98. n.b. The American Academy of Neurology retired this position statement in February 2018.
14. Martin Luther King Jr., "Letter from Birmingham City Jail," in *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King Jr.*, ed. James Melvin Washington (New York: HarperCollins, 1991), 48–49.
15. Martin Luther King Jr., "Who Speaks for the South?" in *A Testament of Hope: The Essential Writings and Speeches of Martin Luther King Jr.*, ed. James Melvin Washington (New York: HarperCollins, 1991), 93.

References

AMACEJA (American Medical Association, Council on Ethical and Judicial Affairs). 1994. "CEJA Report 8—I-93 Physician-Assisted Suicide." Proceedings of the House of Delegates, 47th Interim Meeting, New Orleans, LA: American Medical Association.

AMACEJA (American Medical Association, Council on Ethical and Judicial Affairs). 2016. "CEJA Report 2—A-16 Modernized Code of Medical Ethics." Proceedings of the House of Delegates, 165th Annual Meeting, Chicago, IL: American Medical Association.

AMACEJA (American Medical Association, Council on Ethical and Judicial Affairs). 2017. "Opinion 5.7 Physician-Assisted Suicide." In *Code of Medical Ethics of the American Medical Association*. Chicago, IL: American Medical Association.

American Medical Association, Louisiana Delegation. 2016. "Resolution 12: Opposition to Physician Assisted Suicide and Euthanasia." Proceedings of the House of Delegates, 165th Annual Meeting, Chicago, IL: American Medical Association.

American Medical Association, Medical Student Section. 1993. "Resolution 3: Demographic and Ethical Study of Euthanasia and Assisted Suicide." Proceedings of the House of Delegates, 142nd Annual Meeting, Chicago, IL:American Medical Association.

American Medical Association, Oregon Delegation. 2016. "Resolution 15: Study Aid in Dying as End of Life Option" Proceedings of the House of Delegates, 165th Annual Meeting, Chicago, IL: American Medical Association.

"California Proposition 161, the Aid-in-dying Act." 1992. *http://Ballotpedia.org*. https://ballotpedia.org/California_Proposition_161,_the_Aid-in-Dying_Act_(1992), accessed February 24, 2017.

Compassion & Choices. 2016. *History of the End-of-Life Choice Movement*. https://www.compassionandchoices.org/wp-content/uploads/2016/02/FS-History-of-the-End-of-Life-Choice-Movement-FINAL-2.2.16-Approved-for-Public-Distribution.pdf. accessed February 24, 2017.

Gibbs, Nancy. 1993. "Rx for Death." *Time*, May 31.

"Groups Draft Right-to-Die Initiative." 1993. *Statesman Journal*, Associated Press, p. 2C. September 14.

"New Group Offers to Help the Ill Commit Suicide." 1993. *New York Times*, June 13.

Biographical Note

Frederick J. White III, MD, is chair of the Institutional Ethics Committee at Willis-Knighton Health System, Shreveport, LA. He has been a member of the American Medical Association for thirty-nine years.