

10.1: Reading- Moral, Ethical, and Legal Perspectives

“Dying Is Not a Crime”—or Is It?

Dr. Jack Kevorkian



Dr. Jack Kevorkian was both famous and infamous for championing the patient’s “right to die” through physician-assisted suicide. During his career he claimed to have helped at least 130 patients end their lives, believing that physicians (and society) have a moral obligation to help end the pain and suffering of the terminally ill. His work sparked a national debate on patients’ right to end their own life; some in the media portrayed him as “Dr. Death,” while others treated him as a hero of medicine and the spokesman of the dying. He once famously said, “Dying is not a crime.”

Kevorkian’s case (described below) raises some interesting questions about the nature of moral, ethical, and legal behavior in our society, but it also offers us a way to think about some of the differences between these ideas and how the tensions between them play out in the real world. Sometimes, acting in ways that are moral, ethical, and legal are one and the same thing. Other times—as Dr. Kevorkian’s story reveals—they’re not.

As you read the definitions below, see if you can think of examples from your own or others’ experience.

Moral Behavior

Morals are concerned with, or come from, an unwritten code of behavior concerning what’s right or acceptable in a particular society. Traditionally, morals have been the special province of religion and cultural groups.

Ethical Behavior

Ethics are a set of standards that govern the conduct of a person, especially a member of a profession. In the medical profession, for instance, doctors take an ethical oath to “do no harm.”

Legal Behavior

Legal behavior follows the dictates of laws, which are written down and interpreted by the courts. Interpretations can change over time (through new legal precedents, for example) and laws can change, as well. These changes are negotiated within our political and legal systems.

Using these as working definitions, let’s return to Dr. Kevorkian and consider a brief chronology of the events in his case:

- Kevorkian was tried four times for assisting suicides between May 1994 to June 1997. He was acquitted three times; the fourth trial ended in a mistrial.
- On the November 22, 1998, broadcast of CBS News’ *60 Minutes*, Kevorkian allowed the airing of a videotape he made on September 17, 1998, which depicted the voluntary euthanasia of Thomas Youk, 52, who was in the final stages of Lou Gehrig’s Disease. After Youk provided his fully informed consent, Kevorkian himself gave Thomas Youk a lethal injection. This was highly significant, as all of his earlier clients had reportedly performed this procedure on their own. Youk’s family described the lethal injection as humane, not murder.
- On March 26, 1999, Kevorkian was charged with second-degree murder and the delivery of a controlled substance (administering the lethal injection to Thomas Youk).
- After a two-day trial, the Michigan jury found Kevorkian guilty of second-degree homicide. Judge Jessica Cooper sentenced Kevorkian to 10–25 years in prison.
- After serving eight years, Kevorkian was paroled on June 1, 2007, on the condition that he not help anyone else die and not provide care for anyone with a disability or over the age of 62. He was also prohibited from publicly commenting on assisted suicide.
- On June 3, 2011, Dr. Kevorkian died of natural causes—not assisted suicide.

Moral Considerations

Although simplified here, much of the opposition to Kevorkian's behavior on "moral grounds" centered on religious and cultural beliefs:

In his March 19, 2002, article "Opposing Assisted Suicide: More Americans Don't Want Doctors to Help People Kill Themselves" (which appeared on the ABC website), Gary Langer, director of polling at ABC News, wrote:

"When it's posed in broad strokes, 48 percent of Americans oppose legalizing assisted suicide, while 40 percent support it . . . A variety of factors inform these views, and religious belief is central among them. Non-Christians and people who profess no religion overwhelmingly support assisted suicide. But it's opposed by most Christians, who account for 8 in 10 Americans, and especially by evangelical Christians, who oppose assisted suicide by a 2-1 margin."^[1]

Ethical Considerations

Dr. Kevorkian was a licensed physician until his license was revoked in 1991. Bound by the obligation to do no harm, Kevorkian acted in ways that other doctors and health-care workers considered injurious to their profession:

The American Medical Association (AMA), in an October 10, 1995, letter by then AMA General Counsel Kirk Johnson to then Michigan Attorney General Frank Kelley, stated the following:

By invoking the physician-patient relationship to cloak his actions, Jack Kevorkian perverts the idea of the caring and committed physician, and weakens the public's trust in the medical profession.

The AMA establishes the Code of Ethics for the medical profession. One of the fundamental principles of that code is that physicians must not act with the intent of causing the death of their patients. Physician-assisted suicide is simply incompatible with the physician's role as healer. When faced with patients who are terminally ill and suffering, physicians must relieve their suffering by providing adequate comfort care.^[2]

Legal Considerations

Laws change over time, reflecting changes in society. By 2014, four states had passed laws legalizing physician-assisted suicide. Although there is no federal law specifically prohibiting it, assisted suicide falls under the jurisdiction of the laws against homicide. How the law changes—or doesn't change—is summarized here by the court's position:

In *Washington v. Glucksberg*, the U.S. Supreme Court declared in its June 26, 1997 ruling (9-0):

The history of the law's treatment of assisted suicide in this country has been and continues to be one of the rejection of nearly all efforts to permit it. That being the case, our decisions lead us to conclude that the asserted "right" to assistance in committing suicide is not a fundamental liberty interest protected by the Due Process Clause. "^[3]

That was in 1997, but in 2014 a New Mexico judge made the following ruling:

In *Morris v. New Mexico* the New Mexico Second Judicial District in a January 13, 2014, ruling by Judge Nan Nash stated:

This Court cannot envision a right more fundamental, more private or more integral to the liberty, safety and happiness of a New Mexican than the right of a competent, terminally ill patient to choose aid in dying. If decisions made in the shadow of one's imminent death regarding how they and their loved ones will face that death are not fundamental and at the core of these constitutional guarantees, than what decisions are? As recognized by the United States Supreme Court in *Cruzan* "[t]he choice between life and death is a deeply personal decision of obvious and overwhelming finality. . . ."

The Court therefore declares that the liberty, safety, and happiness interest of a competent, terminally ill patient to choose aid in dying is a fundamental right under our New Mexico Constitution.

As the Kevorkian example shows, people take positions and make choices within different frameworks, and those frameworks, while overlapping, are not always perfectly aligned. The legal framework establishes laws that govern behavior; ethical frameworks contain sets of standards and rules governing the behavior of individuals within groups or professions; and morals concern fundamental beliefs about right and wrong behavior. As you will see in the rest of this module, when businesses try to "do the right" thing—by the law, by their shareholders, by their employees, by their customers and other stakeholders (for example, environmental groups)—there is often a complex interplay of moral, ethical, and legal considerations.

Check Your Understanding

Answer the question(s) below to see how well you understand the topics covered in this section. This short quiz does **not** count toward your grade in the class, and you can retake it an unlimited number of times.

Use this quiz to check your understanding and decide whether to (1) study the previous section further or (2) move on to the next section.

<https://assessments.lumenlearning.com/assessments/180>

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1. ProCon.org. (2008, June 5). "[Is the Debate over Euthanasia and Physician-Assisted Suicide Primarily Religious in Nature?](#)" ↵
 2. ProCon.org. (2010, April 26). "[Did Dr. Jack Kevorkian Ethically Serve the Best Interests of His Patients?](#)" ↵
 3. ProCon.org. (2014, August 11). "[Is There a Legal Right to Die?](#)" ↵

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