



Michigan Buys the Lies about Proposal B

by Tom Tomlinson, Ph.D.

Center for Ethics and Humanities in the Life Sciences

If you are an average Michigan citizen, and if the polls in this state and across the country are to be believed, you think that in their final months adults should be able to have help to bring their lives to an end, rather than endure a prolonged death that they would find an agony.

Yet, judging by Tuesday's [November 3, 1998] vote, if you are an average Michigan citizen, you voted against the ballot proposal that would have allowed us all to have this choice.

Why? \$5 million is why. That's how much the archly-named Citizens for Compassionate Care had to spend on its TV ads, drowning out supporters of the proposal, who only had 10% as much. With that \$5 million, they sold lies to the majority of Michigan citizens who support the principle that we adults should have our individual values respected when it comes to one of the most intimate and personal of decisions- how we want our lives to end.

Oh, not always bald-faced lies. Often it is more effective to lie by what you don't say as by what you do. Let's start with my favorite.

Question: "If assisted suicide is such a great idea, why do they have to lie about it?"

Answer: The rabid edge of the right to life movement.

The ad referred to the provision in Proposal B which would have the doctor list the patient's terminal illness as the cause of death on the death certificate (and for other legal purposes), rather than "Assisted Suicide." What the ads didn't tell you is that death certificates are public documents. Anybody can get anybody else's death certificate on payment of a fee. Guess how long it would take a sanctimonious right-to-life zealot to identify who had chosen assisted suicide and who had assisted them? Then guess how long it would take before physicians and grieving families found their homes and offices picketed, their daily lives harassed, and their lives threatened? When some in the right to life movement deliver their opinion on controversial issues with a bullet through the kitchen window, only the very brave would avail themselves of a right "guaranteed" only on paper.

But didn't the ads say that in the Netherlands assisted suicide has led to "involuntary euthanasia?" "Involuntary" means against a person's wishes, like what the Nazi's did in the name of so-called "euthanasia." The ads didn't tell you that the Dutch people don't think that's what's happening in their country, which experienced the horrors of real Nazism first-hand. In any event, in the Netherlands assisted suicide is a rarity. The more common mode of voluntary assisted dying is euthanasia by lethal injection (and even that accounts for less than 3% of deaths there). Whatever the dangers might be of that practice, they are largely irrelevant to the issue of assisted suicide. Assisted suicide keeps the means to death always in the hands of the patient, to use or not to use. That's why "involuntary suicide" is virtually a contradiction in terms.

But wasn't the act too cumbersome? Ads told us that it has 12,000 words, a hopeless labyrinth compared to the elegant simplicity of the Declaration of Independence. Citizens for Compassionate Care didn't mention that most of those words were devoted to making sure the patient is really terminally ill, is well informed and not suffering from depression or other mental illness which clouds judgment, has been offered other options like hospice care and provided access to financial assistance if needed, and the like. And they didn't tell you that if there weren't 12,000 words devoted to these safeguards, they would have been the first to say that the law was not complicated enough.

That gets us to the biggest lie of all — that a vote for Proposal B was a vote for every last dot and title of the draft act, warts and all, for all time. This is the lie that all the ads (and editorials) were premised on, so that any alleged deficiency in the act became a knock-down reason to vote against the proposal. Again, there's a fact not mentioned. If Proposal B had passed, the legislature could have amended it by a 3/4 majority vote. The act was no doubt imperfect. But if there were real and serious problems with it, there should have been no difficulty persuading Michigan's conservative legislature to set them right.

If by some luck the people of this state have another chance at a ballot proposal on assisted suicide, we can only hope that the marketplace of ideas is not so corrupted by the power of money.



Homicide on TV: An Ethical Shift?

by **Howard Brody, MD**

Center for Ethics and Humanities in the Life Sciences

Jack Kevorkian's appearance on "60 Minutes" raised the predictable firestorm of controversy and commentary. Most were quick to point out that Dr. Kevorkian had stepped over an important legal line, in committing homicide by directly killing the patient, rather than assisting a patient's suicide with which he had previously been charged. (The medical examiners had been reporting for some time that some of the Kevorkian bodies were starting to show up with needle sticks and toxicology profiles strongly suggestive of death by lethal injection; but for some reason the press was not interested in this until the recent TV drama.)

I wish to address here only one point: granted that this public act was the crossing of a legal boundary, was it similarly the crossing of an ethical boundary? How close or how far apart, ethically, are voluntary active euthanasia (VAE) and physician-assisted suicide (PAS)?

Some colleagues and I have been on record for some years with an argument which implicitly narrows the distance between the two actions and argues that both should be legalized (and regulated) in tandem. (Thus, we implicitly condemned Michigan's Proposal B, which would have legalized only PAS and not VAE.) Imagine two patients, who have identically poor prognoses, who are both suffering to the same degree, who are each clear-headed and rational, and who have each expressed repeatedly a wish to be helped to die. The only difference is that one is physically capable of swallowing a bottle of barbiturate pills (or of pushing the switch on a Kevorkian machine), while the other is sufficiently paralyzed so as not to be able to do this. If one assists the suicide of the first, and administers a lethal injection to the second, how wide is the moral gulf between the two actions? Very little, I would argue.

Does this mean that it is a matter of complete indifference whether one assists a suicide or administers VAE? Again, I would say not. So long as the patient is physically capable, it is far preferable to assist a death by PAS. The usual method of PAS is to provide the patient with a bottle of pills which constitutes a lethal dose if taken all at once. This means that the physician need not be present when the dose is taken, and the patient has the freedom to be fully ambivalent regarding the final act. It is relatively easy to put the pills aside and sleep on it. If, by contrast, the physician has been summoned to the patient's bedside for VAE, the patient has a stronger social pressure to carry the act to completion even if he is beginning to have second thoughts. Besides the very natural social pressure not to have made the physician take the trip for nothing, is the more substantive fear that any show of ambivalence now will cause the physician to decide that the patient should not be assisted to die at all (since a consistent, repeated wish is a commonly proposed "safeguard" for ethical PAS or VAE). So as a rule, PAS leaves more power in the hands of the patient and facilitates last minute changes of heart.

Does this distinction apply with full force to Dr. Kevorkian's previous uses of PAS? Since Dr. Kevorkian was on the scene, using an apparatus which he had brought, and the death could occur only with him in attendance, it would seem that his previous "patients" had the same social

pressures to carry through with their announced desires as would be the case in any typical case of VAE (as performed, say, in the Netherlands). So as used by Dr. Kevorkian, physician-assisted suicide offered no ethical advantages over voluntary euthanasia in terms of empowering the patient; it has been morally indistinguishable from voluntary euthanasia all along.

REFERENCES

1. Brody, Howard. "Assisted Death - A Compassionate Response to a Medical Failure." *New England Journal of Medicine* 327 (1992): 1384-88.
2. Miller F.G., Quill T.E., Brody H., et al. "Regulating Physician-Assisted Death." *New England Journal of Medicine* 331 (1994):119-23.



Voices: Health Care Ethics Representing a Diverse Population

For the past several decades the standard approach to bioethics has been directed largely by the majority population, effectively presuming that a middle-class, Euro-centered view of the world held the "right answers" to all bioethical issues. More recently, this exclusivity has been challenged in medical and medical-ethics journal articles. Contemporary views maintain that cultures can, and indeed should, learn from each other; e.g., the American majority middle-class can learn important alternate perspectives about values of family and community solidarity by paying closer attention to practices in other traditional U.S. cultures.

Recognition that such a legacy of exclusivity exists prompts us to both challenge past assumptions and to consider new strategies for developing an inclusive methodology. The need is for a suite of methods that will effectively elicit multiple perspectives that more fully represent the pluralistic cultural make up of the United States.

To accomplish this end, on February 20, 1999 the Center for Ethics and Humanities will collaborate with Julian Samora Research Institute, David Walker Research Institute, Howard University, and spokespersons from various underrepresented communities, on the first in an annual series of bioethics conferences to address minority and cross-cultural perspectives in health care.

"Voices: Health Care Ethics Representing a Diverse Population" will focus on the bioethical challenge of improving strategies to involve minority and lower socioeconomic status communities in creating health policy. We ask the question: "When critical health policy is being formulated, how can community dialogue be structured so that voices of the people most directly affected by that policy are heard clearly and cogently?"

The February 20, 1999 conference will be held from 9:00-3:00 p.m. at the Michigan Library and Historical Center Forum in downtown Lansing, MI. It features a keynote address by Dr. David Satcher, Assistant Secretary of Health and Surgeon General of the United States, to be followed by a series of dialogues examining relevant race/ethnic specific agendas with invited representative academic and community leaders. Registration is required. Those interested in attending this event should contact the Center's office manager, Jan Holmes at (517) 355-7550, or E-mail: center@pilot.msu.edu to request a conference flyer. The registration deadline is Friday, February 12, 1999.

The conference dovetails with a Human Genome-funded project, to be conducted jointly by faculty from the Center for Ethics and Humanities and the School of Public Health at the University of Michigan. This joint research will explore more strategies for generating and sustaining informed and democratic deliberation of genetics policy issues within various African-American and Hispanic communities in the state and elsewhere.



Thomason Joins the Center

The Reverend Clayton L. Thomason, J.D., M.Div. is Assistant Professor of Spirituality and Ethics in Medicine at the College of Human Medicine of Michigan State University. This new position is a joint appointment between the Department of Family Practice and the Center for Ethics and Humanities in the Life Sciences. His responsibilities include teaching in spirituality and medicine, involvement in residency training, and teaching in bioethics. He will also have a pastoral presence in the College of Human Medicine, being available to students for counseling and support. This position gives him a unique opportunity to integrate his academic and pastoral concerns for the bio-psycho-social-spiritual well being of the human person.

Fr. Thomason has been the Associate Rector of St. James' Episcopal Church in Los Angeles since 1994. He serves on the Board of Trustees of the Hospital of the Good Samaritan in Los Angeles and has been Medical Ethicist on the Ethics Committee of Columbia/West Hills Regional Medical Center in West Hills, California. He has served on the Professional Consultation Committee of Children's Hospital Los Angeles, and has worked as a hospital chaplain at UCLA Medical Center. A priest of the Episcopal Church, he is a graduate of the Yale Divinity School, the University of Southern California Law School, the University of California at Berkeley, and Simon's Rock College. He has studied bioethics at the Kennedy Institute for Ethics at Georgetown University and the Hastings Center in New York. He has published and taught in the fields of biochemistry, bioethics, law, and spirituality, including work on issues of law and aging, spiritual and ethical issues in AIDS care, and the use of advance directives in health care.



Adjunct Corner

The follow adjunct faculty of the Center presented papers or poster displays at the annual meeting of the American Society of Bioethics and Humanities in Houston, Nov. 19-22.

- **Michael Fetters**, "Can the U.S. Medical Culture Tolerate Nondisclosure of the Cancer Diagnosis?"
- **Jessica Berg** "Realities of Informed Consent" and "Health Care Organizational Ethics"
- **Susan Dorr Gould**, "Trust and the Ethics of Health Care Institutions"
- **Douglas Brown**, "Practicing 'Against the Grain': Case Studies of Two Dutch Physicians Who Oppose the Practice of Euthanasia"
- **Kathryn L. Moseley**, "Obtaining Informed Consent for Research in Neurologically Impaired Patients" (poster session)

Martin Benjamin contributed the essay "Pragmatism and the Determination of Death" to *Pragmatic Bioethics*, edited by Glenn McGee (Vanderbilt University Press, 1998).



Center News and Announcements

In May **Howard Brody** received the Michigan State Medical Society's Presidential Citation during ceremonies at the 133rd annual meeting of the MSMS House of Delegates in Dearborn. The award was in recognition of Dr. Brody's contributions to physicians and their patients in the area of medical ethics and improvements in end-of-life care. He has been instrumental in the development of the Michigan Patient Bill of Rights and is currently working to implement improvements in pain management, advanced directives and other end-of-life care issues.

Len Fleck contributed the essay "Just Caring: Managed Care and Protease Inhibitors," to *Ethical Issues in Modern Medicine* (5th ed.), edited by John Arras and Bonnie Steinbock (Mayfield Publishing, 1998), 679-86.

Len Fleck contributed the chapter "Justice, Rights, and Alzheimer Disease Genetics," to *Genetic Testing for Alzheimer Disease: Ethical And Clinical Issues*, edited by Stephen Post and Peter Whitehouse (Johns Hopkins, 1998), 190-208.

Len Fleck presented a paper "Is Responsible Eugenics Disingenuous Ethics?" at the Tenth Annual Summer Bioethics Camp Conference in Cape Cod in June.

Len Fleck did a workshop in October titled "Just Caring: Facing the Ethical Challenges of Managed Care for Social Service Professionals" for a social workers conference in Grand Rapids. He did another version of this workshop in Grand Rapids in November for a group of home care and long term care providers.

Judith Andre spoke on "Respect for Cultural Diversity at the End of Life," at the St. Mary's Ethics Conference, Saginaw.

Len Fleck did a workshop in early October titled "Ethical Issues in Genetic Testing: What are the Moral Issues?" for the Michigan State Medical Society annual bioethics conference at the Grand Hotel in Mackinac.

At the November 12-15 "Midwifery in the Mainstream" Midwives Alliance of North America (MANA) conference held in Traverse City, MI, **Libby Bogdan-Lovis** presented "Coming Up for Air: Midwifery Meets Managed Care" and participated also in a panel discussion on "Serving the Underserved."

Len Fleck conducted a workshop in November titled "Ethical Issues in Genetic Testing for Breast Cancer" for a breast cancer conference sponsored by the Michigan State Medical Society in Brighton, MI.

Libby Bogdan-Lovis presented "What is Normal Birth: Examining the Hegemony of the Western Medical Model" to students in Anthropology 270, "Women and Health: Anthropological and International Perspectives."

Len Fleck, Judith Andre and **Tom Tomlinson** presented "On Being Genetically Responsible" at the annual meeting of the American Society of Bioethics and Humanities in Houston, November 19-22.

Scot Yoder's article, "Expertise in Ethics? The Nature of Ethics Expertise," will appear in the November/December 1998 issue of the Hastings Center Report.

Judith Andre and **Bruce Miller** gave a workshop called "Honesty and the Cancer Patient," for the Michigan Association of Oncology Nurses Annual Conference in Novi.

Len Fleck did a workshop in late September titled "Genetic Innocence and Genetic Responsibility: The Need for Community Dialogue" at the Pastoral Care Associates Conference near Toledo, Ohio.