

Article Embroils JAMA in Ethical Controversy

Publication of unsigned account of apparent mercy killing draws protests and raises legal problems; was it fact or fiction?

A few months ago, a first-person account of what seemed to be a mercy killing by a young physician arrived unsolicited on the desk of George D. Lundberg, editor of the *Journal of the American Medical Association*. Since then, that brief unsigned essay, published in the 8 January issue, has thrust the AMA and its journal into a twisting murder mystery—tangled by issues of euthanasia, medical ethics, the journal peer-review process, and freedom of the press.

Law-enforcement authorities are demanding the young doctor's name. Medical ethicists are demanding Lundberg's scalp. And the imbroglio might even send the editor to jail. But some physicians reading the essay think it is a murder that never was, a piece of fiction.

Entitled "It's Over, Debbie," it told how a gynecology resident was awakened in the middle of the night to attend a 20-year-old hospitalized woman, suffering terribly from terminal ovarian cancer. The resident, who had never seen the patient before, was informed she was in so much discomfort she had not eaten or slept in 2 days. "Let's get this over with," was all she said.

The resident said he—if it was a he—could not give Debbie health, but he could give her rest. He injected 20 milligrams of morphine and watched her die. "It's over, Debbie," the essay ended.

The essay drew immediate fire from JAMA readers, most objecting to publication without some sign of disapproval from the editors. "Killing of patients by physicians is not a proper topic for value-free discussion," said University of Chicago medical ethicist Mark Siegler, a sharp Lundberg critic.

The Debbie essay came to the outside world's attention 3 weeks after publication when Mayor Edward Koch of New York City, an infrequent JAMA reader, shot off a letter to Attorney General Edwin Meese demanding an investigation. He looked to the Justice Department because the resident might have worked anywhere.

But JAMA is published in Chicago. There almost daily stories about the Debbie affair in both major newspapers led Cook County

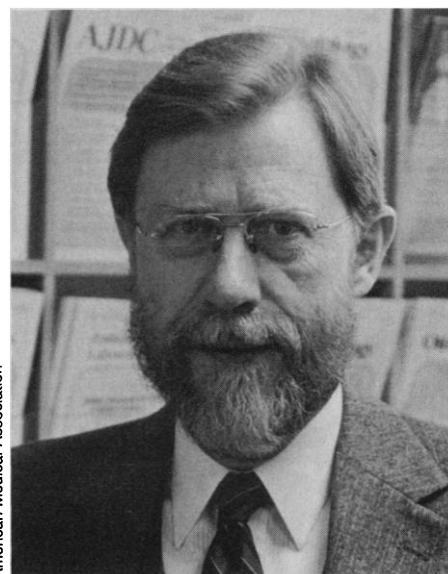
prosecutor Richard Daley, son of the late mayor, to convene a grand jury. It subpoenaed the Debbie records—specifically the resident's name and address. Though the essay was unsolicited, Lundberg says it came with a request for anonymity if published. Lundberg agreed to this.

The AMA moved immediately to quash the subpoena, and a hearing was scheduled for 18 March. Lundberg took refuge in the First Amendment and the Illinois Reporter's Privilege Act, which led the *Chicago Tribune* to take umbrage. "Ethical journalism does not condone shielding anonymous authors who confess in print to homicide, justifiable or not, with First Amendment protection from grand juries," it snapped in an editorial. "Self-incrimination is protected by the Fifth Amendment, which is hard to invoke after the fact."

Kirk Johnson, AMA's general counsel, has not indicated how far the AMA will push the point. He says the resident's name will be turned over if a court orders it but feels the prosecutor, among other lapses, will be unable to show jurisdiction. James Sammons, executive vice president of the AMA, indicated that if necessary Lundberg would be ordered to turn the name over. He is Lundberg's immediate superior, but JAMA has a tradition of editorial independence within the AMA. Lundberg, when asked directly whether he would go to jail to protect a source, says he is playing it by ear.

Lundberg is a 54-year-old pathologist with 6 years' editorial experience. His first such job was JAMA's editor. He said in an interview that he considered calling law-enforcement authorities when he first read "It's Over, Debbie." But he demurred, deciding instead, he says, that the potential to stimulate debate over mercy killing within the medical profession was of overriding importance.

"I was on the horns of a fundamental dilemma between two very powerful competing ethics," he says—"the ethic of the journalist for the public good and preservation of privilege of sources, and the ethic of a physician who should report other physicians who may have performed an unethical or illegal act. I chose the journalist's ethic as



George Lundberg. JAMA editor faces a subpoena to turn over documents to a Chicago grand jury.

being the greatest good for the greatest number."

It was to stimulate discussion, Lundberg says, that he did not include an editorial or editor's note indicating his disapproval. "The purpose of doing an editorial is to diminish the debate," he says. "An editorial would have been at counterpurposes to what we were trying to do. It's an easy way out, journalistically, but we would not have stimulated the debate."

Edward Huth, editor of the *Annals of Internal Medicine*, and Stephen Lock, editor of the *British Medical Journal*, disagreed. Both say they would have run an editor's note explaining the circumstances of the essay, and probably also an editorial by a medical ethicist putting the essay in context. Huth says he does not run anonymous articles.

Bruce Squires, editor of the *Canadian Medical Association Journal*, said he would have notified law-enforcement authorities immediately. But Lock said that if he had had some limited verification of the event, he might publish a similar account anonymously and protect his source.

Siegler and 13 other prominent physicians at the University of Chicago protested in a statement against Lundberg's choice of a stark, unexplained essay. JAMA, they said, "has permitted itself and the AMA to be manipulated into an unconscionable position where it appears that the organization favors euthanasia or at least is neutral in its position." Their statement railed against JAMA's failure to state legal or moral disapproval, calling publication of the essay "highly irresponsible."

Even Derek Humphry, who heads the

Hemlock Society, a euthanasia-advocacy group, was shocked by the *JAMA* account, claiming it was not euthanasia the way the group promotes it. "It's not the way to go about it," he said. "There were no checks and balances." He said Debbie's "let's get this over with" didn't sound like a request for death.

The AMA Board of Trustees, which met coincidentally in Chicago in the midst of the hullabaloo, gave Lundberg a unanimous public vote of confidence. But the board—which serves as *JAMA*'s publisher—made it clear that the AMA disapproved strongly of euthanasia. Earlier, Sammons had done the same. "It's hard to argue against the free flow of information, and this is an issue that really needs to be discussed," said Alan Nelson of Salt Lake City, the AMA's board chairman. "After talking with Lundberg, we were satisfied he met our proper review, and the board endorsed the editor's judgment." Lundberg declines to say whether recognized medical ethicists were among the Debbie reviewers.

Siegler and three other ethicists have joined in an editorial of protest, which *JAMA* accepted for publication in its 8 April issue. (The same issue will also carry a slew of letters and other articles on the Debbie affair.) Others signing the protest editorial are Leon Kass of the University of Chicago, Willard Gaylin, president of the Hastings Institute, and Edmund Pellegrino, director of Georgetown's Kennedy Institute. Pellegrino, the medical ethicist on *JAMA*'s editorial board, was not a peer-reviewer of the Debbie essay.

But two medical ethicists, Kenneth Vaux of the University of Illinois and Ronald Cranford of the Hennepin County Medical Center in Minneapolis, backed Lundberg's decision to publish.

Lundberg professes satisfaction with the uproar, indicating it was precisely what he had planned—only more so. "Though I anticipated a lot of controversy within the profession," he says, "I was surprised by the extent of controversy outside the profession and in the media. It's clear we touched raw nerves in every direction with this, and that in itself tells me our timing for such a discussion was perfect. I feel that we have performed exactly what we are supposed to perform as the leading medical journal, namely we have produced responsible discussion and debate on an extremely controversial issue that affects medical practice at a time when the debate was ready to start and needed to happen."

But critics call this rationalization, claiming that a spirited euthanasia debate was already well underway. The key to the Debbie debate, they say, is not so much over

euthanasia but whether Lundberg or the AMA should shield a physician who murdered a patient—if, indeed, the events depicted actually took place.

Lundberg says readers have very different opinions. "Many have taken the view that the person was relieving pain and suffering and decreasing respiratory problems, rather than ending life," he says. Most readers, he concedes, feel the resident was trying to end Debbie's life, but they wonder whether 20 milligrams of morphine would have done it.

Lundberg says he, himself, is not sure. Yet, he claims, despite a peer review process lasting several months—"twice the usual cycle"—and fierce debate within an "evenly divided" *JAMA* editorial staff over whether to publish the essay, he never once spoke to the resident. An associate editor, Roxanne Young, handled the communications, which involved some "minor changes." She has declined all comment, and Lundberg says he has not asked her whether she did any probing. Though he believes the events took place, Lundberg says no one at *JAMA* made any independent effort to verify them.

This, however, is standard policy at refereed medical journals. Arnold S. Relman, editor of the *New England Journal of Medicine*, says the process is based on trust. "The peer reviewers start from the assumption that the author is telling you the truth when he tells you what he did and what he saw," Relman says. "You don't know he isn't telling the truth unless what he says is inherently unreasonable or improbable and doesn't add up."

With all that review, Lundberg declines to say why discrepancies remained in the account, such as the 20-milligram dose of morphine, or the use of an alcohol drip for sedation, which is not in vogue.

The dubious nature of the account—the doubt that a crime has been committed—was even used as an argument in the AMA's effort to quash the subpoena. "There is no independent evidence of any kind that the event actually occurred," said the AMA's motion. "In short, it is quite possible . . . that the story is a complete or partial fabrication and was submitted solely to stimulate professional and public debate."

If that is so, noted the *Chicago Tribune* editorial, and all that ran was "a fictional essay designed to focus attention on an ethical dilemma in the medical profession, it is a serious breach of journalistic ethics. Separating fact from fiction is hard enough in this business without somebody deliberately confusing the two." ■ **MARK BLOOM**

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NTIS: Up for Grabs Again?

Despite strong congressional opposition, the Office of Management and Budget (OMB) is again trying to move the operation of the 43-year-old National Technical Information Service (NTIS) out of the government. The Department of Commerce is about to solicit proposals from companies to operate NTIS and may try to award the contract 30 days thereafter.

"The objective is to improve the service to the large number of constituent groups which now receive the benefits of the NTIS program," according to Robert A. Welch, deputy director of procurement at Commerce. But opponents of the move worry that turning the operation of NTIS over to a private firm will result in higher prices and reduced access to scientific and technical publications from around the world. While the government would retain ownership of the NTIS archive, the operating contractor would control it.

NTIS now operates as a nonprofit, self-supporting branch of the Commerce Department. Sales in 1987 totaled \$22 million. Its charge is to archive technical documents provided to it by various federal agencies and foreign governments and to sell them.

Officials at the departments of Energy and Defense have indicated previously that they would cease sending NTIS some types of documents if a contractor operates the organization. Their concern is that care would not be taken to assure that restrictions on distribution to Eastern Bloc countries, for example, would be adhered to. Japanese government officials also indicate that they might withhold technical literature from NTIS if it is operated by a private contractor.

Commerce officials, however, say that the Administration will instruct federal agencies to continue sending documents to NTIS. They also argue that agreements with foreign countries regarding access and distribution of technical literature can be maintained, since Commerce will retain a core management group to oversee NTIS.

The advantage of having a private company operate the agency, Commerce says, is that it will produce "value-added products" such as reports and indexes in various fields. "We feel that this type of service can be improved by an injection of private sector capital and private sector know-how," Welch told attendees at a department briefing. "It is really as simple as that."

But moving NTIS into the private sector has proved to be anything but simple. First