



D7 Assisted Suicide and the Next of Kin Rights

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After attending this presentation, attendees will learn the definition of assisted suicide and become familiar with the current laws governing it. Legal rights of the next of kin in relation to disposition of remains in Harris County will also be discussed.

This presentation will impact the forensic science community by increasing understanding of laws pertaining to assisted suicide and potential problems in determining the legal next of kin for disposition of remains.

Assisted suicide, also known as euthanasia, is defined as the aiding of another person in his/her suicide. The topic of assisted suicide was brought into the public eye in the 1990s with the criminal court cases against Dr. Jack Kevorkian who was charged multiple times with assisting terminal patient's death via physician-assisted suicide. After several unsuccessful attempts to convict Dr. Kevorkian, the Michigan legislature enacted a law in 1998 making assisted suicide a felony punishable by a maximum five-year prison sentence or a \$10,000 fine. On March 26, 1999, a jury in Oakland County, Michigan, convicted Dr. Jack Kevorkian of second-degree murder and the illegal delivery of a controlled substance. That April, he was sentenced to 25 years in prison with the possibility of parole. Many states have also adopted laws against assisting in a suicide, Texas being one of them. Texas Penal Code 22.08 outlines assisted suicide as a criminal offense, although charges rarely are filed. Under this code, a person commits an offense if, with intent to promote or assist the commission of suicide by another, he aids or attempts to aid the other to commit or attempt to commit suicide, a misdemeanor offense. Should serious bodily injury occur to the person being assisted, the offense becomes a state felony.

The first assisted suicide case in which an individual was charged with a criminal offense in Harris County occurred in 2012. Afterward, questions arose concerning the rights of an individual to act as legal next of kin for disposition of remains if they have been charged with assisted suicide of the decedent. In Harris County, the right of a next of kin for disposition of remains is determined by Texas statutes which outline the legal succession of next of kin. According to the Texas Health and Safety Code 711.002, a person may not control the disposition of the decedent's remains if, in connection with the decedent's death, an indictment has been filed charging the person with a crime under Chapter 19, Penal Code, that involves family violence against the decedent. Assisted suicide is a charge under Penal Code Chapter 22 Assaultive Offenses, not under Chapter 19 Criminal Homicide, so there is currently no restriction of the next of kin rights to disposition of the decedent's remains, despite the pending felony charges.

Most American states currently have statutes explicitly criminalizing assisted suicide. Laws need to accommodate the matter of the next of kin's right to dispose of remains if they have been criminally charged in connection with that individual's suicide.

Assisted Suicide, Criminal, Next of Kin