PHYSICIAN PARTICIPATION IN CAPITAL PUNISHMENT: A QUESTION OF PROFESSIONAL INTEGRITY

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ABSTRACT The death penalty is legal in 36 states, and physicians are expected to attend and participate in executions. Yet, every major medical and health-related organization opposes physician participation in capital punishment. This article argues that it is unethical for physicians within the role as medical professional to participate in capital punishment, and that such acts erode the foundation of trust at the heart of medical practice. We believe that it is important for professional groups and medical societies to impose sanctions on members who choose to participate in executions.

There were 74 people executed by capital punishment in the US in 1997. In all but one of the 36 states where the death penalty is legal, a physician is expected to attend such executions, and in 28 of the states, a physician is legally required to participate. Yet, every major medical and health-related organization is unanimous in opposition to physician participation in capital punishment. The American Medical Association, in its code of ethics, issued initially in July 1980 and updated in June 1994 and June 1996, based on actions by its Council on Ethical and Judicial Affairs, states:

An individual’s opinion on capital punishment is the personal moral decision of the individual. A physician as a member of a profession dedicated to preserving life when there is hope of doing so should not be a participant in a legally authorized execution.

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This discordance between professional standards and actual practice is quite remarkable in that, although physicians continue to participate in executions, none, to our knowledge, have been censured or reprimanded by a professional organization. Unlike physician assistance in suicide, recently the subject of a passionate national debate, physician participation in execution has received almost no attention from the media and arouses little controversy among the general public.

Even though many Americans and many physicians in their role as citizens view capital punishment as morally acceptable, it is within the role as medical professional that the ethicality of physician involvement in capital punishment should be assessed. The active involvement of physicians in harming persons as agents of the state must be evaluated in light of the beneficence obligations physicians maintain toward those they treat and in light of a basic tenet of the profession: first, do no harm. The redefinition of the relationship between doctors and their patients represented by physician involvement in capital punishment is inconsistent with the integrity of medicine as a profession.

Involvement of physicians in capital punishment is occurring at a time of substantial erosion in individual patient and societal trust in physicians and the medical establishment. In fact, the call for doctors to become executioners may be viewed as analogous to other current demands made of physicians, such as gag orders that forbid discussion of treatment options or criticism of institutional policies, which create conflicts related to dual agency. Each of these demands requires physicians to abandon historical duties and obligations to patients and become technicians rather than professionals whose primary concern is patient welfare. Thus, although few physicians are asked to participate in executions, discussion of physician involvement in capital punishment has contemporary relevance to many ethical concerns.

To consider an ethical analysis of physician involvement in capital punishment, we first must define what constitutes involvement in this process. Involvement in capital punishment includes the design of protocols and procedures to be used; prescription of lethal medications; and direct participation by supervising, assisting, or witnessing execution in a medical capacity and monitoring vital signs to pronounce death. Not all interactions between physicians and prisoners who will be executed constitute participation in capital punishment. There needs to be a clear and sharp ethical distinction between providing prisoners with medical care and participating in executions. Even after sentencing, prisoners remain persons with medical needs related or unrelated to their status as prison-