

June 30th, 2005

Dr. Christopher C. Ibeh
PSU/NSF – REU/RET Director
Department of Engineering Technology
Pittsburg State University
Pittsburg, Kansas 66762

RE:

Dear Dr. Ibeh:

It is my privilege to present you with the completed outline over the ethical responsibility of doctors in lethal injection.

This outline will discuss the implications of professional ethical codes on the physicians asked to assist in executions. I will start with a brief history of capital punishment and then will discuss the ethical issues that doctors face if they participate.

Sincerely,

Austin M. Baldwin

Pc: Student, Physics, Pittsburg State University

A Doctor's Professional Ethics with Regards to Capital Punishment

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Submitted To:

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Date: June 30th, 2006

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Summary:

This paper discusses the moral and social impact on medical professionals that assist in capital punishment. The results are drawn from various educational journals and professional position statements.

Introduction:

Criminal execution will not likely be outlawed anytime soon because of the pro capital punishment trend in the supreme courts. Although alternative methods of execution are being looked at instead of lethal injection, it seems to be the mainstay for the foreseeable future. The problem is in the conception of lethal injection it was thought that medical professionals like doctors and nurses would administer the procedure. After lethal injection was inducted to law most medical organizations forbid the assistance in such an act. The organizations would say that it went against the Hippocratic Oath and almost all other codes of ethics and principals that they follow. Because of the ethical issues that the doctors and nurses have to face most medical professionals will not participate in executions. Since no doctor or nurse will participate in these executions it is left to untrained guards or medical technicians who have been known to make mistakes. These mistakes cause lethal injection to be cruel and unusual punishment.

Literature Review:

http://en.wikipedia.org/wiki/Lethal_injection

<http://a257.g.akamaitech.net/7/257/2422/24may20041045/www.supremecourtus.gov/opinions/03pdf/03-6821.pdf>

http://en.wikipedia.org/wiki/Capital_punishment

<http://www.ojp.usdoj.gov/bjs/cp.htm>

<http://npr.org/news/national/election2000/coverage/issues/deathpenalty.html>

<http://www.nursingworld.org/readroom/position/ethics/etcptl.htm>

http://www.ama-assn.org/ama/upload/mm/369/ceja_report_046.pdf

<http://www.ama-assn.org/ama/pub/category/16007.html>

From *The New York Times* (June 23, 2006)
(http://www.nytimes.com/2006/06/23/us/23inject.html?_r=1&oref=slogin)

The ethical concern of doctors having to assist in executions didn't even exist until the mid 1900s, until then the methods of execute used could be administered by almost anyone. Now with lethal injection people are trying to argue that if it is done by a person with out a medical background then it is cruel and unusual. Since the profession of medicine began doctors took the Hippocratic Oath. In this Oath they swear they will always try to heal those who seek their help. It also says through their practice they will not cause harm. "Lethal injection was invented by Dr. Chapman when he was then

Oklahoma's chief medical examiner, and came up with the formula at the request of a legislator who was looking for a humane alternative to the electric chair. His idea became law in Oklahoma and was also adopted by 36 other states. Dr. Chapman said that when he first proposed the three-drug technique, he imagined that it would be carried out by people with enough medical training to start intravenous lines, mix and measure the drugs, and give them in the right order. Once the lethal injection laws were passed, professional groups like the American Medical Association, state medical societies and associations for anesthesiologists and nurses quickly distanced themselves, saying it would be unethical for members to participate. That creates a Catch-22 in which the medical establishment refuses to perform lethal injections and yet says no one else is qualified to do so. Although some doctors and nurses do help in executions, lethal injection in many states is carried out by paramedics, technicians or other prison employees who do not have special training in anesthesia. Dr. Chapman said that his original protocol had called for enough barbiturate to cause death by itself and that he had added the Pavulon just as a backup, and the potassium chloride to speed the process by stopping the heart quickly. "I think the whole concept of execution is that it's carried out rapidly," he said. Whether inmates have actually felt pain or suffocation from lethal injection is not known with certainty. California found two anesthesiologists who agreed to attend its next scheduled execution, of Michael Morales, a murderer. But both doctors later withdrew, and the state said it could not find other medical experts to help carry out the sentence. The execution has been postponed at least until September, when the court will examine the state's lethal injection protocol. "(From *The New York Times* (June 23,2006)

http://www.nytimes.com/2006/06/23/us/23inject.html?_r=1&oref=slogin

Main Body

Throughout American history, public opinion has changed about capital punishment. After the American Revolution many states outlawed capital punishment for many crimes. Later in the nineteenth century the government moved hangings to prisons to reduce the crowds of curious onlookers.

In 1846, the Michigan legislature made that state the first to remove the death penalty altogether. During the Civil War era, the power to make decisions on the death penalty was given to state level of government. The reason for this was to restrain overly eager "hanging judges".

With the beginning of the nineteenth century, the electric chair was introduced as a more humane alternative to hanging. Recently, many states began to use lethal injection as an alternative to methods such as electrocution, hanging, firing squad, and gas chamber. Lethal injection is seen as less stressful to the inmate and the onlookers because the inmates are sedated and then a fatal dose of drugs is administered. Lethal injection is

now the most common form of execution in the United States: every American execution in 2005 was induced by lethal injection. (http://en.wikipedia.org/wiki/Lethal_injection)

At present, there are twelve states that do not permit capital punishment under any circumstances. Some states have laws permitting capital punishment, but have not charged anyone under them.

“In 2005, 60 people in 16 States were executed -- 19 in Texas; 5 each in Indiana, Missouri, and North Carolina; 4 each in Ohio, Alabama, and Oklahoma; 3 each in Georgia, and South Carolina; 2 in California; and 1 each in Connecticut, Arkansas, Delaware, Florida, Maryland, and Mississippi.” (<http://www.ojp.usdoj.gov/bjs/cp.htm>) In the U.S 4,863 inmates have been sentenced to death and killed since 1930.

National Public Radio recently broadcast extensive interviews with prison guards and wardens who are required to carry out executions (<http://npr.org/news/national/election2000/coverage/issues/deathpenalty.html>). Repeatedly, these prison employees said that it is a traumatic experience with serious consequences.

The President, George W. Bush, former governor of Texas, is an ardent supporter of the death penalty, as is John Ashcroft, Bush’s Attorney General. Bush, with Ashcroft’s advice, will appoint justices to replace retiring justices of the Supreme Court. So the U.S. Supreme Court will likely continue to uphold the constitutionality of the death penalty.

United States is one of the few countries with a representative government that use of the death penalty. The death penalty has been abolished in all European and South American countries. The U.S. along with Saudi Arabia, Iraq, and Iran still carry out capital punishment.

There is more debate about the death penalty today than at any time in the last twenty years. (http://en.wikipedia.org/wiki/Capital_punishment) However, both pro- *and* anti-death penalty advocates look to these incidents as support for the relatively new debate of the role of doctors and nurses in executions. And, much like the issue of the death penalty itself, the legal and ethical questions surrounding the role of doctors in executions are complex and difficult to answer.

Many people think that a doctor or a RN should be present to administer the lethal injection to the inmate. Without the presence of a licensed medical professional, things can go wrong and the prison guards would not be trained to handle the situation making the death cruel and unusual punishment.

However, this issue involves ethical concerns for doctors and nurses who are asked to assist in taking a persons life. To be any part of this process would go decisively against the Hippocratic Oath (see appendix A) and professional codes of ethics. Proponents for no medical assistance say that having a doctor is not necessary because execution is not by definition a medical procedure because it dose not preserve life.

On the counterpoint people say that it is a doctor's duty to save life when possible and ease a person's passing when there is nothing else they can do. Participating in an execution would ensure that the procedure will be as uneventful and humane.

May of 2004 the U.S. Supreme Court a ruling stated that in some instances, a doctor may be required at an execution. In the case of *Nelson v. Campbell*, the Court ruled that a convicted killer can pursue an appeal because the manner in which his lethal injection may occur was cruel and unusual punishment. Because of many years intravenous drug use the veins in his arm had collapsed making it necessary to cut deep into the fat and muscle tissue of his arm. For extreme examples like this the court states that a medical professional would be needed. (<http://a257.g.akamaitech.net/7/257/2422/24may20041045/www.supremecourtus.gov/opinions/03pdf/03-6821.pdf>)

The American Medical Association, American College of Physicians, and American Public Health Association all state that they think that it is ethically and morally wrong to participate in any thing that would be considered (1) an action which would directly cause the death of the condemned; (2) an action which would assist, supervise, or contribute to the ability of another individual to directly cause the death of the condemned; or (3) an action which could automatically cause an execution to be carried out on a condemned prisoner. (<http://www.ama-assn.org/ama/pub/category/16007.html>) Although it is not a crime for a Doctor or Nurse to assist in the execution of a person it is clearly stated in the code of ethics used by each profession that the participation in such an act is deplorable. Debate centering on doctors participating in lethal injections is fairly new to the public eye, it looks to become a hot topic in the near future.

Conclusion

The ethical issue for doctors asked to participate in lethal injections is an enormous concern. Statements of the medical associations and the Hippocratic Oath make it very clear that saving lives not taking them is the goal of medical professionals. All medical associations are firmly against the participation or assistance in any executions. A doctor swears upon graduation from medical school that they will "give no deadly medicine to a person" even if asked. It is the opinion of many professionals and my own that for a doctor to participate in capital punishment is ethically and morally wrong. Those that do are in some cases ostracized in their profession. Although some cases may call for special assistance, I think that doctors should have a choice.

References

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<http://www.nursingworld.org/readroom/position/ethics/etcptl.htm>
http://www.ama-assn.org/ama/upload/mm/369/ceja_report_046.pdf
<http://www.ama-assn.org/ama/pub/category/16007.html>
From *The New York Times* (June 23, 2006)
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Appendix A

The Oath

By Hippocrates

Written 400 B.C.E

Translated by Francis Adams

I SWEAR by Apollo the physician, and Aesculapius, and Health, and All-heal, and all the gods and goddesses, that, according to my ability and judgment, I will keep this Oath and this stipulation- to reckon him who taught me this Art equally dear to me as my parents, to share my substance with him, and relieve his necessities if required; to look upon his offspring in the same footing as my own brothers, and to teach them this art, if they shall wish to learn it, without fee or stipulation; and that by precept, lecture, and every other mode of instruction, I will impart a knowledge of the Art to my own sons, and those of my teachers, and to disciples bound by a stipulation and oath according to the law of medicine, but to none others. I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients, and abstain from whatever is deleterious and mischievous. I will give no deadly medicine to any one if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion. With purity and with holiness I will pass my life and practice my Art. I will not cut persons laboring under the stone, but will leave this to be done by men who are practitioners of this work. Into whatever houses I enter, I will go into them for the benefit of the sick, and will abstain from every voluntary act of mischief and corruption; and, further from the seduction of females or males, of freemen and slaves. Whatever, in connection with my professional practice or not, in connection with it, I see or hear, in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret. While I continue to keep this Oath unviolated, may it be granted to me to enjoy life and the practice of the art, respected by all men, in all times! But should I trespass and violate this Oath, may the reverse be my lot!