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POLICY FORUM

Should Physicians Participate in State-Ordered Executions?

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Physician involvement in state-ordered executions has emerged as a controversial issue in medical ethics in the United States over the past couple of decades, due primarily to the increased, and now virtually exclusive, use of lethal injection for capital punishment. Although executions over centuries have employed firing squads, hanging, electrocution, and gas asphyxiation, lethal injection is now the sole method of execution accepted by courts as humane enough to satisfy Eighth Amendment prohibitions against cruel and inhuman punishment, as confirmed by the Supreme Court in *Baze v. Rees* [1].

Physician participation is central to execution by lethal injection because medical knowledge and skills are integral to conducting the procedure effectively. This means, however, that medical technology and physician expertise are utilized to end life rather than to sustain it. Those who believe that there should be medical participation in lethal injection argue that, since executions are a legal way for society to carry out retributive justice for those who have been convicted of heinous crimes, and since the execution will occur anyway, the participation of medical personnel is essential to minimize the suffering of the condemned prisoner.

If not done properly, the sequential use of sodium thiopental for anesthesia, pancuronium bromide for paralysis, and potassium chloride to cause cardiac arrest can go awry at any stage. For example, before the 2008 U.S. Supreme Court ruling upholding the constitutionality of capital punishment by lethal injection, a number of prisoners executed in California had not stopped breathing before technicians had given the paralytic agent, raising the possibility that they had experienced suffocation from the paralytic and felt intense pain from the potassium bolus [2]. Following a number of these botched executions, physicians and other health care professionals have increasingly been sought to provide consultation, place intravenous lines, mix and administer drugs, and monitor results [3]. But even evaluation of lethal injection drugs and procedures by various states has been problematic because none of the drug protocols were ever tested in animals before they were employed, and ongoing evaluation of drug protocols and devices resembles human subjects research, but without the usual established protections [4].

Those who are opposed to physician participation in lethal injection argue that it is unethical on several counts: physician skills and procedures that contradict established medical practice are being used to carry out government mandates; a previously nonmedical social and judicial act is being medicalized; executions by

lethal injection are carried out in a quasimedical setting and give the impression that a medical procedure is being administered [5]; and the doctor is using knowledge and skills attained during medical education and is recognized by society as possessing and using those specific skills that are normally used to sustain and enhance life [6].

Those who argue for the validity of physician participation point out that professional medical organizations should not interfere with a doctor's personal beliefs about the suitability of capital punishment [7]. They refer here to the American Medical Association's (AMA) *Code of Medical Ethics*, which states that an individual's opinion on capital punishment is his or her personal moral decision but that "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" [8]. In other words, a physician, just like any other individual in society, is entitled to his or her own opinion on specific ethical issues, but when he or she is utilizing medical knowledge or skills as a physician in any social realm, professional ethical standards should apply. To put it in stark terms, as Truog does, this would not prohibit physicians from participating in a firing squad (in their role as citizens), but it would prohibit their participation in lethal injections (in their role as physicians) [9].

An argument is sometimes raised that these professional standards may not apply to lethal injection because there is no established doctor-patient relationship. But the lack of such a relationship does not lessen the doctor's responsibility; even though a therapeutic relationship does not exist, the physician is still using medical knowledge and skills and still viewed by the corrections system, the state, and as society as functioning in a medical role. In addition, the condemned prisoner is not in a position to consent to or refuse what would normally be a medical procedure conducted by a physician (insertion of an IV and injection of drugs).

This leads to another important point of argument and discussion. Those who argue for a more permissive role for physicians in lethal injection assert that professional norms are not exclusively internal to the profession of medicine, but must be negotiated with society at large [7]. They point to the diversity of attitudes within the profession towards physician participation in assisted suicide and abortion, despite prohibition of the former by national professional organizations, as evidence of a more fluid interface between professional and social ethical norms. These proponents of physician choice on participation have a strong argument regarding the apparent inconsistency between professional standards that sometimes view physician-assisted suicide favorably [10] and physician participation in lethal injection unfavorably. However, their permissive argument breaks down in the context of consent—in lethal injection there is no consent by the condemned prisoner and there is no doctor-patient relationship as there is in physician-assisted suicide.

So a number of ethical issues make physician participation in lethal injection problematic. These include the medicalization of what is essentially a civil and legal

procedure related to retributive justice and undertaken primarily to serve the goals of the state [9]. The fact that there is no patient-physician relationship and no consent to treatment actually supports the argument against participation rather than the one in favor of it. Even if there were a physician-patient relationship, which there is not, the result of an execution clearly harms the executed person without offsetting benefit [11]. Even though proponents of execution by lethal injection argue that it causes the condemned prisoner less suffering than other methods of execution [2], the end result is still the irrevocable death of the condemned prisoner. Furthermore, it is not the responsibility of medicine to ensure that executions take place—the use of and method for capital punishment are political and legal questions [12].

A coherent and internally consistent set of norms for ethical conduct for physicians can be constructed based upon the goals of medicine, and these norms (drawn for centuries from widely accepted sources such as the Hippocratic Oath, which specifically states “I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan” [13]) prohibit the involvement of physicians in state-sponsored killing [9]. Today that tradition includes the stance that it is immoral to develop humane methods to kill people legally [14].

Professional values in medicine evolve in dynamic interaction with social norms. But defining one’s professional role exclusively by societal norms diminishes individual professional responsibility to appropriately use the knowledge and skills of healing that are attained during medical education and training [6]. The physician needs to be cognizant of how his or her role is viewed by society in any given era and at the same time be able to clearly understand how the profession of medicine has developed and defined appropriate professional norms regarding physician behavior in actions related to life and death. This awareness must begin early in medical education and continue throughout professional life. This examination is not an easy task but it is essential to maintain individual and collective professional integrity in complex social situations that involve medical ethics.

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