AMA to Supreme Court: Doctor participation in executions unethical

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Editor’s note: In a 5-4 decision issued in April, the Supreme Court ruled that Missouri could go forward with Russell Bucklew’s execution by using lethal injection, saying the death-row inmate did not prove to the court that his medical condition meant that death by lethal gas would be significantly less painful for him than the planned method.

The court’s majority said that the Eighth Amendment could be violated if an inmate identified a “feasible, readily implemented” alternative procedure that would “significantly reduce a substantial risk of severe pain,” but that Bucklew failed to do those things.

The ruling did not mention the AMA’s brief, which did not support either party and instead educated the court that medical ethics prohibited the patient’s physician expert from offering comparative testimony on the proposed execution methods. In the ruling, justices didn’t consider the physician’s ethical responsibility to abstain from assisting or furthering a state-sponsored execution.

Anesthesiologist Joel Zivot, MD, says he won’t give Missouri officials an opinion on which execution method might result in the lowest risk of severe pain for a prisoner on death row because he feels ethically unable to compare the consequences of alternative forms of execution allowed under state law.

Missouri officials say that because prisoner Russell Bucklew didn’t offer testimony to directly compare each method of execution and show that one “significantly reduces the risk of severe pain,” the man hasn’t met his burden to be put to death by something other than the state’s standard lethal injection protocol.

Bucklew says he will suffer unnecessarily if he is put to death by the standard lethal-injection protocol. Instead, Bucklew is asking he be put to death by lethal gas because he believes it will cause him less
suffering due to his rare medical condition, cavernous hemangioma. The condition causes blood-filled
tumors to grow on his body. He claims once the drugs are administered, he will choke on his own
blood for four minutes.

Now the U.S. Supreme Court is considering the case, *Bucklew v. Precythe*, including the question of
whether the Eighth Amendment requires that an inmate prove an adequate alternative method of
execution when challenging the state’s method based on a rare and severe medical condition.

The AMA has filed an amicus brief in the case before the high court.

The brief doesn’t support either party. Instead, it offers justices background on the “applicable ethical
principles” that guide physicians on capital punishment. It also confirms that “testimony used to
determine which method of execution would reduce physical suffering would constitute physician
participation in capital punishment and would be unethical.”

“Society wants to delude itself into a belief that capital punishment no longer represents a weighted
moral choice, but is now somehow scientific—nearly antiseptic. This delusion, however, cheapens life
and makes its extinction easier,” the brief advises the court. “The medical profession, whose
‘essential quality’ is an interest in humanity and which reveres human life should have no part in this
charade.”

Ethical stance as old as time

The AMA notes that as early as the fifth century BCE, those who practiced medicine took an oath to
the gods of the day “to ground their practice in service to the best interest of their patients.” The
Hippocratic Oath included its vow: “I will not give a lethal drug to anyone if I am asked, nor will I
advise such a plan,” the brief says.

Today, the AMA *Code of Medical Ethics* speaks directly to a physician’s ethical responsibility when it
comes to capital punishment stating, in part, that “as a member of a profession dedicated to
preserving life when there is hope of doing so, a physician must not participate in a legally authorized
execution.”

The American College of Correctional Physicians, American College of Physicians, Americans Public
Health Association, American Society of Anesthesiologists and the World Medical Association also
have said it is unethical for physicians to participate in capital punishment.
Patient-physician relationship at stake

The brief tells the court that any physician assistance in an execution or the design of an execution would undermine the patient-physician relationship that relies on trust.

Physicians risk confusing their responsibility to the patient with a responsibility to the state if they participate in executions, the brief states. In turn, if patients don’t have trust in their physician’s independent judgment, they may avoid needed medical care or withhold sensitive information.

“By refusing to participate in capital punishment, even when sanctioned by a free society, physicians are making a statement—even if symbolically—that their role is not to serve the state as experts in killing, but to minister to their patients as healers,” the AMA brief tells the court. “Ethical physicians avoid any potential blurring of these fundamentally incompatible functions.”