

Medical laws and ethics: What to do when conflicts occur

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There are times when practicing physicians may encounter a situation where what a law requires conflicts with what the AMA *Code of Medical Ethics* says about how physicians must conduct themselves.

The *Code's* preamble warns physicians that the “relationship between ethics and law is complex.” But the preamble adds that even though “ethical values and legal principles are usually closely related,” the “ethical responsibilities usually exceed legal duties.”

“Conduct that is legally permissible may be ethically unacceptable,” the *Code* says. “Conversely, the fact that a physician who has been charged with allegedly illegal conduct has been acquitted or exonerated in criminal or civil proceedings does not necessarily mean that the physician acted ethically.”

The *Code's* preamble tells physicians that “in some cases, the law mandates conduct that is ethically unacceptable.

“When physicians believe a law violates ethical values or is unjust, they should work to change in law,” the *Code* says. “In exceptional circumstances of unjust laws, ethical responsibilities should supersede legal duties.”

The *Code's* preface further says that the AMA Council on Ethical and Judicial Affairs:

Recognizes that circumstances at times impinge on physicians' ability or opportunity to follow the guidance of the Code strictly as written. Recognizing when such circumstances exist and determining how best to adhere to the goals and spirit, if not the absolute letter, of guidance requires physicians to use skills of ethical discernment and reflection. Physicians are expected to have compelling reasons to deviate from guidance when, in

their best judgment, they determine it is ethically appropriate or even necessary to do so.

The Council also recognizes that guidance is not always equally applicable to every individual physician, depending on the nature of the physician's practice. Nonetheless, physicians are expected to be aware of guidance that may not be routinely relevant to their practice, to be sensitive to occasions when such guidance might be pertinent, and to respond in keeping with guidance when such situations occur. In this respect too, then, the Code relies on the reasonable exercise of judgement.

Where law and ethics have collided

One prominent example of this dilemma is that some state laws require that a physician be present for executions, yet the *Code* clearly states that "physicians must not participate in capital punishment." In 2006, a federal court ordered that an anesthesiologist had to personally supervise an execution in California, or the state had to change its standard protocol for lethal injections.

The AMA and other associations opposed the ruling. Two anesthesiologists agreed to supervise, but withdrew before the execution because an appellate court further said a physician would need to personally administer additional medication if the prisoner remained conscious or was in pain.

Recently, the AMA filed an amicus brief in a case before the U.S. Supreme Court that involves the State of Missouri saying a prisoner must offer expert testimony comparing the risk of severe pain of execution protocols if he wanted to be put to death by something other than standard lethal injection. An anesthesiologist wouldn't give an opinion, saying it would violate medical ethics.

The AMA's brief doesn't support either party; it offers justices background and 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."

Explore more ethics guidance

Physicians can earn CME credit for medical ethics educational modules drawn from the *Code* on informed consent and decision-making, physician well-being and professional conduct, ethical issues in organ donation, and boundaries for physicians.