

# Supreme Court looks to AMA for guidance in big health care cases

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Dating back to 1926 and continuing today, U.S. Supreme Court justices have looked to trusted, scientific and experience-backed information from the AMA to help guide them in shaping case law governing the most important and pressing health care issues the nation faces.

Twenty-one times over the years, the high court has cited friend-of-the-court briefs the AMA has filed. Justices noted the AMA's position on an issue in 10 other cases. And the court has referenced AMA policy or research from the AMA or *JAMA* in another 25 cases.

The areas that AMA policy and guidance influenced are diverse.

In 1926, on a case challenging the Prohibition Act making it illegal to prescribe alcohol as medicine, the court referenced AMA policy passed at an Annual Meeting. Over the past nearly century, the court also looked to the AMA on:

- Medical privacy.
- Alcoholism and substance abuse being treated as a disease.
- Transgender people's rights.
- Regulating smoking and vaping.
- Patient disability rights.
- HIV patients' rights.
- Lethal injection executions.
- Assisted suicide.
- Abortion.
- The Affordable Care Act.

And most recently in 2016, the court cited AMA research on blood-alcohol levels that constitute drunk driving.

“Other organizations may file more briefs or weigh in more frequently, but the AMA has material the court relies on,” said Erin Sutton, associate counsel at the AMA.

## When does the AMA file a brief?

In 1995, the Litigation Center of the American Medical Association and State Medical Societies was established to provide physicians with legal assistance, lend expertise to the courts and advance AMA policies through the legal system.

When weighing whether to get involved in a case, Sutton said, the first question AMA Litigation Center lawyers ask is: Does the AMA have policy on the issue before the court?

For example, ethical stances on physician-assisted suicide led to the AMA filing an amicus brief in a 1997 case involving a New York law prohibiting assisted suicide, *Vacco v. Quill*. The U.S. Supreme Court found that the law did not infringe upon anyone’s fundamental rights. The court also held that there was a difference between assisting suicide and withdrawing life-sustaining treatment.

The court looked to the AMA amicus brief to help guide the reasoning behind its decision, referencing AMA ethical guidance in ruling that “when a patient refuses life-sustaining medical treatment, he dies from an underlying fatal disease or pathology; but if a patient ingests lethal medication prescribed by a physician, he is killed by that medication.” The court also referenced the AMA brief when it noted that “medical technology, we are repeatedly told, makes the administration of pain-relieving drugs sufficient, except for a very few individuals for whom the ineffectiveness of pain control medicines can mean, not pain, but the need for sedation which can end in a coma.”

## AMA influence beyond briefs

On a number of occasions, the court has looked to ethical standards that the AMA has established. For example, in the 2012 U.S. Supreme Court case that was the first to establish precedent on the Affordable Care Act, *National Federation of Independent Businesses v. Sebelius*, Justice Ruth Bader Ginsburg referred to the *AMA Code of Medical Ethics’* opinion on patient neglect.

The court ruled that the ACA’s individual mandate was a valid exercise of taxing power. It also ruled that the government couldn’t withdraw existing Medicaid funds from states that didn’t comply with the ACA requirement that they expand who was eligible for Medicaid services.

In drawing from the *Code of Medical Ethics*, justices wrote that “unlike markets for most products ... the inability to pay for care does not mean that an uninsured individual will receive no care. Federal and state law, as well as professional obligations and embedded social norms,

require hospitals and physicians to provide care when it is most needed regardless of the patient's ability to pay.”