Position Statement

Nurses' Role in Capital Punishment

Effective Date:	January 28, 2010
Status:	Revised Position Statement
Originated By:	ANA Committee on Ethics, 1983, rev. 1988 Revised by: ANA Center for Ethics and Human Rights
Adopted By:	ANA Board of Directors
Related Past Action:	1. *Code of Ethics for Nurses with Interpretive Statements*, 2001 2. ANA Position Statements (1983,1984,1988): *Nurses' Participation in Capital Punishment* 3. House of Delegates Resolution on Acts of Torture and Abuse (2005)
Supersedes:	ANA Position Statements (1983,1984,1988): *Nurses' Participation in Capital Punishment*

Purpose: This position statement addresses the nursing profession and the role of nurses in capital punishment. It provides a brief historical overview of the previous position statements as well as supportive background material related to capital punishment. Recommendations for nurses are presented with reference to ethical concepts, including, but not limited to, the ethic of care, justice, respect for persons, nonmaleficence, beneficence, and fidelity.

Statement of ANA position: The American Nurses Association (ANA) is strongly opposed to nurse participation in capital punishment. Participation in executions, either directly or indirectly, is viewed as contrary to the fundamental goals and ethical traditions of the nursing profession.

Definitions of Capital Punishment:

Capital punishment “penalizes those convicted of certain classes of crimes by killing them” (US Supreme Court, 2009). Capital punishment is "The sentence of death for a serious crime.” (Garner, 2004, p. 223).

History/previous position statements: The ANA’s Committee on Ethics first adopted a position statement addressing capital punishment in 1983. This version was revised by the ANA Center for Ethics and Human Rights and approved by the ANA’s Board of Directors in 1988 and again in 1994. These statements referred to the *Code of Ethics for Nurses* (ANA, 1985). There was also a House of Delegates Resolution on Acts of Torture and Abuse in 2005 that addressed the activities of nurses in correctional settings.

Supportive Material: Health care professionals, including nurses, continue to be called upon to participate in capital punishment including the use of lethal injection, among others. Currently, 35 states have legalized the death penalty. Fifteen states plus the District of Columbia do not support capital punishment (Death Penalty Information Center, 2010). Fifty nine countries retain the death penalty. In 2008 the United States was one of five countries with the highest rate of executions. “Together they carried out (93%) of all executions worldwide.” (Amnesty International, 2008).

In 1972, the U. S. Supreme Court ruled in *Furman v. Georgia* that capital punishment violated the Constitution’s Eighth and Fourteenth Amendments protecting individuals against “cruel and unusual punishments”. The moratorium on the death penalty remained in place until 1976 when the Supreme Court upheld a death-sentence in *Gregg v. Georgia*, ruling that the death penalty does not, in all cases, violate the Eighth and Fourteenth Amendments. This ruling was supported in the *Baze v. Rees* Supreme Court case in 2008, which ruled that the lethal injection “cocktail” did not violate the Eighth or Fourteenth amendment, and was not deemed cruel and unusual punishment.

The United Nations General Assembly (2007) adopted a resolution, calling for “States that still maintain the death penalty: To establish a moratorium on executions with a view to abolishing the death penalty” (Item 2.*d*).

Professional and international organizations such as the American Medical Association (2000), American Psychiatric Association (2008), American Society of Anesthesiologists (2006), American Public Health Association (2001), American Correctional Health Services Association (1996), World Medical Association (2000), National Commission on Correctional Health Care (2008) and International Council of Nurses (2006a, 2006b) address the role of health care professionals in capital punishment. In summary, the health care professionals' participation in capital punishment is a breach of professional ethics.

Historically, the role of the nurse has been to promote, preserve, and protect human health. The ANA *Code of Ethics for Nurses with Interpretive Statements* states that ethics is "the foundation of nursing.... and has a history of concern for the welfare of the sick, injured, and vulnerable and for social justice" (ANA, 2001, p. 5). This array of concerns extends to the community and "encompasses the ...protection, promotion, and restoration of health" (p. 5). The Code of Ethics is grounded in the basic principles of respect for persons, nonmaleficence, beneficence, and justice, and stipulates that "nurses act to change those aspects of social structures that detract from health and well-being" (p. 5). Addressing end of life care, the Code states, nurses may not act [to alleviate pain] "with the sole intent of ending a patient's life" (p. 8). The obligation to refrain from causing death is longstanding and should not be breached even when legally sanctioned.

The ANA's Position Statement on Ethics and Human Rights (1991) addresses the intersection of ethics and human rights stating that "the principle of justice is one point at which issues of ethics and human rights intersect" (p. 1). This statement includes discussion of "first generation rights, such rights include: ...freedom from torture, and from cruel, inhuman or degrading treatment or punishment" (p. 1).

The ANA's *Social Policy Statement 3rd Edition* places the nurse in a position of public trust to ensure the patient is supported in goals of health and healing. "All registered nurses are educated in the art and science of nursing, with the goal of helping individuals, …… to attain, maintain, and restore health, or to experience a dignified death" (ANA, 2010, p.19). In those

cases where the corrections nurse has a relationship with a prisoner as a patient, the nurse will offer comfort care at the end of life, and if requested, help the prisoner prepare for the execution, but will not take part in it.

The ANA document *Corrections Nursing: Scope and Standards of Practice* (2007) states:

> It is inappropriate for nurses to be involved in the security aspects of the facility and disciplinary decisions or committees. Correctional nurses must be vigilant in maintaining a healthcare role and not participate in non-therapeutic court-ordered procedures such as but not limited to body entry searches or executions by lethal injections, performed solely for correctional purposes and without informed consent. (p. 8)

The scope of practice indicates "the registered nurse in the corrections environment is bound by the profession's *Code of Ethics for Nurses with Interpretive Statements* (ANA, 2001)" (ANA, 2007, p. 14). It continues, stating "Nursing practice must be balanced with the goals of corrections and the incarcerated person's rights to appropriate health care" (ANA, 2007, p. 11).

> The corrections nurse is expected to demonstrate integrity and highly ethical and moral practice, appreciating the legally mandated obligation to deliver nursing care regardless of the individual's circumstances or offenses. The basic concept of patient advocacy may be foreign to the corrections environment and may need to be regularly reaffirmed by the corrections nurse. (ANA, 2007, p. 12)

The ANA is opposed to all forms of participation by nurses in capital punishment, by whatever means, whether under civil or military legal authority. Participation in capital punishment is inconsistent with the ethical precepts of justice, nonmaleficence, and beneficence, and the values and goals of the nursing profession. The ethical principle of nonmaleficence requires that nurses act in such a way as to prevent harm, not to inflict it. The act of participating in capital punishment clearly inflicts harm; nurses are ethically bound to abstain from any activities in carrying out the death penalty process. Nurses must not participate in capital punishment, whether by chemical, electrical, or mechanical means. Consistent with this

directive is a standard of the National Commission on Correctional Health Care (NCCHC) prohibiting correctional health services staff from participation in inmate executions (2008).

Nurses, in their professional roles, including advanced practice, should not take part in assessing the prisoner or the equipment; supervising or monitoring the procedure or prisoner; procuring, prescribing or preparing medications or solutions; inserting the intravenous catheter; injecting the lethal solution; attending or witnessing the execution; or pronouncing the prisoner dead. Nurses should not train paraprofessionals in any of the activities listed above for the purpose of their use in capital punishment. The NCCHC specifies that health services staff do not assist, supervise or contribute to the ability of another to directly cause death of an inmate (2008).

The ANA recognizes that the endorsement of the death penalty remains a personal decision and that individual nurses may have views that are different from the official position of the profession. Regardless of the personal opinion of the nurse on the appropriateness of capital punishment, it is a breach of the ethical traditions of nursing, and the Code of Ethics to participate in taking the life of any person. The fact that capital punishment is currently supported in many segments of society does not override the obligation of nurses to uphold the ethical mandates of the profession.

Recommendations: In keeping with the nursing profession's commitment to caring, the preservation of human dignity and rights, the ethical principles of justice, nonmaleficence, beneficence, and fidelity, and the trust that the public has placed in registered nurses, the ANA recommends that:

1. Nurses abide by the Code of Ethics and the Scope and Standards of Professional Nursing Practice in correctional facilities prohibiting nurses from assuming any role in the capital punishment of a prisoner.

2. Nurses strive to preserve the human dignity of prisoners regardless of the nature of the crime they have committed.

3. Nurses act to protect, promote, and restore health of prisoners and provide comfort care at the end of life if requested, including pain control, anxiety relief or procuring services of a chaplain.

4. Nurses abide by the social contract to facilitate healing, and avoid participation in capital punishment — where the intent is to cause death.

5. Nurses who are invited to witness an execution must not represent themselves as a nurse nor assume any nursing role in that execution.

6. Nurse administrators provide a work environment that allows nurses to abide by the recommendations of the American Correctional Health Services Association and the ANA.

7. Nurses scrutinize policies and procedures guiding their practice to ensure there are no contradictions in performance expectations.

8. Nurses help colleagues balance moral burdens with professional ethics when specific death penalty cases cause moral turmoil.

9. Nurse researchers design studies to explore the meaning of participation, motivating factors, consequences of non-participation and fears of patient abandonment in the context of capital punishment.

10. Nurses continue to be involved in national and international dialogue on political, scientific, ethical, legal, social and economic perspectives leading to legislation that would abolish the death penalty.

11. Nurses as individuals and as a professional community maintain awareness that any nurse participation could contribute to the public's acceptance of the death penalty and their non-participation may, in fact, contribute to rejection of the death penalty.

12. Nurse educators should include and emphasize the knowledge and skills needed to act upon the above recommendations, especially the boundaries of direct and indirect participation.

Summary: The ANA is opposed to nurse participation in any phase of capital punishment. The *Code of Ethics for Nurses with Interpretive Statements* (ANA, 2001) addresses the fundamental values of the nursing profession. Participation of nurses in capital punishment is contrary to ethical precepts of the Code and *Nursing's Social Policy Statement*: *3rd Edition* (ANA, 2010).

The document, *Corrections Nursing: Scope and Standards of Practice* (2007), specifically states that nurses' participation in executions by lethal injection is inappropriate. While many states still have a legalized death penalty, nurses should strive for social changes which recognize the human dignity of all individuals and uphold rights to be free from cruel and unusual punishment. Many professional and international organizations have addressed their concerns about the imposition of capital punishment and have issued codes, position statements, or policies stating opposition to the execution of prisoners.

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