

# Letters to the CSA

February 20, 2006

Dear Sirs:

Re: Physician Participation in Executions

Whatever one's position on the death penalty may be, an alarming and profoundly disturbing fallout from tonight's scheduled lethal injection of Michael Morales is the participation of two California licensed,

Board certified anesthesiologists, ostensibly present to "monitor" the execution.

Out of an abundance of well-considered caution that Mr. Morales could be conscious when other lethal and painful chemicals are injected, Judge Fogel ordered the Department of Corrections and Rehabilitation (as an alternative to injecting him with thiopental alone) to have someone present with training and experience in anesthesia.

This is profoundly disturbing because it further "medicalizes" executions in order to make them more palatable. By adding physicians to the already "medical" paraphernalia of lethal injection (intravenous lines, EKG machines and anesthetic agents), it corrupts the healing profession's role in society. It undermines the public's confidence in the medical profession because it exploits professionals' technical skill and knowledge for the (albeit, legal) purpose of harming someone. It makes obvious the moral unacceptability of the executioner-physician.

Particularly disturbing to me, as a practicing anesthesiologist, and an active member of the CSA, is the Court's provision for the anonymity of the physicians involved. Looking at the public record containing the heavily redacted Curriculum Vitae of those physicians provided me a chilling and repugnant moment of insight. I thought briefly, "This doctor could be me."

The dark highlighter, used to obscure identifying details of the careers of those involved, is a stain that has a deeply corrupting influence on medicine as a whole and especially on those of us who practice anesthesiology. One wonders if those physicians would willingly participate without wearing the black hood of the executioner in order to hide their identities. By concealing who they are, it makes it possible that anyone of us might be them. I do not want my patients, even if only for a moment, to believe that I could be an executioner. No amount of justification about the making of executions more humane can wash away the stain that is left on the face of medicine because of the active participation of physicians in the process.



## Letters to the CSA (cont'd)

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In the past, some physicians have tried to force states, including California, to eliminate the requirement for physician participation in executions based on ethical considerations. In states where doctors are obligated to participate, legal challenges to the licenses of those physicians have been lodged in an attempt to have them disciplined for unethical conduct. In a letter in today's *Los Angeles Times*, Dr. Donald S. Broder, Co-President of Physicians for Social Responsibility, made a plea for the two anesthesiologists planning to be involved in tonight's execution to reconsider their participation.

Because California changed the Penal Code to do away with mandatory physician participation in executions in 2001, the Morales case opens old wounds. I recently spoke with Kimberly Kirchmeyer, Deputy Director of the Medical Board of California. According to her and based in part on the outcome of a court case in 1998 which held that physician participation in executions did not constitute "unprofessional conduct" (*Thorburn v. Department of Corrections*, 66 Cal.App.4th 1284), the Medical Board of California will not discipline or otherwise investigate the doctors scheduled to participate in tonight's execution. In California, "unprofessional conduct" is not synonymous with unethical conduct. Only unprofessional conduct will trigger a Medical Board inquiry.

Medical ethics requires a higher standard of behavior than the law, and it is this ethical standard by which we ought to judge those anonymous physicians who will assist the Department of Corrections & Rehabilitation tonight. The higher, "extra-legal" standard, which is imposed on physicians by virtue of their Oath, is the subject of this letter.

As you know, most professional societies, including the California Medical Association, the American Medical Association and the American Society of Anesthesiologists, have made strong statements condemning the ethics of physicians who participate in executions. I applaud your recent and most unambiguous statement elaborating the policy of the CSA on physician participation in executions. It is fairly clear from speaking with the Medical Board of California that it will not take any action against the two participating physicians. Because of the CSA's newly articulated policy, I believe that you must decisively act to discipline any member who so participates. This will act as a deterrent to others who may be "confused" and will clearly articulate the CSA's unambiguous dedication to the highest ethical standards among its members.

It is a slippery slope from doctors as killers to killer-doctors. About 65 years ago, a government encouraged doctors to participate in state-sponsored killing. The killing facilities were designed on medical models. A physician always supervised the killing. The two nameless physicians who will participate in the lethal injection of Michael Morales bring all California physicians

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one step closer to that horrible vision of doctors as state-sponsored executioners. When these doctors enter the death chamber tonight, they will irrevocably harm the relationships of all California physicians with every patient who seeks solace and comfort.

Respectfully,

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February 21, 2006

**Editor's Note:** It should be noted that the letters published in this section represent the opinions of the individual authors, and no inference should be made as to the opinion of the California Society of Anesthesiologists or the editor. The views expressed here are not official policy of the CSA, and a letter's publication does not imply agreement or disagreement with the author.

We are attempting to provide the membership with a forum to express their thoughts to other California anesthesiologists. We also make every attempt to publish the letters in their entirety and just as we receive them. Insofar as possible, related or opposing views will be published. If a letter deserves a reply, its publication may be delayed until the companion letter is available. Please remember, we do have deadlines and space limitations—thus, the publication of your letter may be delayed to the next issue for these reasons.

## Laughing Gas

### *Selekted Riting Wrules*

1. Avoid clichés like the plague. (They're old hat.)
2. Also, always avoid annoying alliteration.
3. Be more or less specific.
4. Comparisons are as bad as clichés.
5. Eschew ampersands & abbreviations, etc.
6. Analogies in writing are like feathers on a snake.
7. Understatement is always the absolute best way to put forth earth-shaking ideas.
8. Eliminate quotations. As Ralph Waldo Emerson said, "I hate quotations. Tell me what you know."