

or Tennessee Constitutions or violate state professional practice statutes. The Court of Appeals of Tennessee, citing Opinion 2.06, concluded that the state legislature likely anticipated that licensed health care professionals would not participate in executions because such participation violates professional ethics codes. *Abdur'Rahman v. Bredesen*, 2004 WL 2246227, n. 45.

Va. Att'y Gen. 1994 Attorney General responded in the negative when asked whether a physician employed by the Department of Corrections may be disciplined by the Board of Medicine for participating in the execution of a prisoner where "participating" was defined as "attending or observing an execution, for making a determination that death has occurred, for issuing a certificate of death, or for performing any other function that applicable state statutes lawfully require to be performed by a physician in connection with an execution." Citing Opinion 2.06, the Attorney General noted that such ethical opinions are not legally conclusive and that if they conflict with a state statute, the statute controls. *Va. Att'y Gen. Op.*, 1994 Va. AG LEXIS 12.

Journal 2007 Examines flaws in lethal injection protocols across states. Concludes that a collaborative effort between legal and medical professionals is needed to revise protocols to meet basic constitutional requirements. Quotes Opinion 2.06. Denno, *The Lethal Injection Quandary: How Medicine Has Dismantled Death*, 76 *Fordham L. Rev.* 49, 80-81 (2007).

Journal 2007 Discusses challenges to the constitutionality of lethal injection made pursuant to 42 U.S.C. § 1983. Concludes that the Supreme Court must rule on the constitutionality of lethal injection to stem a flood of litigation in the lower federal courts. Quotes Opinion 2.06. Greer, *Legal Injection: The Supreme Court Enters the Lethal Injection Debate: Hill v. McDonough*, 126 *S. Ct.* 2096 (2006), 30 *Harv. J.L. & Pub. Pol'y* 767, 774 (2007).

Journal 2007 Analyzes the impact of recent death penalty cases. Concludes that, in similar cases, the manner of execution may be challenged under 42 U.S.C. § 1983 and that a denial of the right to counsel of choice may result in an overturned conviction. Quotes Opinion 2.06. Klein, *Death Penalty and Right to Counsel Decisions in the October 2005 Term*, 22 *Touro L. Rev.* 1003, 1012 (2007).

Journal 2007 Examines the constitutionality of lethal injection protocols. Concludes that current protocols are unconstitutional under the Eighth Amendment and suggests that, at minimum, the legislature should conduct a thorough investigation into humane methods of execution. Quotes Opinion 2.06. Kreitzberg & Richter, *But Can It Be Fixed? A Look at Constitutional Challenges to Lethal Injection Executions*, 47 *Santa Clara L. Rev.* 445, 448, 449, 499, 502 (2007).

Journal 2007 Highlights inconsistencies in applying judicial deference to medical ethics. Concludes that courts should afford greater deference to established medical ethics standards. Quotes Principle I, and Opinions 2.06 and Ch. II, Art. I, Sec. 3 (May 1847) [now Opinion 5.02]. Cites Opinions 4.01 and 7.05. Lerman, *Second Opinion: Inconsistent Deference to Medical Ethics in Death Penalty Jurisprudence*, 95 *Geo. L.J.* 1941, 1945, 1974-75, 1976, 1977 (2007).

Journal 2007 Examines the potential for error in lethal injection procedures. Concludes that such procedures must be changed to ensure a painless execution and should cease to require participation of medical professionals. Quotes Opinion 2.06. Mottor, *Morales and Taylor: The Future of Lethal Injection*, 6 *Appalachian J.L.* 287, 300-01 (2007).

Journal 2007 Argues that there is a public right to know the identity of state executioners. Concludes that the state must be able to prove the qualification of the executioner, and that this is best accomplished by revealing their identity. Quotes Opinion 2.06. Roko, *Executioner Identities: Toward Recognizing a Right to Know Who is Hiding Beneath the Hood*, 75 *Fordham L. Rev.* 2791, 2799 (2007).

Journal 2006 Discusses the ethical issue of incompetent inmates who face capital punishment. Formally recommends that all states adopt policy against execution of incompetent defendants. References Opinion 2.06. American Bar Association Task Force on Mental Disability and the Death Penalty (Igasaki, et al), *Recommendation and Report on the Death Penalty and Persons with Mental Disabilities*, 30 *Mental & Physical Disability L. Rep.* 668, 676 (2006).

Journal 2006 Evaluates legal and ethical challenges to the use of the drug pavulon in lethal injection executions. Concludes pavulon should not be used because of the risk of cruel and unusual punishment. Cites Opinion 2.06. Ewart, *Use of the Drug Pavulon In Lethal Injections: Cruel and Unusual?*, 14 *Wm. & Mary Bill of Rts. J.* 1159, 1182 (2006).

Journal 2006 Discusses mentally incompetent inmates and capital punishment. Proposes that, to be permissible, involuntary medication of deathrow inmates must represent the best medically appropriate treatment. Quotes Principles I, III, and VIII, and Opinion 2.06. Gabos, *The Perils of*

More than
200 Opinions on
specific ethical
issues in
medicine

Each
Opinion is followed
by one or more roman
numerals that identify
the Principle(s) from
which the Opinion is
derived

An Opinion derived from a longer Report is followed by a citation to that Report and, if applicable, a peer-reviewed medical journal

- (1) Physicians who participate as investigators in genomic research should have adequate training in genomic research and related ethical issues so as to be able to discuss these issues with patients and/or potential research subjects.
- (2) If research is to be conducted within a defined subset of the general population, that is, an identifiable community, then investigators should consult with the community to design a study that will minimize harm not only for individual subjects, but also for the community. When substantial opposition to the research is expressed within the community, investigators should not conduct the study. When the community supports a proposal, investigators nevertheless should obtain individual consent in the usual manner. The same procedure should be followed whether the investigators intend to collect new samples and data or whether they wish to use previously archived data sets.
- (3) When obtaining the informed consent of individuals to participate in genomic research, standard informed consent requirements apply (see Opinion 2.07, "Clinical Investigation"). In addition:
 - (a) Special emphasis should be placed on disclosing the specific standards of privacy contained in the study: whether the material will be coded (ie: encrypted so that only the investigator can trace materials back to specific individuals) or be completely de-identified (ie: stripped of identifiers).
 - (b) If data are to be coded, subjects should be told whether they can expect to be contacted in the future to share in findings or to consider participating in additional research, which may relate to the current protocol or extend to other research purposes.
 - (c) Individuals should always be free to refuse the use of their biological materials in research, without penalty.
 - (d) Disclosure should include information about whether investigators or subjects stand to gain financially from research findings (see Opinion 2.08, "Commercial Use of Human Tissue"). Such disclosure should refer to the possible conflicts of interest of the investigators (see Opinion 8.0315, "Managing Conflicts of Interest in the Conduct of Clinical Trials").
 - (e) Subjects should be informed of when, if ever, and how archived information and samples will be discarded.
- (4) To strengthen the protection of confidentiality, genomic research should not be conducted using information and samples that identify the individuals from whom they were obtained (ie: by name or social security number). Furthermore, to protect subsets of the population from such harms as stigmatization and discrimination, demographic information not required for the study's purposes should be coded. (I, IV, V, VII)

Issued June 2002 based on the report "The Use of DNA Databanks in Genomic Research: The Imperative of Informed Consent," adopted December 2001 (*Genetics in Medicine*, 2004; 6(6):526-529).

Journal 2007 Analyzes scientific, ethical, and legal issues raised in the exhumation and genetic analysis of historical figures. Concludes that biohistorical review boards should be created to generate guidelines for such research. Quotes Preamble and Opinion 2.08. Cites Opinions 2.079, 2.105, 5.05, 5.051, 5.075, 8.03, 8.031, 9.095, and 9.10. Paradise & Andrews,

Annotations include summaries of all reported court decisions and selected state attorney general opinions that make substantive reference to the Principles or Opinions. Additionally, Annotations summarize selected articles from medical, legal and ethical literature