



**Brian Sandoval**  
*Governor*



**Richard Whitley**  
*Director*

State of Nevada

# Department of Health and Human Services

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Overview of the Laws in the U.S.  
Regulating Physician Participation  
in Government Authorized Executions

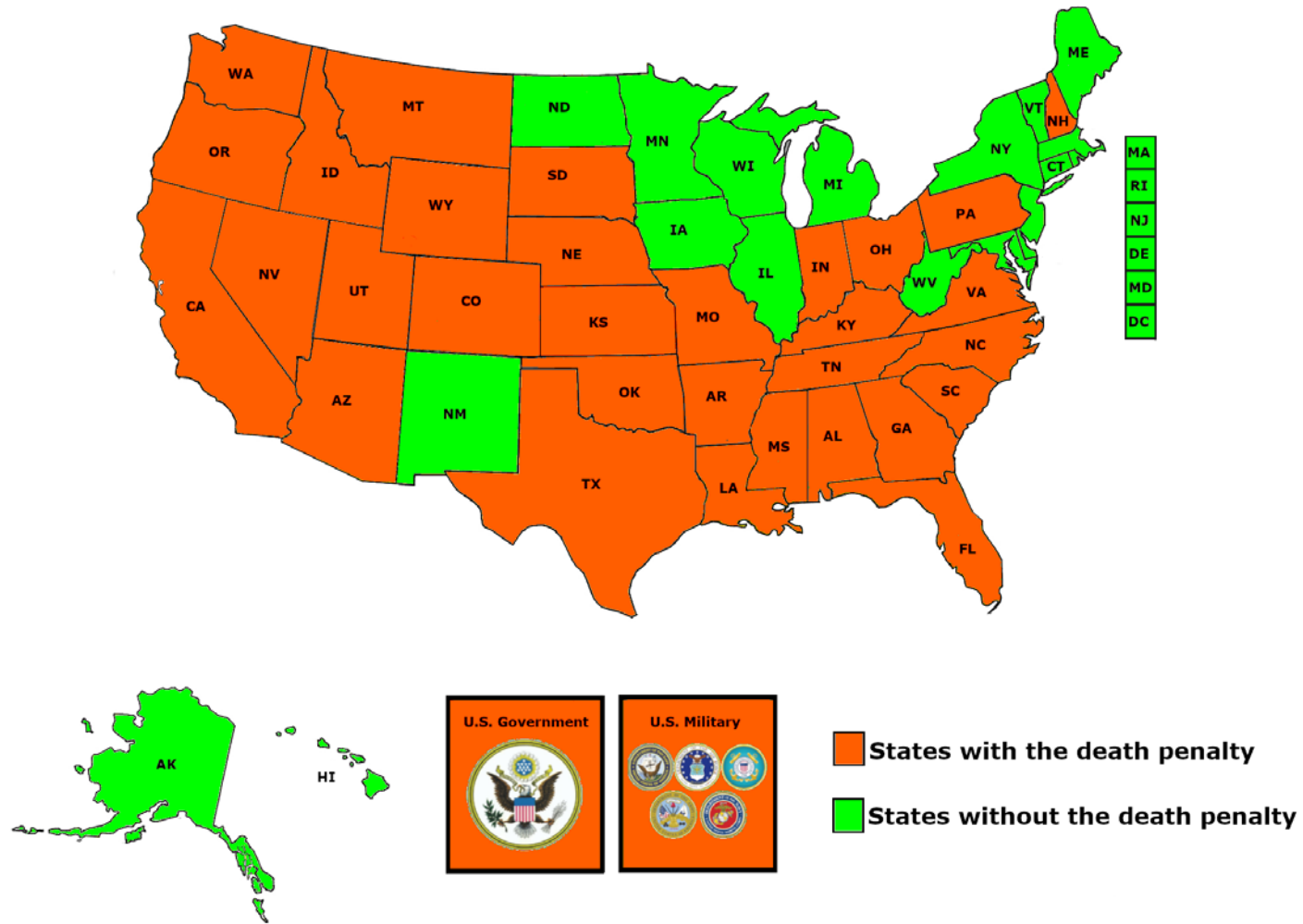
Report for the Commission on Behavioral Health  
Division of Public and Behavioral Health

Leon Ravin, MD  
Amanda King, Iraj Siddiqi, Grant Bullock

9/14/2018



# Death Penalty in the United States



## Code of Medical Ethics Opinion 9.7.3

*An individual's opinion on capital punishment is the personal moral decision of the individual. However, as a member of a profession dedicated to preserving life when there is hope of doing so, a physician must not participate in a legally authorized execution.*

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# Code of Medical Ethics Opinion 9.7.3

Physician participation in execution is defined as actions that fall into one or more of the following categories:

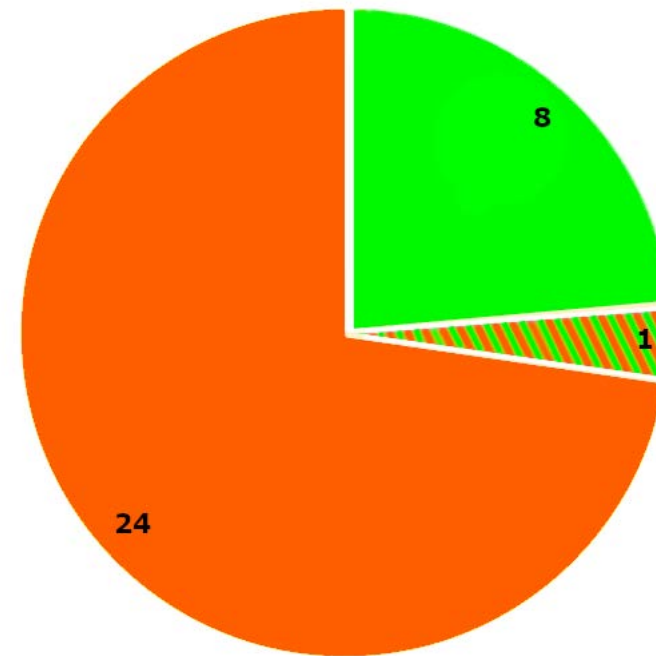
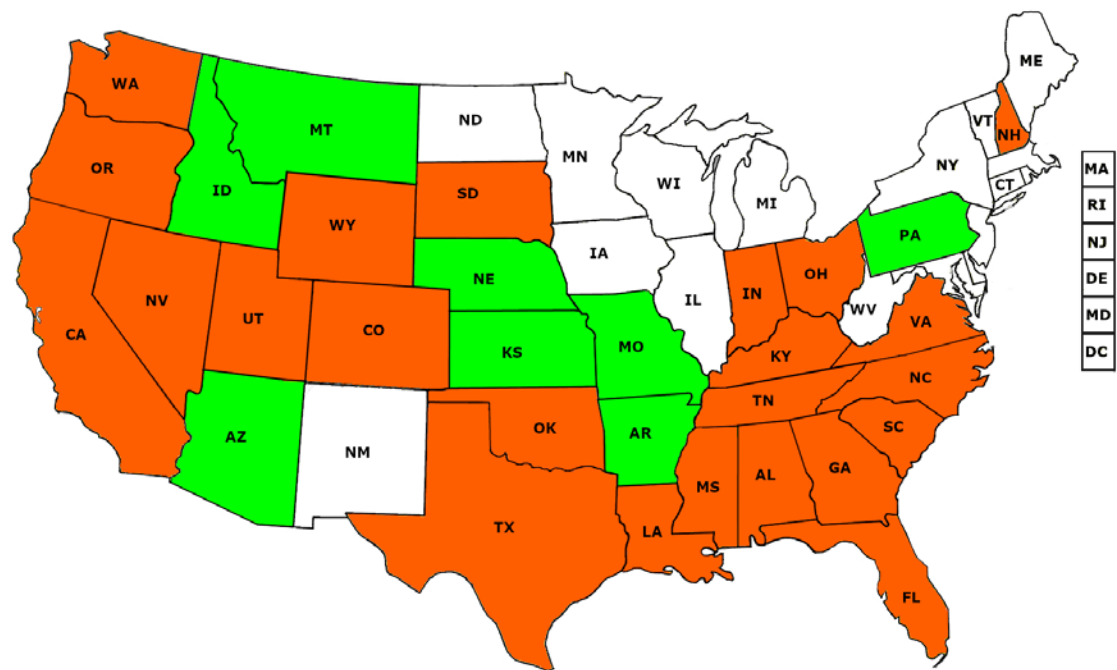
- (a) Would directly cause the death of the condemned.
- (b) Would assist, supervise, or contribute to the ability of another individual to directly cause the death of the condemned.
- (c) Could automatically cause an execution to be carried out on a condemned prisoner.

# Code of Medical Ethics Opinion 9.7.3

The following actions do not constitute physician participation in execution:

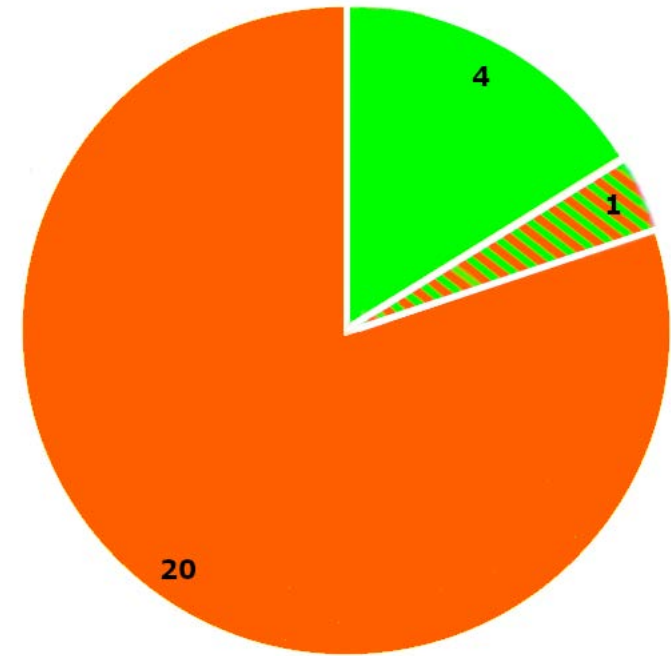
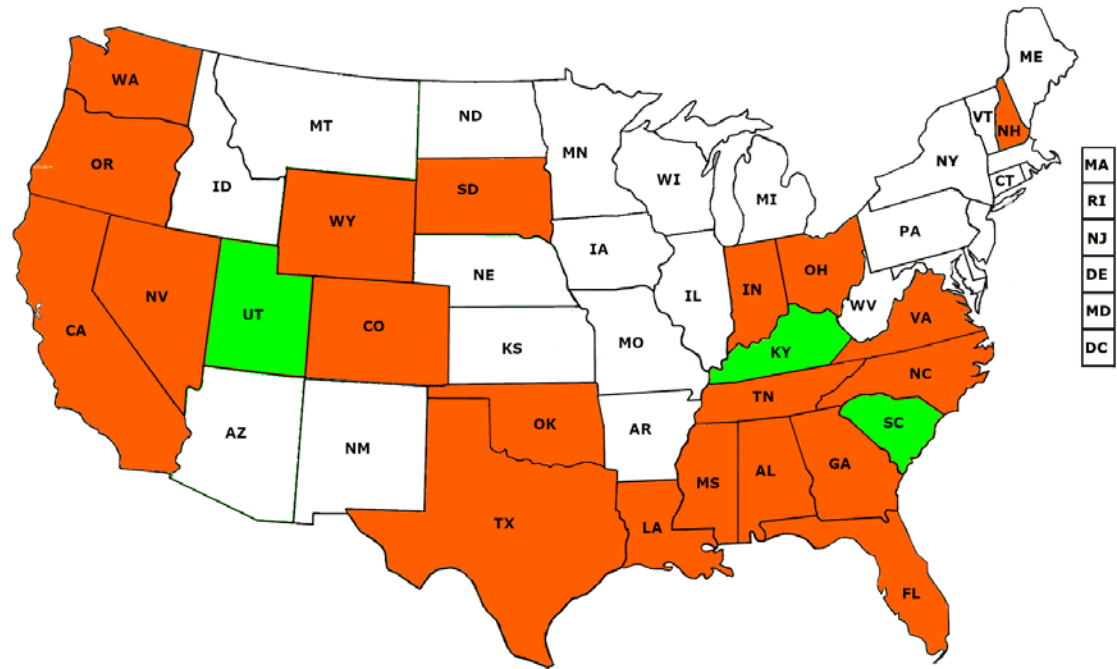
- (o) Testifying as to the prisoner's medical history and diagnoses or mental state as they relate to competence to stand trial, testifying as to relevant medical evidence during trial, testifying as to medical aspects of aggravating or mitigating circumstances during the penalty phase of a capital case, or testifying as to medical diagnoses as they relate to the legal assessment of competence for execution.
- (p) Certifying death, provided that the condemned has been declared dead by another person.
- (q) Witnessing an execution in a totally nonprofessional capacity.
- (r) Witnessing an execution at the specific voluntary request of the condemned person, provided that the physician observes the execution in a nonprofessional capacity.
- (s) Relieving the acute suffering of a condemned person while awaiting execution, including providing tranquilizers at the specific voluntary request of the condemned person to help relieve pain or anxiety in anticipation of the execution.
- (t) Providing medical intervention to mitigate suffering when an incompetent prisoner is undergoing extreme suffering as a result of psychosis or any other illness.

# Laws Describing Physician Involvement in Government Authorized Executions



- Jurisdictions without language for physician involvement
- Jurisdictions with language for physician involvement
- / U.S. Government defers to state

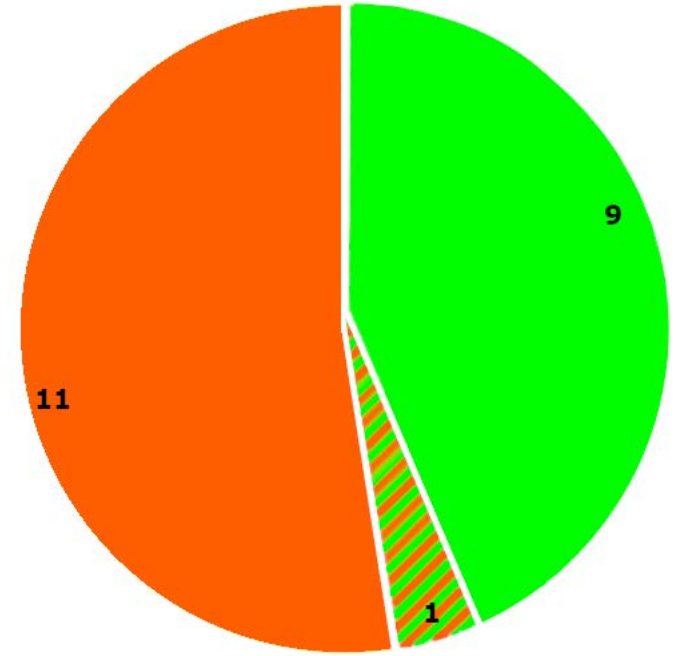
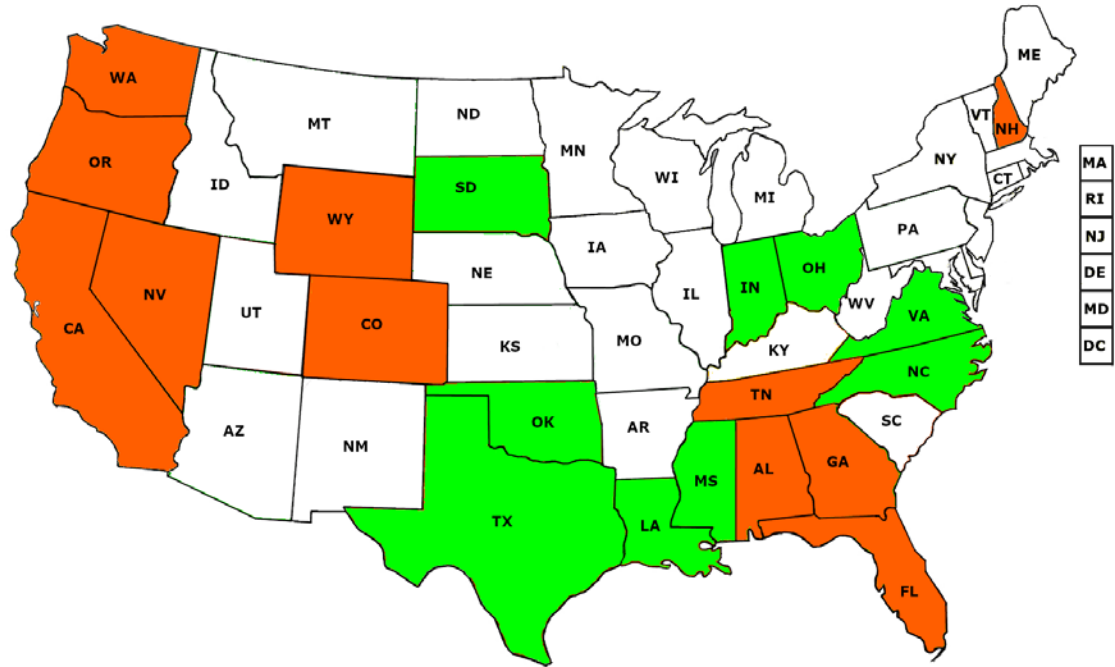
# Types of Physician Involvement in Government Authorized Executions



- Physician involvement limited to certifying death
- Physician involvement outside of certifying death
- ▨ U.S. Government defers to states

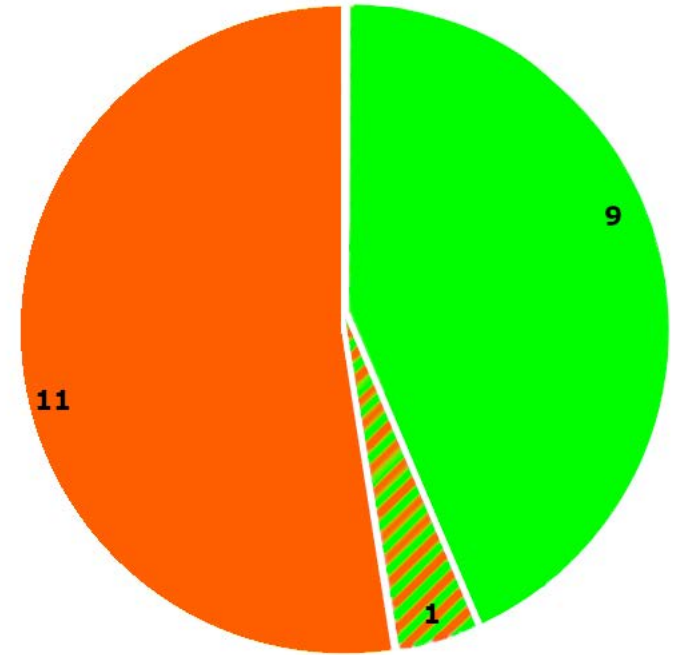
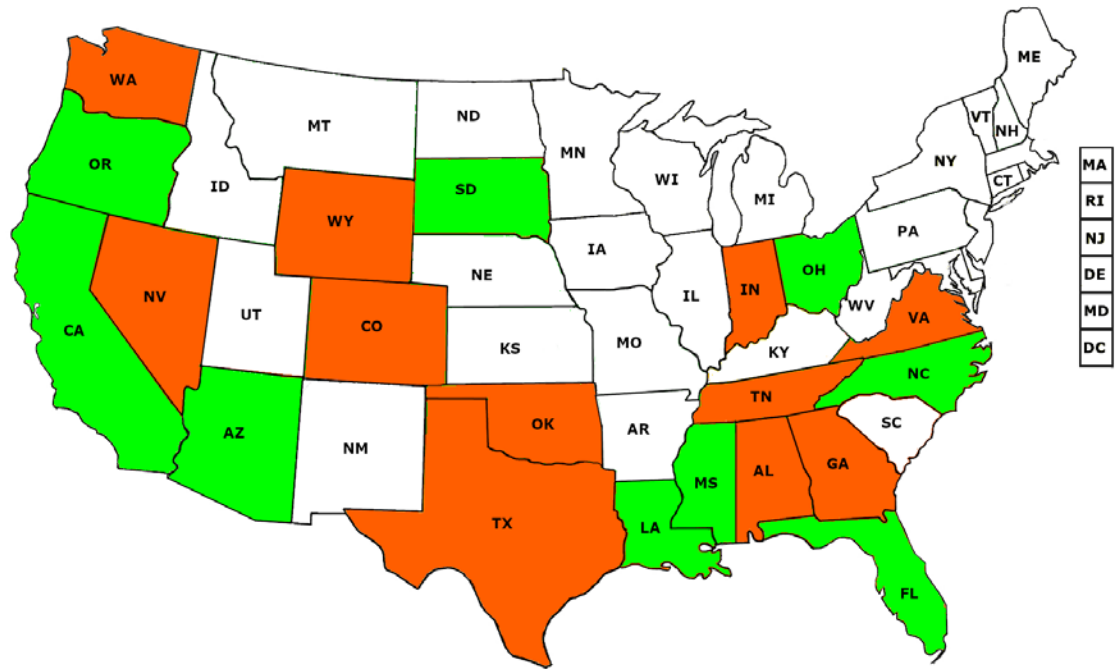


# Guaranteed Anonymity to Physicians Participating in Government Authorized Executions



		 <b>Anonymity explicitly guaranteed</b>
		 <b>No anonymity explicitly guaranteed</b>
		 <b>U.S. Government defers to states</b>

# Guaranteed License Protection to Physicians Participating in Government Authorized Executions



U.S. Government

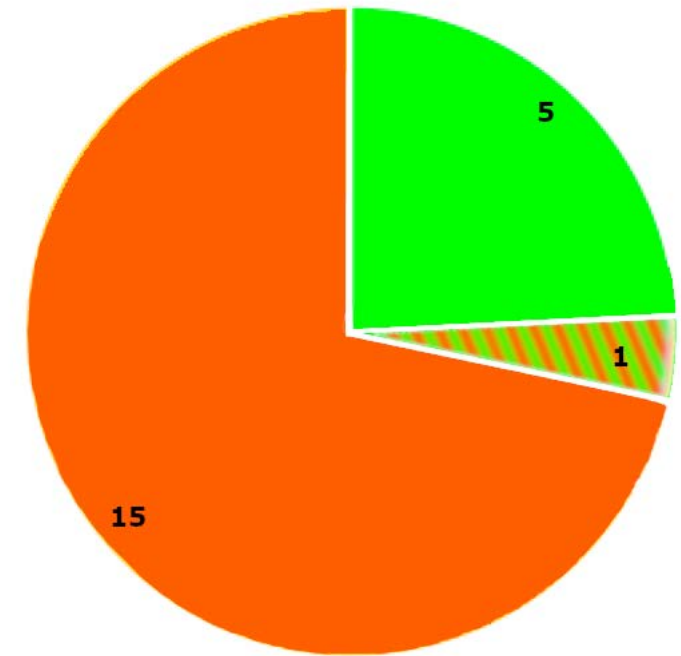
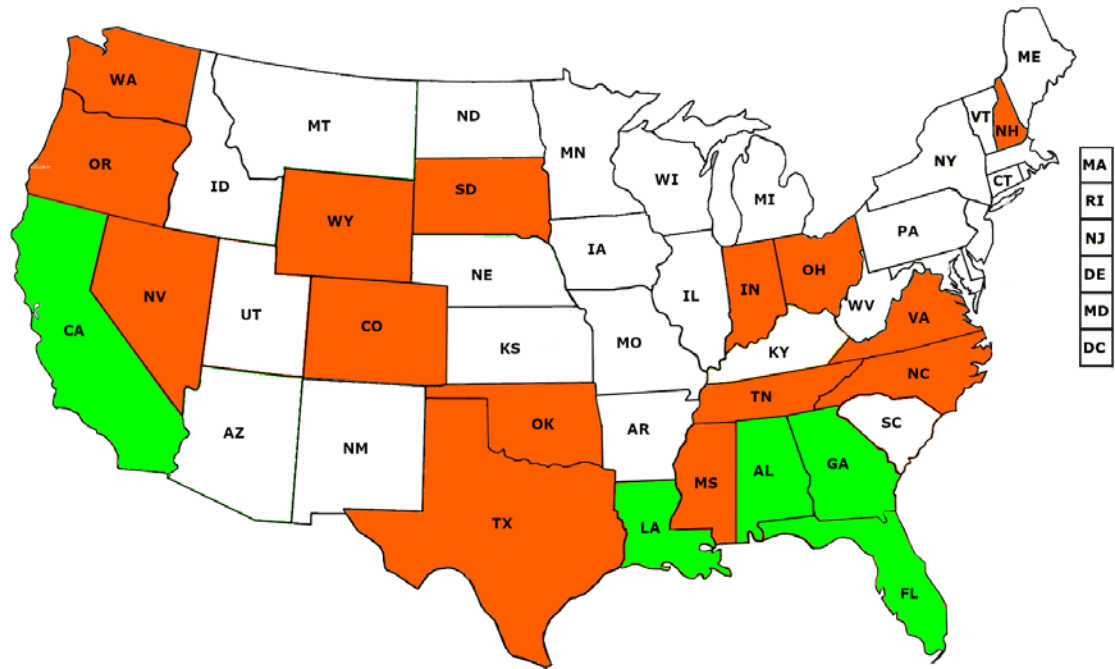
U.S. Military

■ License protection guaranteed

■ No license protection guaranteed

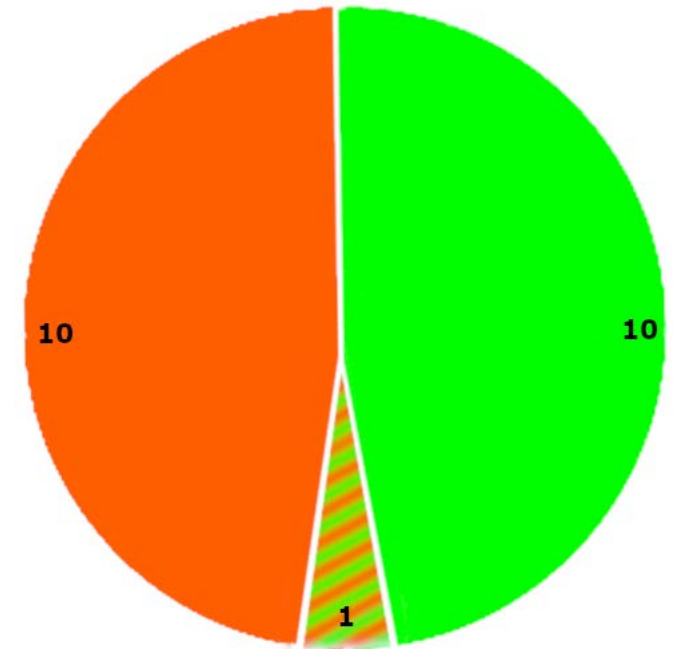
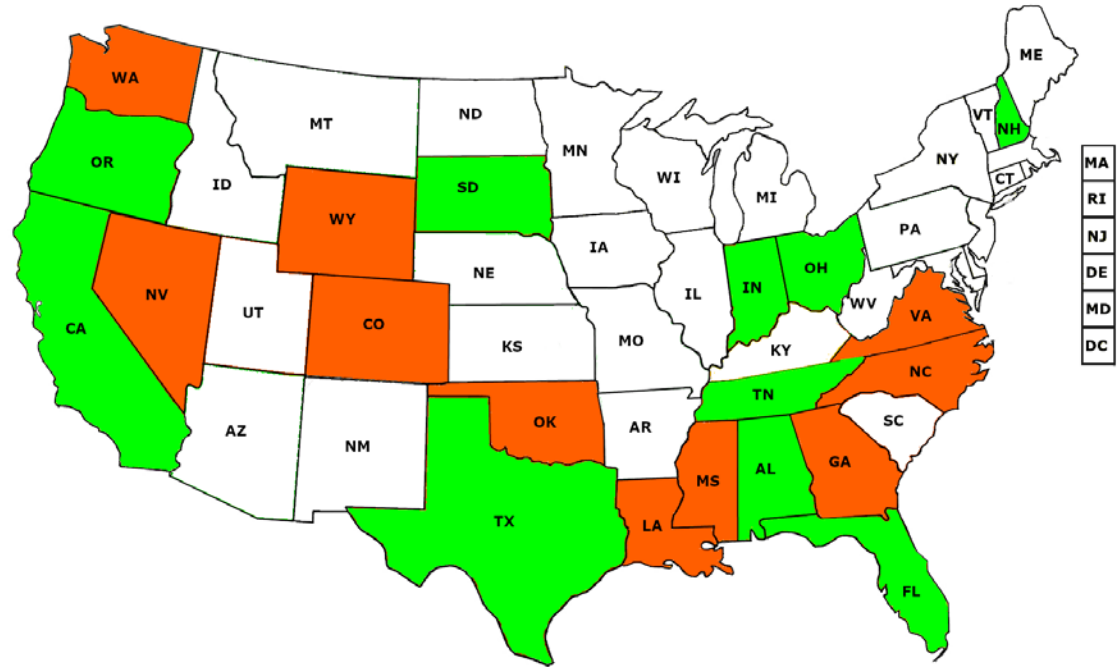
■ U.S. Government defers to states

# Physicians' Rights to Refuse Participation in Government Authorized Executions



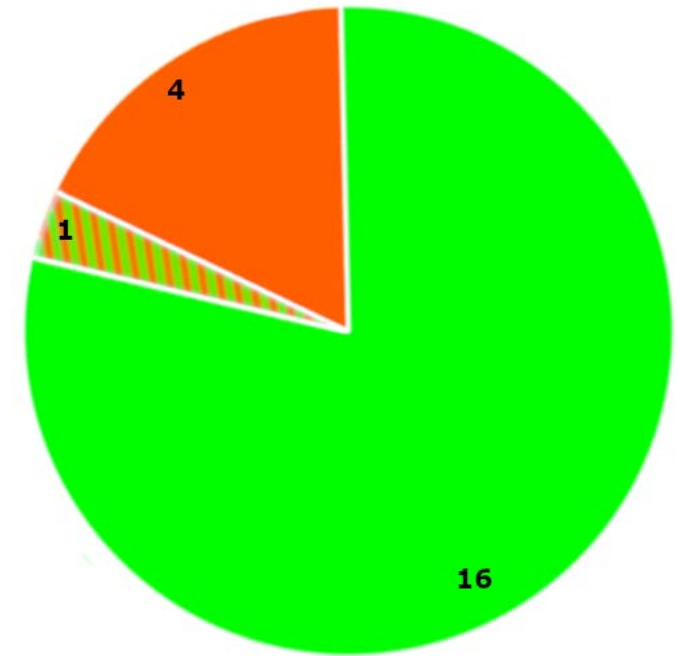
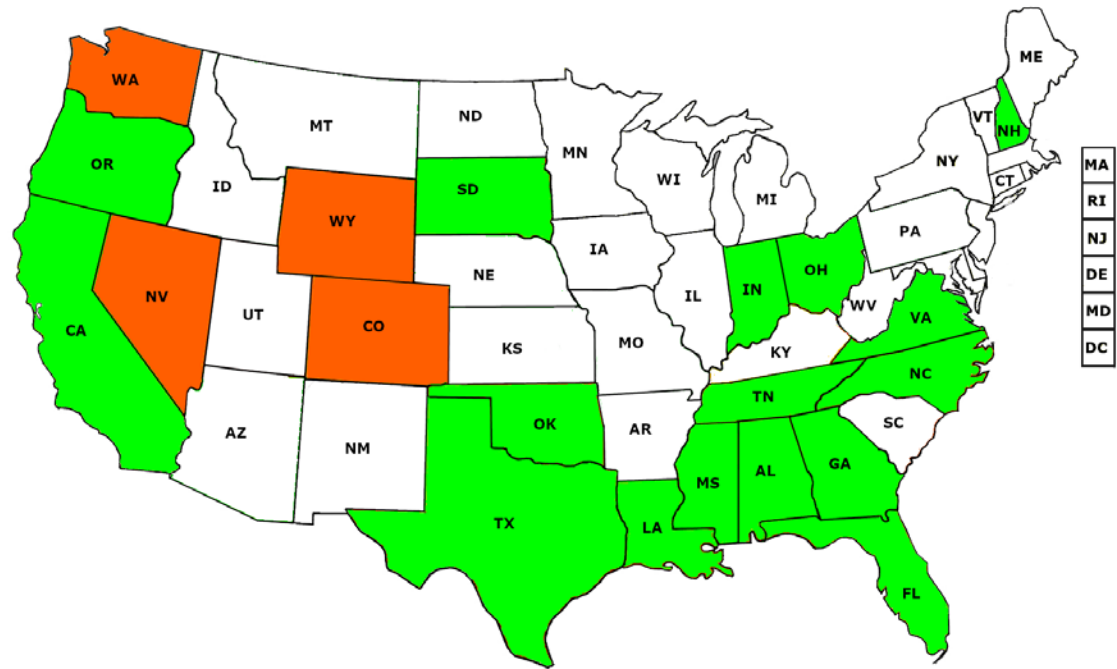
- No ethical or moral exceptions
- Unspecified ethical or moral exceptions
- ▨ U.S. Government defers to states\*

# Requirement for Physician Participation in Government Authorized Executions



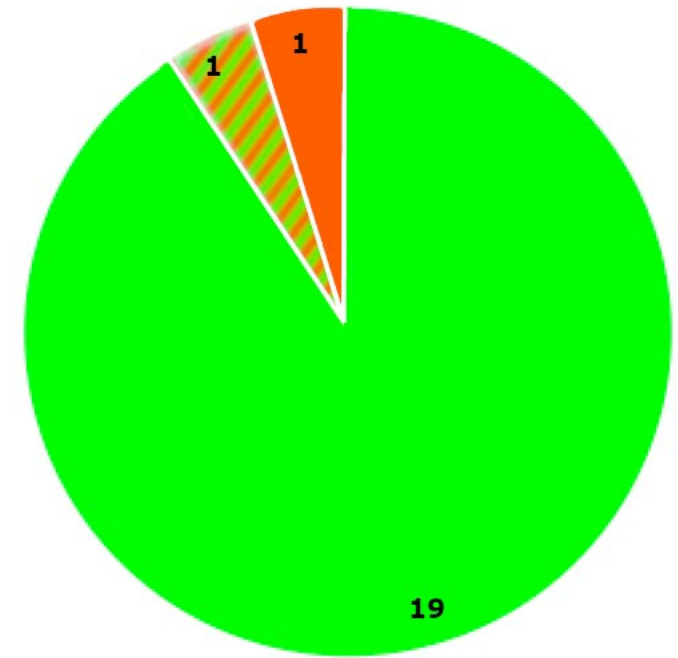
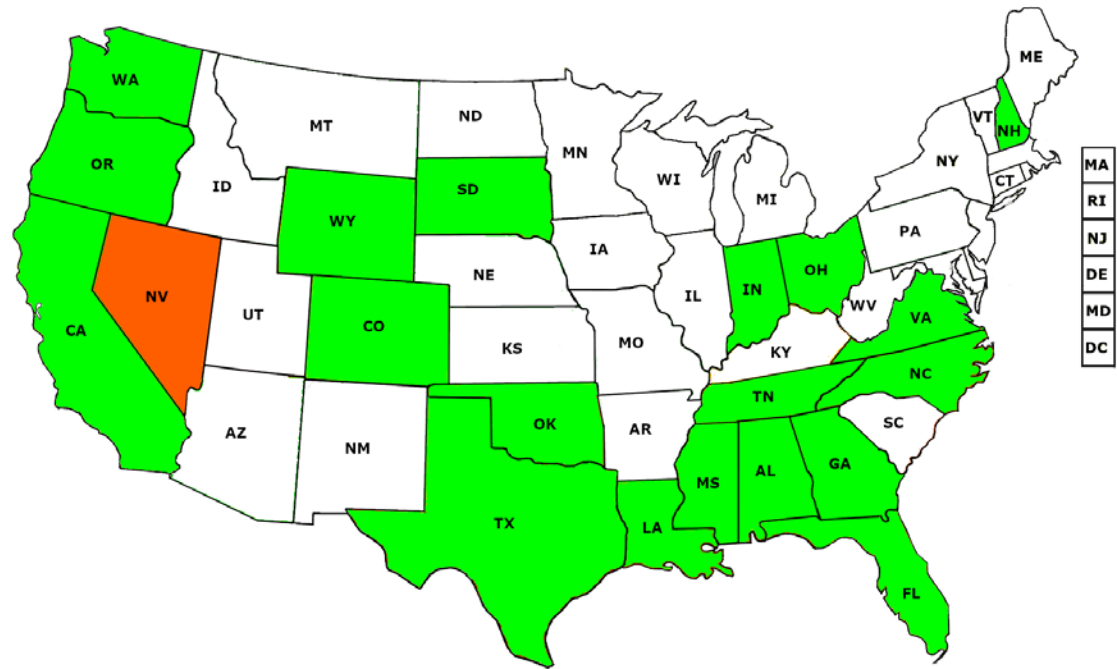
- Permitting physician participation
- Mandating physician participation
- U.S. Government defers to states\*

# Requirement for Physician Participation in Government Authorized Executions without Exceptions or Protection



- No requirement for mandatory physician participation without exceptions, anonymity, or license protection
- Mandatory physician participation without exceptions, anonymity, or license protection
- U.S. Government defers to states\*

# Requirement for Psychiatrist Participation in Government Authorized Executions (without Exceptions or Protection)



- No requirement for mandatory psychiatrist participation without exceptions, anonymity, or license protection
- Mandatory psychiatrist participation without exceptions, anonymity, or license protection
- U.S. Government defers to states\*

# NRS 176.355 Execution of death penalty: Method; time and place; witnesses.

1. The judgment of death must be inflicted by an injection of a lethal drug.
2. The Director of the Department of Corrections shall:

(a) Execute a sentence of death within the week, the first day being Monday and the last day being Sunday, that the judgment is to be executed, as designated by the district court. The Director may execute the judgment at any time during that week if a stay of execution is not entered by a court of appropriate jurisdiction.

(b) Select the drug or combination of drugs to be used for the execution after consulting with the Chief Medical Officer.

(c) Be present at the execution.

(d) Notify those members of the immediate family of the victim who have, pursuant to [NRS 176.357](#), requested to be informed of the time, date and place scheduled for the execution.

(e) Invite a competent physician, the county coroner, a psychiatrist and not less than six reputable citizens over the age of 21 years to be present at the execution. The Director shall determine the maximum number of persons who may be present for the execution. The Director shall give preference to those eligible members or representatives of the immediate family of the victim who requested, pursuant to [NRS 176.357](#), to attend the execution.

3. The execution must take place at the state prison.
4. A person who has not been invited by the Director may not witness the execution.

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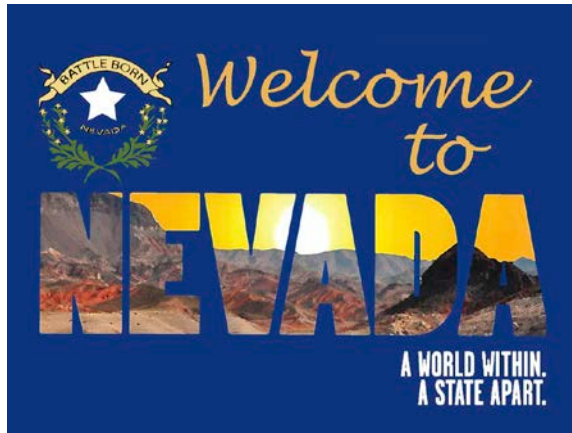
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Among 50 states and federal jurisdictions, Nevada is the only state that:

- Mandates at least two physicians to participate in executions;
- Explicitly requires a psychiatrist to participate in executions;
- Offers no anonymity or license protection for physicians who are mandated to participate in executions;
- Names at least one physician (CMO) who is tasked with rendering of professional advice regarding execution;
- Does not guarantee physicians' rights to refuse to participate in execution

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