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Lethal Injection Procedures Violate Veterinary Standards in Almost Every State, Study Finds

*Same Concerns Raised in Current Lethal Injection Challenges Led to Passage of Strict
Animal Euthanasia Regulations Decades Ago*

The vast majority (97.6%) of lethal injection executions in this country have taken place in states that have banned, for use in animal euthanasia, the same drugs that are used in those states during executions, according to a study to be published this spring in the *Fordham Urban Law Journal*. An exhaustive review of state laws and regulations concluded that animal euthanasia statutes in 42 states ban, either implicitly or explicitly, the use of paralyzing drugs like those used in lethal injections.

“The very same state legislatures that have decided it would be dangerous and cruel to paralyze animals during the euthanasia process have allowed such a procedure to become routine in human lethal injections,” said the study’s author, Ty Alper, Associate Director of the Death Penalty Clinic at the University of California, Berkeley, School of Law.

The study, to be published in May in an article entitled *Anesthetizing the Public Conscience: Lethal Injection and Animal Euthanasia*, contends that previous compilations of states that banned paralyzing drugs in animal euthanasia significantly under-counted the total number. By tracking down administrative regulations in several states, the study was able to establish that almost every state either explicitly prohibits paralyzing drugs in animal euthanasia or mandates an anesthetic-only procedure that does not involve a paralytic. In fact, virtually all of the 9.6 million animals euthanized each year are put to death using a one-drug, anesthetic-only procedure that is simple enough to be used by animal shelter workers who are not trained in veterinary medicine.

The study answers a question raised during oral argument in the *Baze v. Rees* case currently pending in the United States Supreme Court. Several of the justices wondered aloud why states had passed laws banning paralyzing drugs in animal euthanasia, and what the relevance of those laws was to the current lethal injection debate. “The answer is that these laws were passed due to the very same concerns about paralyzing drugs that are being raised in lethal injection challenges,” says Alper.

“Veterinarians and animal welfare advocates were concerned that any euthanasia procedure that involved the paralyzation of the animal risked exposing the animal to conscious suffering and excruciating pain.”

Advocates for death row inmates have raised challenges to the three-drug formula used in lethal injections, in large part because of the second drug used in the procedure. This drug, pancuronium bromide, paralyzes the inmate, rendering him unable to cry out or indicate in some way if the first drug, the anesthetic, has not been administered properly. Thus, there is serious concern that, if the prison officials do not properly administer the anesthesia, inmates will suffer both the conscious suffocation caused by the paralyzing drug and the excruciating pain of the third drug, potassium chloride – all without indicating any observable distress.

“We found that the same concerns animated the animal euthanasia laws,” says Alper. For example, the study cites a 1987 letter from an animal rights advocate in Connecticut, urging the state legislature not only to mandate lethal injection for animal euthanasia, but to specifically ban paralyzing drugs. “Please do not assume that the phrase ‘lethal injection’ is adequate to prevent the animal’s suffering,” the letter states, and then goes on to describe the horror of death by conscious asphyxiation.

Legislative history in other states confirmed that many state legislatures were well aware of the dangers of paralyzing drugs as many as 30 years ago. “It’s no secret in the veterinary community that using a paralyzing agent when euthanizing an animal is dangerous and inhumane,” says Alper. “Many of these state statutes passed unanimously, decades ago, with very little dissent.”

Some of the states that have the most explicit ban on paralyzing drugs are among the most active when it comes to the death penalty. Florida’s law, for instance, has mandated since 1984 that paralyzing drugs “may not be used on a dog or cat for any purpose.” Yet Florida’s newly-minted lethal injection protocol calls explicitly for the inmate to be paralyzed before the lethal potassium chloride is administered.

As for why states continue to use a lethal injection procedure that does not conform to veterinary standards, Alper said he can only speculate. “It cannot be that they do not understand the dangers of the paralyzing drug, and it cannot be that they do not know there is a simple and readily-available alternative,” he said.

The study is available at <http://ssrn.com/abstract=1109258> and at www.lethalinjection.org.

For more information on lethal injection, please visit www.lethalinjection.org. For more information about the Death Penalty Clinic, please visit www.deathpenaltyclinic.org.

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