

# POSITION STATEMENT

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NATIONAL COMMISSION  
ON CORRECTIONAL HEALTH CARE

## Competency for Execution

In recent years, the issue of "fitness for execution" has become a problem for correctional institutions and has been debated by individuals and organizations in the legal, law enforcement, correctional, and health care fields. The issue in controversy is whether correctional health care personnel should be involved in deciding if a death row inmate is "competent for execution" and, if found incompetent, whether the correctional health care staff is obligated to treat the inmate for his or her mental illness, thereby possibly restoring the mental competency.

The U.S. Supreme Court has upheld the principle observed in the separate states that a mentally incompetent inmate should not be executed, and has further said that archaic means of making such determinations should be corrected. The court has not, however, delineated guidelines. Since participation in this area by health care professionals continues to be fraught with difficulties stemming from unclear legal guidelines, lack of specific due process procedures, and issues of conflict of interest, the following policy has been endorsed by the National Commission on Correctional Health Care.

### Position Statement

The National Commission on Correctional Health Care's standards require that the determination of whether an inmate is "competent for execution" should be made by an independent expert and not by any health care professional regularly in the employ of, or under contract to provide health care with, the correctional institution or system holding the inmate. This requirement does not diminish the responsibility of correctional health care personnel to treat any mental illness of death row inmates.

*October 1998 – adopted by the National Commission on Correctional Health Care Board of Directors*

*October 2012 — reaffirmed*

*April 2017 — reaffirmed*

*October 2022 – reaffirmed by the National Commission on Correctional Health Care Governance Board*