MEDICAL ASSISTANCE IN DYING AND INCARCERATED PERSONS – SPECIAL CONSIDERATIONS?

ICEL2  Halifax
September 15, 2017
Eric Wasylenko MD MHSc
Acknowledgements

- No conflicts of interest
- No research funding or industry involvement

- Adapted these slides from a prior presentation, with expanded focus
- Acknowledgement of Emma Buzath BHSc, University of Calgary, for her assistance in the literature review

- Declare my associations with:
  - University of Calgary and University of Alberta
  - Health Quality Council of Alberta and Alberta Health Services
  - Canadian Medical Association Committee on Ethics
  - Vulnerable Persons Standard
Objectives

• Explore potential grounds for supporting differential access for incarcerated persons
• Explore potential arguments in favor of equitable access
• Consider health care providers’ ethics considerations in their deliberations with patient-prisoners
• Address some ethics and policy considerations for health and prison systems
Key foundations

- Incarceration’s limited aims
- Equivalence of care
- Dignity
- Autonomous choosing
- Equivalence of objectives
Special foundational considerations for this environment

- Dual loyalties (providers)
- Particular vulnerabilities (of patients)
- Power imbalances
- Privacy issues
  - Duties to the state
  - Protection
  - Patient privacy
    - ‘Outside’ and ‘inside’
Carefully consider issues of:

- Addictions
- Mental health
- Mental anguish, proximity to death
- Stigma and public perception
- Risk of wrongful conviction
- Access to palliative end of life care
- In-prison or off-site
- Self-administration or clinician-administered
- Closed system impacts – prison population awareness?
Are there unique conditions of vulnerability?

Potential for:

- Isolation
- Shame
- Fear of violence
- Abuse
- Coercion
- Mental health and addictions considerations
- Uncertainty regarding release
- Adaptation to new incarceration
- Closed environment
- Potential desire for ‘redemption’ prior to death
Potential arguments supporting differential access

- Environment is too fraught
  - Uniquely vulnerable, risk of lack of fulsome agency, lack of full freedom of movement, internal and external coercive influences, mistrust of system
- Closed system and influence on others
- Risk of societal coercion, risk of internal coercion
- Additional category of ‘unbearable suffering’
- Impact on staff
- Challenge with establishing caring relationship prior to provision
Potential arguments supporting equitable access

• Equivalence of care, justice argument
• Compassion in the face of suffering
• Support autonomous choosing within constraints of incarceration
• Reducing inequity without harming other objects of incarceration
Considerations by health staff

• Fully informing of legal options
  • If so, when
• Diligent assessment of request
  • Vulnerability, coercion, agency, nature of suffering
• Relationship formation
  • So that such an impactful intervention is not merely technical
• Care for other inmates
• Care for prison staff
• Care for health staff
Support equitable access with important caveats

In jurisdictions where assisted death is legal, prisoner-patients who qualify in ways that are equivalent to non-prisoners can be granted access.
Important caveats

- Diligent caution in assessing for conditions of vulnerability must be assured.
- Careful ethics and practical deliberation ought to be undertaken regarding:
  - assessments, and process for eligibility determination
  - duties to inform about this option,
  - in-house publicity, privacy considerations (internal and external)
  - community awareness, oversight
  - location of provision and delivery mechanism, compassionate release programs
  - understanding the unique potential coercive landscape
  - intersection with organ and tissue donation possibilities
  - impact on other inmates and on staff
- There is a duty to assure that appropriately resourced palliative end of life care is also available.
Selected References (1)


Stone, Papadopoulos, Establishing hospice care for prison populations: An integrative review assessing the UK and USA perspective, Kelly, 2011. Palliative Medicine, 26(8), 969-987.


Selected references (2)

Rix, White coated healer or black coated executioner: Health professionals and capital punishment, 2013. Journal of Forensic and Legal Medicine, 20, 659-666.


Discussion

eric.wasylenko@hqca.ca