

# MEDICAL ASSISTANCE IN DYING AND INCARCERATED PERSONS – SPECIAL CONSIDERATIONS?

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- 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



# Foundations

## 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?

## Special practical considerations



# 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.

- Claim



# 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)

Handtke, Wangmo, **Aging prisoners' views on death and dying: contemplating EOL in prison**, 2014. *Bioethical Inquiry*, 11, 373-386

Shaw, Elger, **Assisted suicide for prisoners? Stakeholder and prisoner perspectives**, 2016. *Death Studies*, 40(8), 479-485.

Handtke, Bretshneider, **Will I stay or can I go? Assisted suicide in prison**, 2015. *Journal of Public Health Policy*, 36, 67-72.

Bretshneider, Elger, **Expert perspectives on western European prison health service: Do ageing prisoners receive equivalent care?**, 2014. *Bioethical Inquiry*, 11, 319-332.

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.

Linder, Meyers, **Palliative care for prison inmates**, 2007. *American Medical Association*, 298(8), 894-904.

Andorno, Shaw, Elger, **Protecting prisoners' autonomy with advance directives: ethical dilemmas and policy issues**, 2015. *Medical Health Care and Philosophy*, 12, 33-39.

## 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.

Courtwright, Raphael-Grimm, Collichio, **Shackled: The challenge of caring for an incarcerated patient**, 2008. *American Journal of Hospice & Palliative Medicine*, 25(4), 315-317.

Hanson, **Psychiatry of the dying prisoner**, 2017. *International Review of Psychiatry*, 29, 45-50.

Elger, **Towards equivalent health care of prisoners: European soft law and public health policy in Geneva**, 2008. *Journal of Public Health Policy*, 29(2), 192-206.

Lines, **From equivalence of standards to equivalence of objectives: The entitlement to health care standards higher than those outside prisons**, 2006. *International Journal of Prisoner Health*, 2(4), 269-280.

Exworthy, Samele, Urquia, Forrester, **Asserting prisoners' right to health: progressing beyond equivalence**, 2012. *Psychiatric Services*, 63(3), 270-276.

Ratcliff, Craig, **The GRACE project; guiding EOLC in corrections 1998-2001**, 2004. *Journal of Palliative Medicine*, 7(2), 373-380.

# Discussion

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