

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.

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Discussion

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