Health Without Barriers. European Federation for Prison Health

Human Rights Charter of Health without Barriers, the European Federation for Prison Health

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Prisons can be detrimental to health and wellbeing. There is a higher prevalence of complex chronic health conditions, behavioral health risk factors (such as substance use disorders and insufficient social supports) among prisoners, than in the non-incarcerated population. The nature of incarceration makes prisoners fully depend on the correctional authorities for timely access to health-care services.[1] Any administrative error, omission or act of the authorities can have a critical impact on prisoners' health. Therefore, prisoners are a vulnerable group whose protected right to health care must fall under the core obligations of States[2].

Health-care staff who work in prisons play a crucial role in the optimization of the health and wellbeing of prisoners. They have a duty to provide prisoners with physical and mental health protection and treatment of disease with the same quality and standards that are afforded to patients who are not imprisoned or detained.[3] Correctional authorities should always follow the medical advice and recommendations of health-care staff working in prisons regarding timely access to an appropriate level of health care services.[4]

However, health-care personnel in prisons are at risk of falling prey to dual loyalties. Their duty to care for their patients may enter into conflict with the correctional authority's duty to ensure security and prison management.

We, the members of *Health Without Barriers (HWB). European Federation for Prison Health*, hereby reaffirm *The Oath of Athens* of the *International Council of Prison Medical Services* (1979)[5]. We refer to the core ethical obligations of health-care staff working in prisons:

1. To abstain from authorizing or approving any form of punishment.
2. To abstain from participating in any form of torture and inhuman or degrading treatment or punishment.
3. Not to engage in any form of human experimentation, clinical trials or other health research amongst people in prisons without their free and informed consent.
4. To respect the confidentiality of any information obtained in the course of their professional relationships with incarcerated patients.
5. Not to let any non-medical matters take priority over their medical judgements, but to base the latter on the needs of their patients only.

As an organization, *Health Without Barriers* is committed to contributing all of our available means to ensure that the health-related human rights of prisoners are duly respected, protected and fulfilled.

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[1] WHO/Europe (2013). Good governance of prison health in the 21st century. A policy brief on the organization of prison health (http://www.euro.who.int/__data/assets/pdf_file/0017/231506/Good-governance-for-prison-health-in-the-21st-century.pdf?ua=1).

[2] CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12). Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4). See para. 43 (a) (http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/GC14.pdf , or http://www.un.org/documents/ecosoc/docs/2001/e2001-22.pdf).

[3] Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture, and other cruel, inhuman or degrading treatment or punishment. United Nations General Assembly Resolution 37/194. New York, United Nations, 1982 (http://www.un.org/documents/ga/res/37/a37r194.htm).

[4] European Court of Human Rights (2015). Thematic Report Health-related issues in the case-law of the European Court of Human Rights. Chapter IV. Health of Detainees. A. Introduction (pp. 13). (http://www.echr.coe.int/Documents/Research_report_health.pdf).

[5] The Oath of Athens. International Council of Prison Medical Services, 1979 (http://www.medekspert.az/en/chapter1/resources/The Oath of Athens.pdf); see also:
The Oath of Athens. International Council of Prison Medical Services, 1979. In: Revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Open Ended Intergovernmental Expert Group on the Standard Minimum Rules for the Treatment of Prisoners. UNODC/CCPCJ/EG.6/2014/INF/2. See: Footnote 26, p. 11 (http://www.unodc.org/documents/justice-and-prison-reform/EGM-Uploads/IEGM_Brazil_Jan_2014/IACHR_English.pdf).

In particular and in line with the *European Prison Rules (EPR)*[6]*, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT)*[7] *and the UN Nelson Mandela Rules (NMR)*[8], *Health Without Barriers* promotes the following basic principles of quality prison healthcare:

1. *State responsibility:* Health care for people deprived of liberty must be free of charge for all detained persons.
2. *Access to care*: All people in prisons should have free and timely access to needs-based medical care at all times.
3. *Equivalence of care*: Prison health care services should provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary services, in conditions comparable to those experienced by patients in the free-world community, according to their needs. Medical, nursing and technical staffing, as well as premises, installations and equipment, should be geared and updated accordingly. States must ensure that all prisoners, irrespective of their legal status, background of migration, nationality, religion, and socio-cultural background can access such health care on an equal basis, by providing all necessary resources such as interpretation services or training for health care staff in appropriate methods of interaction in a setting marked by diversity.[9]
4. *Patient's consent and confidentiality*: Informed consent and respect of confidentiality are fundamental rights. They are essential to an atmosphere of trust, which is an inherent part of the doctor/patient relationship, especially in prisons, where a prisoner cannot freely choose his or her own doctor.
5. *Prevention of disease and violence*: The task of prison health care services should not be limited to treating sick patients. It should also be entrusted with the responsibility of optimizing social and preventive medicine and contributing to the prevention of violence against people in prisons through the systematic recording of any signs of ill-treatment and, without exposing any persons concerned to any foreseeable risk of harm and, preferably, with the consent of the prisoners concerned, the provision of a report to the competent medical, administrative or judicial authority. [10]
6. *Humanitarian assistance*: Prison health care services should pay special attention to particularly vulnerable categories of prisoners with special needs such as women, children, adolescents, the aged, those with seriously life-limiting illness, or prisoners with complex health conditions that hamper their rehabilitation
7. *Professional independence*: In order to ensure that their single duty – providing quality care for their patients – is not challenged by external competing considerations or loyalties, health care staff working in prisons should always be professionally independent of law enforcement or judicial authorities and should be professionally aligned as closely as possible to national or federal health authorities.
8. *Professional competence*: Prison doctors and nurses should possess specialised knowledge enabling them to deal with the particular forms of prison pathology and they should adapt their treatment methods to meet the standards expected outside of prison to the best of their ability despite the conditions imposed by detention. They should have access to (and compensated time to participate in) continuing medical education to ensure that they are practicing the most up-to-date medical care. Health-care staff should also be properly trained in human rights and medical ethics.

Health Without Barriers HWB. Human rights working group: Co-Chairs: Prof. Hans Wolff, Switzerland, Stefan Enggist, Switzerland. Members: Prof Robert Greifinger, USA, Dr Fadi Meroueh, France, Dr Roberto Monarca, Italy, Prof Jörg Pont, Austria, Dr Fabio Sternberg, Spain, Prof Heino Stöver, Germany, Prof Brie Williams, USA

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[6] Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules. Strasbourg, Council of Europe, Committee of Ministers, 2006 (https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d8d25)

[7] CPT Standards. European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment (CPT). Strasbourg, Council of Europe, 2015 (CPT/Inf/E (2002) 1 - Rev. 2015.) (http://www.cpt.coe.int/en/documents/eng-standards.pdf)

[8] United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). United Nations General Assembly Resolution A/RES/70/175, New York, 17. December 2015 (http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/175)

[9] Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners. Strasbourg, Council of Europe, Committee of Ministers, 2012 (https://wcd.coe.int/ViewDoc.jsp?p=&Ref=CM/Rec(2012)12&Language=lanEnglish&Ver=original&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383&direct=true)

[10] Cf. footnote 7; Cf. footnote 8 (NMR 34)