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THE CODE SAYS

The AMA *Code of Medical Ethics*' Opinions Related to Health Care for Incarcerated People

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The relationship between clinicians and incarcerated patients provides unique challenges for informed consent, respect for autonomy, and quality health care delivery. The American Medical Association adopted a policy ("Health Care While Incarcerated," H-430.986) that promotes greater access to health care for the incarcerated population. This policy states that the American Medical Association "advocates for adequate payment to health care providers … to encourage improved access to comprehensive physical and behavioral health care services to juveniles and adults throughout the incarceration process from intake to re-entry into the community" [1]. While the *Code of Medical Ethics* does not speak directly to improved access to health care for incarcerated persons, it does speak to the role of the clinician in protecting patients from medical and health care-related mistreatment in the correctional system.

Opinion 9.7.2, "Court-Initiated Medical Treatment in Criminal Cases" [2], states that "although convicted criminals have fewer rights and protections than other citizens, being convicted of a crime does not deprive an offender of all protections under the law" [3]. Outlined in this opinion are guidelines for physicians providing court-initiated care for incarcerated patients that enable them to uphold their civic responsibility while still respecting the protections to which this population is entitled. These include participating "only if the procedure being mandated is therapeutically efficacious and is therefore undoubtedly not a form of punishment" [4], treating "patients based on sound medical diagnosis, not court-defined behaviors" [4], and choosing to "decline to provide treatment that is not scientifically validated and consistent with nationally accepted guidelines for clinical practice" [4].

Furthermore, the guidance in Opinion 9.7.2 calls for respecting the autonomy and obtaining informed consent from the incarcerated patient, to the best of the physician's ability. The opinion states that a physician must "be able to conclude, in good conscience and to the best of his or her professional judgment, that to the extent possible the patient voluntarily gave his or her informed consent, recognizing that an element of coercion … is inevitably present" [4]. (Although the *Code of Medical Ethics* provides no guidelines for evaluating consent in correctional settings, specifically, or in situations of state-mandated care, it provides general guidelines for evaluating consent in Opinion 2.1.1 [5].)

Opinion 9.7.3, "Capital Punishment," discusses treatment of incarcerated patients in connection with nonmaleficence. According to this opinion, "as a member of a profession dedicated to preserving life when there is hope of doing so, a physician must not participate in a legally authorized execution" [6]. This guidance implies that incarcerated persons should be treated based on their illnesses and diagnoses, rather than their criminal convictions.

In circumstances in which physicians have the responsibility to provide court-initiated medical treatment for people who are incarcerated, they should confirm that the care they are offering is therapeutic and free from exploitation in the forms of punishment and social control.

References

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