

Medical personnel in places of detention:
Ethical dilemmas
Dual loyalty
International standards

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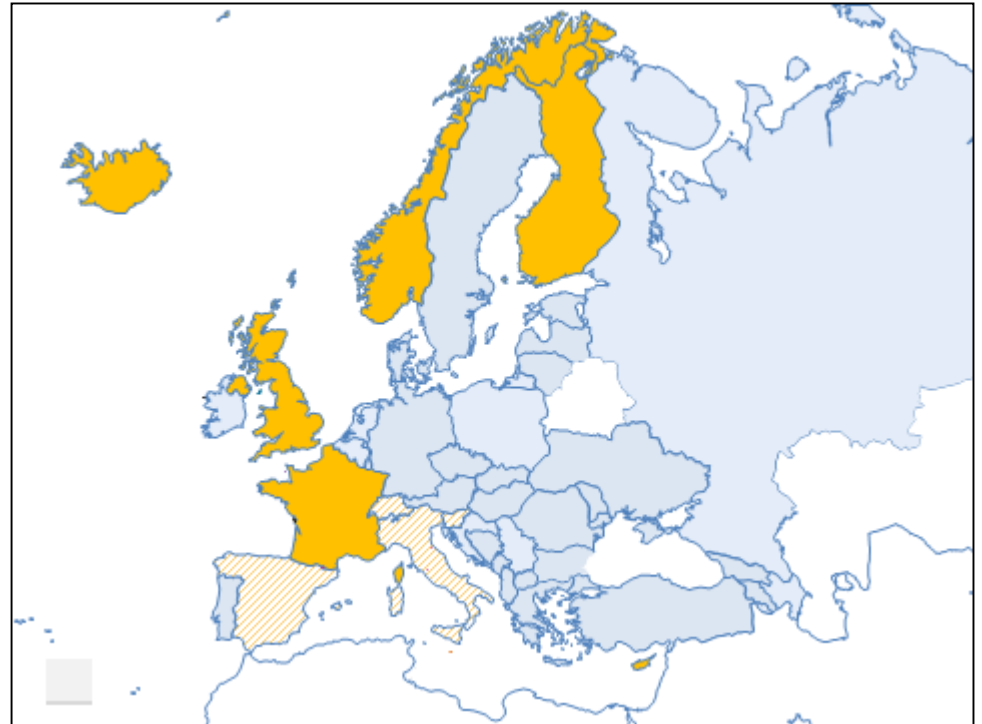
- Peculiarities of providing healthcare in prison
- Healthcare ethics in prison, International Standards and documents
- Ethical dilemmas and dual loyalty
- Solutions and recommendations

Prison healthcare commissioned by
Public Health Authorities:

Completely



Regionally or partially



Normative basis

- Right of everyone to the highest attainable standard of physical and mental health¹
- Persons deprived of their liberty retain all rights that are not lawfully taken away from them²
- Prison Health is part of Public Health³

1 Int. Covenant on Economic, Social and Cultural Rights 1966

2 European Prison Rules CM Rec (2006)²

3 WHO Moscow Declaration 2003, Madrid Recommendation 2010



Tasks of health care providers

- Maintenance of health
- Prevention of health disorders
- Detection, and treatment of health disorders
- Individual care of patients

Medical ethics

Tasks of prison administration

- Detention while investigation
- Execution of sentence
- Safety and security
- Rehabilitation

Penitentiary law

Medical ethics

- Confidentiality, privacy, consent
- Equivalence of medical care
- Free access to medical care
- Professional independence
- Prison Health is Public Health
- Disease prevention
- Health promotion and taking over responsibility for health
- Aftercare, Throughcare

Prison reality

- Safety and security first
- Lack of resources
- Overcrowding, understaffing
- Employment by prison admin.
- Lack of public support
- Pathogenic environment
- Deprivation of autonomy and self-determination
- Separation from society



- How can I trust a doctor who is the employee of the prison director?
- What about the prison doctor's confidentiality?
- What about the prison doctor's professional qualification and professional independence?
- How can I use the doctor to make my prison life easier?



- How to manage confidentiality, privacy and patient's consent in the totalitarian prison environment and how to obtain trust by the prisoners?
- How to balance professional relationships with prisoners and custodial staff?
- How to deal with pressures and expectations by prisoners and the prison administration?
- How to keep professional independence while being employed by the prison administration?
- How to provide optimal medical care in the low-resource setting of the prison?



- Are medical confidentiality, patient's consent and the doctor's professional independence compatible with safety and security in prison?
- Why shouldn't the doctor support security in prison by performing intimate body searches, drug testing and certify inmates fit for punishment?
- Why shouldn't the prison doctor also take over the role of a public health officer ?
- How to warrant expensive medical care costs within paltry prison budgets?



- Why is health in prison important for public health?
- Why spend money for the health care of offenders in times of budget cuts for health care of decent people?

1. Prison physicians must stick to solid medical ethics
2. These ethics must be made known to and accepted by the whole prison community

International consented documents on medical ethics in prison

United Nations, UNODC

Council of Europe, CPT

World Medical Association

International Council of Nurses

Penal Reform International

Physicians for Human Rights



UNODC

United Nations Office on Drugs and Crime



**The United Nations
Standard Minimum Rules for
the Treatment of Prisoners**

(the Nelson Mandela Rules)

www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf

The essence of healthcare ethics in prison

- The sole task of the prison doctor and health care workers is the health and well-being of the inmates.
- Free access to healthcare for every inmate
- Equivalence of care
- Patient consent and confidentiality
- Preventive health care
- Humanitarian assistance
- Professional independence
- Professional competence

Compliance with these rules

results in
ethical medical conduct

- ✓ promotes the confidence of the inmates to the medical care in prison
- ✓ leaves no doubt as to the doctor's medical professionalism and ethics
- ✓ prevents misunderstandings
- ✓ provides guidance in situations of conflicts
- ✓ supports quality assurance of the medical work
- ✓ protects against legal appeals

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Clinical signs of ill-treatment and lack of consent of the victim to report it

Medical confidentiality
or
Obligation of reporting ?

CPT Standards Rev. 2015

General Report CPT/Inf(2013)29

„...automatic reporting obligation for health care professionals working in prisons...”

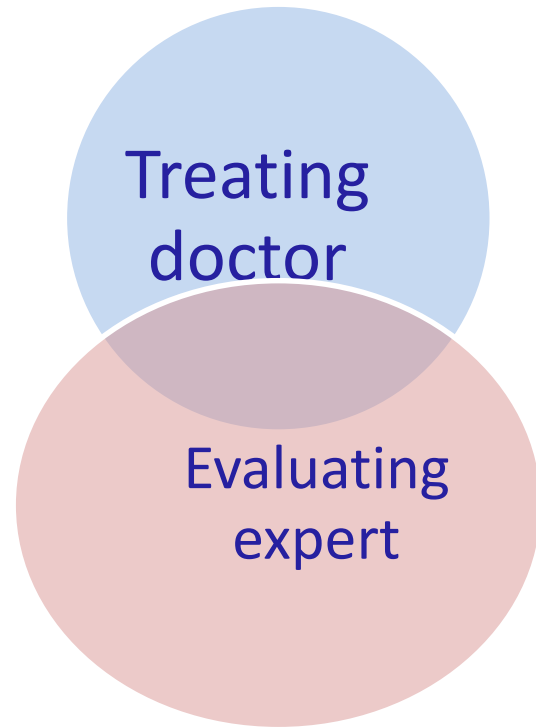
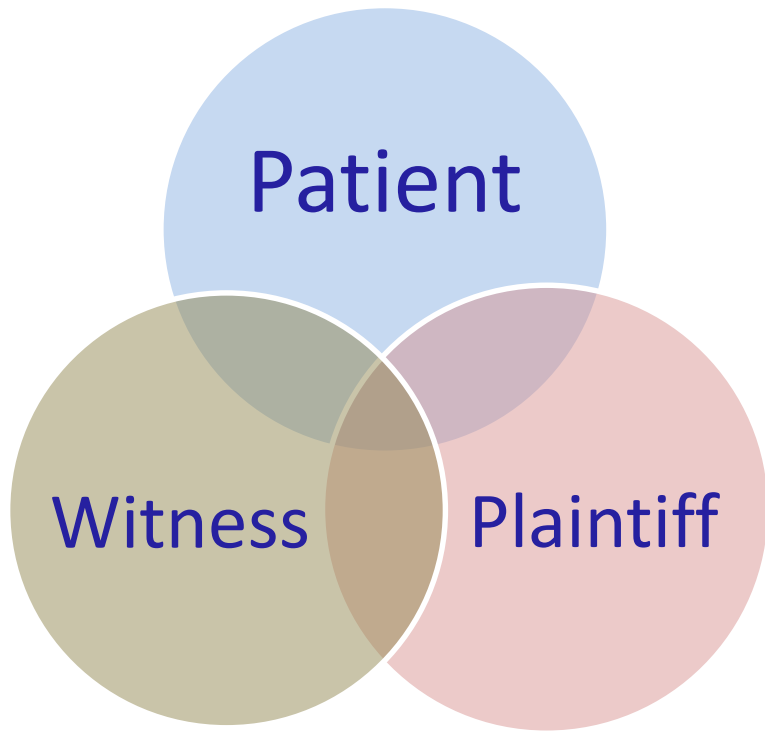
„...to ensure that whenever injuries are recorded by a health care professional which are consistent with ill-treatment, that information is immediately and systematically brought to the attention of the relevant authority, regardless of the wishes of the person concerned.”

Istanbul Protocol

WMA Resolution 2007

„Health professionals should seek solutions that promote justice without breaching the individual’s right to confidentiality.“

„If a prisoner refuses to allow disclosure, doctors must weigh the risk and potential danger to that individual patient against the benefits to the general prison population and the interests of the society in preventing the perpetuation of abuse.“



Hunger strike

Sanctity of life

or

Patient's autonomy ?

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Principle 3

It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.

UN Resolution 37/194, 1982

Principles of Medical Ethics relevant to the role of health personnel in the protection of prisoners

A prison doctor acts as a patient's personal doctor.

CPT Standards

Prison doctor:

~~The prison's doctor~~

The prisoners' doctor

Dual loyalty

The clinical role conflict between professional duties to a patient and obligations, express or implied, real or perceived, to the interests of a third party.

Reduce dual loyalty conflicts

- Uncompromising separation of medical roles in prison:
 - Professionals caring for prisoners should adhere exclusively to caregiving in complete professional independence.
 - Medical functions in the interest of the state, prosecution, court or the security system to be performed by professionals not involved in the care of prisoners.
- Prison health care to be organized independent of prison authorities.

Awareness, training, support

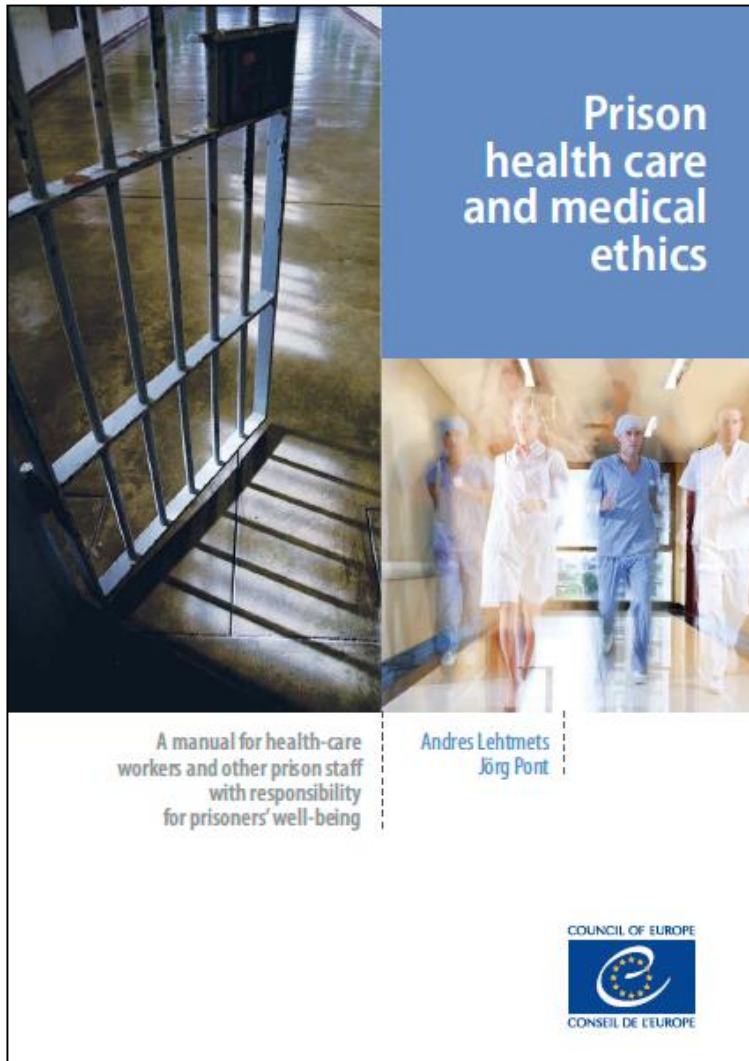
Awareness and training in medical ethics for health care professionals and non-medical prison staff

Active support and oversight of prison health care professionals by national professional boards and health authorities

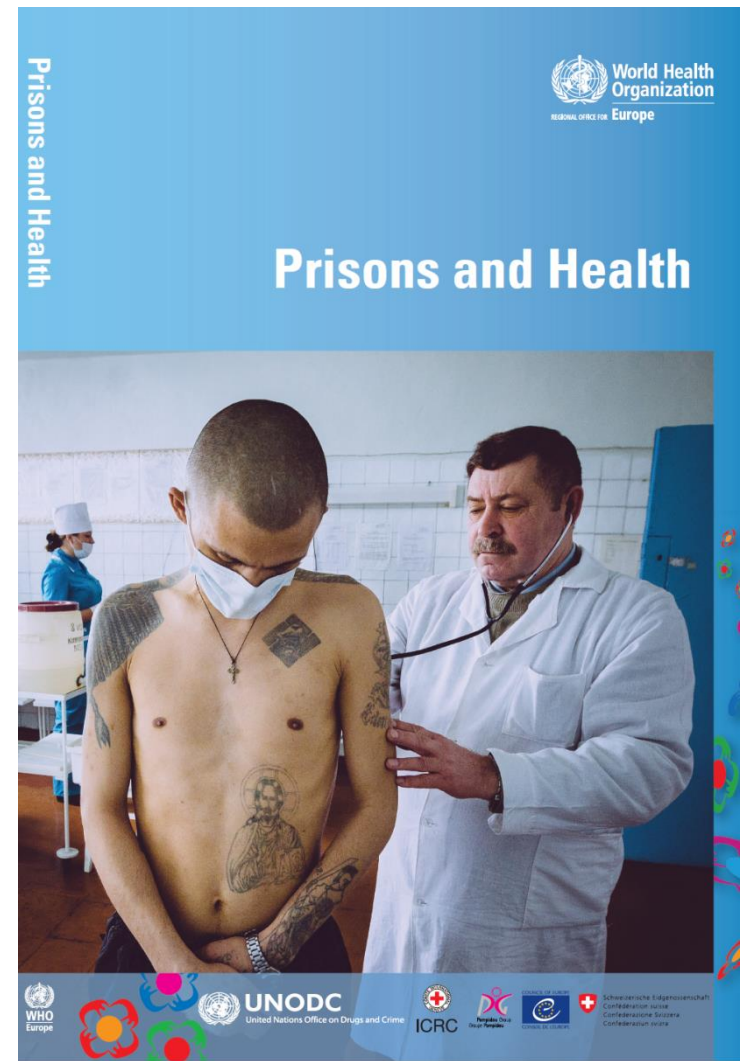
Doctors working in prison: Human rights and ethical dilemmas

WMA/NMA/ICRC: Web-based course

<https://nettkurs.legeforeningen.no/category.php?id=6>



<https://rm.coe.int/publications-healthcare-manual-web-a5-e/16806ab9b5>



http://www.euro.who.int/__data/assets/pdf_file/0005/249188/Prisons-and-Health.pdf

Acceptance by the public and legal adaptation

Incorporation of principles of medical ethics into penitentiary laws

Advocacy of „Prison Health is Public Health“