

Why denying addiction treatment in jails, prisons is inhumane

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“Jails have become a revolving door for individuals struggling with mental health and substance-use disorders” (SUDs), who are caught in a continuing cycle of “arrests, incarceration and release to the community,” according to the National Sheriffs Association guidebook to jail-based medication-assisted treatment.

The sheriffs’ document was referenced by Elyse Powell, PhD, the North Carolina Department of Health and Services’ state opioid epidemic response coordinator, during a webinar hosted by the AMA and the Manatt Health consulting firm. Register to view the program, “Improving Access to Substance Use Disorder Treatment in Justice-Involved Settings.”

Powell noted that law-enforcement officials who have seen the benefits of medication-assisted treatment—now referred to as medications for opioid-use disorder (MOUD)—are some of the most persuasive voices when it comes to initiating such programs for those who are “justice-involved,” the term used to describe people who have interactions with courts, jails and prisons.

She added that the expertise of physicians and other health professionals has been helpful in training prison and jail staff to reduce the stigma associated with SUDs and to help find outside sources of treatment when the facility’s personnel cannot provide evidence-based MOUD, including methadone, buprenorphine or naltrexone.

The webinar built on themes presented in a 2020 AMA-Manatt report that describes how barriers such as cost and time-wasting prior-authorization requirements impede access to effective treatments for SUDs.

Jocelyn A. Guyer, managing director at Manatt Health, listed the six key tenets behind the AMA-Manatt joint effort to end the overdose crisis:

- Increasing access to evidence-based treatment.
- Enforcing mental health and SUD parity laws.

- Ensuring access to addiction medicine, psychiatrists and other trained health professionals.
- Improving access to multidisciplinary multimodal care for patients with pain.
- Focusing on harm reduction to reduce death and disease.
- Improving monitoring and evaluation.

“We have a huge problem here in this country, but we are all about driving a solution,” said AMA Immediate Past President Patrice A. Harris, MD, MA, chair of the AMA Opioid Task Force since its inception in 2014.

Panelist Carolyn Sufrin, MD, PhD, an assistant professor of gynecology and obstetrics at the Johns Hopkins University School of Medicine, said she sees overlap in the criminalization of a chronic illness, the problems of the overdose epidemic and the “racialized phenomenon of mass incarceration.”

About one-third of people who have an opioid-use disorder (OUD) end up in jail each year and about 60% of people in prisons and jails have an SUD, according to studies cited by Dr. Sufrin.

“We know that providing access to medication treatment for opioid-use disorder in custody is feasible and it’s an essential lifesaving health care intervention,” she said.

COVID-19 didn’t create overdose epidemic

Dr. Harris noted that COVID-19 has worsened the nation’s drug overdose epidemic, but the challenges the country is facing on that front were not created by the pandemic.

“Many of these issues around access to treatment, inadequate data, the lack of mental health infrastructure, all existed prior to the pandemic,” she said. “When the pandemic subsides and eventually ends—and it will—we will still need to address the problems that were there before.”

These include policies that lead to separation of families involving women who are in active treatment for an SUD, and restrictive and stigmatizing policies for pain care.

“Having pain is not a crime,” said Dr. Harris, an Atlanta-based child psychiatrist.

Legal arguments for treatment

According to legal experts participating in the webinar, failing to provide treatment may be illegal and even unconstitutional.

Panelist Emma Bond, legal director for the American Civil Liberties Union of Maine, said that jails must provide medical care for chronic illness and that the Americans with Disabilities Act prohibits discrimination and denial of services against people with disabilities.

“The law is very clear that people with substance-use disorder, people with opioid-use disorder, are people with disabilities and that discrimination against these groups is prohibited,” Bond said.

She added that denying treatment for a serious medical need is a cruel and unusual punishment and thus prohibited by the Eighth Amendment.

Denial of treatment is often based on stigma, including the idea that SUD is a choice and not a real disease or that MOUD is merely replacing one drug with another, Bond said.

Panelist Jessie Rossman, a staff attorney for ACLU of Massachusetts, told of how successful lawsuits on behalf of individuals have led to reforms that benefit everyone housed at a facility or statewide by the department of corrections.

“While they are first and foremost brought on behalf of our individual clients, a lot of these lawsuits can help educate these facilities so that they open up access to far more individuals in their custody—which, of course, is a public health benefit,” she said. “Ultimately, the goal is to make sure people get access to their medication and life-saving treatment.”

Another major issue is that there is a lack of mandatory standards or oversight.

“Anything goes—each jail and prison can decide what it wants to provide,” said Dr. Sufrin.

This occurs despite known benefits, which she said include fewer assaults and a lower drug trade inside jails and prisons, reduced recidivism and higher employment upon release.