

MEDICAL ETHICAL GUIDE- LINES

Management of dying
and death



Schweizerische Akademie der Medizinischen Wissenschaften
Académie Suisse des Sciences Médicales
Accademia Svizzera delle Scienze Mediche
Swiss Academy of Medical Sciences

Pages 22–24 from the medical-ethical guidelines of the SAMS
«Management of dying and death» (2018, adapted 2021)

6.2.1. Assisted suicide

Assisted suicide involves actions which are intended to enable a person with capacity to carry out the suicide – in particular, prescribing or dispensing a drug for this purpose.

The true role of physicians in the management of dying and death, however, involves relieving symptoms and supporting the patient. Their responsibilities do not include offering assisted suicide, nor are they obliged to perform it. Assisted suicide is not a medical action to which patients could claim to be entitled, even if it is a legally permissible activity. It is explained below in what circumstances the provision of medical assistance in fulfilling a patient's desire for suicide is justifiable from a medical-ethical perspective in accordance with these guidelines.

If a patient makes a request for assisted suicide, this is a desire for death and, as such, requires careful assessment (cf. Section 4). At the same time, the patient should be encouraged to discuss the desire for suicide with his or her relatives or – especially if there are no relatives – with institutions which offer help in situations of personal crisis.

If an autonomous desire for suicide persists in a patient who has been carefully informed and assessed, a physician may – on the basis of a decision for which he or she is personally responsible – perform assisted suicide, having verified that the following four requirements are met; it must be additionally confirmed by an independent third party (who need not be a physician) that the first two requirements are met:

- 1) *Capacity*: The patient has capacity in relation to assisted suicide.²⁸ It must be documented that *incapacity* has been carefully excluded by the physician. If a mental disorder, dementia or another condition which may be associated with lack of capacity is present, capacity – and, if appropriate, the potential for influencing incapacity by therapeutic means – must have been assessed by an appropriate specialist.²⁹ If it is to be assumed that the desire for suicide is a current symptom of a mental disorder, the physician must not perform assisted suicide and must offer treatment for the patient's illness.
- 2) *Autonomous wishes*: The patient's desire is well-considered, not due to external pressure and enduring. For purposes of assessment, the physician must – other than in justified exceptional cases – conduct at least two detailed discussions with the patient, separated by an interval of at least two weeks; if any doubt remains, additional discussions are required. If there is evidence of a relationship of dependency,³⁰ careful consideration must be given to its possible influence on the desire for suicide.
- 3) *Severe suffering*: The severity of the patient's symptoms and/or functional impairments is to be substantiated by an appropriate diagnosis and prognosis. For the patient, they are a source of intolerable suffering (cf. Section 2.4). The patient's desire not to continue living in this situation of intolerable suffering is comprehensible for the physician on the basis of the previous history and repeated discussions. Since intolerable suffering is not objectively determinable, the physician cannot be required to make such a determination. The physician must, however, document that he or she has taken adequate care to gain an appreciation of the patient's concrete, individual situation, such as to render

28 Cf. «Assessment of capacity in medical practice». SAMS Medical-ethical guidelines (2019).

29 In 2006, the Federal Supreme Court ruled that, in the case of patients with mental illness, a detailed psychiatric opinion is required (BGE 133 I 58 E. 6.3.5.2).

30 For example, in the form of a problematic care situation, financial straits, etc.

its intolerability comprehensible. While an abstract justification based on a diagnosis is not in itself sufficient, it may support such a judgement, especially by documenting the course of illness and describing the individual situation.

Not ethically justifiable in accordance with these guidelines is the performance of assisted suicide in persons who are healthy.

- 4) *Consideration of alternatives:* Medically indicated treatment options and other types of assistance and support have been sought, discussed with and offered to the patient. They have proved ineffective or been rejected by the patient, who has capacity in this regard.

Before, during and after an assisted suicide, consideration is to be given to the needs of relatives, but also of the interprofessional care team and other persons concerned, and the necessary support is to be provided and documented. Under Art. 115 of the Swiss Criminal Code, assisting suicide is not an offence, provided that one does not act from selfish motives. Also to be noted from a legal perspective is the fact that the prescription of a drug for the purpose of suicide must be reported to the relevant cantonal authorities within 30 days.³¹ The final action in the process leading to death must always be performed by the patient. Death as a result of assisted suicide must be reported to the competent authorities as an unnatural death.³²

Like other patients, those who wish to take their own life with an assisted suicide organisation are entitled to inspect and receive a copy of their records. If the patient so wishes, the attending physician can also conduct an assessment of cognitive functions and, if appropriate, issue a certificate of capacity in relation to general, everyday decisions. Such an assessment does not constitute participation in assisted suicide. The physician may also assess and, if appropriate, certify capacity specifically in relation to assisted suicide (which cannot be inferred from everyday decision-making capacity). The patient cannot, however, demand such an assessment.

31 Cf. Art. 11 para. 1bis Narcotics Act (NarcA). A list of the cantonal offices to which reports are to be submitted can be found on the SAMS website, www.sams.ch/guidelines

32 Cf. Art. 11 para. 1bis Narcotics Act (NarcA).