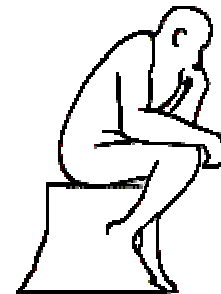


BIOETHICS NOTES

a newsletter from the Bioethics Review & Advisory Committee



#22
May 2008

"Any community that fails to prepare with the expectation that the federal or state government will rescue them will be tragically mistaken."

Michael Leavitt, Secretary of Health and Human Services, USA

Ethical Decisions in a Pandemic



It's Spring. And along with the April showers and May flowers now comes the perennial question, "Where will you be when the bird flu hits the fan?" On the news front there has been some encouraging news "[Bird flu patch gets government go-ahead](#)," some troubling news, "[Human-to-human bird flu confirmed in China](#)," and some news that invites both concern and continued debate.

In one recent article by Koonin et al, "[Public Response to Community Mitigation Measures for Pandemic Influenza](#)," it was rather shocking to learn that according to the results of their national survey, 33% of respondents reported that although they had heard of the term pandemic influenza, they did not know what it meant and 25% responded they had never heard of pandemic flu. Given the fact that a worst case scenario for a pandemic flu may well be the greatest challenge to public health the nation has ever faced and will demand the full cooperative effort of every citizen, this is quite disconcerting. The good news is that even though the majority of respondents were unfamiliar with the pandemic, they would comply with public health

recommendations, such as quarantine. However, this survey also indicated that community mitigation measures would disproportionately affect those persons with lower incomes and for racial and ethnic minorities.

Of course, if you are fortunate enough to be one of a select group of citizens, you may not have to bother yourself with continued planning and education. A task force consisting of 37 experts from fields including bioethics, critical care, disaster preparedness and response, emergency medical services, emergency medicine, infectious diseases, hospital medicine, law, military medicine, nursing, pharmacy, respiratory care, and local, state, and federal government planning and response officials has developed a grimly specific list of "[Who should doctors let die in a pandemic?](#)" (reports can be found [here](#)). Those on the short list include:

- People older than 85
- Those with severe trauma, which could include critical injuries from car crashes and shootings.
- Severely burned patients older than 60.
- Those with severe mental impairment, which could include advanced Alzheimer's disease.
- Those with a severe chronic disease, such as advanced heart failure, lung disease or poorly controlled diabetes.

Not one of the chosen few? Not to worry, chances are you also have a chance to be left out. A recent report from the United States House Of Representatives Committee On Oversight And Government Reform, "[Hospital Emergency Surge Capacity: Not Ready For The "Predictable](#)

["Surprise"](#) informs us that in a survey of seven of the nation's largest metropolitan cities:

- None of the Level I trauma centers surveyed had enough critical care capacity available for seriously injured casualties from a serious surge event.
- None of the Level I trauma centers surveyed had a sufficient number of regular inpatient beds available to absorb the casualties from a serious surge event.

Albeit dealing specifically with disasters such as a terrorist attack, as well as the impact of new Medicaid regulations, this news is not particularly comforting.

For a moment, let's argue that you make it to the hospital. Who will take care of you? In the case of a severe pandemic that is both highly contagious and virulent, questions of duty to care remain controversial. Are health care workers obligated to treat even under life-threatening conditions or where the health care workers' families are also in harm's way? There is no firm agreement on the fine line between the duty of care versus the duty to provide care under competing obligations. If history repeats itself, we can only predict that with an overwhelming avian pandemic, we will see both heroes and goats.

Addressing and articulating these issues of distributive justice continue to pose a major challenge to a nation more fully versed in the principles of personal autonomy and individual rights. Whereas legal, professional and ethical frameworks may help illuminate resolution for these competing obligations, they are not directives for action. Resolving these contradictions of obligations requires a reasoned framework for informed decision making. Reasoned debate requires participation, knowledge, and transparency.

Health care professionals may be subject to a variety of work obligations during a pandemic. Is everyone who works in the health care sector a potential health care worker? What are the obligations of workers without specific training in health care or even those that are not specialty trained in the treatment of infectious disease or critical care medicine? Who decides? The employee? The employer? Society? Law? Even professional codes of ethics are not always specific

when it comes to duty to care. Compare, for example, the following professional codes of ethics proscriptions for physicians and nurses:

ANA Code of Ethics for Nursing

Provision 2. The nurse's primary commitment is to the patient, whether an individual, family, group, or community.

Provision 5. The nurse owes the same duties to self as to others...

AMA Code of Medical Ethics (2006) E-9.067 Physician Obligation in Disaster Preparedness and Response

National, regional, and local responses to epidemics, terrorist attacks, and other disasters require extensive involvement of physicians. Because of their commitment to care for the sick and injured, individual physicians have an obligation to provide urgent medical care during disasters. **This ethical obligation holds even in the face of greater than usual risks to their own safety, health or life.** The physician workforce, however, is not an unlimited resource; therefore, when participating in disaster responses, physicians should balance immediate benefits to individual patients with ability to care for patients in the future. In preparing for epidemics, terrorist attacks, and other disasters, physicians as a profession must provide medical expertise and work with others to develop public health policies that are designed to improve the effectiveness and availability of medical care during such events. These policies must be based on sound science and respect for patients. Physicians also must advocate for and, when appropriate, participate in the conduct of ethically sound biomedical research to inform these policy decisions. Moreover, individual physicians should take appropriate advance measures to ensure their ability to provide medical services at the time of disasters, including the acquisition and maintenance of relevant knowledge. (V, VI, VII, VIII) Issued December 2004 based on the report "Physician Obligation in Disaster Preparedness and Response," adopted June 2004.

Distributive justice is enacted when public health emphasizes collective action for the good of the community. These actions must respect the rights of both individuals and communities and ensure the opportunity to participate in the development of policies, programs and agreed upon priorities. Quarantine or social distancing, for example, is established to separate the exposed from the non-exposed for the collective common good. Of course, this requires voluntary cooperation, public

trust and a sense of shared responsibility and hardship.

Conflicts of interest occur when individuals' professional responsibilities diverge from their personal interests. Health care workers are caught between Scylla and Charybdis. Is there an implicit acceptance to treat during a pandemic as part of the "social contract" between society and the medical profession? Expectation alone does not create enforceable obligations. Should there be penalties if health care workers are unwilling to work (Coleman & Reis, 2008)? Distributive justice would say that we should not single out health care workers because of this perceived duty to care; working during a pandemic would place health care workers and their families at significant risk.

How can this dilemma be mitigated? To quote from Coleman & Reis,

"Rather than relying on punitive measures, policy makers should develop incentives to encourage all essential professionals to volunteer to work during infectious disease outbreaks."

Rather than punitive measures, incentives are the recommendation. This is consistent with the ethical principle of reciprocity. Incentives of this nature that have been proposed include:

- First to receive vaccine if one becomes available
- First to receive antiviral drugs
- Additional support for personal//family needs
- Supplemental life/disability insurance coverage for family
- "Hazardous Duty" pay
- Personal protective equipment and training
- Specialized training for dealing with virulent infectious diseases

Imposition of employment restrictions should not result in financial hardships or job loss. Communities should develop an ethical framework in collaboration with the workforce to establish explicit work expectations. This can be accomplished with one ultimate goal in mind, providing the best possible outcomes for everyone in the community, with each willing to share his/her portion of the burden. That is what community is all about.

For further information on the ethics of an avian pandemic, please visit our [web site](http://www.geisinger.org/professionals/services/bioethics/flu/).
<http://www.geisinger.org/professionals/services/bioethics/flu/>

Respectfully Submitted,
Robert Shabanowitz

References

- Clark, C. C. (2005). "Of epidemic proportions: physicians, personal risk, and public trust." Yale J Biol Med. **78**(5): 363–372.
- Coleman, C. H. and A. Reis (2008). "Potential Penalties for Health Care Professionals Who Refuse to Work During a Pandemic." JAMA **299**(12): 1471-1473.
- Ehrenstein, B. P., F. Hanses, et al. (2006). "Influenza pandemic and professional duty: family or patients first? A survey of hospital employees." BMC Public Health **6**(311).
- Grimaldi, M. E. (2007). "Ethical decisions in times of disaster: choices healthcare workers must make." Journal of Trauma Nursing **14**(3): 163-164.
- Kotalik, J. (2005). "Preparing For An Influenza Pandemic: Ethical Issues." Bioethics **19**(4): 422-431.
- Rolls, S. and C. Thompson (2007). "Nurses' obligations in a pandemic or disaster." Nursing New Zealand **13**(10): 27-31.