



# ETHICS FRAMEWORK FOR PANDEMIC RESPONSE

## 2020

SHA ETHICS DEPARTMENT

May 12, 2020

**Acknowledgement:** This framework was developed through the efforts of several individuals and groups from across the SHA, and from partner organizations such as the Saskatchewan Medical Association and Emmanuel Health. Special thanks to the Provincial Ethics Committee and Local Ethics Committees for their feedback on earlier drafts.

**Suggested Citation:** Isinger M, Winquist B, L Gallins, Goldman G, Valiani S. Ethics framework for pandemic response. Saskatchewan Health Authority, 2020.

**For more information please contact:**

Dr. Brandy Winquist, Executive Director Academics and Learning. Saskatchewan Health Authority. Telephone: (306)778-5422 Email: [brandy.winquist@saskhealthauthority.ca](mailto:brandy.winquist@saskhealthauthority.ca)

Dr. Melody Isinger, Director, Ethics. Saskatchewan Health Authority. Email: [melody.isinger@saskhealthauthority.ca](mailto:melody.isinger@saskhealthauthority.ca)

## A. Introduction

On March 11 2020, the World Health Organization declared the novel COVID-19 outbreak a global pandemic. A pandemic is the worldwide spread of a new disease where most people do not have immunity.(1) Pandemics are public health emergencies. When a public health emergency occurs, ethical focus shifts from medical ethics to public health ethics. Public health's focus is on promoting societal benefits, the pursuit of the collective good and equity promoted at the population level.

Countries around the world are being challenged to meet the extraordinary demand that has been placed on health systems. When demand exceeds supply, decisions must be made about how to allocate scarce resources (eg. staff, equipment, supplies). Each health system's response will be critical in minimizing loss of life. The *SHA Ethics Framework for Pandemic Response* provides planners with guidance on well-recognized ethical principles and outlines systematic approaches to decision making. **There are a number of critical ethical questions that will be helpful to consider in advance to allow time for careful deliberation.**

### Questions that might be asked during a pandemic:

Who will be prioritized for ICU beds and ventilators?

If medication and blood shortages occur, who will receive the limited supply?

What are our obligations to vulnerable persons and communities?

## B. Ethical Principles

A number of core ethical principles should guide decision making during the COVID-19 pandemic. These include the same values that guide SHA's normal operations and planning.(2) By applying these principles and using transparent processes, this framework will help the SHA to improve health outcomes and service delivery, and to increase public confidence and awareness of how decisions will be made. [Ethics supports](#) are also available to help leadership and clinical teams plan and manage pandemic issues. Ethics services can also be accessed by patients, families and the public.

The ethical principles outlined below can be helpful in considering a range of ethical issues. Planners will find there are often tensions between principles and will need to use the best available information at the time to weigh harms and benefits.(3) The focus must be on minimizing societal harm and good decision-making processes.

Equal concern and respect should set the foundation for pandemic planning, which means (3, p.7):

- ✓ Everyone matters.
- ✓ Everyone matters equally, but may not necessarily be treated the same.
- ✓ The interests of each person are the concern of all of us and of society.
- ✓ The harm that might be suffered by every person matters, and so it is essential to minimize the harm that a pandemic might cause.

## Respect and Fairness

The principle of fairness requires that burdens are not borne disproportionately by any patient, patient group, health sector, or institution.<sup>(2)</sup> Planners should allocate resources in a way that does not arbitrarily disadvantage any particular patient, patient group, health sector, or institution. Patient's access to limited resources must be based on factors relevant to their clinical situation.

Fairness requires that decision-making processes follow procedural justice, i.e., there are established processes for decision-making. We respect our patients and the public by sharing information with them and by providing them an opportunity to participate, reflect and engage. We respect patients by following their treatment preferences as outlined in advance care directives, and addressing concerns about power imbalances.

- Each person has intrinsic value and dignity and should be treated with respect.
- Do what provides the maximum benefit for the people of Saskatchewan.
- Triage principles cannot limit care based on disability or age, except to the extent that associated factors are clinically relevant.
- Apply rationing guidelines to all.
- Rationing is proportional to the degree of scarcity.
- Make efforts to minimize power differences in the decision-making context and optimize opportunities for participation (e.g., rural, northern, and Indigenous communities).

## Good decision-making

Good decision-making processes are transparent, inclusive, reasonable, and ensure accountability. Timely and clear communication is essential to maintaining the trust of staff and the public. People should be aware of the decisions made and the choices yet to make. They should know that fair decision-making processes will take into account scientific evidence, ethical principles, and address conflicts of interest, loyalty and obligation.<sup>1</sup> Decision-makers must be able to provide reasons for the choices made.

- Processes, decisions and their rationales must be transparent and accessible to relevant stakeholders.
- Keep people informed.
- Ensure decisions are made on the basis of reasons (e.g., principles, evidence) that "fair-minded" people can agree on.
- During planning, consult as broadly as possible in the time available. Prioritize those likely to be disadvantaged from the pandemic response.
- Ensure ICU Triage Committees are in place and being used.
- Processes are in place for revisions and review of contested decisions.

<sup>1</sup> Conflict of obligation arises when an individual or institution has duties that require different actions but only one of these actions can be taken in the given circumstance. Conflict of loyalty exists when a person has a duty of loyalty to more than one entity and the interests of those entities diverge.

## Minimize harm

During a pandemic, harm is likely to be unavoidable. This principle means that there is a need to (4):

- Minimize the spread of a pandemic, and disruption to society.
- Prioritize those at greatest risk for serious adverse outcomes.
- Seek new evidence and learn about ways to improve care.

When harms are considered, they should include physical, physiological, psychological, emotional, social, or economic injury, damage, pain and/or suffering, distress, or loss. Groups at elevated risk of contracting the virus should be provided with tools to help minimize or mitigate the risk (e.g. providing health care workers with personal protective equipment, partnering with community-based organizations to mitigate risk to socially marginalized groups).

- Pandemics inevitably cause harm. Work to minimize these harms as much as possible and recognize their impact on individuals (eg. allowing visitors for compassionate reasons).
- Health care providers have obligations and duties to patients, which may put health care providers at risk. The health system has an ethical obligation to minimize those risks and provide needed supports.
- Health care providers have access to supports to reduce moral distress and residue.
- Keep things in proportion. Information should not be exaggerated or minimized.

## Solidarity

Pandemics require society to embrace a shared commitment to the well-being of patients regardless of care setting or geographic location. The health system must continue to build, preserve and strengthen inter-professional, inter-institutional, inter-sectoral, and where appropriate, inter-provincial collaborations and partnerships.(4) Establish and encourage open lines of communication and coordination amongst health professionals, health institutions, health sectors and the public. In so far as practical and appropriate, share resources across sectors and institutions with an emphasis on collaboration and the common good.

## C. Resource Allocation

The COVID pandemic has led to global shortages of supplies and medications. In response to shortages, SHA has a responsibility to health care workers and the citizens of Saskatchewan to practice diligent stewardship. Available resources must be used responsibly, ensuring decisions are consistent with available evidence of clinical efficacy. Elective procedures and treatments may be temporarily postponed to ensure limited resources are available to those with the greatest need. Access to care should be prioritized based on urgency, severity of need, and likelihood of survival. Resource utilization should be monitored to ensure the fairest distribution possible, with mid-course corrections as needed.

### **How does stewardship work in a public health crisis?**

Even during a state of emergency or national crisis, access to care must still be aligned with the SHA's mission, vision, and values. This does not mean scarce resources cannot be rationed, but that rationing should be applied to all and triage principles should not uniformly deny treatment to any group or individual based on characteristics that are not clinically relevant (eg. disability or age).

During a pandemic, ethical principles must be broadened. For example, the principle of beneficence requires us to not only consider the wellbeing of the individual, but of society ("common good"). The consequentialist calculus of providing the greatest good to the greatest number is used to determine resource allocation and to limit citizens' liberty rights to limit the spread of the virus. Benefit is often defined as saving the most lives.

### **How will this affect health care workers' every day duties?**

One broadly understood function of health care providers is to be their patient's advocate. Physicians "should consider first the well-being of the patient and act in ways that benefit and promote the good of the patient" (5, p.2). In normal circumstances, health care providers should not engage in "bedside rationing" when making treatment decisions (see next section). In a crisis, when resources are scarce, some may not receive treatment and access to needed life-support may be denied. Deciding who should receive treatment is now determined by who is at imminent risk of dying, who is most likely to survive, and who needs access to the extremely limited resources for the shortest period.(6)

Denial of treatment during a crisis may cause moral distress as providers are not trained to, or may have never been asked to, deny treatment or services. In a pandemic situation, patients who would usually receive critical care may no longer be eligible (eg. ventilator support, medications). Moral distress occurs because health care providers are now asked to participate in the process of bedside rationing, which is a new, unfamiliar function. To reduce moral distress pandemic planners should develop processes to reduce or eliminate bedside rationing. In the COVID-19 response, this will include the use of triage committees to help make allocation decisions.(6)

Patients who are not going to receive ICU level of care must receive compassionate care. We must never abandon the sick and dying. If a patient is not expected to survive, steps must be taken to mitigate their pain and suffering; comfort care must be provided. Given the risk of exposure and limited PPE, meeting the psychosocial needs of the dying and their families may be challenging, but visitation should be allowed whenever possible.

People in the health care professions have ethical obligations, including duty to provide care. Health care providers by joining a profession consent to adhere to their code of ethics and use their special training for the benefit of patients in need of care. Since health professionals enjoy certain privileges, there are corresponding duties. During a pandemic, the risks to health care workers are elevated. Society, health care planners and employers must make efforts to reduce these risks (eg. personal protective equipment, physical distancing). In times of resource scarcity, their duty shifts to providing care as safely as possible. Health care professionals should not abandon their patients.

## How can we make it as fair and transparent as possible to restrict care?

The SHA is committed to working with the Government of Saskatchewan and residents to avoid having to ration ICU care during this pandemic. We will continue to work to expand the health system's capacity to meet surge demands, but if crisis ICU levels cannot be avoided, rationing resources will be necessary.

During the COVID-19 response, the weighing of common ethical principles may occur differently than in usual practice. In usual practice, clinicians and their patients undergo a process of shared decision-making regarding advanced life-sustaining therapies. The decision to institute, continue, withhold, or withdraw life-sustaining therapies is based on considerations such as medical prognosis and patient autonomy. In pandemic situations, the focus shifts to saving the most lives and autonomy considerations are considered secondary.

Triage committees are "objective" third parties who make allocation decisions. Having third parties determine who gains access to critical care services means health care providers are able to remain their patient's advocate and do not have to take on the burden of resource allocation decisions. Triage assessments must be objective medical assessments based on the best available scientific evidence. The assessment process, however, must be guided by compassion, respect for human dignity and natural justice, understood as similar cases treated similarly and different cases differently. Every individual matters and has equal worth, but this does not mean that everyone will be treated the same.

Patients with an equal chance of benefiting from health resources should have an equal chance at receiving the resource. If a situation arises where two or more people are eligible for a limited or scarce resource, e.g., ventilator, there should be agreed-upon tie-breaking criteria. Tiebreakers should be determined through broad consultation and must be based on criteria generally accepted by society. Four generally accepted tiebreakers are timing (first come, first served), the life cycle principle, value of the social role, and random selection.

The goal of the life cycle (or intergenerational equity) principle is to give each individual equal opportunity to live through the various phases of life. An 80 year old has lived through more stages than a 40 year old. However, age alone does not disqualify a patient for access to limited resources. A number of factors are taken into account, such as underlying health factors and likelihood of recovery. Considering a pregnant patient and her fetus as two separate lives, also leads us to consider prioritization of such patients.

The social role principle allocates resources to categories of people based on the benefit to society that role provides. In a public health crisis, society benefits if we chose to save a health care provider. The health care provider may return to work and treat others, which benefits more people. Determining which social roles are privileged must depend on society's current needs. During a pandemic, society needs health care workers. In time of natural disaster, like an uncontrolled forest fire, other first responders could take precedence. By meeting the needs of society during public health emergencies or natural disasters, health care providers or first responders are at elevated risk of harm. Using the principle of reciprocity, if people are asked to take increased risks, their role may be recognized and used as a criterion for access to limited resources.

If there is one bed and two similarly situated candidates, one might use the life-cycle principle as the first tiebreaker. If both still qualify, consider the social role principle. If both still qualify, use timing. If still equal, then random selection should be used. Timing arrival may be impossible once the system is overloaded.

## E. Ethics support

The COVID-19 pandemic will require the Saskatchewan health system to tackle difficult ethical issues. Resource allocation decisions will be challenging and force the public and health sector to consider a number of possibilities. By anticipating these issues now, and clearly identifying how decisions will be made, the SHA is in a much stronger position to make and accept difficult decisions.

For support with pandemic planning or clinical decision-making, contact Ethics at:

[ethics@saskhealthauthority.ca](mailto:ethics@saskhealthauthority.ca)

**Saskatoon & area:** Dr. Melody Isinger, Director, Ethics (306-321-6176)

**Outside Saskatoon:** Call 811 (to be redirected to your [Local Ethics Committee Chair](#))

**Emmanuel Health facilities:** Dr. Gary Goldsand, Clinical Ethicist (306-655-5517)



## **Appendix A: Checklist for decision making during the COVID pandemic**

### **Respect and Fairness**

- Each person has intrinsic value and dignity and should be treated with respect.
- Do what provides the maximum benefit for the people of Saskatchewan.
- Triage principles cannot limit care based on disability or age, except to the extent that associated factors are clinically relevant.
- Apply rationing guidelines to all.
- Rationing is proportional to the degree of scarcity.
- Make efforts to minimize power differences in the decision-making context and optimize opportunities for participation (e.g., rural, northern, and Indigenous communities).

### **Transparency**

- Processes, decisions and their rationales must be transparent and accessible to the relevant stakeholders.
- Keep people informed.
- Ensure decisions are made on the basis of reasons (e.g., principles, evidence) that “fair-minded” people can agree on.
- During planning, consult as broadly during planning as possible in the time available.
- Processes are in place for revisions and review of contested decisions.

### **Accountability**

- Ensure ICU Triage Committees are in place and being used.
- Conduct reviews across geographic areas and services to assess efficacy, efficiency and fairness.

### **Minimize harm**

- Pandemics inevitably cause harm. Work to minimize these harms as much as possible and recognize their impact on individuals (eg. allowing visitors for compassionate reasons). Minimize disruption to society.
- Health care providers have obligations to patients, which may put health care providers at risk. The health system has an ethical obligation to minimize those risks and provide needed supports.
- Health care providers have access to supports to help reduce moral distress and residue.
- Keep things in proportion. Information should not be exaggerated or minimized. The least restrictive means possible should be used when limiting liberty and freedom.

## **References**

1. World Health Organization. What is a pandemic? Available at: [https://www.who.int/csr/disease/swineflu/frequently\\_asked\\_questions/pandemic/en/](https://www.who.int/csr/disease/swineflu/frequently_asked_questions/pandemic/en/)
2. Isinger M, Winquist B. Saskatchewan Health Authority ethics framework. Saskatchewan Health Authority, 2019.
3. British Columbia's pandemic influenza response Plan. An ethical framework for decision making: supporting British Columbia's pandemic influenza planning and response. Government of British Columbia: 2012 [cited April 14, 2020]. Available at: <https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/reports-publications/bc-pandemic-influenza-ethics-framework-2012.pdf>
4. Ethical framework for resource allocation during drug supply issues affecting Saskatchewan: 2018 [cited April 14, 2020].
5. Canadian Medical Association. CMA code of ethics and professionalism. Available at: <https://www.cma.ca/cma-code-ethics-and-professionalism>
6. Saskatchewan critical care resource allocation framework. Saskatchewan Health Authority, 2020.