Public Health Emergency Ethics: A Draft Model Code

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Objectives

▪ Brief assessment of CSC activities nationally

▪ Review of ethical issues in public health emergencies

▪ Primer on a Draft Model Code of Public Health Emergency Ethics

▪ Questions, comments, discussion
Crisis Standards of Care

**Standard of Care**
Generally refers to the duty owed by health care practitioners to their patients depending on the circumstances.

**Crisis Standards of Care**
Adapt standard of care to screen and treat increasing numbers of patients with limited resources.
States Engaged in CSC Planning
CSC in Arizona

Bureau of Public Health Emergency Preparedness
Crisis Standards of Care (CSC) Project

"Developing a Comprehensive and Compassionate Response"

Overview

The Arizona Department of Health Services (ADHS) Bureau of Public Health Emergency Preparedness (BPHEP) conducted a workshop on January 24, 2013 to initiate Crisis Standards of Care (CSC) plan development for the State of Arizona.

The Arizona CSC plan development project is a 12-month initiative that will involve input from a wide variety of partners including health care facilities, emergency management, legal and ethical experts, emergency medical services, public safety and many more. The purpose of this collaborative effort is to improve preparedness for all Arizonans by establishing clear and concise protocols to follow in the event of a catastrophic emergency. This planning initiative will be guided by an interdisciplinary group of experts throughout the State, as well as federal guidance from the Institute of Medicine (IOM).

Planning efforts will be guided by the following five elements:

1. Strong ethical grounding
2. Integrated and ongoing community and provider engagement
3. Necessary legal authority and environment
4. Clear triggers, indicators, and lines of responsibilities
5. Evidence based clinical processes and operations

This topic is challenging by nature, but through collaboration and consensus building with stakeholders and the general public, we can develop a fair and equitable system for delivering care during the most serious disasters and public health emergencies.

Arizona Crisis Standards of Care Plan Development Project Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Project Stage</th>
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<tr>
<td>January 24, 2013</td>
<td>Initial Planning Conference Slides/Handouts</td>
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Standards of Care: Providing Health Care during a Prolonged Public Health Emergency

Over the past two years, the Department of Public Health has lead a workgroup comprised of representatives from other state agencies, hospitals, academic institutions, long-term care facilities, regional planning committees, and professional and trade associations to discuss how a prolonged public health emergency will affect the ability of health professionals and institutions to provide care.

Standards of Care: Providing Health Care during a Prolonged Public Health Emergency provides an ethical framework for decision-making during lengthy public health emergencies, and will serve as a guide to health care providers for allocating resources and modifying standard practices.

As this document may shape decision-making during public health emergencies, it was important to the workgroup that feedback be provided not only by health professionals, but by the people of Connecticut as well. The public was invited to submit comments to the document. All comments were reviewed and revisions were made to the document based on the comments.

In addition, the Department of Public Health held five regional forums throughout the state. The forums provided 1) an overview of the paper, 2) answered key questions, 3) motivated stakeholders to plan for such emergencies, and 4) motivated stakeholders to provide comments on the draft Whitepaper.
CSC in Iowa

Iowa Department of Public Health
Center for Disaster Operations and Response

Wednesday, November 21, 2012

PAC Crisis Standards of Care Workgroup
### Crisis Standards of Care

- [Louisiana Hospital Crisis Standard of Care: Guidelines in Disaster (August 2013)](#)
- [Crisis Standards of Care Public Flyer (October, 2011)](#)
- [Crisis Standards of Care: A Guideline for Louisiana's Acute Care Hospitals (September, 2011)](#)
- [State of Louisiana DHH Crisis Standards of Care Public Engagement Project Report (July, 2011)](#)

### Community Preparedness Conference 2010

- [Overview of Pandemic Flu](#)
- [Origin of the H1N1 Virus](#)
- [Reporting & Testing of the H1N1 Virus](#)
- [Louisiana's Response to the H1N1 Virus](#)
- [Crisis Standards of Care](#)

### H1N1 (Swine Flu) 2009-2010

- [NEA and 1135 Waivers](#)
- [1135 Waiver Request and Form](#)
- [FAQ - Emergency Declaration for H1N1 Flu - 1135 Waiver](#)
- [Hospital Alternative Care Sites](#)
Ethics issues are pervasive in public health emergencies:

- Decisions related to the allocation and use of scarce resources
- Issues in providing health services consistent with crisis standards of care
- Balance of limitations on personal liberty to protect the public’s health
Decisions related to these ethical issues vary:

- Across jurisdictions and political actors
- Among public and private sector actors
- Among different health professionals
Project Goals

• Develop **applied principles** of public health emergency ethics via consensus among public and private actors

• Produce a draft **model code** of public health emergency ethics to guide critical decisions among public and private sectors
From Ethical Principles to Code Provisions

• Process:
  • Garner input through surveys and other information techniques →
  • Identify core ethics principles →
  • Articulate code language to guide decision-making consistent with the ethical principles →
  • Apply principles and language to actual or mock factual scenarios
Draft Model Code: Format

- 8 **core principles** (not ordered in priority)
- **Proposed code language** reflects or expands broader ethical principle to guide critical decisions
- Concise, field-ready guidance
- *Not the official policy of any state or local agency or private entity*
Application

- Applies to public and private health care, public health, and emergency preparedness officials and practitioners seeking to:
  - plan, prepare, or respond to declared states of disaster, emergency, or public health emergency in which the health of the public is at risk; or
  - implement crisis standards of care as defined by the Institute of Medicine.
Key Definitions

- **Decision-makers**: Any person tasked with making decisions regarding emergency responses or allocation of scarce resources during a public health emergency for or on behalf of public or private sector entities.

- **Health practitioner**: Any person who delivers or furnishes emergency, health care, or public health services in the state during a public health emergency.

- **Scarce resource**: any product or service for which limitations in its availability or supply contribute to potential or actual harms to individuals or communities.
Model Code: Core Principles

1. Stewardship
2. Transparency
3. Soundness
4. Duty to Care
5. Reciprocity
6. Fairness
7. Proportionality
8. Accountability
1. Stewardship

- **Scarce resources** must be managed during a PHE to prevent and minimize morbidity and mortality among populations to the greatest extent possible while maintaining respect and care for individuals.

  ◦ Duty to plan
  ◦ Clarity and specificity
  ◦ Qualified personnel
1. Stewardship of Resources

- **1.1 Duty to plan.** Decision-makers must plan ahead and develop affirmative guidance on allocating scarce resources for use by health practitioners, health providers, emergency responders, and others involved in the PHE response.
2. Transparency

- Planning and policy decisions (and their justifications) should be **open and subject to public consultation** and input prior to PHEs.

  - Openness
  - Availability of plans
  - Public engagement
  - Communications
3. Soundness

- Decisions and responses in PHEs should be consistent with known or empirically-supported "best practices"
  
- Effectiveness
- Non-Diversion
- Information
- Risk Assessment
- Flexibility
3. Soundness

- 3.2 Non-Diversion.
  Essential emergency functions or resources should not be diverted to address **non-emergency** conditions during PHEs.
4. Duty to Care

- Health providers and practitioners have a duty to **provide care** during PHEs
  - Duty not to abandon
  - Duty to care despite risks
  - Full disclosure
  - Duty to provide comfort care
4. Duty to Care

1.1 Duty not to abandon. Health providers and practitioners must not abandon patients or others who have a reasonable expectation of care based on prior commitments and available resources.
5. Reciprocity

- Health practitioners or providers who face **disproportionate risks or burdens** for the benefit of the community in PHEs are entitled to receive additional support.

  - Protections for personnel
  - Protections for providers
6. Fairness

- In a PHE, **similarly-situated** individuals and groups should be treated in alike
  
  ◦ Consistency
  ◦ Medical need and prognosis
  ◦ Justice
  ◦ Privacy
6. Fairness

- **6.3 Justice.** Health care and public health responses and allocations of scarce resources **may not** be based on factors **unrelated to health status and emergency response needs.** Impermissible factors include, but are not limited to: race, gender, ethnicity, religion, social status, education, income, ability to pay, immigration status, residency, or sexual orientation.
7. Proportionality

- **Less restrictive means** should be used whenever possible during a PHE, reserving restrictive measures only for when they are necessary to effective responses.

  - Balancing obligations
  - Selection
  - Application
  - Duration
  - Well-targeted
8. Accountability

- Decision-makers are responsible for their actions (or failures to act) in a PHE.

  - Duty to evaluate
  - Public accountability
  - Documentation
8. Accountability

- 8.1 Duty to evaluate. Decision-makers should **monitor the effects and evaluate the efficacy** of implemented decisions and responses, providing follow-up services or revised, updated guidance where appropriate.
Questions, Comments