



Ethical Issues Raised by Pandemic Influenza Plans, esp. Regarding Human Resources

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Outline

- A. What can health care ethics bring to the planning of a flu pandemic?
- B. Health care workers during the pandemic – Responsibilities & rights
- C. Health care vaccination – Mandatory or voluntary?
- D. Working according to new rules - Triage
- E. Summary – Communication as a key

A

What can health care ethics bring to the planning of a flu pandemic?

Health Care Ethics / Bioethics

Interaction between 'biomedical science & technology' and 'moral values and interests'

DESCRIPTIVE

What people believe and how people act

"what is ?"

NORMATIVE

Standards of right and good action

"what ought to be ?"

Some basic notions...

- Caring for people always involves making moral decisions, that is, dealing with values, interests and preferences.
- All professional, clinical or administrative decisions have a moral dimension. Morality in health care is all pervasive, inescapable, indivisible. We cannot first make a clinical decision and later a moral decision.
- Recipients of care often judge the outcome of care not in biological and statistical terms as experts tend to do, but, in moral terms.

Health Care Ethics is Concerned with ...

The Individual Person




The Group: Social, Professional, ...



The Institution, Public policy, Public health





How to reach the ethically best decision?

People do not agree on a single yardstick of good action:

- Do your duty!
- Aim for the best outcome!
- Be virtuous (honest, faithful, brave, ...)!
- Respect peoples' rights!

But most people can agree on some common sense principles.



Health Care Ethics Principles

- Principle of beneficence
- Principle of nonmaleficence
- Principle of respect for autonomy
- Principle of justice
- Principle of proportionate response
- Principle of the least possible interference
- Principle of transparency
- Principle of subsidiarity
- Precautionary principle



B

Health care workers during a pandemic –
Responsibilities & rights



One Friday afternoon... (scenario)


Today's news report confirmed that a severe flu-like illness that started to spread in Asia two weeks ago, now reached Canada. Dozens of people, simultaneously, have become ill in four large cities – the sick included those who travelled in Asia, their family members, and health care workers. A few people have died.

The local pandemic plan is ready, but to put it in action, all health care workers are required to show up at their place of work Monday morning. Will they come?



Absenteeism of health care workers during a pandemic

- Working in another job
- Incapacitated by the flu
- Caring for sick family members at home
- Staying at home to rest
- Staying at home to avoid infecting themselves and their families



Will health care professionals be willing to serve during a pandemic?

To attempt to answer this question we need descriptive data:


- Historical parallels : SARS in Toronto,
: 1918 Spanish flu
- Contemporary studies : none in Canada,
: a survey of US physicians



1918 Flu Pandemic – Contemporary account

- “Retired physicians rose to the challenge and, working side by side with those in practice, put in almost unbelievable hours, snatching a wink of sleep whenever they could between calls. They got around by whatever means were available – car, sleigh, horseback, bicycle, snowshoe...”

Pettigrew, 1983,89




Willingness to serve after bioterrorism attack – Contemporary account USA

The % of physicians who indicated that they would continue to care for patients in the hypothetical event of:

- An unknown but potentially deadly illness : 85%
- An outbreak of smallpox and no vaccination: 33%


Wynia, 2003



Do physicians have an ethical obligation to serve in an outbreak?

YES, because:

- To be a professional means to profess the willingness to serve others, putting a patient's interest above one's self-interest
 - unwritten social contract.
- History of profession shows that a doctor always accepted a degree of risk of infection
 - generates trust and esteem from society.



Do physicians have an ethical obligation to serve in an outbreak?

YES, BUT, the duty is not absolute and it will have to be balanced with:

- Other professional and personal obligations
- The level of risk of illness & death
- The level of training received and protection available




Another Friday afternoon...(scenario)

- A remote First Nation community reports that in the last 24 hours, some 20 people became ill with the flu; one of them is the nurse, the only health care worker there. They ask that two nurses and a doctor be air-lifted there today. As a manager of regional services, you have to respond.

Do you send someone?

If yes, who do you send?




What could be done to enhance the ethical commitment to serve during an outbreak ?

i

The fulfillment of reciprocal ethical obligations of institutions to:

- Provide full available information about the needs, the risk, the means of protection.
- Provide all protective measures that are reasonably available, proportionate to the risks.
- Remove all legal, financial, and other barriers to the service (e.g. assume legal liability).



What could be done to enhance the ethical commitment to serve during an outbreak ?

ii

Most importantly,

Initiate a well informed, robust discussion about practical expectations and ethical responsibilities of all health care workers during the pandemic by sharing pandemic plans with all relevant professional organizations, trade unions and colleges of professions.



C

Health care vaccination –
mandatory or voluntary?



Vaccination in influenza pandemic - some ethical issues


- Scarcity of vaccine likely the main problem - prioritization
- Vaccination of population – voluntary or mandatory
- Vaccination of health care staff – as a high priority group, voluntary or mandatory



An Issues in Pandemic Contingency Planning


“Does State law allow for ‘mandatory’ vaccination of certain groups, if vaccination of certain groups is viewed by State public health officials as being ‘essential’?”

US Guide for Local and State-wide Pandemic Planning
<http://www.hhs.gov/nvpo/pubs/pandemicflue.htm#INTRODUCTION>



Arguments in favour of ethical acceptability of mandatory vaccination of health professionals


- Notion of professionalism:
duty to be available, heightened in pandemic,
duty to take care of herself or himself, incl.
protection against infection.
- Principle of nonmaleficence:
“do no harm” but
unvaccinated workers pose a risk & could
cause harm to patients they care for.



Arguments in favour of ethical acceptability of mandatory vaccination of health professionals


Objections:

- Pandemic will not be severe or unique
- Vaccine will not be very effective and its safety will be uncertain.
- 'Professionalism' idea is outdated.
- An infected health care worker will not be a significant source of infection; during a pandemic, virus will be ubiquitous.




Arguments against ethical acceptability of mandatory vaccination of health professionals

- Principle of respect for autonomy: mandatory vaccination affront to personal autonomy.
- Principle of least infringement: when several interventions could achieve a goal, always use such public health intervention that will least infringe on personal liberties voluntary vaccination is such an intervention.



Arguments against ethical acceptability of mandatory vaccination of health professionals

- Argument from the principle of justice: treat same cases same way.
Be impartial...
It would be unjust to single out health care workers for mandatory vaccination if other workers are not treated same way.



Arguments against ethical acceptability of mandatory vaccination of health professionals


Objections:

- Pandemic is an extraordinary threat... public interest should prevail over personal autonomy.
- There is morally significant difference between health care workers and others... it is not unjust to treat them differently.
- Voluntary vaccination will fail to achieve its goals.




Some observations about these arguments

- Some of these claims and counter claims can be raised because of conflicting perceptions of facts and lack of empirical data about past and future pandemics...deficiency of pandemic plans.
- All these argument have some appeal, cannot be rejected easily...therefore, we need to aim for a balanced approach.



Arguments in favour of ethical acceptability of mandatory vaccination of health professionals

- Does existence of a moral obligation for health care workers to accept vaccination, justify passing a law that will enforce these obligations?
- Yes, if the foreseeable non-compliance would cause a severe or irreparable damage to society...if it would cause deaths that could be prevented.



Could mandatory vaccination of health care workers during influenza pandemic be ever justified?

Yes, if and when all following assertions are true:

- The pandemic is of a serious nature.
- Pandemic influenza vaccine is reasonably safe.
- Pandemic influenza vaccine is reasonably effective.
- Unvaccinated health care workers represent a risk.
- Voluntary vaccination will not meet objectives of the vaccination program.



How to avoid the need for mandatory vaccination of health care workers?

- Initiate a thorough discussion among health care professionals about the pandemic and about ethical aspects of vaccination & other measures.
- Promote an articulation of their moral commitment to engage wholeheartedly in preparing for and later responding to this most serious threat.



Anthrax Vaccination, USA, December 2001

- CDC released the vaccine, previously available only to military for use by those who were exposed.
- “DHHS is not making any recommendation whether you should or should not take this vaccine”
- 10 000 eligible, 152 vaccinated
- Was this the best way how to protect public?



D

Working according to new rules –
Triage, isolation and quarantine



Will the health care staff follow the pandemic plan procedures?

What is needed:

- Access to care X shortage of physicians.
- Recognition and reporting of the new infection X acceptance of importance.
- Containment (if recommended) X conflict with patient-centered professionalism.
- Flexibility X fixation of professional roles.
- Battlefield style triage X triage by patients needs.



Another Friday afternoon... (scenario)

- The emergency of the regional hospital was busy as usual last night, but since morning, 160 patients arrived, some very ill. ICU is full. All available staff is working feverishly but are unable to cope. So far, three patients died in the waiting-room before being seen. The administrator wants to close the department, but all other hospitals in the region are in the same situation. What could be done?



Triage of patients: Two concepts

- Contemporary routine triage: based on medical needs - most sick, those whose life is threatened will be attended to first
.....not ethically problematic.
- Battlefield or major disaster triage: based on medical needs & likelihood of benefit, those unlikely to survive given comfort measures only.....ethically problematic.



Some Ethical Rules for Rationing of Scarce Resources

- The policy is made on the basis of the principles that fair-minded people would accept.
- The policy and rationale are known to the public and the public has had an opportunity to evaluate that policy.
- There is a mechanism in place to evaluate the policy, and change it if found deficient.
- There is a sufficient enforcement of the policy to ensure compliance with it.



Quarantine: A community makes a heroic decision

Second part of 17th century in England - periodic outbreaks of "Black death"-

Bubonic plaque.

AD 1666: a flea-ridden cloth from London infected a tailor in the village of Eyam, Derbyshire. The local pastor persuaded villagers to enter into total voluntary quarantine of one year duration. 2/3 of inhabitants died but not a single outside person was infected (G.Brooks: Year of Wonders, 2001).



E

Summary –
Communication as a key

Attending to Ethical Issues:

A. Human Resources

- Health care professionals have a strong obligation to serve during a pandemic in spite of increased risks.
- Institutions and governments have a corresponding obligation to provide the best available protective measures and training, support, insurance and licensing.
- There is an urgent need for education, discussion and commitment-building among health care workers.
- Mandatory measures will have to be proven necessary and workable.

Attending to Ethical Issues:

B. Communications

- Principles of transparency and accountability requires to place all planning documents in public domain; exceptions to be justified.
- Mounting optimal response will require joint efforts of not only governments and public sector but also private and voluntary sector.
- Development of a consultation and education program for health care workers and public appears mandatory.



Communication about flu pandemic plans may

Negatively affect public health by producing

- Fear & panic
- Anxiety
- Depression
- Divert attention from other pressing issues

Positively affect public health by producing

- Trust in public authorities
- Contingency plans tailored to public reaction
- Compliances with measures taken at the time of pandemic
- Stronger public health services in general



Communications and Consensus

- The foremost challenge is to engage health care workers as well as public as a participant in developing norms and protocols that will guide a response to a pandemic.
- We have to trust the public and be ready to initiate well informed, candid discussions of the risks, options for dealing with them, the cost and underlying values at stake.
- The patient is the nation:
consent ~ consensus

Ford Rowan, 2003



Importance of human resources issues during the pandemic

- Response to the pandemic will be the largest mobilization of human resources ever undertaken by Canadians, comparable only to our involvement in the 2nd World War.
- Outcome of this effort has to be understood not only in terms of biological survival but in terms of strengthening/weakening of human fabric of our society for decades to come.



Thank you

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Appendix



Bioethics Principles 1, 2

- BENEFICENCE. . .

. . . one ought to provide benefits and prevent or remove harm.

- NONMALEFICENCE

. . . one ought not to inflict harm or risk of harm, except that which is necessary to achieve the beneficial goal.



Bioethics Principles 2

- **RESPECT FOR AUTONOMY**
One ought to allow and assist persons to make choices and to take actions based on their personal values and beliefs.



Bioethics Principles 3

- **J U S T I C E**
One ought to treat people fairly or equally. Any unequal treatment requires an evidence that there is morally relevant difference between people that justifies unequal treatment.
- Need of the patient is relevant, but not age, sex, race, disability, convenience of the provider, social class, location, time, merit.



Principle of proportional response

“Any action must be proportionate to the protection and relief needs of the people at risk”

OXFAM, 1997



Principle of least interference

The greater the harm or risks posed by an intervention, the stronger the evidence should be that the intervention will be effective.



Principle (Ideal) of impartiality

- All human beings are of equal moral worth and therefore we cannot treat some people worse than others if the differences between them are not morally relevant (sex, race, religions...)
- In contrast to the attitude of partiality, e.g. favoring friends, family, social group....)



“Police Powers” of state to control epidemic diseases

- 1901-02 smallpox epidemic in Massachusetts
- Compulsory vaccination law of the state was challenged by citizens group
- 1905 US Supreme Court ruling established the right of the government to use its police powers to control epidemic disease – *Salus populi supreme lex*

Bayer in Moreno, 2003



“State Interests” as defined in common law....

....that may limit a person’s right to refuse medical treatment in open democratic society

- Preserving life
- Preventing suicide
- Safeguarding the integrity of the medical profession
- Protection of innocent third parties

Kennedy, Grub, 343



Mandatory vaccination

“ Mandatory vaccination does not necessarily mean legal compulsion, nor exclude negotiations and search for consent”

European Commission Research Projects on ethical, legal and social aspects of vaccine research and vaccination policies, 2002.



Mandatory vaccination

“Mandatory vaccination should not be based on the authority of the medical profession alone, but need to be rooted in social and political decisions of society, mostly through government.”

European Commission Research Projects on ethical, legal and social aspects of vaccine research and vaccination policies, 2002.



Attending to Ethical Issues re: Vaccine & Antivirals

- Describe and quantitate both benefits and burdens of these interventions.
- Minimize scarcity: determine in the political process resources that will be made available.
- Minimize scarcity: examine all steps in the program to identify obstacles and specify remedies.
- Refine prioritization plan.
- Education, barrier removal, promotion, persuasion instead of mandatory vaccination or medication.



Attending to Ethical Issues Conclusions

- Consider a new approach to scarcity: evidence- based, economical analysis, political process, prioritization based on utility & justice.
- Assure cooperation and avoid forceful measures by communication and education to start now.
- This plan is a major national achievement and deserve publication.