CBSSM CENTER FOR BIOETHICS AND SOCIAL SCIENCES IN MEDICINE

Redefining Essential: Healthcare Workers and Pandemic Scarcity

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MSMS MICHIGAN STATE MEDICAL SOCIETY

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Introduction

- The COVID-19 pandemic has dramatically altered how otolaryngologists contemplate and assume their roles in health care delivery.
- The ethical implications of this pandemic upon our practice are formidable, and distinct from other surgical fields.

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Case 1

- Dr. Burgundy is a busy 70 year-old head & neck surgeon in solo private practice in a small city.
- He has decided that all patients presenting to his office will need a negative COVID test within the past 48 hours in order to be evaluated in clinic.
- He recommends those who cannot or will not be tested seek care elsewhere, as he is unwilling to put himself or his office staff at increased risk.

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Case 2

- Dr. Green, a chief dermatology resident, is asked whether she is willing to staff a COVID field hospital.
- Her husband works from home, and his elderly mother is helping their three children with virtual school in their small apartment.
- She is struggling to respond appropriately. “I wonder if I am being asked to volunteer, or if I’m being volun-told.”

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Case 3

- Dr. Brown works as the only neurologist in a rural hospital. He had a bone marrow transplant years ago for lymphoma, and is on chronic steroids.
- His hospital is rapidly filling with COVID patients.
- He is consulted to evaluate a patient with COVID and multiple neuropathies, and is torn regarding his obligations.

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Salient Ethical Issues in COVID-19

- Public health stewardship and safety
- Distributive justice
- Non-abandonment

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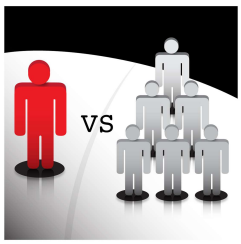
Public Health Stewardship

- Clinical ethics focuses on the primacy of choices and actions involving individual patients and the singular doctor-patient relationship.
- These patient-centered principles significantly differ from concepts of public health ethics, which are by necessity population-, rather than individual- driven.



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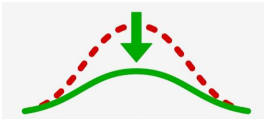
Public Health Stewardship



- The need to limit the spread of COVID-19 across communities requires steps that would otherwise not be taken due to risk of harm to or disenfranchisement of patients.

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Public Health Stewardship

- The concept of delaying or refusing medically necessary care is anathema to dedicated clinicians.
- While individual rationing decisions rarely play a role in day-to-day care, concern for available medical supplies, personal protective equipment, and hospital beds requires us to act differently.
- The COVID-19 era has created a situation in which expedited typical care may be impossible.

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Consistency as an Ethical Tenet

- Multiple treatment paradigms and the networks of clinicians create systemic redundancy and options, all of which are welcome.
- However, this also can create conflicting, disparate perspectives and approaches, both at societal/national levels and for individual care teams.

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The Importance of Consistency

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The Importance of Consistency

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Being Consistent

- Ensure consistent evidence-based approaches as best as possible, considering the systematic issues.
- Within our sphere of influence, form a consensus.
- Given that resource allocation and safety will impact care, these approaches may require revision.
- Individualized care still supercedes, but this does not replace a more cogent and cohesive approach.

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Applying Ethical Principles

- Autonomy
- Beneficence
- Non-maleficence
- Justice

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Applying Ethical Principles

- Autonomy
- Beneficence
- Non-maleficence
- Justice

Critical shortages create conditions in which principles directly conflict

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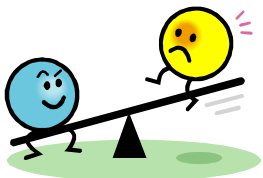
Individual patient's interest
vs.
Welfare of all patients



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Rationing

- The concept of rationing, while politically charged, is neither novel nor insidious.
- Ethically justified by the concept of distributive justice.
- Medical resources, including capital, personnel, physical space, and medications, are finite.
- Providers must simply do the best that they can with what is available.

Persad G. Lancet. 2009;373(9661):423-31.

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The Clinician's Dilemma

- Individual doctors must be advocates for their patients first, before they act as stewards of scarce resources.
- Even a fair rationing schema does not absolve a physician of his or her primary, incontrovertible fiduciary responsibility to the patient.
- Can only be resolved by a rationing policy that transcends the doctor-patient dyad.

Ann Intern Med. 2005;142(7):560-82.

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How to Ration?

- Historically based on access, insurance, & ability to pay
- Different when creating a formal set of criteria / policy
- Must take into account all potential stakeholders
- May evolve based upon changes in supply and demand
- Must not rely on individual clinician judgment

Rosoff PM. Am J Bioethics. 2012;12(1):1-9.

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Establishing Rationing Criteria

- Evidence-based
- Transparent
- Universal
- Objective

Shuman AG. Hastings Cent Rep. 2012;42(2):12-3.

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Where it Gets Messy

- What if there are no strong comparative data?
- "Most benefit" is a morally complex barometer…
- Should age be an independent variable?
- What about first-come, first-served?
- Supplies may increase or decrease quickly
- What about clinical research protocols?

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Fair Allocation of Scarce Medical Resources in the Time of Covid-19

Ezekiel J. Emanuel, M.D., Ph.D., Govind Persad, J.D., Ph.D., Ross Upshur, M.D., Beatriz Thome, M.D., M.P.H., Ph.D., Michael Parker, Ph.D., Aaron Glickman, B.A., Cathy Zhang, B.A., Connor Boyle, B.A., Maxwell Smith, Ph.D., and James P. Phillips, M.D.

Table 2. Ethical Values to Guide Rationing of Absolutely Scarce Health Care Resources in a Covid-19 Pandemic.

Ethical Values and Guiding Principles	Application to COVID-19 Pandemic
Maximize benefits	
Save the most lives	Receives the highest priority
Save the most life-years — maximize prognosis	Receives the highest priority
Treat people equally	
First-come, first-served	Should not be used
Random selection	Used for selecting among patients with similar prognosis
Promote and reward instrumental value (benefit to others)	
Retrospective — priority to those who have made relevant contributions	Gives priority to research participants and health care workers when other factors such as maximizing benefits are equal
Prospective — priority to those who are likely to make relevant contributions	Gives priority to health care workers
Give priority to the worst off	
Sickest first	Used when it aligns with maximizing benefits
Youngest first	Used when it aligns with maximizing benefits such as preventing spread of the virus

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The New York Times

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The New York Times

"Two kids in front of you, you only have enough for one. How do you choose?"
DR. YORAM UNGURU

"I believe if I had gotten it when it was first prescribed, I wouldn't have had to go through those operations."
DON KEATING, A CANCER PATIENT

"Patients are not equally the same. You need to look case by case."
NING-TSU KUO

"We've been forced into what we think is a highly unethical corner."
DR. PETER ADAMSON

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ATS Journals

Preparing for COVID-19–related Drug Shortages

Andrew G. Shuman[1,2], Erin Fox[3], and Yoram Unguru[4,5]

- COVID-19 has upended an already vulnerable supply chain
- Risks engendering devastating shortages of life-saving drugs for patients, regardless of whether they suffer from the virus.

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Inter-Institutional Collaboration

BCBSM FOUNDATION

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Between Scylla and Charybdis — Oncologic Decision Making in the Time of Covid-19

Mark A. Lewis, M.D.

- "In my career I have been astonished at how many patients have been willing to accept nearly inevitable toxicity for the vanishingly small possibility that they will be one of a select few "exceptional responders." At least, that is, until now. Chemotherapy, hardly desirable at the best of times, may never have been less appealing.
- My queasy conscience now wrestles with the possibility of a bimodal peak of cancer patients dying: the imminent spike of those with decimated immunity falling victim to Covid-19 and the latent toll on those whose treatments were de-intensified, delayed, or canceled.
- To survive SARS-CoV-2 only to then succumb to an undertreated cancer would be a Pyrrhic victory."

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Non-Abandonment

- Our inability to optimally perform our work is not an excuse to remain idle.
- Patients can and should be contacted remotely in order to provide guidance, reassurance and surveillance.
- We have an obligation to provide care and avoid perceived or real senses of abandonment, and triage urgent/emergent situations to limited available resources is still needed.

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Declaration of Professional Responsibility (2017)

- "Plagues and pandemics respect no national borders in a world of global commerce and travel… Through the centuries, individual physicians have fulfilled this obligation by applying their skills and knowledge competently, selflessly and at times heroically. Today, our profession must reaffirm its historical commitment to combat natural and man-made assaults on the health and well being of humankind… Humanity is our patient."

AMA AMERICAN MEDICAL ASSOCIATION

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Contouring the Duty to Treat

- Take all reasonable precautions to prevent illness among health care workers and their families
- Provide for the care of those who do become ill
- Reduce or eliminate malpractice
- Provide compensation for those who are injured and die

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Contouring the Duty to Treat

- "The duty should be attenuated, but not eliminated, by the physician's responsibility not to become a patient him or herself.
- Risks must be balanced against one's capacity to do good in the future, and while heroism is to be commended, martyrdom is not often called for."

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Levels of Obligation

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Levels of Obligation

PERMISSIBLE
An action that is **not** wrong to perform

- OBLIGATORY
  An action that must be performed (i.e. that is wrong not to perform)
- NEUTRAL
  An action that is neither right nor wrong to perform
- SUPEREROGATORY
  An action that morally exceeds what is obligatory

IMPERMISSIBLE An action that **is** wrong to perform

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Take–Home Points

- COVID-19 is testing the very fabric of healthcare delivery.
- We need to exercise moral and professional fortitude in ways previously unimaginable.
- This involves a deliberate and careful balance of limiting exposures and maximizing benefit, while still upholding our intrinsic ethos to serve our patients in need.

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Questions and Discussion

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