

Additional considerations in a resource-depleted environment

In accordance with a request from the Director of the Oregon Public Health Division, the Crisis Care Guidance Development Ethics Workgroup convened on 17 March 2020 to review Oregon Crisis Care Guidance materials in the context of the COVID-19 pandemic response effort. There was consensus among the Workgroup that Appendix F – Ethical Guidance for Health Response during Epidemics of Highly Contagious, Potentially Life-Threatening Infections and other Public Health Emergencies is highly relevant to the response to COVID-19 and does not need to be significantly revised given its applicability to the crisis at hand. However, members of the Workgroup agreed that additional guidance pursuant to *duty to care* and resource limitations is necessary.

Duty to care with a limited supply of personal protective equipment

The Crisis Care Guidance affirms as a general rule a positive duty of healthcare workers to provide care in a public health crisis. This is summarized in an assertion that “generally, during a public health crisis, people with the knowledge, training, and infection prevention resources to provide care safely would not have an ethical justification to refuse to provide care.” With the reported concerns around diminishing supplies of personal protective equipment (PPE) during the course of responding to the COVID-19 crisis, there is uncertainty about how this might affect a healthcare worker’s duty to care however difficult it is to define.

The Crisis Care Guidance offers the following related to this issue:

Regarding a concern for the healthcare professional’s own personal health or safety, it is necessary to evaluate whether health system, EMS agency, and other healthcare entity obligations have been fulfilled regarding the provision of adequate training, PPE, and other infection control measures in order to provide care as safely as possible...if adequate training, PPE, and other infection control measures are in place, the healthcare professional should continue to respond...unless other factors, such as pregnancy or compromised immunity, put the individual at higher risk of infection.

The Workgroup endorses that the duty to care would continue in a resource-depleted situation **if all available efforts to address the PPE shortage and ease the burden on healthcare workers by relevant stakeholders are being undertaken**. In a resource-rich environment, healthcare workers should expect the provision of appropriate PPE and its training for safe use; however, in a resource-depleted environment, the nature of health system, EMS agency, and other healthcare entity obligations have changed by shifting from supplying the resources to provide care safely to equipping healthcare workers to provide care as safe as possible. Because the broader health system cannot be ethically obligated to the impossible (such as possessing all necessary PPE that does not presently exist), the obligations are fulfilled by doing the best that is possible within a resource-depleted environment.

That being said, core principles of the Guidance would be incompatible with healthcare workers bearing the sole and substantial burden of increased personal risk from providing care with inadequate PPE; burden sharing across the community consistent with the principle of reciprocity must occur should the duty to care continue. Health systems should be strenuously searching for new PPE suppliers, repurposing existing PPE from non-essential parts of the delivery system, easing the social burden upon healthcare workers of providing care, protecting those most at risk, and adjusting workflows (e.g., cohorting) where appropriate; public health departments and relevant governmental entities should be striving to ease regulatory burdens where necessary, issuing updated guidance to hospitals and

community partners for the reuse of PPE where appropriate, and collaborating with the business community to seek resourceful solutions for bringing new supply on hand; and the public should be doing everything in their power to comply with the directives of the relevant public health authorities and follow the instructions of healthcare professionals at point of care to limit exposure to others.

Ultimately, the Workgroup appreciates that there is a potential dilemma on the horizon in terms of understanding the duty of care in the present COVID-19 crisis should PPE supply rapidly diminish or even run out. **However, it would be difficult to provide ethical justification for the halting a duty of care entirely under conditions that are largely outside of any one health system, public health department, or entity's discretion: especially given the potential devastating effects of personal and community health and wellbeing. The Workgroup advises that healthcare workers continue to provide care consistent with professional duties and employment obligations unless there is compelling evidence of i) inadequate burden sharing by relevant community stakeholders from hospital system leadership to public health officers to elected representatives and even citizens or ii) significantly inconsistent practices across delivery systems.** In the meantime, the Workgroup recommends continued efforts to conserve and repurpose existing PPE where appropriate in order to ensure that healthcare professionals are adequately equipped to respond to COVID-19 as a measure of *inter alia* preventative ethics.