

WMA STATEMENT ON MEDICAL ETHICS DURING PUBLIC HEALTH EMERGENCIES

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PREAMBLE

Public health emergencies (PHEs) are regular occurrences that put the life and health of populations at risk. They have multiple origins and are frequently characterised by urgency, uncertainty and rapidly escalating demands to which health services may struggle to respond. Public health emergencies frequently transcend jurisdictional boundaries giving rise to co-ordination challenges for governments and other actors. They can also involve large scale displacement of people. Some of the PHEs are localised, some present threats of international concern. Climate change, conflict and extremes of global inequality are direct drivers of PHEs.

World Health Organization (WHO) defines a public health emergency as “an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or (a) novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents or permanent or long-term disability”. Public health emergencies can result from a wide range of hazards and complex emergencies.

PHEs confront physicians, other health professionals, public authorities and at times the international community with severe challenges. Although fundamental ethical principles in medicine remain unchanged, the combination of urgency, uncertainty and extreme shortages of health resources can present health professionals with extreme difficulties in applying them. The familiar tension in medicine between obligations to individual patients and obligations to the public good can be distinctly pronounced during PHEs. This is particularly the case where the need for life-saving interventions overwhelms the available supply. PHEs can also require restrictions on individual and population rights and liberties that present their own ethical challenges.

This statement focuses on the medical ethical aspects of public health emergencies.

BASIC PRINCIPLES

1. During a PHE, physicians and all other health responders should consider the following principles:
 - The obligation to help reduce overall suffering;
 - The obligation to show full and equal respect to all;
 - The requirement for justice and fairness in the allocation of scarce resources;
 - The requirement that any restrictions on individual choice or liberty must be proportionate, lawful and evidence-based;
 - The obligation to maximise overall health outcomes.
2. Some physicians and health professionals will solely be focussing on population aspects of the response to PHEs. Their primary concern will be maximising benefits and minimising harms at a population level. The above principles will guide them as they seek to realise the greatest overall benefit for the largest number of people.

Issues of particular ethical concern during PHEs

3. Although the basic ethical duties of physicians do not change during a PHE, their application in certain areas can be challenging. Issues of particular ethical concern during a PHE include but are not limited to:

Confidentiality

4. Access to large amounts of accurate, real-time data is an essential part of the health response to many PHEs. Physicians and other health professionals retain ordinary duties of confidentiality to their patients. Information can be disclosed during a PHE where a patient or legal surrogate consents to its disclosure. In the absence of consent such information can be disclosed where there is a lawful justification or for overriding reasons of public interest. The disclosure of information should be limited only to the necessary information for the treatment of PHEs. Consideration must also be given to ensuring the ethical use of data including what happens to the data after the purposes for which it was collected are achieved.

Consent

5. Patients retain the right to consent to or refuse treatment at all times during a PHE. Some compulsory interventions that do not amount to treatment may be acceptable where there is a lawful and ethical mandate supporting them. For example, where individuals present a serious risk of harm to others, and they refuse to accept necessary public health restrictions, confinement may be considered.

Restrictions of liberty

6. PHEs, particularly where they involve emerging communicable pathogens, may require restrictions on individual and population freedoms. Social distancing and self-isolation are highly effective public health interventions and may be mandated by law during a PHE. Any interference with fundamental rights, including restrictions of liberty, must be justified in the public good, necessary, proportionate, based on lawfully-provided powers and authority, and only imposed for as long as necessary based on scientific evidence. The basic needs of any confined person must be met at all times.

Public engagement

7. PHEs can have a profound effect on individuals, communities and societies. They are frequently characterised by fear, uncertainty, and involve severe socio-economic disruption. During PHEs, there is a risk of the widespread circulation of misinformation including conspiracy theories and direct attempts to undermine medical and scientific expertise. Clear communication of evidence-based medical and scientific information, including the justification for any decisions that impact social or economic functions, is essential. Active steps should be taken to tackle misinformation and disinformation, especially when it is coming from health professionals.

8. PHEs frequently require challenging decisions involving trade-offs between fundamental goods. All people affected have a right to know that such decisions are being made and the criteria on which the decisions are based.

Resource allocation and triage

9. Serious PHEs are often characterised by extreme shortages of health resources. This can present physicians and other health professionals with difficult decisions. In ordinary circumstances priority should be given to those with the greatest health need, provided they have capacity to benefit from the health intervention. Those with equal health needs have equal rights to health resources, whether or not the need arises directly from the PHE.

10. In some circumstances, where health needs overwhelm available resources, it may be necessary to triage patients. Triage is a form of resource allocation that involves sorting or prioritizing individuals based on their health needs and their likelihood of responding to an intervention. In extreme conditions it can involve setting aside some people for non-treatment where others have a higher likelihood of benefiting from treatment, or where more people can be saved.

11. Any form of triage must be based on open and defensible ethical principles and must be flexible enough to respond to rapidly changing circumstances. Triage must principally be based on factors determined by the medical community and directly relevant to an individual's health status.

12. Attention must also be paid to health trade-offs arising from decisions made to tackle public health emergencies. A focus on tackling communicable pathogens may, for example, require health resources to be diverted away from other health needs. Any such decision must be based on good moral reasons.

The rights and interests of health professionals

13. There is a limit to the risks that health professionals can be expected to take during the exercise of their

duties in a PHE. Physicians and other health professionals should be knowledgeable of ethical and legal issues and disaster response, including their rights and responsibilities to protect themselves from harm, issues surrounding their responsibilities and rights as volunteers, and associated liability issues. Where health professionals are exposed to risk, corresponding duties arise on employing bodies to mitigate those risks as far as possible.

14. Health professionals responding to PHEs must be properly equipped to deal with the risks they will face, including access to appropriate personal protective equipment (PPE) at all times.
15. Where health professionals face particular risks as a result of their role in responding to PHEs it may be appropriate for them to have priority access to interventions such as vaccines.

Research

16. Research is an essential part of the health response to PHEs. Ethical principles guiding research in ordinary conditions are not changed during PHEs. Undertaking research in PHEs can nevertheless be challenging. Those participating in research can also be particularly vulnerable. It is essential that research in PHEs is undertaken with full respect for the principles set out in the WMA Declarations of Geneva, the WMA Declaration of Helsinki – Ethical Principles for Medical Research Involving Human Subjects, and the WMA Declaration of Taipei on Ethical Considerations Regarding Health Databases and Biobanks.

PHEs of international concern

17. Some PHEs, such as those caused by communicable pathogens or highly-dispersed toxins, can rapidly cross national boundaries and present regional or global health risks. During these emergencies of international concern, the ethical principles outlined above remain unchanged. Given the persistence of serious global inequalities, particular attention must however be paid to transnational questions of justice and fairness in the allocation of health resources.