

LITIGATION, DISPUTE RESOLUTION AND INVESTIGATIONS

COVID-19 – Ethical guidance for healthcare professionals in a pandemic

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As COVID-19 continues to spread, clinicians and those working at all levels in our healthcare system may face increasingly tough decisions, including as regards their duty to care for patients and the allocation of scarce resources.



A guidance document published by the Department of Health, [An Ethical Framework for Decision Making in a Pandemic](#), (“the Framework”) sets out seven ethical principles and five procedural values to guide policymakers, healthcare clinicians, providers and planners in acute and community settings in thinking through these decisions.

The Framework states that *“it is not designed to guide individual clinical decisions but to assist healthcare workers in thinking through the difficult decisions that will need to be made”*.

The Framework draws from the WHO’s 2016 [‘Guidance for Managing Ethical Issues in Infectious Disease Outbreaks’](#), and focuses on many of the same ethical principles, including fairness, solidarity and reciprocity, and procedural values, such as transparency. However, the Framework has more practical application for those working in the Irish healthcare system.

The Medical Council has acknowledged the considerable ethical, medical and societal challenges posed by the COVID-19 pandemic and has advised doctors to follow relevant clinical guidelines and the [Guide to Professional Conduct and Ethics for Registered Medical Practitioners \(Amended\) 2019](#), *“as far as is practical in the current climate”*.

The Department of Health’s Framework provides guidance on a number of areas in which healthcare professionals, and

others in the healthcare system, may be faced with difficult decisions in a pandemic. We have focused on a number of these key areas below, namely the duty to provide care, the allocation of scarce resources, the prioritisation of medication and critical care and surge capacity in the healthcare system. In addition, the Framework addresses restrictions of individual liberty, privacy and the public interest and research during a pandemic.

1. Duty to Provide Care

The Framework addresses the fact that a pandemic requires healthcare workers to shift their practice from patient-centred care for individual patients to providing care that is also focused on a duty to steward scarce resources. It recommends that healthcare workers receive increased supports, including increased psychological supports, as they continue to work in spite of the heightened risks to their own health. Training and support should also be provided where workers are redeployed or take on additional duties.

It emphasises that all reasonable precautions should be taken to prevent illness among healthcare workers, including providing them with the necessary personal protective equipment and associated training. Their testing and treatment, should they fall ill, may be expedited and they could be prioritised if/when a vaccine becomes available.

2. Allocation of Scarce Resources

The Framework recommends that the process for making difficult decisions on the allocation of scarce resources should be reasonable, accountable and transparent. In line with the WHO’s 2016 Guidance, it states that decision-makers should focus on maximising the benefit that can be gained from the limited resources available, as well as on the fair distribution of benefits and burdens. The reasoning behind any decisions should be communicated to the public and to those affected.

The Medical Council has similarly noted that doctors have a duty to use the finite resources available in this pandemic prudently and fairly, so as “to produce the most benefits possible for individuals served by those interventions”. The Medical Council recognised that this will be particularly difficult for healthcare professionals working in Intensive Care Medicine, who will need to evaluate patients based on their chance of recovery.

3. Prioritisation of Medication & Critical Care

The Framework states that the process for differentiating between patients who should and should not receive a particular healthcare intervention, for example admission to ICU or ventilation, must be consistent, take account of the local context and be influenced by fairness.

It recommends taking a “multi-principled approach”, which takes into account a number of complex factors including estimates or projections of the total number of lives saved; the total number of life years saved; and long-term functional status should patients survive. This approach can be used as a

tool to facilitate fair decisions.

The Medical Council has advised that “by making decisions based on the principle of prioritising the use of scarce resources to treat those patients most likely to survive, more lives are likely to be preserved”. It noted that it is for experienced Intensive Care Medicine doctors to assess the potential benefits that a particular treatment might provide to different patients.

The Framework also emphasises that decision-makers should avoid categorically excluding groups of people, for example based on their age, but acknowledges that it may be fair to prioritise treatment of certain at-risk groups and those essential to tackling a pandemic.

4. Increased ‘surge’ capacity in the healthcare system

The Framework recognises that increasing the capacity of the healthcare system to deal with a pandemic necessitates decisions being made on which other healthcare services should be maintained or deferred, and for how long. It recommends that capacity be increased gradually. We have already seen the postponement of many appointments and non-urgent elective surgeries in many hospitals across Ireland.

Vulnerable populations in a pandemic

The Framework notes that while everyone is vulnerable in a pandemic, there are some groups who are particularly vulnerable due to biology, pre-existing medical conditions or social disadvantage. It states that when public health measures are implemented in a pandemic, special attention should be

paid to protecting the interests of these vulnerable populations, as well as seeking to ensure that measures taken do not increase health inequalities. It notes that vulnerable populations include those who typically encounter barriers to accessing care.

The WHO’s 2016 Guidance provides further detail with regards to vulnerable groups in a pandemic. In particular, it notes that “particular consideration must be given to individuals who are confined in institutional settings, where they are highly dependent on others and potentially exposed to much higher risks of infection than persons living in the community”.

An aid to healthcare professionals faced with challenging decisions

The Department of Health’s Framework can be used by healthcare professionals and others in the healthcare system for guidance when they are thinking through the difficult decisions that lie ahead during the COVID-19 pandemic. The Framework notes that by using ethical principles to guide decision-making, this can have the benefit of enhancing trust and solidarity, as well as strengthening the legitimacy and acceptability of the measures put in place.

The WHO’s 2016 Guidance deals with several ethical issues that may arise in an infectious outbreak that are not addressed in the Department of Health’s Framework. These include, for example, the ethical issues arising where a person refuses treatment during an infectious outbreak. The Medical Council’s Guide to Professional Conduct and Ethics for Registered Medical Practitioners (Amended) 2019 does, however, address the refusal of treatment by patients, albeit in a more general context.

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