



POLICY TITLE: Baptist Health South Florida Ethical Framework during a Pandemic

Responsible Department: Emergency Preparedness & Security

Creation Date: 7-24-07

Review Date:

Revision Date: 2020/03/23

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PUBLISHED (Released): 2020/03/23

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Baptist Health South Florida Ethical Framework during a Pandemic

SUMMARY & PURPOSE:

This ethical guide was developed after consultation and approval of the Baptist Health Bioethics Committee, each hospital's Clinical Ethics Committees, Executive Committees and Boards. They reflect the overall mission of compassionate healthcare at Baptist Health.

POLICY:



Baptist Health has identified 13 ethical values to guide advance planning in case of a pandemic. As important as they are in providing advance planning guidance, they will achieve their fullest potential only when they are held and integrated successfully within an equally ethical and comprehensive community plan at the local, state and federal levels.

SCOPE/APPLICABILITY:

It applies to all members for the medical staff, employees and volunteers of Baptist Health South Florida who will care for our patients during the time of an influenza pandemic or any other similar widespread catastrophic event.

PROCEDURES FOR IMPLEMENTATION:

1. BHSF Ethical Commitments in a Pandemic:

Ethical Commitment #1	Restriction of individual freedom in the form of quarantine, compulsory vaccination and other measures is acceptable at the time of an epidemic. Any restriction of this freedom has to be commensurate with the severity of the threat and in compliance with applicable regulations and laws.
Ethical Commitment #2	It is acceptable to allocate care following acceptable criteria, but only after all efforts to provide adequate resources have failed. This allocation cannot discriminate based on reasons that include, but are not limited to, race, color, religion, sex, age, sexual orientation, or any other legally recognized status entitled to protection under state, federal, or local anti-discrimination laws.
Ethical Commitment #3	It is the duty of healthcare workers at Baptist Health to provide care if an epidemic affects our community. In return, healthcare workers should be protected in their working environment.

2. Ethical Values Supporting Baptist Health’s Commitments and Procedures in a Pandemic:

For our ethical commitments to be workable they must have the support of the employees of Baptist Health and of the communities we serve. Therefore, these commitments should be based on substantive, widely agreed-upon and procedural ethical values and beliefs.

The following substantive ethical values provide overall direction in the development of our ethical commitments and — along with the procedural values described below — provide guidance in ethical decision-making at the time of a crisis. These substantive and procedural values are based on widely held moral, ethical and religious standards — standards which are also held by Baptist Health and the communities we serve.

3. Substantive Ethical Values:

Substantive values provide guidance as to what Baptist Health should do in the event of a pandemic.



- a. Protection of the Community: In a severe pandemic, it is helpful to look at and think of the community as if it were a person. A severe pandemic could kill not only many members of a community but the functioning of a community. It is therefore imperative to preserve the integrity of the community. This may require compulsory vaccination, quarantine and other measures that infringe on the rights of particular individuals. Being committed to and applying this substantive value is not absolute. It is conditioned and proportional to the values of individual, trust proportionally and to the procedural value of transparency.
- b. Respect for Individual Rights: This cherished substantive value of our society should be restricted only under severe circumstances, and any restrictions of such individual rights must be applied equitably, with proportionality, and employed with the least restrictive measures possible and according to applicable regulations and laws.
- c. Proportionality: This value requires someone — usually in leadership — to make judgments as to how much restriction of individual liberty is necessary to protect the community from the threat. This decision must be made according to other procedural values such as accountability, transparency, etc., to be discussed later.
- d. Trust: If achieved, this substantive value will markedly enhance the relationship between Baptist Health and all its stakeholders. It is essential to earn the trust and cooperation of clinicians, patients, employees and the community when difficult decisions to ration resources and limit personal liberties are made. Trust is supported by the procedural values of transparency, inclusiveness, responsiveness, accountability and the substantive values of equity and reciprocity.
- e. Duty to Provide Care: The duty to provide care is inherent to the medical and nursing professions. It belongs to the field of professional ethics and therefore, except for these professions, lacks universality. Individual healthcare workers must weigh professional and personal considerations — that is, consider other duties that they may have in their professional lives that may take precedent.
- f. Reciprocity: Baptist Health will do everything reasonably possible to support and protect healthcare workers who place themselves at risk while performing their duties in a pandemic.
- g. Solidarity: A common threat requires a united response. Baptist Health and all its hospitals and clinics will work together in a pandemic. This solidarity will extend to other hospitals and healthcare institutions in South Florida as well as to the local health department and state and federal agencies.
- h. Equity: Baptist Health will continue to provide equal care to all patients in need. Nevertheless, in a pandemic, resources of equipment, medications and personnel will be stretched to the maximum. It is possible that certain services such as elective surgery and even emergency or necessary services may need to be curtailed. However, the criteria used to make those decisions cannot discriminate based on reasons

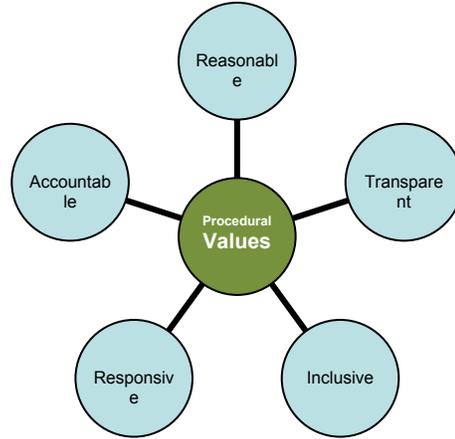
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that include, but are not limited to, race, color, religion, sex, age, sexual orientation, or any other legally recognized status entitled to protection under state, federal, or local anti-discrimination laws.

4. Procedural Values:

Procedural values provide guidance as to how Baptist Health should make decisions in a pandemic. Under these values, decisions made in a pandemic must be:



- a. Reasonable: Based on evidence in keeping with the substantive values described above.
- b. Transparent: Publicly available and open to scrutiny.
- c. Inclusive: When possible, stakeholders should be engaged in the decision-making process and their views should be kept in mind.
- d. Responsive: Decisions are not final and should be revisable whenever new information is available. There is a well-defined process to address complaints.
- e. Accountable: Decision-makers in a pandemic must be accountable for their actions or lack thereof. Decisions should be justifiable and explainable based on Baptist Health’s substantive and procedural values.

5. Elaboration on the Three Ethical Commitments:

Ethical Commitment #1	Restriction of individual freedom in the form of quarantine, compulsory vaccination and other measures is acceptable at the time of an epidemic. Any restriction of this freedom has to be commensurate with the severity of the threat and in compliance with applicable regulations and laws.
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Quarantine is usually the responsibility of government but, in a case of a pandemic, private institutions such as Baptist Health may be in the position of having to severely restrict visitors or place healthcare workers in hospital confinement to protect the community.

Good communication and relationship with county, state and federal agencies and officials before the pandemic develops is very important. The solidarity that can be created in developing these relationships early on will assure that the community response is unified and that guidelines developed by the government are followed appropriately and adequately.

In recent epidemics, such as SARS in Canada, the public cooperated with authorities and accepted imposed restrictions well. Nevertheless, post-epidemic research revealed that to get the full cooperation of the public, restrictions must be enforced fairly and without discrimination. The persons quarantined in the hospitals or elsewhere must be treated with respect. Their basic needs (food, sanitation, privacy and safety) must be provided.

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Four substantive values to consider are respect for individual rights, community protection, proportionality and reciprocity.

Ethical Commitment #2	It is acceptable to allocate care following acceptable criteria, but only after all efforts to provide adequate resources have failed. This allocation cannot discriminate based on reasons that include, but are not limited to, race, color, religion, sex, age, sexual orientation, or any other legally recognized status entitled to protection under state, federal, or local anti-discrimination laws.
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Ethical issues related to allocation of resources arise when the resources in question are scarce. It could then be said that first ethical consideration is to assure that the resources in question are available in enough quantities to meet the needs of the public.

Organizations such as Baptist Health have a limited role in assuring the availability of adequate resources during a catastrophic event such as a pandemic. In general, this responsibility belongs to the government and its planners. Nevertheless, Baptist Health has a responsibility to develop policies that assure access to the state and federal resources it is entitled to have. It is very important that the guidelines developed to assure access to resources are based on the five procedural values described above. Unfortunately, it is quite possible that in spite of the best planning, the system could be overwhelmed in a pandemic and resources would have to be rationed based upon the following set of priorities:

- a. When there are not enough vaccines and antiviral medicines for all who need them.
- b. When resources (such as supplies, equipment, facilities and services) needed to treat both regular patients and patients ill from the pandemic are limited.
- c. When healthcare personnel are unavailable or are very limited.

In any of these three circumstances, the same question needs to be answered: Who gets what first? It is impossible to develop rationing guidelines that will address all the possible scenarios fairly. However, it is possible to decide on which rationing criteria are acceptable and which are not, and to base decisions on the values upon which we have previously agreed. There will be many circumstances in which decisions based on different substantive values could appear to be fair to some and unfair to others. But the substantive and procedural values must be strictly followed in making these decisions.

6. Unacceptable allocation decisions:

- a. Allocation decisions must not discriminate based on reasons that include, but are not limited to, race, color, religion, sex, age, sexual orientation, or any other legally recognized status entitled to protection under state, federal, or local anti-discrimination laws. This is supported by Baptist Health’s overall commitment to provide healthcare to all in need within the organization’s capabilities.
- b. Allocation decisions will not be based on whether patients are ill from the pandemic or from other causes. It is the illness and its threat to the patient — not the kind of illness or how it comes about — that we must treat.

7. Acceptable allocation decisions:

- a. Frontline healthcare and emergency personnel (particularly those who have fallen ill in performing their duties) will have priority. In the case of war or crisis, it is reasonable to give priority to those who are protecting the community. If they become ill because they have put themselves at risk, it is fair that, in reciprocity and solidarity, we take care of them first. Of course, this is not absolute. A patient who is very ill and requires care and who, if treated promptly, could recover completely could be reasonably treated ahead of a healthcare worker who is not very ill.
- b. Patients who are seriously ill and who, at the same time, have a better chance for recovery may be given priority. As another widely accepted rationing decision that we endorse, this is a medical decision that must be made by (or under the supervision of) a physician.

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- c. It is very important that any rationing decision be made with the understanding that every effort is been made to alleviate the shortage and that it is made following the five procedural values elaborated earlier. Therefore, rationing decisions must be reasonable, open, transparent, inclusive, responsive and accountable. It is only then that decisions will have moral value and meaning.

Ethical Commitment #3	It is the duty of healthcare workers at Baptist Health to provide care if an epidemic affects our community. In return, healthcare workers should be protected in their working environment, with adequate support provided in a time of extraordinary demands.
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8. Issues to Discuss:

Is there any difference between physicians, nurses, chaplains, social workers, administrators, technicians, maintenance people, kitchen personnel, etc.? What do codes of ethics of the different health professions say about this?

In a large epidemic, anyone who works in a hospital is at higher risk not only of becoming infected but also of transmitting the disease to friends and family. Physicians and nurses have a tradition of continuing care in spite of the risks of contracting disease because their care is essential to patients’ survival. Nevertheless, the present code of ethics of the AMA is silent on this issue.

The last time this issue was addressed it was more than 50 years ago. Likewise, the codes of other health professionals do not deal with this issue.

Nevertheless, there are reasons to accept that it is the duty of physicians and nurses to provide care in spite of personal risks. Both physicians and nurses profess to place the interest of the patients ahead of their own. Both freely have chosen vocations with risks inherent in their practice. Because of these two factors, physicians and nurses, like firefighters and police officers, enjoy some social privileges. In addition, if physicians and nurses refuse to work in an epidemic, they are not easily replaced — but care has to continue. The responsibility now falls on those who are faithful to their calling, thereby increasing their risk and stress even further.

We recognize that the commendable act of continuing to provide care in spite of increased risks has limitations. Caregivers’ responsibilities and duties vary according to the severity of an illness, its infectiousness and the availability of successful treatment. If the disease is highly infectious, the illness very severe and no cure available, it will be very hard to enforce the duty of healthcare professionals to provide care. There are physicians, nurses, chaplains, nurses’ aides, maintenance personnel and others who will carry on their responsibilities regardless of the risks that they face. They should be praised for their moral action and given all the support and protection they need. Baptist Health is committed to do that.

In circumstances where the infectious agent is not highly contagious and there is a cure or partial cure, healthcare professionals and the rest of the hospital staff are expected to continue with their usual duties. Nevertheless, there are exceptions to this rule, which would be cases in which the healthcare worker has increased risk of becoming infected by being immuno-compromised, pregnant or chronically ill. In these cases, Baptist Health will not punish or condemn those who will not place themselves or their families at risk during a pandemic.

Issues of trust, reciprocity and solidarity also must be addressed. If Baptist Health expects healthcare professionals and other employees to perform their duties and care for patients under risky and difficult circumstances, we also have a duty to assure that they are protected in their working environment with adequate support provided in times of extraordinary demands. Baptist Health must provide adequate protection and resources to decrease employees’ risks.

In other words, based on the substantive values of trust, reciprocity and proportionality, Baptist Health should provide information, when available, on the risks and measures for adequate protection and offer the

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necessary protection. Baptist Health will make every possible attempt to remove financial and legal barriers that employees face in the delivery of care during a pandemic.

Healthcare workers' spiritual and psychological needs also must be taken into account. When decision-makers make tough choices according to these guidelines, they should be assured that they have the full support of Baptist Health's administration and Board of Trustees.

Should the responsibilities for non-professional hospital personnel to provide care be the same as that of physicians and nurses? This issue has not received the attention it deserves. It is generally assumed that because of their commitment to place the interest and welfare of their patients ahead of their own, physicians and nurses should care for patients with a highly communicable disease — even if this implies a possibility of becoming ill and even dying from the disease, or transmitting it to families and others. This commitment and oath to care is the basis for the acceptance of the risks. But what about the administrator who supervises the hospital, the cook in the kitchen, the employee who delivers the food, the chaplain who provides spiritual support, the social workers, the lab and radiology techs, the nurses' aides who clean and feed patients, or the maintenance employees who clean patient rooms? The hospital can't function without doctors and nurses — but neither can it function without maintenance personnel. During the SARS epidemic, it was not only doctors and nurses who became ill and died. Paramedics and janitorial staff did, too.

The so-called duty to treat imbedded in the social contract cannot be the basis for the tradeoff of professional independence and privilege. It is also present in other members of the healthcare team. What needs to be respected and treated with social reciprocity and solidarity is the virtuous character of those who selflessly care for the ill. To that, we are committed.

9. A Word on the Different Ethical Philosophies:

Some may wonder why so little has been said about the major theories of moral philosophy. It is not that they are not important. They provide the theoretical foundations of common morality. Careful review of the standards will reveal that there is something of every school in each of them. The deontological school has a lot to say when trust, individualism and the duties of professionals are discussed. Utilitarianism and communitarian ethics as well as solidarity ground the standard of protection from harm. Virtue ethics embody the concept of compassion, which grounds the healthcare mission of Baptist Health. Because of the complexity of the issues and the debate that persists among the different theories of moral philosophy, the committee felt that it would suit us better to identify common ground in standards and principles that every member of our community would, in general, agree upon and proceed from there.

SUPPORTING/REFERENCE DOCUMENTATION:

Due to the evolving characteristics of the regulations and laws supporting some aspects of this framework specific references are not available at this time but will be incorporated into the framework and pandemic specific policies as appropriate and available.

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RELATED PROCEDURES AND ASSOCIATED FORMS:

None.

ENFORCEMENT & SANCTIONS:

BHSF follows the National Incident Management Systems (NIMS) and the Hospital Incident Command System (HICS), which does outline the Hospital, Local, State and Federal chain of command. This chain of command will determine the enforcement of this guideline.