FBN Florida Bioethics Network

PANDEMICS:

THE ROLE OF BIOETHICS COMMITTEES

FBN WEBINAR / MARCH 16, 2020

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CME CREDITS

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  The University of Miami Leonard M. Miller School of Medicine is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

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  The University of Miami Leonard M. Miller School of Medicine designates this live activity for a maximum of 1 AMA PRA Category 1 Credit™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

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  All conflicts of interest of any individual(s) in a position to control the content of this CME activity will be identified and resolved prior to this educational activity being provided. Disclosure about provider and faculty relationships, or the lack thereof, will be provided to learners.

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AGENDA

- Introductions and Welcome
- About the Webinar
- Presentation
- Question and Answer
- Resources

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ABOUT THIS WEBINAR

- Launches FBN webinar series; suggestions for future topics welcome
- Launches policy collection project
- Nothing in this presentation or accompanying materials constitutes or should be inferred to constitute legal advice. For questions about liability or statutory law, contact qualified legal professionals.
- Not a comprehensive look at the ethics of pandemics generally or COVID-19 specifically; rather, an attempt to link Florida's ethics committees to identify and promote best practices.

OVERARCHING ETHICAL CONCERNS

- Burden of risk
- Professionalism
- Hospital duties: clinicians, staff, leadership
- Society's duties: governments

ETHICAL FRAMEWORK

- Transparent planning, decision making, communication
- Impartial; non-arbitrary
- Evidence/science based
- Principle of utility, i.e., greatest good for the greatest number
- Principle of justice, i.e., fair application of rules and limitations
- Applies to all patients, not only those with COVID

COMMITTEE COMPETENCE

- Institutional Ethics Committees are the standard for meeting recommendations by the Joint Commission, the American Society for Bioethics and the Humanities and the FBN.
- If your institution does not now have an ethics committee, "borrow" one from another institution.
- Committee members absolutely must be familiar with issues and literature, including tension between Utilitarian and rights-based approaches.
- Do not offer education, policy support or consultations until familiar with pandemic issues, laws and literature.
- Do not "practice ethics" beyond scope of competence.

ISSUES FOR COMMITTEES TO ADDRESS

- Duty to treat; scope of care; managing risk to clinicians; duty to support clinicians
- Non-beneficial / futile treatment
- Quarantine and isolation
- Triage
- Resource allocation

"DUTY TO TREAT"

- Treatment Goals: Curative, Palliative, Preventive
- "Patient-centered" is not suspended during a public health emergency
- Fair application of rules
- If there are staffing shortages, may clinicians practice beyond training? Students? Trainees? Retirees? Infected clinicians?
- May clinicians decline to be exposed to risk?
- How is the institution trying to mitigate that risk?
- Social, family, financial support

NON-BENEFICIAL / FUTILE TREATMENT

- Most Florida hospitals already offer and provide treatment reasonably believed to be ineffective, likely out of fear of liability.
- It is not ethically required that a physician or nurse offer or provide interventions believed to be ineffective; indeed, it might be ethically forbidden – especially in emergencies or circumstances shaped by limited resources.
- Judgments about benefit or futility need not be infallible; cf. "reasonable degree of medical probability," from Florida Statutes.

QUARANTINE AND ISOLATION

- Proportional to threat
- Do not worsen pre-existing disparities
- Impartial and evidence-based

TRIAGE

- Most triage provisions are "time permitting."
- Life and death decisions must be impartial, but need not be infallible.
- Reviews and second opinions are preferred at point of care; if time does not permit this, reviews of triage decisions should be made as soon as possible after the fact.
- In an emergency/triage situation, a decision to treat someone means making a decision about who will not get treatment .
- Managing pain and symptoms, ensuring comfort in dying, and supporting families and providers are what palliative care clinicians do every day. In an emergency, palliation is always appropriate.

RESOURCE ALLOCATION

- People are a resource. If there are staff shortages, people must be rationed.
- CPR
- ECMO
- Equipment: beds, ventilators, medication, vaccines
- Review decisions (second opinion, peer review) at point of care, time permitting; or after the fact; establish a process for this.

"CRISIS STANDARDS OF CARE"

- "First-come, first-served" is generally inappropriate in an emergency.
- Florida law is silent or unclear.
- Ensure ethically defensible positions, policies and decisions.
- Evidence as justification, e.g., SOFA scores for ventilator allocation.
- Utilitarian need to consider terminating treatment for one patient who is dying and transferring resources to another thought to be survivable with those resources.
- Best to have an evidence-based, ethically optimized easy-to-follow policies and their invocation

"HIGHEST CHANCE OF SUCCESS"

Informed by the principle of utility, or maximizing benefits for the largest number, Italian guidelines suggest that "the allocation criteria need to guarantee that those patients *with the highest chance of therapeutic success* will retain access intensive care."

RESOURCES

- Florida Bioethics Network, Pandemic Ethics Resources. https://bioethics.miami.edu/education/public-health-ethics-pandemic-resources/index.htm.
- 2010 Florida Department of Health draft Guidelines: https://bioethics.miami.edu/_assets/pdf/about-us/special-projects/ACS-GUIDE.pdf.
- Florida Bioethics Network, *Guidelines for Ethics Committees*: A resource of hospital, nursing homes and hospices (Miami: FBN, 2010/new edition forthcoming 2020).

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CONCLUSION

- Send suggestions for future webinars to fbn@med.miami.edu
- Annual FBN Annual Spring Conference moved from March 27 to Nov. 13, 2020; Miami Marriott Biscayne Bay
- This presentation, video and slides, will be archived on the FBN website.
- Many thanks to the UMMSM Division of CME and Gordon Center for Simulation and Innovation in Medical Education

QUESTIONS

- We will end punctually at 1pm. Please see the Resource List and stay tuned for future webinars.