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## **DMEC Bioethics Case File**

### **Department of Defense Medical Ethics Center (DMEC)** **COVID-19 Pandemic - Bioethics Guidance** **Reopening the MHS: Future Ethical Concerns**

#### **Date:**

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#### **Issue:**

What ethical guidelines should health care professionals at Military Treatment Facilities (MTFs) heed as both our Nation, and the Globe, begin to reopen from more restrictive quarantine measures instituted in response to the COVID-19 Pandemic?

#### **Recommendations:**

Ongoing deliberate ethical considerations will be important as MTF health care professionals navigate the next phase(s) of both in-hospital and out-of-hospital realities associated with the COVID-19 Pandemic. In the situations listed below, as well as in others not covered herein, health care professionals will need to remain vigilant to numerous legal, quality assurance, ethical, and administrative concerns. These may include the following issues, for which close consultation with the appropriate MTF Legal Advisor, MTF Quality Assurance (QA), and other collateral support is highly recommended:

#### **Resuming routine care of non-COVID patients**

Routine primary care visits, cancer screening studies, non-essential surgeries, and other medical procedures have been put on hold in many medical institutions during this time of crisis. As restrictions on social contact and rendering of various medical services are lifted, there will be requirements to resume care for these patients in ways that are mindful of their needs. Those patients whose conditions were considered “non-urgent” and whose treatment(s) were regarded as “non-essential” during the initial phase of the pandemic, may now be getting sicker, and their care becoming more in need of prompt attention. The ability to increase the extent and

scope of care is ideally done through thoughtful regard for patient safety and the primacy of both their best interest(s) and the force readiness of the military. Such considerations include reviewing who will benefit most from early intervention, comprehensive testing for COVID-19, and maintaining appropriate Personal Protective Equipment (PPE) for responsive clinical staff. Honest and open communication with patients is encouraged to preserve the integrity and trust of the clinical relationship.

One of the most critical issues to consider, as medical facilities begin to increase their clinical procedures, is the manner in which the risks associated with the COVID-19 Pandemic will be explained to patients scheduled for an upcoming medical procedure as part of the informed consent process. Given the highly fluid and dynamic nature of the COVID-19 Pandemic, it is obviously difficult to accurately predict the future disease trajectory, and almost assuredly impossible to reduce the possibility of a patient becoming infected with COVID-19 during a clinical procedure to zero. As such, MTF health care professionals need to be expertly proactive and precise, with high levels of emotional intelligence, in explaining the elevated risks that a patient would be assuming in voluntarily agreeing to a medical procedure in a clinical setting during this COVID-19 Pandemic. Obviously, if the MTF health care professional believes that the medical benefit to the patient in having the procedure completed in the medical facility in the midst of this COVID-19 environment, is outweighed by the medical risks they would be subjected to in execution (based on their own unique health profile), then the medical procedure should not be offered to the patient in the first place, but rather delayed until a later point when there is a more permissive/safer medical environment.

### Practical/Legal Considerations

Prioritization in the return of “standard” medical care in MTFs as a source of potential tort liability for delayed treatment.

Arranging proper transfer or of release patients who are not otherwise eligible DoD medical beneficiaries to insure appropriate follow up and/or continuity of care in the civilian system.

### Relevant Ethical Principles

Duty to care

Beneficence (Doing Good)

Nonmaleficence (Do No Harm)

Trust (Fidelity)

Physician-Patient Relationship

### *Obligation to Health Care Students*

The training of health care students has been significantly disrupted and modified during the time of crisis on account of the COVID-19 Pandemic. As such, reincorporating students into clinical practice and providing remediation of knowledge and skills, as necessary, will be critical to maintaining educational continuity, clinical competence, and standards of care.

### Relevant Ethical Principles

Duty to teach  
Trust (Fidelity)  
Nonmaleficence (Do No Harm)

### *Attention to dynamic policies*

With varied executive orders and immunities/protections currently in place on account of the COVID-19 Pandemic, remaining up to date on possible revisions and/or terminations of these pertinent orders will be important moving forward, as many of these directives are temporary in nature. More specifically, due consideration should be given to the following issues:

- Review of FDA/CDC/HHS/NIH and/or state policies to assess if/when relaxed equipment standards or emergency policies regarding Do Not Resuscitate (DNRs) are cancelled and/or modified.
- Tracking federal and state emergency laws/policies to evaluate if/when they are rescinded.
- Effect of laws/policies on licensure status, privilege status, and tort liability coverage and/or immunity (to include potential liability shields for entities where persons may contract COVID-19).
- Consistency of federal installations with host jurisdictions as restrictions and/or standards are weaned.

### *Re-opening the economy/Mass Testing*

Use of electronic/computerized tracking of contacts for those who test positive for COVID-19 will be useful to further identify the infected, recovered, and vulnerable, and mitigate the spread of disease. Toward these ends, it will be necessary to prepare surveillance security measures to be taken while working to minimize compromised individual privacy and civil liberty (of active duty personnel, and dependents, respectively). Any/all information released to public must be reviewed and assessed for impact on patient care, provider protection, and national security (need to know).

### Relevant Ethical Principles

Beneficence (Doing Good)  
Nonmaleficence (Do No Harm)  
Trust (Fidelity)  
Veracity (Truthfulness)  
Distributive Justice (Equity in Health Care Access)  
Respect for autonomy (Individual Choice)

### *Minimizing Moral Injury*

In health care facilities, the following second and third order effects might develop on account of the COVID-19 Pandemic and need to be addressed in turn:

- Counseling caregivers who feel overwhelmed, intellectually, emotionally, and/or physically as a consequence of the magnitude of tragedies they have experienced and attempted to mitigate.
- Dealing with potential interpersonal conflicts between providers who remained to treat afflicted patients and those who took sick leave or chose not to participate in care.

In the general population, the following second and third order effects might develop on account of the COVID-19 Pandemic and need to be addressed in turn:

- Attention to those with pre-existing mental health conditions that have worsened due to the highly restrictive quarantine measures.
- Increased mental health support for those affected by loss of loved ones, loss of employment, ongoing challenges with physical isolation, financial losses, fears of an insecure economic market.
- Recognizing survivor guilt in those patients (and health care professionals) that were infected with COVID-19 and lived through that temporal disease state to recovery.

### Relevant Ethical Principles

Beneficence (Doing Good)

Nonmaleficence (Do No Harm)

Trust (Fidelity)

Non-abandonment

Empathy

Protection of public good and future generations

### *Retrospective self-evaluation/future planning*

One of the early lessons learned from a retrospective analysis of the COVID-19 Pandemic are the glaringly unfortunate disparity of clinical outcomes between ethnicities and socioeconomic classes. As such, due attention should be paid to the following considerations going forward to remedy those inequities to the greatest extent possible, both within the MTFs and larger communities.

- Review of how triage decisions were made in light of potential for implicit discrimination.

- Engagement of the ethical principle of justice to determine how best to mitigate the social determinants of health care to minimize implicit disparities in triage guidelines going forward.
- Perform objective quality assurance review of medically adverse incidents to determine if they were caused by individual negligence, systemic negligence, or were beyond the control of providers/facility.
- Review of MTF policies regarding cross training on equipment in non-stress situations to allow for greater competence of non-specialists to provide help in future crises.
- Elicit patient safety reviews for system improvements in quantity/quality of equipment/personnel.

### Relevant Ethical Principles

Intellectual honesty  
 Duty to Steward Knowledge and Resources  
 Distributive Justice  
 Casuistic Virtue (Knowledge)

### **Conclusion:**

This document catalogs a variety of ethical considerations that health care professionals need to be cognizant of during the next phases of the COVID-19 Pandemic evolution. However, additional ethical issues on the horizon are likely to be associated with ongoing needs to balance both individual service members' health and collective force readiness of the military; duty to care for those patients whose health care problems are not associated with COVID-19; availability of treatments; balancing public health, protection and individuals' privacy; potential and/or perceived infringement of civil liberties; and access to mental health services. Finally, it is the duty of all health care professionals to consider the most effective ways to minimize disparities that have resulted in minorities and socioeconomically disadvantaged individuals being disproportionately harmed in this COVID-19 Pandemic. MTF health care professionals owe it to their colleagues and patients to remain vigilant to the ethical, legal, and quality issues as they arise as result of, and in response to, the COVID-19 Pandemic.

### **Closing Remarks:**

Please feel free to re-engage with the DMEC for additional assistance and guidance if these issues require further discussion towards resolution. DMEC POCs are Mr. Joshua Girton, DMEC Deputy Director ([joshua.girton@usuhs.edu](mailto:joshua.girton@usuhs.edu)), and Ms. Poly Combs, DMEC Program and Management Analyst ([polyxeni.combs@usuhs.edu](mailto:polyxeni.combs@usuhs.edu)).

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