

Ethics and the COVID-19 Pandemic

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Disclosures

- No financial disclosures
- Employment – Full Time
 - Massachusetts General Hospital
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 - Royalties/ Honoraria (< 2%)
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 - AMA Council on Ethical and Judicial Affairs (2019-2026)

Agenda

- Introduction to Ethics
 - What is ethics?
 - Values and approaches
 - Methods
- COVID-19
 - Setting the stage: values in conflict
 - Early questions
 - (Re-)Establishing norms in psychiatry
 - Present challenges and ongoing debate/ challenges
- Wrap-Up and Questions

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What Is Ethics?

“Ethics is the study of how to make hard choices in the face of conflicting values.”

-- E. Crigger PhD



Ethics: Methods

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Ethics: Values

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Traditional Approaches to Bioethics

- What defines or is the origin of good or right?
 - Duty – Deontology
 - Relevance: oaths, covenants, pledges
 - Many origins; may come into conflict
 - Outcomes – Consequentialism
 - Relevance: public health, benefit, effect size
 - How do we measure? Are there constraints?
 - Character – How to be
 - Relevance: Moral exemplars, what would X do
 - Is character really “global”

Balancing Many Considerations

- Principles (vs. rules) derived from common morality
- Four Principles (Beauchamp and Childress)
 - Autonomy
 - Beneficence
 - Nonmaleficence
 - Justice
- Prima facie vs all-things-considered: balancing
- Moral regret/ residue
- Method = balancing

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COVID-19: Ethical Frame

- COVID-19 as a public health emergency with critical health consequences – ethical obligations to public health
- May (will?) cause tension with commitments to individual patients
- When ethical considerations or norms come into tension with each other, ethical challenges emerge
- Early on, the very real possibility of more patients than ventilators required a bioethics response.
 - Public health/ outcomes in tension with individual claims
 - Balancing of principles

Early Challenges: Resource Allocation

- Key question: In the setting of limited resources, how do we decide who gets critical care resources and who doesn't?
 - (while we also convince the public to flatten the curve)
- Many reasons to have this discussion – bioethics at its best:
 - Public engagement and transparency
 - Expectation setting
 - Notice and clarity
 - Liability considerations – not just legal – moral distress as well
- Planning and engagement with stakeholders
 - Institutions: hospitals, subacute care, palliative care/ hospice
 - Government: officials and regulators
 - Medical personnel and organizations

Public Engagement

OPINION

A message to the public from Mass. doctors, nurses, and ethicists about the coronavirus

Lessons from China and Italy suggest that the public needs to be fully aware that typical medical options may soon become unavailable.

By Members of Harvard Medical School Center for Bioethics, Updated March 30, 2020, 5:26 p.m.



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Allocation: Crisis Standards of Care

- If there are not enough critical care resources available, who should get priority?
- OUTCOMES focused → most versions talked about survivability +/- life years
- Point system
 - Use of SOFA scores with other point factors
 - Questions:
 - Who would make decisions
 - Separation of bedside clinician from allocation
 - Priority for HC providers/ front line workers?
- Feedback/ Problems
 - Disability/ ventilator-dependent; geography; social determinants



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What Did We See? The First 90 Days

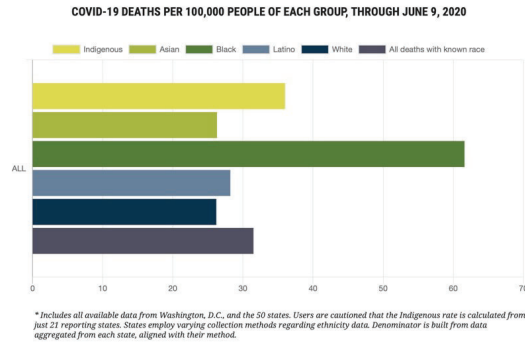
- MA did not need to invoke CSC
- Major disparities emerged:
 - Black Americans had the highest overall mortality rates and disproportionate death rates from COVID-19
 - Overall rate 2.3 x as high as for Whites and Asians (2.2x Latino)
 - Black Americans died above their population share in 30 states (greatest in Washington, DC)
 - Black Americans: 12.4% of population and 24.3% deaths
- Risk factors for illness and death:
 - High-density housing
 - Pre-existing conditions (point system not neutral)
 - Employment



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COVID-19 Deaths by Race



<https://www.apresearchlab.org/covid/deaths-by-race>



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Race and COVID-19

- Structural racism and disparities in impact of COVID-19 should not have been a surprise
- Missed opportunity for bioethics to develop response to Social (Political) Determinants of Health upstream
- Critical need to address structural racism – social, political, and economic structures that prevent an individual, group, or society from reaching their full potential
- No surprises
 - Housing: downstream consequences
 - Employment: lower wage, no benefits, (54% Blacks, 63% Latinos)
 - States with slaves in 1860 and Medicaid expansion under ACA



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Broadening Bioethics: Contemporary Lenses

- Feminine Bioethics and Ethics of Care
 - Caring in all its dimensions as core consideration
- Feminist Bioethics – Ending gender-based oppression
 - Extension to all forms of oppression
 - Gender, sexuality, heteronormativity
 - Disability, vulnerable populations
- Critical Race Theory
 - Identify sources of and end race-based oppression and injustice
 - Intersectionality
 - Structural racism
- Narrative Ethics
 - Individual and shared stories
 - What is right and what to do must be seen in context and lived experience



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Lessons: The First 90 Days

- If bioethics (and we as citizens more generally) want to be serious about health, we also need to be serious about racism, disparities, and addressing social determinants
- More than just health insurance (though it helps)
- Think about health in all its dimensions
- Bioethics can be part of the solution with a wide lens and broad scope about problems in context

(Re-)Establishing Norms in COVID-19

- Many challenges
- Shift to new technologies and telemedicine
 - Confidentiality and Privacy
 - Boundaries:
 - Psychiatrist – Patient
 - Psychiatrist – Practice
- Patient interests vs public health: ongoing challenges
 - Mental Health effects of precautions
 - Institutional ethics vs individual needs
 - Many questions and cases

Selected Cases

- Emergency Treatment
 - A patient clearly meets involuntary commitment criteria but refuses COVID testing
 - Limited resources for isolation period
 - How to balance ethical considerations: public health vs individual
- Management in Institutional/ Congregate Settings
 - On a psychiatric inpatient unit, a patient on COVID-19 precautions does not adhere to infection control protocols, e.g. leaving room without a mask
 - In an institutional setting, a patient refuses to be vaccinated.
 - What should the inpatient team do?

Engage Ethics Broadly: Ask Questions

- What are our obligations to the patient as physicians?
- Outcomes?
- What would the good or compassionate psychiatrist do?
- What principles are implicated and how do they weigh out?
- What would it mean to care for the patient (dimensions)?
- Are there features of oppression to consider?
- How does narrative inform this moment?
- Take Home Points:
 - Moral residue will occur – make it explicit
 - Avoid false binary options
 - Know your resources



Additional Resources

- AMA, APA ethics resources
- Admittance, Discharge of Psychiatric Patients During COVID-19, APA COVID-19 Pandemic Guidance
 - 1. Premature discharge unreasonable regardless of COVID due to risk “irrespective of communicable disease outbreaks”
 - 2. Referral to a psychiatric setting should “balance efforts to match patients’ mental health needs with appropriate level of care while considering the potential risk of communicable disease at each level of care”
 - 3. Each level of psychiatric care should provide “safe and appropriate care and treatment, including adequate protection from the risk of infection from the communicable disease.”
- No bright lines



Ongoing Ethics Challenges in COVID-19

- Masks/ Face Coverings
 - Individual rights vs collective good
 - Can't vs won't
- Vaccines
 - Allocation/ Equity
 - Hesitancy and refusal
 - Requirements? (physicians and patients)
 - Disputing science
- Psychiatrists' Responsibilities
 - Mental health pandemic (e.g. overdose, anxiety, loneliness)
 - Conduct in public spaces/ media/ government
 - Public education and confidence in science
 - Reopening practices



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Concluding Thoughts

- Bioethics is more than a set of fixed rules and reasoned ideas
- Calls on us to engage our faculties of reason and affective discernment
- Calls on us to engage a broad view of considerations
- Not a surprise so many psychiatrists also have interest in and do work in bioethics/ clinical ethics
- Don't limit ethical considerations to:
 - Four principles narrowly construed, or
 - Details of individual cases – systemic implications matter



Selected Resources

- American Medical Association, COVID-19 Ethics Guidance, available at <https://www.ama-assn.org/topics/covid-19-ethics-guidance>, accessed June 17, 2020.
- American Psychiatric Association, APA Coronavirus Resources, available at <https://www.psychiatry.org/psychiatrists/covid-19-coronavirus>, accessed June 17, 2020
- American Psychiatric Association, COVID-19 Related Opinions of the APA Ethics Committee, available at <https://www.psychiatry.org/psychiatrists/practice/ethics>, accessed April 4, 2021.
 - APA Commentary on Ethics in Practice (2015)
 - Principles of Medical Ethics with Annotations (2013)
- American Public Media Research Lab, The Color of Coronavirus, available at <https://www.apmresearchlab.org/covid/deaths-by-race>, accessed June 17, 2020.
- Beauchamp TL, Childress JF. Principles of Biomedical Ethics, 8th ed. New York: Oxford University Press, 2020.
- Dawes DE. The Political Determinants of Health. Baltimore: Johns Hopkins University Press, 2020



Questions?

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