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## CARING IN A CRISIS: THE ETHICAL OBLIGATIONS OF PHYSICIANS AND SOCIETY DURING A PANDEMIC

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Inherent in all health care professional Codes of Ethics is the duty to provide care to patients and to relieve suffering whenever possible. However, this duty does not exist in a vacuum, and depends on the provision of goods and services referred to as reciprocal obligations, which must be provided by governments, health care institutions and other relevant bodies and agencies. The obligations of government and society to physicians can be seen as comparable to the obligations of physicians to their patients.

The recent experience of Canadian physicians during the SARS epidemic in Toronto has heightened the sensitivities of the medical profession to several issues that arose during the course of dealing with that illness. Many of the lessons learned (and the unanswered questions that arose) also apply to the looming threat of an avian flu (or other) pandemic. Canadian physicians may be in a relatively unique position to consider these issues given their experience and insight.

The intent of this policy is to highlight the ethical issues of greatest concern to practicing Canadian physicians which must be considered during a pandemic. In order to address these issues before they arise, the CMA presents this paper for consideration by individual physicians, physician organizations, governments, policy makers and

interested bodies and stakeholders. Although many of the principles and concepts could readily be applied to other health care workers, the focus of this paper will be on physicians.

Policies regarding physicians in training, including medical students and residents, should be clarified in advance by the relevant bodies involved in their oversight and training. Issues of concern would include the responsibilities of trainees to provide care during a pandemic and the potential effect of such an outbreak on their education and training.

### **A. Physician obligations during a pandemic**

The professional obligations of physicians are well spelled out in the CMA Code of Ethics and other documents and publications and are not the main focus of this paper. However, they will be reviewed and discussed as follows.

Several important principles of medical ethics will be of particular relevance in considering this issue. Physicians have an obligation to be beneficent to their patients and to consider what is in the patient's best interest. According to the first paragraph of the CMA Code of Ethics (2004), "Consider first the well-being of the patient".

Traditionally, physicians have also respected the principle of altruism, whereby they set aside concern for their own health and well-being in order to serve their patients. While this has often manifested itself primarily as long hours away from home and family, and a benign neglect of personal health issues, at times more drastic sacrifices have been required. During previous pandemics, many physicians have served selflessly in the public interest, often at great risk to their own well-being.

The principle of justice requires physicians to consider what is owed to whom and why, including what resources are needed, and how these resources would best be employed during a pandemic. These resources might include physician services but could also include access to vaccines and medications, as well as access to equipment such as ventilators or to a bed in the intensive care unit. According to paragraph 43 of the CMA Code of Ethics, physicians have an obligation to “Recognize the responsibility of physicians to promote equitable access to health care resources”.

In addition, physicians can reasonably be expected to participate in the process of planning for a pandemic or other medical disaster. According to paragraph 42 of the CMA Code of Ethics, physicians should “Recognize the profession’s responsibility to society in matters relating to public health, health education, environmental protection, legislation affecting the health and well-being of the community and the need for testimony at judicial proceedings”. This responsibility could reasonably be seen to apply both to individual physicians as well as the bodies and organizations that represent them.

Physicians also have an ethical obligation to recognize their limitations and the extent of the services they are able to provide. During a pandemic, physicians may be asked to assume roles or responsibilities with which they are not comfortable, nor prepared. Paragraph 15 of the CMA Code of Ethics reminds physicians to “Recognize your limitations and, when indicated, recommend or seek additional opinions or services”.

However, physicians have moral rights as well as obligations. The concept of personal autonomy allows physicians some discretion in determining where, how and when they will practice medicine. They also have an obligation to safeguard their own health. As stated in paragraph 10 of the CMA Code of Ethics, physicians should “Promote and maintain your own health and well-being”.

The SARS epidemic has served to reopen the ethical debate. Health care practitioners have been forced to reconsider their obligations during a pandemic, including whether they must provide care to all those in need regardless of the level of personal risk. As well, they have been re-examining the obligation of governments and others to provide reciprocal services to physicians, and the relationship between these obligations.

## **B. Reciprocal obligations towards physicians**

While there has been much debate historically (and especially more recently) about the ethical obligations of physicians towards their patients and society in general, the consideration of reciprocal obligations towards physicians is a relatively recent phenomenon.

During the SARS epidemic, a large number of Canadian physicians unselfishly volunteered to assist their colleagues in trying to bring the epidemic under control. They did so, in many cases, in spite of significant personal risk, and with very little information about the nature of the illness, particularly early in the course of the outbreak. Retrospective analysis has cast significant doubt and concern on the amount of support and assistance provided to physicians during the crisis. Communication and infrastructure support was poor at best. Equipment was often lacking and not always up to standard when it was available. Psychological support and counselling was not readily available at the point of care, nor was financial compensation for those who missed work due to illness or quarantine. Although the Ontario government did provide retrospective compensation for many physicians whose practices were affected by the outbreak, the issue was addressed late, and not at all in some cases.

It is clear that Canadian physicians have learned greatly from this experience. The likelihood of individuals again volunteering “blindly” has been reduced to the point where it may never happen again. There are expectations that certain conditions and obligations will be met in order to optimize patient care and outcomes and to protect health care workers and their families.

Because physicians and other health care providers will be expected to put themselves directly in harm’s way, and to bear a disproportionate burden of the personal hardships associated with a pandemic, the argument has been made that society has a reciprocal obligation to support and compensate these individuals.

According to the University of Toronto Joint Centre for Bioethics report, *We stand on guard for thee*, “(The substantive value of) reciprocity requires that society support those who face a disproportionate burden in protecting the public good, and take steps to minimize burdens as much as possible. Measures to protect the public good are likely to impose a disproportionate burden on health care workers, patients and their families.”

Therefore, in order to provide adequate care for patients, the reciprocal obligation to physicians requires providing some or all of the following:

### **Prior to a pandemic**

- Physicians and the organizations that represent them should be more involved in planning and decision making at the local, national and international levels. In turn, physicians and the organizations that represent them have an obligation to participate as well.
- Physicians should be made aware of a clear plan for resource utilization, including:
  - how physicians will be relieved of duties after a certain time;
  - clearly defined roles and expectations, especially for those practicing outside of their area of expertise;
  - vaccination/treatment plans - will physicians (and their families) have preferential access based

on the need to keep caregivers healthy and on the job;  
- triage plans, including how the triage model might be altered and plans to inform the public of such.

- Physicians should have access to the best equipment needed and should be able to undergo extra training in its use if required.

- Politicians and leaders should provide reassurances that satisfy physicians that they will not be “conscripted” by legislation.

### **During a pandemic**

- Physicians should have access to up-to-date, real time information.

- Physicians should be kept informed about developments in Canada and globally.

- Communication channels should be opened with other countries (e.g. Canada should participate in WHO initiatives to identify the threats before they arrive on our doorstep).

- Resources should be provided for backup and relief of physicians and health care workers.

- Arrangements should be made for timely provision of necessary equipment in an ongoing fashion.

- Physicians should be compensated for lost clinical earnings and to cover expenses such as lost wages, lost group earnings, overhead, medical care, medications, rehabilitative therapy and other relevant expenses in case of quarantine, clinic cancellations or illness (recognizing that determining exactly when or where an infection was acquired may be difficult).

- Families should receive financial compensation in the case of a physician family member who dies as a result of providing care during a pandemic.

- In the event that physicians may be called upon in a pandemic to practice outside of their area of expertise or outside their jurisdiction, they should

to contact their professional liability protection provider for information on their eligibility for protection in these circumstances.

- Interprovincial or national licensing programs should be developed to provide physicians with back-up and relief and ensure experts can move from place to place in a timely fashion without undue burden.
- Psychological and emotional counselling and support should be provided in a timely fashion for physicians, their staff and family members.
- Accommodation (i.e. a place to stay) should be provided for physicians who have to travel to another locale to provide care; or who don't want to go home and put their family at risk, when this is applicable, i.e. the epidemiology of the infectious disease causing the pandemic indicates substantially greater risk of acquiring infection in the health care setting than in the community.
- Billing and compensation arrangements should ensure physicians are properly compensated for the services they are providing, including those who may not have an active billing number in the province where the services are being provided.

### **After a pandemic**

- Physicians should receive assistance in restarting their practice (replacing staff, restocking overhead, communicating with patients, and any other costs related to restarting the practice).
- Physicians should receive ongoing psychological support and counselling as required.

### **C. How are physician obligations and reciprocal obligations related?**

Beyond a simple statement of the various obligations, it is clear that there must be some link between these different obligations. This is particularly important since there is now some time to plan for the next pandemic and to ensure that reciprocal obligations can be met prior to its onset. Physicians have always provided care in emergency situations without questioning what they are owed. According to paragraph 18 of the

CMA Code of Ethics, physicians should “Provide whatever appropriate assistance you can to any person with an urgent need for medical care”. However, in situations where obligations can be anticipated and met in advance, it is reasonable to expect that they will be addressed. Whereas a physician who encounters an emergency situation at the site of a car crash will act without concern for personal gain or motivation, a physician caring for the same patient in an emergency department will rightly expect the availability of proper equipment and personnel.

In order to ensure proper patient care and physician safety, and to ensure physicians are able to meet their professional obligations and standards, the reciprocal obligations outlined above should be addressed by the appropriate body or organization.

### **Conclusion**

If patient and physician well-being is not optimized by clarifying the obligations of physicians and society prior to the next pandemic, in spite of available time and resources necessary to do so, there are many who would call into question the ethical duty of physicians to provide care. However, the CMA believes that, in the very best and most honourable traditions of the medical profession, its members will provide care and compassion to those in need. We call on governments and society to assist us in optimizing this care for all Canadians.