

ETHICS SUPPORT DURING COVID-19:

The Minnesota COVID Ethics Collaborative

BY DEBRA DEBRUIN, PHD, AND SUSAN M. WOLF, JD

The Minnesota COVID Ethics Collaborative (MCEC) provides support for the state of Minnesota on ethical issues in the COVID-19 pandemic. MCEC aims to rapidly share expertise and develop ethical guidance to meet the moral challenges posed by this crisis. The Minnesota Department of Health (MDH), State Healthcare Coordination Center (SHCC), Minnesota Hospital Association (MHA) and University of Minnesota have partnered to convene the collaborative, which includes more than 70 members from organizations across the state, incorporating multidisciplinary perspectives from ethics, law, public health, medicine, nursing and disaster planning, among other fields. Every major health system in the state offers expertise to the collaborative, along with experts on tribal health and from governmental agencies, nonprofits and academia. MCEC works closely with the Statewide Critical Care Workgroup as well.

The inspiration for MCEC arose from two previous projects to develop ethical guidance for public health emergencies in Minnesota, both sponsored by and completed in partnership with MDH: the Minnesota Pandemic Ethics Project and Ethical Considerations for Crisis Standards of Care. Both projects recommended that MDH establish an ethics support process at the state level to provide guidance in real time during a crisis. At the start of the COVID-19 pandemic, Debra DeBruin, who co-led both of the two

previous projects, offered to help MDH develop such capacity. The SHCC and MHA quickly joined the effort, and the MCEC co-leads began to work with these partners to build the team and develop the process for ethics support.

MCEC aims to help the state and its health professionals navigate ethical challenges arising in the COVID-19 pandemic. As MCEC began work in March, cases and hospitalizations were increasing. Members shared a concern that the state's health system could become too overwhelmed to be able to provide critical care resources to all patients who need them. In addition, any new therapeutics developed could initially be in scarce supply.

Consistent with the established ethics guidance in the state, the framework that MCEC developed on the allocation of ventilators and scarce critical care resources in the COVID-19 pandemic balances three fundamental objectives: protecting the public's health, respecting individuals and groups and striving for fairness while protecting against inequity. So, while the framework endorses allocating ventilators to save the most lives possible, it also incorporates many protections for rights, fairness and equity. For example, the framework contains protections against discrimination and bias, forbidding rationing by factors such as race, ethnicity, gender, citizenship or immigration status or socioeconomic status. It emphasizes clinical prognosis—allocating scarce resources based on likelihood of surviving the acute episode to hospital discharge. Each patient must receive careful, individual evaluation.



ETHICS

A patient's age, disability status, or comorbidities should not be considered, unless directly relevant to that short-term prognosis. To do otherwise would systematically disadvantage older Minnesotans, those with disabilities and populations affected by health disparities. Allocation decisions should be regularly evaluated. Many of these protections carry over to other frameworks developed by MCEC.

To date, in addition to the framework on the allocation of ventilators and scarce critical care resources, MCEC has developed ethical guidance on the allocation of the antiviral medication remdesivir and on decision-making for in-hospital cardiopulmonary resuscitation (CPR).

The Statewide Critical Care Workgroup identified a need for guidance about how to balance patient preferences about CPR with staff safety when adequate personal protective equipment (PPE) is unavailable. The Critical Care Workgroup began to draft that guidance, then approached MCEC to further develop it collaboratively. The framework emphasizes institutional responsibilities to strive for adequate PPE, while recognizing that if PPE is inadequate, staff safety is an ethically appropriate consideration in deciding whether to perform aerosolizing procedures.

When the FDA issued an Emergency Use Authorization (EUA) for remdesivir, MDH requested that MCEC develop guidance about how to ethically allocate the medication. This guidance addresses both allocation to health care facilities across the state in order to facilitate equitable access geographically and allocation among patients within a facility. When the EUA was first issued, little data was available about which patients benefit most from remdesivir, rendering decisions about how to prioritize among patients difficult. Over time, the publication of clinical trial data shed light on this question, prompting modification of allocation priorities. Eventually, remdesivir distribution shifted from free provision through the federal government to sale of the medication to health systems. This change heightened concerns about equity and access, and so prompted further revision to the guidance.

Work in progress includes guidance on the allocation of convalescent plasma for COVID-19 and investigational monoclonal antibody therapies, which are now available under EUAs from the FDA. MCEC has also been working on prioritizing critical workers with high occupational exposure to COVID-19 for allocation of some scarce resources. This accords with the established ethics guidance in the state on the duty to protect those who take

For more information

- <https://www.health.state.mn.us/communities/ep/surge/crisis/panethics.html>
- <https://www.health.state.mn.us/communities/ep/surge/crisis/ethical.html>
- <https://www.health.state.mn.us/communities/ep/surge/crisis/allocation.pdf>
- <https://www.health.state.mn.us/diseases/coronavirus/hcp/remdesivir.pdf>
- <https://www.health.state.mn.us/communities/ep/surge/crisis/cpr.pdf>
- For a detailed discussion of MCEC's process, see S Lim et al. Developing an Ethics Framework for Allocating Remdesivir in the COVID-19 Pandemic. *Mayo Clinic Proceedings* 2020;95(9):1946-1954.
- MDH. Crisis Standards of Care webpage. <https://www.health.state.mn.us/communities/ep/surge/crisis/index.html>

on risk to serve the public (“reciprocity”) and the importance of maintaining essential services such as health care, emergency response, public transit, and food production and distribution. Since many of the workers who are least able to protect themselves on the job—for example, due to inadequate PPE or settings with close contact—belong to socially vulnerable communities affected by health disparities, prioritizing critical workers with high occupational exposure to COVID-19 also promotes equity.

MDH has organized a separate process for developing guidance for vaccine allocation, since the state will be tailoring guidance issued by

the federal government. The US Centers for Disease Control and Prevention (CDC) has invited Minnesota and other states to participate in a pilot project to develop frameworks for vaccine allocation that will serve as models for this effort in the United States. Some members of MCEC serve on MDH's COVID-19 Vaccine Allocation Advisory Group.

To develop ethics guidance, MCEC typically convenes working groups, including some MCEC members, MDH personnel and health professionals with relevant expertise. The working group drafts guidance, which undergoes review by the full MCEC. Guidance is grounded in the foundational ethical frameworks developed in the two earlier ethics projects in the state. Emerging literature, legal developments, and models from other states are also considered. Feedback from MCEC deliberations leads to refinement of the guidance by the working group, and the process repeats until the draft guidance is deemed ready to submit to MDH. Members of MDH's leadership team and its Science Advisory Team review the draft, and revisions continue until MDH approves and publishes the guidance. New developments may prompt further refinement of the guidance, as happened with remdesivir.

MCEC will continue to support COVID-19 response efforts through consultation and development of guidance on topics as they emerge. The COVID-19 pandemic poses enormous challenges. MCEC strives to help Minnesota respond effectively and ethically. **MM**

Debra DeBruin, PhD, is interim director and associate professor, Center for Bioethics, University of Minnesota. Susan M. Wolf, JD, is McKnight Presidential Professor of Law, Medicine & Public Policy; Faegre Baker Daniels professor of law; and professor of medicine, University of Minnesota. DeBruin and Wolf are co-leads of MCEC.