Ethical and Legal Issues in Influenza Pandemic

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Five (of many more) issues

- Hazardous duty by health care providers
- Resource allocation: vaccinations
- Identification: naming of names
- Civil confinement: isolation and quarantine
- Travel and border controls
Competing values

PUBLIC GOOD

-versus-

INDIVIDUAL RIGHTS

Justice

Professionalism

Beneficence

Nonmaleficence

Efficiency

Utility
Public good

- Heath and safety
  - Individual patients
  - Public at large
  - Health care providers
  - Vulnerable populations

- Integrity of process
Individual rights

- Privacy
- Autonomy
- Bodily integrity
- Liberty interests
- Equity
- Travel
Allocation of vaccines: criteria for prioritization

- Historically, priority is individuals at high risk
  - of hospitalization
  - Risk of death
- Beneficence-based commitment (promote good and remove harm) – likelihood of medical benefit
- Utility-based commitment
Triage and vaccine prioritization

- Are we vaccinating those most at risk of severe illness or life lost?
- OR
- Preventing harm, maintaining “fighting strength” by vaccinating those most likely to spread disease?
Objectives for pandemic vaccination

Will Primary Goal be:

- to prevent overall # of deaths?
- to prevent deaths in high risk pts?
- To decrease gross attack rates?
- To decrease severe morbidity?
- To decrease disruptions of essential services?

See Meltzer, Cox, Fukuda 1999
Prioritization of limited vaccine

- Varying Strategies
  - Those at High Risk for influenza-related complications, including death
    - determining who is at highest risk as dependent on epidemiology of pandemic
  - Those in essential community services
  - Those most likely to disseminate virus
Identification: Surveillance and Contact Tracing

- Reporting cases essential public health strategy
- Tension with claims of privacy
- Economic impact of reporting for geographic and ethnic communities
Identification: Surveillance and Contact Tracing

- Appropriate policy depends on scale of epidemic
Name-based identification

- Acceptable limit on privacy when:
  - State demonstrates an important need to know and intervene;
  - Transparency regarding uses, disclosure and harm;
  - Consultation with relevant communities;
  - Data is used for legitimate health purposes only.
Isolation and Quarantine

- Legal and ethical to avert significant risks of transmission
- Significant issues:
  - Loss of liberty
  - Social and economic harm
  - Potential for discrimination
Isolation and Quarantine Policies

- Scientific assessment of risk
- Target restrictive measures where possible
- Must provide safe and habitable environment
- Social justice paramount
- Procedural due process
- Least restrictive alternative
Bounding Precaution

- Safeguarding individual rights
- Least intrusive alternative
- Fairness and justice
- Transparency
Balancing Precaution, Rights, Justice, and Transparency

- Use voluntary means where possible.
- Mandatory measures only where necessary.
- Elicit voluntary cooperation through information, solicitation, and collaboration.