What is physicians’ duty to treat during pandemics?

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The notion that physicians have a professional duty to treat during infectious disease outbreaks has waxed and waned historically. And while questions around the interpretation of this duty have often seemed hypothetical or remote, they became very real and immediate during the COVID-19 pandemic.

Since its inaugural edition, the AMA Code of Medical Ethics has codified expectations that physicians would accept risk, including in a current opinion on physician responsibility in disaster response and preparedness, which provides guidance on evaluating the risks of providing care to individual patients vis-à-vis the need to be available to provide care in the future.

The Code clarifies that this obligation isn’t absolute, however, noting that “physicians also have an obligation to evaluate the risks of providing care to individual patients versus the need to be available to provide care in the future.”

Therefore, from the perspective of the Code, “the question isn’t whether physicians have a duty to treat but how to think about the relative strength of that duty in varying circumstances,” according to an AMA Council on Ethical and Judicial Affairs report that was adopted at the 2022 AMA Interim Meeting.

This and numerous additional opinions have provided guidance on difficult ethical issues during the pandemic, such as whether physicians may decline to treat to unvaccinated patients, yet the Code had remained silent on several important ethical matters, including whether the duty to treat applies uniformly across all medical specialties and the implications of responsibilities that physicians hold in their nonprofessional lives.

As a result, last year the AMA House of Delegates directed the council to “reconsider its guidance on pandemics, disaster response and preparedness in terms of the limits of professional duty of individual physicians, especially in light of the unique dangers posed to physicians, their families and colleagues during the COVID-19 global pandemic.”
How far duty stretches

Delegates have now amended the Code opinion per the council’s recommendations to include the following:

“The duty to treat is foundational to the profession of medicine but is not absolute. The health care workforce is not an unlimited resource and must be preserved to ensure that care is available in the future. For their part, physicians have a responsibility to protect themselves, as well as a duty of solidarity to colleagues to share risks and burdens in a public health crisis. So too, health care institutions have responsibilities to support and protect health care professionals and to apportion the risks and benefits of providing care as equitably as possible.

“Many physicians owe competing duties of care as medical professionals and as individuals outside their professional roles. In a public health crisis, institutions should provide support to enable physicians to meet compelling personal obligations without undermining the fundamental obligation to patient welfare. In exceptional circumstances, when arrangements to allow the physician to honor both obligations are not feasible, it may be ethically acceptable for a physician to limit participating in care, provided that the institution has made available another mechanism for meeting patients’ needs.

Institutions should strive to be flexible in supporting physicians in efforts to address such conflicts. The more immediately relevant a physician’s clinical expertise is to the urgent needs of the moment and the less that alternative care mechanisms are available, the stronger the professional obligation to provide care despite competing obligations.”

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