RAMAIAH
Public Policy Center

Ramaiah Webinar on Medico-Legal Guidelines During COVID-19[1]

3 pm – 5 pm, Friday, July 17, 2020

The Covid-19 outbreak has been classified as a disaster under the National Disaster Management Act, 2005. Further, the outbreak according to entry 29 of the Concurrent List empowers both the Central and State Governments for legislation. However, several medical-legal-ethical-religious-moral issues unique to COVID-19 have not been anticipated in the directives that have been recommended by the government. While many of these issues have emerged with the spread of COVID-19 it is important to anticipate and put in place processes to respond to them rather than doing so ad-hoc. With multiple ethnicities, cultural practices, religions, and high population density, the Indian COVID-19 outbreak necessitates context-based processes to contain it.

The National Disaster Management Act of 2005 (NDMA) and the Epidemic Diseases Act of 1897 (EDA) that have been invoked in the country offer legal protection to the healthcare providers within institutions. The NDMA and EDA increase the demand on the institutions but provide little (a) guidance on addressing the challenges, and (b) protection from the risks of meeting the challenges. The absence of systematic consultation processes among the government, professional, and institutional stakeholders to address these challenges in normal times compounds the challenge in a crisis.

This is no ordinary crisis. With the fear of contagion infection, the line between elective and essential medicine is hazy at best. Additionally, the line shifts between the spectrum of urgency and need, and the fear of infection. Balancing potential health benefits against potential costs has become difficult. While this trade-off within the practice of medicine has begun, the country is slowly opening the economy. Yet concerns of infection are serious due to the potential ripple effect. Additionally, the juggling of different healthcare professionals due to the resource crunch is trespassing into their procedural spaces. This heightens the potential for infection (Ahuja, 2020).

In this context the healthcare institutions must formulate their own guidelines that are within the mandated laws, protect the providers of healthcare, and respect the requirements of the recipients of healthcare. The guidelines must broadly align the purposes and processes of the institution's staff and administration. There isn't enough time for these institutions to seek several alternative opinions. Preparations must be made in earnest and be ready to decide on short notice. Overarching all of this is the vulnerability of the worked-to-the-limit medical and other professionals directed to work towards containment and mitigation of COVID-19.

Today, the provider-recipient relationship in healthcare institutions goes far beyond the traditional physician-patient relationship. That relationship is at the core of healthcare and a bedrock of ethics must direct all action. However, ethics is not just about the behaviour of the

[1] This concept note is based on the forthcoming paper …

frontline healthcare professionals. It emanates from the policies and guidelines framed by the institution. This is important because (a) state level policy decisions could make it difficult to act ethically on the ground, (b) there could be uncertainty in applying the standard ethical frameworks to COVID-19, and (c) practitioners from different disciplines are guided by different (and at times competing) ethical frameworks.

Significantly, the providers include individuals, teams, departments, clinics, and hospitals. The individuals may be physicians, surgeons, residents, students, nurses, para-medicals, social workers, and others. The teams may include the above individuals as units, multidisciplinary teams, surgery teams, and others. The recipients include patients, their families, communities, caretakers, and others. The guidelines must encompass the complex web of relationships between the providers and the recipients. The guidelines must define the responsibility, accountability, and autonomy of the providers to the recipients.

The novel coronavirus has unveiled novel scenarios in healthcare delivery. There have been cases where a recipient has demanded proof of non-infection from the healthcare provider before agreeing to receive care. Conversely, recipients not revealing their infected status when approaching institutions have led to some hospitals refusing to provide healthcare without proof of non-infection by the recipients. Additionally, some healthcare institutions have mandated an indemnity form (the Corona consent) wherein the potential recipient absolves the institutions of all legal responsibility in the event of becoming infected when taking treatment in the hospital. Cases of a recipient dying because treatment was denied based on suspected COVID-19 infection, and a suspected infected recipient denied test due to lack of proof of identity have also been reported. A survey of the experience in other countries and India highlights some of the issues that will likely be exacerbated in the coming days. Some of them are:

- With a limited number of tests, who should be tested?
- What should be the cost of the test to the recipient?
- In the event of a positive test, who should be quarantined? An individual, the family, the community, the locality, or the region?
- With a limited number of ventilators, who should be put on the ventilator?
- How should the wellbeing of the providers be protected? What should be the policy on use/reuse of personal protective equipment (PPE)?
- How should the religious sentiments of the recipients be respected? During care? After care? In case of deceased?
- Should untested drugs and treatments be permitted? Under what conditions?
- Under what conditions should extreme lifesaving measures be adopted for COVID-19 patients? Or, not adopted?

These and emerging other issues necessitate guidelines that must

- Specify processes for triage situations (where severely limited resources have to be allocated) to prevent ethical ramifications on individual providers. For example, guidelines in the state of Tennessee, USA based on both long-term survival prospects

and the likelihood of survival on treatment have been amended now to be based on likelihood of survival on treatment alone.

- Factor in vulnerable and/or minority groups with higher rates of underlying health conditions (Fink, 2020)
- Address vicarious and malpractice liability during COVID-19 (Paterick et al., 2008)
- Contextualise confidentiality and consent, the twin imperatives, (Patel, 2018) and their scope and extent to the pandemic.
- Align the obligation of means to the safety of self, first.
- Specify the non-responsibility of healthcare professions for an incorrect diagnosis/ procedure, contingent to widely accepted medical practices being followed apart from other situations specific to the COVID-19 condition.

The proposed Ramaiah Webinar will focus on the formulation of medico-legal guidelines for healthcare during COVID-19 using the framework in Figure 1. It will serve as a lens to systematically and systemically highlight potential pathways to navigate healthcare for effective and effective outcomes during COVID-19 by institutions and recipients.

Guidelines				Healthcare							
Field		**Objective**		**Provider**		**Attribute**		**Recipient**		**Outcome**	
Medical	[+]	Standards	[guidelines for]	Individuals	[to provide]	Responsible	[healthcare to]	Patients	[for]	Effective	
Legal		Compliance		Physicians		Transparent		Families		Appropriate	
Ethical		Non-Compliance		Surgeons		Accountable		Communities		Timely	
Religious		Compensation		Residents		Autonomous		Caretakers		Safe	
Moral		Penalty		Students				Others		Efficient	
		Other		Nurses						Cost	
				Para-medicals						Time	
				Others						Personnel	
				Teams							
				Units							
				Multidisciplinary							
				Surgery							
				Others							
				Departments							
				Clinics							
				Hospitals							

Figure 1: Medico-Legal Guidelines for Healthcare during COVID-19

For more details contact Dr Anupama Sanjeev (anupama.sanjeev@rppc.ac.in) or Ms Devina Neogi (devina.neogi@rppc.ac.in).

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List of Panellists

Sl.No	Name	Affiliation
1.	Prof Adarsh Kumar	Forensic Medicine and Toxicology, In-charge, All India Institute of Medical Sciences, Delhi
2.	Prof Arpitha H C	Assistant Professor, National Law School of India University, Bengaluru
3.	Dr S Harish	HOD, Forensics, MS Ramaiah Medical College and Hospitals, Bengaluru
4.	Dr Jagadeesh	Professor, Forensic Medicine, Vydehi Medical College, Bengaluru
5.	Dr S Kumar	Chancellor, Sri Devraj Urs Academy of Higher Education and Research, Kolar
6.	Ms Meena Putturaj	Research Scholar, Indian Institute of Public Health, Bengaluru
7.	Dr A Nagarathna	Associate Professor, National Law School University of India, Bengaluru
8.	Dr Nandakumar Bidare Sastry	Department of Community Medicine, Ramaiah Medical College, Bengaluru.
9.	Dr Nayanjeet Chaudhury	Director, Ramaiah International Centre for Public Health Innovations (RICPHI)
10.	Dr G Pradeep Kumar	Vice Chancellor, Sri Devraj Urs Academy of Higher Education and Research, Kolar
11.	Dr Rajesh Shah	President, Indian Medicolegal & Ethics Association, Hon. Gen. Surgeon, H.E. Governor of Gujarat
12.	Dr Saumil Merchant	Professor and Head, Forensics, MET Medical College, LG Hospital, Ahmedabad
13.	Dr Sonali Jadhav	Principal, Ramaiah Institute of Nursing Education and Research, Bengaluru
14.	Dr Shalini Nooyi	Professor, Community Health, M S Ramaiah Medical College and Hospitals, Bengaluru
15.	Dr Shankar M Bakkannavar	Associate Professor of Forensic Medicine, Kasturba Medical College, Manipal Academy of Higher Education, Manipal
16.	Mr Srivara HG	Head HR and Legal, Gokula Education Foundation (Medical), Bengaluru
17.	Mr B N Subramanya	Advisor, Gokula Education Foundation (Medical), Bengaluru
18.	Dr Thanuja Gopal P	Associate Professor, Opthalmology, M S Ramaiah Medical College and Hospitals, Bengaluru
19.	Dr Vinod Nayak	Professor, Forensics, Kasturba Medical College, Manipal Academy of Higher Education, Manipal
20.	Dr Vijay Kumar	Vice Chancellor, Yenepoya University, Mangalore
21.	Dr Veena Waikar	Professor, MS Ramaiah Medical College and Hospitals, Bengaluru
22.	Dr Yogendra Singh Bansal	HOD, Forensics, Post Graduate Institute of Medical Education and Research, Chandigarh