

Responding to Individuals Who Do Not Follow Public Health Measures: Ethical Considerations for Community Settings

Note: Circumstances surrounding the COVID-19 pandemic are changing rapidly. This document is intended to provide general ethical guidance to support decision-making within an evolving context and is not meant to replace an ethics consult. As always, health care teams facing difficult ethical decisions are encouraged to request a consultation from the AHS Clinical Ethics Service.

Introduction

During this pandemic, there may be a range of circumstances in which individuals with suspected or confirmed COVID-19 infections (who may or may not be pre-existing patients or clients) are unable or unwilling to comply with public health measures to reduce transmission risk, such as hand hygiene, use of personal protective equipment, physical distancing, or self-isolation. AHS staff, particularly those responsible for public health, may be concerned that the choices made by these individuals will contribute to the spread of disease, causing harm to the general public. This document provides guidance about how to respond to individuals who do not follow public health measures in community settings. For guidance about responding to patients (inclusive of clients and residents) who do not follow public health measures in healthcare facilities, refer instead to *Ethical Considerations for Facility Settings*.

In Canadian society, we tend to prioritize individual interests over population interests. During a pandemic, the increased threat to the population justifies a shift in emphasis toward protecting and promoting population interests. Balancing the interests of a particular individual against those of the population may be challenging. While a compromise between these interests will often be necessary, it is important to seek a solution that does not significantly sacrifice one side for the sake of the other. The following ethical principles can provide guidance for responding to individuals who do not follow public health measures within community settings.

Values that should be considered during decision-making include:

Minimizing harm to others – The duty to prevent or minimize harm to others takes on greater significance during a pandemic as the severity and likelihood of the potential harms increase. Others who may be harmed include close contacts, AHS staff, and the general public (including through the spread of disease and health system disruption).

Respecting individual liberty – The freedom to speak, move, and associate with others is fundamental. Limitations on a capable person's individual liberty are justified only as a means of preventing serious harm to others, and only to the extent necessary to achieve that goal. Restrictions on liberty are ideally voluntary, least-invasive, and time-limited.

Minimizing harm to the individual – We should seek to minimize any individual harm caused by prioritizing population health. Some individuals may suffer disproportionate harms from these restrictions, such as those who have survived trauma, use substances, have financial pressures, or have suffered from past governmental institutionalization. They also risk losing trust in the healthcare system, which could lead them to avoid seeking health care when needed.

Reciprocity – Imposing burdens (or risk) on some individuals for the benefit of the population creates an ethical obligation to provide these individuals with the necessary supports to minimize this imposition to the extent possible.

Social Justice – There are power imbalances between social groups and some groups – such as some minority cultural groups, those of lower socioeconomic status, homeless populations, those with mental health challenges – often require additional supports in order to be treated fairly. Broader socioeconomic factors may affect an individual’s risks of contracting COVID-19 and their ability to comply with public health measures. Social justice requires that decisions should neither exploit nor exacerbate existing disadvantage or societal inequities.

Fairness – It is important to treat people and groups fairly by treating like cases alike. Responses to individuals who are not following public health measures should be applied consistently across community settings.

Dignity and Respect – We recognize the inherent worth of all people, and act with compassion and respect towards persons regardless of their actions or choices.

Addressing Value Conflicts

It may be impossible to live up to all competing values simultaneously. When responding to individuals who are unable or unwilling to comply with public health measures in a community setting, try the following, in this order:

1. Where possible, attempts should be made to seek compromise between individual interests and population interests by encouraging **voluntary compliance** with public health measures. While such compliance imposes some restrictions on **individual liberty**, these restrictions would be applied **fairly** to all those who are infected within the community setting and would **minimize harm to others**.

Consider pursuing the following strategies:

- Review the risks of transmission and how to comply with public health measures.
- Address any barriers to compliance (e.g. the need for groceries, a safe place to self-isolate, harm reduction supplies, financial assistance); provide information about available community resources.
- Identify any particular others who may be at risk and develop strategies to minimize or prevent harm to them (e.g. others living in the home, others in the workplace).
- Where the individual is also a patient or client, address their care needs and foster trust; maintaining the fiduciary (trust) relationship will support the patient’s health and well-being, and provide the opportunity for future engagement and risk mitigation efforts.
- Ensure the individual knows how to seek help if their health deteriorates.

2. If voluntary compliance is unsuccessful, consider whether any **systems-level responses** would mitigate the risk to others (e.g. moving shelter mats farther apart). This option recognizes the importance of **social justice** and **reciprocity**, including the impact of broader socioeconomic factors on individual choices and the greater risk that some populations may be facing for the benefit of others. For example:

- An individual may be at higher risk of contracting COVID-19 because they are homeless and gather in congregate settings for shelter; they would also be less able to self-isolate.
- An individual may work at a less desirable job, which, nevertheless, benefits society. This job may provide fewer workplace protections and include disincentives to self-isolate.

3. If all efforts toward voluntary compliance and systemic response have failed, consider whether the **harm to others** is sufficiently great that it would *outweigh* the value of **individual liberty** and justify other value trade-offs, such as **harm to the individual** and **social justice**. A Medical Officer of Health can be contacted about options and obligations under the Public Health Act.

The decision made should be **fair**, **minimize harm** to the individual and uphold the value of **reciprocity**. To determine whether more restrictive measures are justified to prevent harm to others, such as non-voluntary isolation of the individual, consider the following questions:

- What will be the impact for the individual? Are there ways to sufficiently **minimize any harms**?
- How can the value of **reciprocity** be upheld to recognize the sacrifice of the individual's interests for the public good (e.g. by resources to enable on-going isolation)?
- Will the solution further disadvantage the already-disadvantaged (**social justice**)? Are there ways to mitigate this damage?
- Will this solution be applied **fairly** across community settings (i.e. would we respond the same way to the individual who is financially stable and living in their own home as we would to the person who is homeless, has survived trauma, and is using substances)?
- How can we ensure that the **dignity and respect** of all persons is upheld and that individuals are not blamed or judged for having contracted, or spread, COVID-19?

Additional Resources

Any decision, even if justified, which does not allow us to uphold all the values we feel are important, can be distressing. AHS has several [resources](#) available to provide support for AHS employees.

The information in this document is provided to assist healthcare providers and administrators in considering the ethical implications of complex questions, and should not in any way be construed as legal advice.

For support in working through difficult or complex ethical issues, including those related to COVID-19, please contact the [AHS Clinical Ethics Service](#) at 1-855-943-2821 or clinicaethics@ahs.ca.

For **after-hours** assistance with ethics questions related to COVID-19, please call our Rapid Response Clinical Ethics Consultation Service at 1-403-689-3548.