
Review of Prior Recommendations

NC IOM/DPH Ethics and Pandemic
Influenza Planning
August 22, 2006

Duty of Healthcare Workers to Work

Recommendation 1.1a

- **a) All healthcare personnel in healthcare settings have an ethical obligation to carry out their regular job responsibilities and have a responsibility to assume new job responsibilities for which they are trained, if the assumption of the new responsibilities will not put others at increased risk.**

Recommendation 1.1b

b) Government and healthcare organizations have a reciprocal obligation to ensure that healthcare personnel are protected to the extent possible. For example, front-line healthcare workers and others at increased risk of infection should have priority in receiving available personal protective equipment, vaccinations, anti-viral drugs, and other non-medical control measures. All critical healthcare personnel should receive behavioral health services and other goods or services needed to enable them to work. In addition, organizations have an obligation to ensure that workers are appropriately trained to fulfill the tasks assigned to them during a crisis.

Potential Recommendation 1.2

Healthcare organizations should design business continuity plans to prepare for events such as a pandemic flu. Plans should identify those positions that are critical to the continued operation of the healthcare organization. Workers who would be required to work should be made aware of the expectation to work during events such as a pandemic flu upon hiring or upon the adoption of the plan. The healthcare organization should specify the supports that will be available to the critical healthcare personnel to enable them to work, as well as the sanctions if critical healthcare personnel fail to show up for work when otherwise required to do so.

Potential Recommendation 1.3

In order to ask healthcare providers and other healthcare personnel to assume greater risk and responsibilities, the North Carolina General Assembly should:

- a. Modify existing laws to clarify that in the case of a declared disaster under G.S. 166A:
 - i. The standard of care to be applied in any medical negligence action arising out of health care provided during a pandemic influenza epidemic is the standard of practice among members of the same health care profession with similar training and experience, practicing under the same circumstances including the unique circumstances presented by a pandemic flu epidemic, and situated in the same or similar communities at the time the health care is rendered.****

Potential Recommendation 1.3

- ii. Provide qualified immunity protections to healthcare personnel and to healthcare organizations. Individuals and organizations should not be liable for damages due to injury or death, unless the harm was caused by gross negligence, wanton conduct or intentional wrongdoing.**
- iii. Indemnify the healthcare personnel and/or organization for the cost of defending the lawsuit, unless the person or organization has been shown to be a result of gross negligence, wanton conduct or intentional wrongdoing.**

Potential Recommendation 1.3

- b. Provide disability insurance and death benefits to staff and their families adversely affected while performing their duties.**

Outstanding Questions

- Should the duty to work be balanced against the need to care for family members who are ill? (page 4 of duty to work document)
- Does the task force want to recommend modifications to workers comp laws to:
 - Compensate healthcare workers who have been injured due to the mandatory vaccinations?
 - Provide compensation to all healthcare providers who become ill with the pandemic influenza when working? If so, how can a worker prove the illness was contracted on the job (not in other settings)?



Critical Workers: Duty to Work



Potential Recommendation 2.1

- a. Workers in critical industries have an ethical obligation to provide services within their scope of work during a pandemic influenza outbreak.**

- b. Workers in critical industries have an ethical obligation to carry out their regular job responsibilities and have a responsibility to assume new job responsibilities for which they are trained**

Potential Recommendation 2.1

Continued

- c. Society and institutions have a reciprocal obligation to ensure that workers are protected to the extent possible. For example, workers in critical industries should receive priority for vaccinations, anti-viral drugs, behavioral health services, other non-medical control measures, or other goods or services needed to enable them to work. In addition, institutions have an obligation to ensure that workers are appropriately trained to fulfill the tasks assigned to them during a crisis.**

Potential Recommendation 2.2

Employers and contractors should inform employees explicitly that in accepting employment in a critical industry they are accepting a higher risk and responsibility. Employers should specify the sanctions for not showing up to work when otherwise required to do so.

Potential Recommendation 2.3

Government should provide disability insurance and death benefits to critical industry staff and their families adversely affected while performing their duties.

Potential Recommendation 2.4

Organizations in critical industries should be sensitive to equity issues relating to social distancing and working from home. Job function should be the only criterion for deciding which workers can work off-site or from home.

Potential Recommendation 2.5

- a. **Government has the primary responsibility to identify critical industries necessary to meet society's basic needs. Other businesses and organizations should also examine their services to determine if they provide essential goods and services for society; they should consider the effects not providing their services would have on the population.**

Potential Recommendation 2.5

Continued

- b. Organizations in critical industries should design business continuity plans to prepare for events such as an influenza pandemic, which could limit the number of employees available to work. Plans should identify those positions that are critical to the continued operation of the organization. Individuals who would be required to work should be made aware of the expectation upon hiring or upon the adoption of the plan.**

Potential Recommendation 2.5

Continued

- c. During a pandemic influenza, organizations should prioritize the health of their employees and reducing the spread of disease over the financial position of the organization in order to reduce unnecessary infection.**

Potential Recommendation 2.5

Continued

- d. Organizations have a duty to follow the recommendations, guidelines, and restrictions that public health and other governmental leaders provide. For example, if social distancing measures are recommended, organizations not in critical industries should comply with the recommendations of governmental leaders.**