

**NC IOM / DPH TASK FORCE ON  
ETHICS AND PANDEMIC INFLUENZA PLANNING**

**August 22, 2006**

**Meeting Summary**

**WELCOME AND INTRODUCTIONS**

**Leah Devlin, DDS, MPH**  
**Co-Chair**  
**State Health Director**  
**Division of Public Health**  
**NC Department of Health and Human Services**

**Rosemarie Tong, PhD**  
**Co-Chair**  
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**Department of Philosophy**  
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Today's meeting will focus on a review of the Task Force recommendations related to balancing privacy and personal liberties with the need to protect the public. There will also be an update on changes to the duty to work documents for healthcare and other critical workers. If there is time, we will discuss prioritization and distribution of limited resources during a pandemic.

**BALANCING PRIVACY AND PERSONAL LIBERTIES WITH THE NEED TO PROTECT THE PUBLIC**

**Pam Silberman, JD, DrPH**  
**President & CEO**  
**NC Institute of Medicine**

Dr. Silberman began the discussion by presenting two scenarios related to privacy and personal liberties. The scenarios were meant to motivate discussion on the types of ethical issues that may develop during a pandemic influenza and the tradeoffs that may have to be made between individual liberty and public health. The first scenario related to the need to quarantine passengers on an airplane because of suspected exposure to influenza. The second related to social distancing measures that would be recommended if a pandemic influenza broke out in the state.

The Division of Public Health has a specific responsibility to promote, protect, and improve the health of the public. However, interventions to protect the public's health may conflict with individual liberties.

During a pandemic, may need to infringe on individual liberties in order to limit the number of illnesses and deaths, or slow the progression of the epidemic; reduce the risk infectious individuals pose to others; and identify individuals who may have been exposed to the influenza in order to limit or prevent further illness.

Public health officials should choose the least restrictive, least intrusive, and most effective alternatives needed to protect the public. Public health interventions should be as just and fair as possible. Furthermore, individuals should have due process rights to challenge restrictions and restrictions should be applied equitably across the population. Release of personal information should be solely for public health purposes, should be as limited as possible, and the public should be aware of the safeguards in place to protect the information collected.

Three possible recommendations related to this balance of protection of public health and limits on personal liberties include (Possible Recommendations 3.1):

- a) Government officials should take every measure to protect the public's health regardless of infringements on individual rights;
- b) Government officials should implement those measures deemed likely to be effective to limit illness and mortality in the context of an epidemic, but limit those restrictions and intrusions to the least restrictive alternative necessary to protect the public;
- c) Government officials should only implement measures that infringe upon individual rights when the measures are proven to be effective in limiting illness and mortality in the context of an epidemic, and such restrictions and intrusions should be limited to the least restrictive alternative necessary to protect the public;
- d) No measure should be taken to protect the public that infringes on individual rights.

The Task Force discussed these options and chose the second one as their preferred recommendation:

**Recommendation 3.1: Government officials should implement those measures deemed likely to be effective to limit illness and mortality in the context of an epidemic, but limit those restrictions and intrusions to the least restrictive alternative reasonably necessary to protect the public.**

Next, the Task Force discussed development of a recommendation related to an appeals process for unnecessary government infractions on personal liberty during a pandemic influenza. The recommendation developed is as follows:

- Recommendation 3.2 The NC Department of Health and Human Services should**
- a) **Work with the Administrative Office of the Courts, law enforcement, the UNC School of Government, and other relevant stakeholders to create an understanding of the need to use isolation and quarantine to prevent spread of disease in flu pandemic;**
  - b) **Conduct a public education outreach campaign and work with stakeholders, community groups, and the media in advance of an influenza pandemic to ensure that the public is well-informed of the measures, their rationale, and the process for individual appeals of the measures;**

- c) **Ensure that individuals affected by isolation and quarantine receive needed assistance in accessing resources to meet their basic necessities while they are subject to restrictions.**

Task Force discussion suggested that an additional recommendation was needed around the issue of communication. It is important that the public know who they should listen to during an emergency and the Division of Public Health should have a communications plan that ensures that the public has access to timely and accurate information. It is also important that this information reach special populations that may not be able to access the information as readily, or may need more assistance during an emergency.

**Recommendation 3.3 The Governor's Office, in conjunction with the NC Department of Health and Human Services and Crime Control and Public Safety, should develop a coordinated communications plan, to ensure that the public obtain timely and accurate information about the pandemic influenza. Special attention should be made to ensure that this information be communicated to special populations, including but not limited to, low-income communities non-English speakers, or people with hearing impairments.**

The Task Force discussed a recommendation related to enacting legislation to support, financially and otherwise, individuals who lose income as a result of the public health control measures and cannot meet their basic subsistence needs. After discussion, the Task Force chose not to endorse a recommendation for financially supporting such individuals, but did choose to endorse a recommendation related to helping individuals affected by isolation or quarantine access basic necessities.

**Recommendation 3.4 The North Carolina Department of Health and Human Services should ensure that individual who are affected by isolation or quarantine orders receive needed assistance in accessing resources to meet their basic necessities while they are subject to restrictions.**

#### **DUTY TO WORK UPDATE: HEALTHCARE AND CRITICAL WORKERS**

##### **Pam Silberman, JD, DrPH**

Dr. Silberman reviewed changes to the previously discussed recommendations for healthcare and critical workers' duty to work. Some small changes were made to the recommendations, which will be included in the final report.

Outstanding questions that were discussed included whether or not the duty to work should be balanced against the need to care for ill family members. The group decided, yes, that should be balanced for dependent family members.

## **PRIORITIZATION AND UTILIZATION OF LIMITED RESOURCES**

**Mark Holmes, PhD**  
**Vice President**  
**NC Institute of Medicine**

Dr. Holmes gave a short presentation of the issues related to prioritizing the distribution of limited resources during a pandemic influenza. During a pandemic, there will likely be more needs than available supply for many different types of healthcare resources. How should society choose among multiple individuals requiring the resource? The Task Force is not charged with developing the priority list per se, but with informing leaders what ethical values the list should follow. Dr. Holmes presented some sample lists to demonstrate the ramifications of alternate schemes.

Alternative prioritization schemes include: assuring the functioning of society, which would target resources to critical workers such as healthcare workers, public safety, vaccine production; minimizing mortality and hospitalization, which would identify those who would receive the most benefit from the resource and which would have the greatest impact on limited the spread of disease; protect persons with the most life ahead of them, which would target the young; giving everyone an equal chance to be protected, which may follow a lottery system. It is possible to combine some elements of multiple schemes, and the Task Force recommendation is likely to do that.

Dr. Holmes presented the potential recommendations to be discussed at the September Task Force meeting.

Potential Recommendation 4.1 Priority in the allocation of limited resources should be made with the goal of (Task Force will prioritize the following list):

- Assuring the functioning of society
- Reducing individual deaths and hospitalizations due to influenza
- Protecting persons with the most life ahead of them
- Giving everyone an equal chance to be protected

Potential Recommendation 4.2

- a) Involve key stakeholders in the priority setting process for distribution of limited resources.
- b) Make the prioritization decisions publicly accessible and, at least initially during a trial period/pre-pandemic, provide a mechanism by which challenges can be made with the possibility of modifying decisions based upon additional evidence or arguments.
- c) Provide adequate protection for individuals in possession of, and responsible for distribution of, limited resources, such as pharmacists and drug manufacturers. This may include alerting the public to the fact that pharmacists, hospitals, grocery stores, etc. are not responsible for deciding who receives limited resources.