

,            † 1NQZP1Vh1àNQZP1  
bVPbM1S1RNàU1QVàNaV1  
NQRNàU1VPf1abQh`

OàNPa  
Ž, W1 ~~Q~~ ~~S~~ ~~E~~  
~~S~~ ~~Z~~ ~~S~~ ~~R~~ ~~E~~

~~S~~~~R~~~~R~~~~E~~~~S~~~~Z~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~  
XXI ~~S~~~~R~~~~R~~~~E~~  
~~S~~~~R~~~~R~~~~E~~

## Introduction

pandemic (Persad et al., 2009). We then show how these same ethical concepts can and should be applied to ethical dilemmas that professionals in health administration will face after the pandemic has waned. The principles that were needed to effectively negotiate the allocation of critical care nurses, for example, are the same ones used to determine which patients in hospitals receive limited medication when supplies run low (Fox & McLaughlin, 2018; Rosof, 2012). By leveraging the attention that ethics has received during the pandemic, programs in health administration and health policy will be able to better prepare students to negotiate the more routine, yet consequential, ethical questions they will face as professionals.

## Addressing Ethical Issues of COVID

### *Ethical Theories*

Regardless of discipline, coursesW U Is







clinical staff have left frontline positions for less taxing work environments or even changed professions. Nurses have found more lucrative opportunities with agencies that fill staffing shortages with traveling nurses, often at wage rates double those of the hospital's employed nurses. Early in the pandemic, competition for PPE raised costs several-fold. Ethical decisions in the context of staffing shortages have also garnered significant media attention in early 2022, as public health temporary guidance has allowed administrators to ask staff who test positive for COVID but are asymptomatic to report to work (State of California - Health and Human Services Agency, 2022). If potential patients are alarmed by the prospect of exposure, they may seek care elsewhere. Conversely, given extensive evidence that the risk of transmission is low and the cost of understaffing is high, calling in recovered but test-positive staff may be the only option to maintain patient care capacity. Concepts such as appropriate care for employee well-being and transparency are essential to navigating these ethical issues successfully.

**Social Ethics:** The COVID pandemic has brought

take an action to protect others from harm, they should be given the necessary resources to do so (Singer et al., 2003). For example, workers who stay home to protect their coworkers from infection should not bear the entire cost of lost wages themselves. Instead, their social contribution should be associated with some reciprocal reward. In contrast with other nations, U.S. isolation and quarantine policy was not implemented to include these elements.

The pandemic also raised the question of how best to balance personal liberty with the common good. While this tension can be identified in isolation and quarantine, it also arises in the context of wearing masks and receiving a COVID vaccine (Baylis & Kofler, 2021; Gostin et al., 2020). Some claim that mask mandates or vaccine mandates/passports are violations of their freedom, while others claim that such policies are appropriate to protect the health of others. This dilemma exhibits one of the core tasks of ethics—that of weighing competing but exclusive values. In public health policy, those goods are often individual liberties and public health goals, but there were other situations in the pandemic where this weighing was critical, such as when some suggested that stay-at-home orders, designed to reduce infections, were not worth the reduced economic activity the orders produced or when a moratorium on evictions was creating too much risk for landlords compared to the public health good the moratorium might achieve. Ultimately, these and similar situations come down to naming and weighing two or more competing goods.

**Legal Ethics:** Ethical dilemmas in the realm of public health law address the appropriate balance of individual and collective rights and duties: as in other ethical domains, what do we as a society owe those in need, and how must we, as members of society, act or refrain from acting to support the well-being of others (Gostin & Wiley, 2016). The pandemic has given rise to many poignant examples of the tension between these perspectives that will be familiar to students in health administration and public health courses. While the media have typically framed debates over these issues as political, students should readily appreciate their ethical dimensions and the extent to which ethical vocabulary is used to advance political agendas. Students engaged with ethical issues in health law thus have the opportunity to apply critical thinking skills as they decode public statements.

One such topic is vaccination mandates, which arose at the foundation of U.S. public health law in the 1908 Supreme Court case *Jacobson v. Massachu-*

was legally sound. By extension, other public health mandates could rely on over a century of jurisprudence to survive legal challenge. The *Jacobson* court's ethical approach might be characterized as utilitarian, valuing the greater good arising from mass vaccination over the individual harm associated with an unpleasant vaccination experience. Despite its age, the *Jacobson* opinion is a fruitful resource for discussion of ethical issues in healthcare and public health. Several COVID-related judicial decisions have raised concerns that *Jacobson*'s principles are eroding under pressure from courts that view government action as inherently suspicious, particularly when religious rights are at issue (Mello & Parmet, 2021). Instructors may find this trend suitable for exercises identifying competing ethical principles, debating the increasingly disparate perspectives supporting and challenging *Jacobson*'s authority, and again identifying the mobilization of ostensibly ethical arguments to advance political positions.

A second topic of legal ethics is COVID-related liability. Tort reform and related initiatives limiting liability under state law embody a persistent theme in U.S. politics that pits the interests of the business community against those of less powerful groups and individual workers. COVID-19 has presented a compelling case for limiting exposure to liability for healthcare practitioners and facilities as they address a novel disease with inadequate supplies and equipment. Employers of designated "essential workers" who required employees' physical presence also sought to limit their own liability for workplace exposure to the virus. In addition to pandemic-specific ethics questions, these patterns present opportunities for students to explore the ethical ramifications of the U.S. tort system, which notoriously fails to match awards with either negligence or harm in health-related cases (Mello et al., 2020). Specific questions include: What is the relationship between legally enforceable rights and ethical obligations? What ethical principles are at issue in the tort system? How should these principles be applied when modifying liability regimes in response to crises? What are the ethical responsibilities of employers to employees? Of health care practitioners and health systems to patients? How (if at all) are these obligations modified in a public health crisis?

### Applying Experience from COVID to Enduring Ethical Concerns *Insights from Health Care Organizations*

To respond to the ethical issues described in the previous section, healthcare



Table 1, *cont.*

| Organizational   |   |   |
|--|---|---|
| Appropriate use of power, particularly for essential resources during an emergency                   | Price gouging (supplier) / competing (consumer) for limited supply of personal protection equipment             | Contract negotiations with physician groups; communicating with patients about cost of care   |
| Weighing autonomy, beneficence, and non-maleficence; balancing physical safety and mental well-being | Imposing visitor restrictions to prevent the spread of COVID; addressing moral distress among staff             | Engaging patients, clinicians, and the public in Right to Try conversations about unproven treatments   |
| Role of profit and financial stability in healthcare   | Canceling financially beneficial procedures to divert resources to pandemic care                                | Considering strategies that care for communities of need when those efforts are not financially sustainable   |
| Social   |   |   |
| Disparities in health outcomes rooted in interpersonal and/or structural discrimination              | Disparities in hospitalization, mortality, and vaccination along racial/ethnic lines                            | Disparities in receiving standard of clinical care and in exposure to negative social determinants of health, such as environmental pollution or unsafe neighborhoods |
| Balancing personal liberty with contribution to the common good                                      | Policy debates on mask mandates and vaccination/testing requirements  | Policy debates on requirement for everyone to buy health insurance  |
| Reciprocity, or providing necessary resources for those who make sacrifices for the good of others   | Provision of adequate support for those expected to quarantine or isolate during to COVID exposure or infection | Ensuring those whose freedom is limited due to mental health issues have access to appropriate mental healthcare services   |
| Legal  |   |   |
| Use of police power to achieve public health goals   | Enforcement of mask mandates and vaccination/testing requirements   | Policies that require tracing and enforcement of a duty to warn for HIV   |
| Extent of liability protection for businesses and protection of health for workers                   | Policies that either protect businesses or allow workers to hold business liable for exposure to COVID          | Accountability for environmental exposures for workers and communities  |

**Resource Allocation:** As described, the COVID pandemic raised poignant questions about the need to allocate resources in an ethically appropriate manner. Health administration students, like the general public, may not fully appreciate that resource-allocation decision-making is a constant in U.S.

healthcare. It is often done implicitly, for example as the locations of healthcare facilities create disparities in access to care. The allocation process can also be explicit, as when states decide which populations and services will be covered by Medicaid. In order to draw students' attention to the ongoing allocation issues in healthcare, faculty can begin by discussing resource allocation during COVID: ventilators, monoclonal antibodies, intensive care nurses, PPE, and vaccines. Once the fundamental concepts of resource allocation have been established, students can then consider dilemmas that take place in a nonpandemic environment, such as adequate access to mental health professionals on college campuses, medication shortages in rural hospitals, and eligibility for the social safety net. By connecting these two contexts—pandemic and ongoing—students can more clearly see that their professional responsibilities require them to know how to incorporate ethics into decision-making in any environment.

Although concerns about limited resources will not be as prevalent in the media as they were during the pandemic, we would like to see more ethical

---

---

---





view of response to healthcare crises. Taking an example from Table 1, one might design a class that explores the ethical tension between personal liberty and the common good. Students are now very familiar with the debates on masking and vaccination, so the class may begin by exploring the core concepts through the lens of COVID policies that placed individualism in conflict with collectivism. Many concepts such as protection of the vulnerable, burden assessment, and restrictions on personal liberty would surface. Having used a



## References

- Abbasi, J. (2020). Social isolation—the other COVID-19 threat in nursing homes. *JAMA*, 324(7), 619-620.
- ACHE Board of Governors. (2022, December 5). *ACHE code of ethics*. American College of Healthcare Executives. <https://www.ache.org/about-ache/our-story/our-commitments/ethics/ache-code-of-ethics>
- American College of Healthcare Executives. (2022, September 7). *Ethics toolkit*. American College of Healthcare Executives. <https://www.ache.org/about-ache/our-story/our-commitments/ethics/ache-code-of-ethics/creating-an-ethical-culture-within-the-healthcare-organization/ethics-toolkit>
- American Hospital Association. (2022, October 24). *Financial implications of COVID-19 on hospitals and health systems*. American Hospital Association. <https://www.aha.org/issue-landing-page/2020-09-17-financial-implications-covid-19-hospitals-and-health-systems>
- American Medical Association. (2016, June 13). *AMA code of medical ethics: chapters*. American Medical Association. <https://code-medical-ethics.ama-assn.org/chapters>
- American Nurses Association. (2015, January). *Code of ethics for nurses*. American Nurses Association. <https://www.nursingworld.org/practice-policy/nursing-excellence/ethics/code-of-ethics-for-nurses/coe-view-only/>
- Anyane-Yeboah, A., Sato, T., & Sakuraba, A. (2020). Racial disparities in COVID-19 deaths reveal harsh truths about structural inequality in America. *Journal Internal Medicine*, 288(4), 479-480. doi:10.1111/joim.13117
- Aroskar, M.-A., & Yoak, S.-D. (1996). Ethics teaching in health administration programs: A report. *Journal of Health Administration Education*, 14(3), 355-363
- Baylis, F., & Kofler, N. (2021). A public health ethic should inform policies on COVID-19 immunity passports. *The Lancet Infectious Diseases*, 21(4), 456



- Gostin, L. O., Cohen, I. G., & Koplan, J. P. (2020). Universal masking in the United States: The role of mandates, health education, and the CDC. *JAMA*, 324(9), 837–838.
- Gostin, L. O., & Wiley, L. F. (2016). *Public health law: Power, duty, restraint* (3rd ed.). University of California Press.
- Groos, M., Wallace, M., Hardeman, R., & Theall, K. P. (2018). Measuring inequity: a systematic review of methods used to quantify structural racism. *Journal of Health Disparities Research and Practice*, 11(2), 13.
- Hall, L. H., Johnson, J., Wat, I., Tsipa, A., & O'Connor, D. B. (2016). Healthcare staff wellbeing, burnout, and patient safety: A systematic review. *PLoS One*, 11(7), e0159015.
- Huberman, B. J., Mukherjee, D., Gabbay, E., Knowlton, S. F., Green, D. S., Pandya, N., . . . Hersh, J. E. (2020). Phases of a pandemic surge: The experience of an ethics service in New York City during COVID-19. *Journal of Clinical Ethics*, 31(3), 219–227.
- Jameton, A. (1984). *Nursing practice: The ethical issues*. Prentice-Hall.
- Kaufman, Hall, & Associates. (2022, January). *National hospital flash report*. KaufmanHall. [https://www.kaufmanhall.com/sites/default/files/2022-01/National-Hospital-Flash-Report\\_Jan2022.pdf](https://www.kaufmanhall.com/sites/default/files/2022-01/National-Hospital-Flash-Report_Jan2022.pdf)
- Lau-Ng, R., Caruso, L. B., & Perls, T. T. (2020). COVID-19 Deaths in long-term care facilities: A critical piece of the pandemic puzzle. *Journal of American Geriatric Society*, 68(9), 1895–1898. doi:10.1111/jgs.16669
- Mackey, K., Ayers, C. K., Kondo, K. K., Saha, S., Advani, S. M., Young, S., . . . Veazie, S. (2021). Racial and ethnic disparities in COVID-19-related infections, hospitalizations, and deaths: a systematic review. *Annals of Internal Medicine*, 174(3), 362–373.
- Maves, R. C., Downar, J., Dichter, J. R., Hick, J. L., Devereaux, A., Geiling, J. A., . . . King, M. A. (2020). Triage of scarce critical care resources in COVID-19: an implementation guide for regional allocation: an expert panel report of the task force for mass critical care and the American College of chest physicians. *Chest*, 158(1), 212–225.

McCullough, L. B. (2020). In response to COVID-19 pandemic physicians

---

---

---

---

---

- Rosof, P. M. (2012). Unpredictable drug shortages: An ethical framework for short-term rationing in hospitals. *The American Journal of Bioethics*, 12(1), 1–9.
- Rowland, C. (2021, August 20). Long-term-care facilities are using the pandemic as a shield, even in lawsuits unrelated to Covid-19. *Washington Post*.
- Sabatello, M., Burke, T. B., McDonald, K. E., & Appelbaum, P. S. (2020). Disability, ethics, and health care in the COVID-19 pandemic. *American Journal of Public Health*, 110(10), 1523–1527.
- Singer, P. A., Benatar, S. R., Bernstein, M., Daar, A. S., Dickens, B. M., MacRae, S. K., . . . Shaul, R. Z. (2003). Ethics and SARS: Lessons from Toronto. *BMJ*, 327(7427), 1342–1344.
- Slosar, J. P. (2004). Ethical decisions in health care. A seven-step ethical discernment process can help organizational leaders make wise choices. *Health Progress*, 85(1), 38–43.  
<https://www.ncbi.nlm.nih.gov/pubmed/14763118>
- Smith, J. A., & Judd, J. (2020). COVID-19 vulnerability and the power of privilege in a pandemic. *Health Promotion Journal of Australia*, 31(2), 158.
- State of California - Health and Human Services Agency. (2022, December 2). *Guidance on quarantine and isolation for health care personnel (HCP) exposed to SARS-CoV-2 and return to work for HCP with COVID-19*. Sacramento, CA. <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/AFL-21-08.aspx>
- Storch, J. L. (1988). Teaching ethics: Preparing health services managers for ethical decision making. *The Journal of Health Administration Education*, 6(2), 287–318.
- Subramanian, C. (2020, April 18). How a frantic trek to a McDonald's parking lot shows the scramble states face for coronavirus supplies. *USA Today*.
- Tan, S. B., DeSouza, P., & Raifman, M. (2021). Structural racism and COVID-19 in the USA: A county-level empirical analysis. *Journal of Racial and Ethnic Health Disparities*, 1–11.
- United States. (1978, April 18). *The Belmont Report: Ethical principles and guidelines for the protection of human subjects of research*. <https://www.ncbi.nlm.nih.gov/pubmed/10241035> (Accession No. 10241035)

- Williamson, V., Murphy, D., Phelps, A., Forbes, D., & Greenberg, N. (2021). Moral injury: The effect on mental health and implications for treatment. *The Lancet Psychiatry*, 8(6), 453-455.
- Yaya, S., Yeboah, H., Charles, C. H., Otu, A., & Labonte, R. (2020). Ethnic and racial disparities in COVID-19-related deaths: Counting the trees, hiding the forest. *BMJ Global Health*, 5(6), e002913.