

ETHICS STILL UN-ADDRESSED IN PANDEMIC PREPAREDNESS: POSSIBLE PLANNING GUIDELINE

*Dr. Kirsty Duncan's article in the Spring 2006 edition of **Management Ethics** set past flu pandemics in historical context and discussed the anticipated "bird flu" threat along with emerging legal and ethical questions that employers - and employees - will likely face. Dr. Duncan explores these ethical dilemmas in this edition of **Management Ethics** as she explains the critical need for employers to develop effective preparedness plans as soon as possible.*

On January 19, 2006, UN Secretary General Kofi Annan warned of the possibility of human-to-human transmission of the Avian Influenza virus unless the international community pulled together in a massive effort to combat the virus. Michael Chertoff, Secretary of Homeland Security in the U.S. , Carlos M. Gutierrez, Secretary of Commerce, and Michael O. Leavitt, Secretary of Health and Human Services appealed to the American business community on December 6, 2005: 'We are requesting that you, as a business leader, focus on the need for planning within your organization for the possibility of an influenza pandemic...your business should develop specific plans for the ways that you would protect your employees and maintain operations during a pandemic.'

However, only 15 per cent of large American companies had a bird-flu plan, according to a survey in March, 2006, by management consultancy Watson Wyatt Worldwide. A June, 2006 survey by The Conference Board of Canada showed that while 80 per cent of respondents' executives were concerned about the impact of a pandemic on their organization, only four per cent had developed a preparedness plan. Key issues for survey respondents were employee health and welfare (100 per cent) and operational continuity (96 per cent). The survey also indicates that although respondents aimed to protect their organization from the effects of a global epidemic, they have not tackled 'the full range of challenges' they might face during a pandemic. Key areas that appear to be gaps in current planning efforts include compensation for those individuals covering for absent employees and responding to employee refusals to work in an unsafe environment. The most significant concern was, however, the lack of coordination with the public sector. The Conference Board survey found that 94 per cent of participating companies reported that they had not as yet had discussions with *any* level of government.

Effective planning for an influenza pandemic not only requires compliance with relevant legislation but also constructive partnerships among business, communities, and governments to maximize survival and socioeconomic functioning. As well, preparedness planning needs to factor in appropriate management of the range of ethical implications that are associated with a flu pandemic.

Legislative Compliance

Organizations must ensure that they meet all relevant laws and regulations. With regard to health, most fall under provincial legislation. In Ontario, for example, the Ontario Occupational Health and Safety Act (OHSA) and its Regulations provide the central legislative framework governing workplace safety. Because it was not possible to specify all possible workplace hazards, a very broad clause was created in section 25 (2)(h) of OHSA, which reads: *Without limiting the strict duty imposed by subsection (1), an employer shall, (h) take every precaution reasonable in the circumstances for the protection of a worker.* Employers therefore have a legal obligation to protect worker health and safety in all situations--and not just those specified. Section 25(2)(h) of OHSA will therefore be important for employers who are reviewing their compliance, particularly regarding non-traditional hazards. It is advisable for employers to engage legal and professional experts to determine what constitutes 'every precaution reasonable'. That said, the law prescribes moral minimums, but ethics may require greater commitments, such as attending to the most vulnerable.

Ethical Considerations

The need for a widely accepted, pre-pandemic ethics approach was highlighted during the 2003 SARS crisis, when difficult ethical choices rapidly arose. In the future, whose values should prevail? How should individual freedoms be balanced against the common good, or economic losses against the halting of disease? A sound ethical framework will help guide organizational policies concerning such issues as benefits and compensation packages, decisions to close a site, evacuation of employees working in or near an affected area, financial assistance, flexible worksite and work hours, preventive medical opportunities, etc.

Addressing ethical issues in pandemic influenza planning is new territory for the World Health Organization (WHO). The Ethics Team of the Department of Ethics, Trade, Human Rights and Health Law is currently studying the ethical issues raised by a potential pandemic; a technical meeting was held in May 2006, and the recommendations of the meeting are now being prepared for international consideration at the end of October. WHO then expects to provide Member States with practical guidance to incorporate ethical considerations into pandemic plans.

There are currently four working groups:

- (1) equitable access to therapeutic and prophylactic measures;
- (2) isolation, quarantine, border control, and social-distancing measures;
- (3) the role and obligations of healthcare workers during an outbreak of pandemic influenza; and
- (4) issues that arise between governments when developing a multinational response'.

Unfortunately, *no* working group exists to specifically address business' ethical concerns regarding a pandemic. Review of the ethical plans currently accessible in Canada, the United Kingdom, and the United States of America raises alarm: for example, scarcity of human and material resources is assumed to be severe, yet resources needed to reduce death and other consequences are not identified.

The good news is that ethics is increasingly being addressed (for example, by the Canadian College of Health Service Executives, Center for Infectious Disease Research and Policy, Toronto Academic Health Sciences Network, and the University of Toronto Joint Centre for Bioethics). That said, questions largely focus on health-care workers, scarce resources, and social-distancing measures. Information can, however, be gleaned from these health reports, which openly discuss moral concerns. However, at the present time, many companies appear to be highly reluctant to share planning details. This in turn makes it extremely difficult to develop a best practices database and to co-ordinate efforts.

After assuring legal compliance, companies might want to consider four aspects in their pre-crisis planning and also incorporate the following principles and values in their planning:

- **First**, the *Precautionary Principle*, ‘Where an activity raises threats of harm to the environment or human health, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.’ The Precautionary Principle can be likened to the common sense idea behind many deep-rooted axioms, such as ‘better safe than sorry’, and ‘first do no harm’. Key elements of the Principle include taking precaution in the face of scientific uncertainty, and using democratic values to carry out and enforce the Principle.
- **Second**, businesses might want to survey their employees, management, and unions--making sure that the appropriate members of the community are given the opportunity to give their perspectives. Employers need their staff’s advice, help, and most important, buy-in. If there is no compliance, even a flawless plan cannot be implemented.
- **Third**, companies might want to determine or re-visit their guiding principles/ethical values so that plans will reflect what most people will accept as “fair” and good for employee health *and* organizational health during a possible pandemic. Values might include beneficence, individual liberty, non-maleficence, privacy, solidarity, stewardship, and trust.
- **Fourth**, companies need to determine an inclusive process for addressing ethical decision-making. Adherence to laws, regulations, and ethical principles and values during planning or crisis will allow companies to make difficult decisions such as: duty to work during a disease outbreak, measures to prevent stigmatization (of those affected or quarantined), priority setting, including the allocation of anti-virals, support for those in quarantine, stockpiling of anti-viral drugs, and travel bans (*Figure 1*). The University of Toronto’s Joint Centre for Bioethics suggests that ethical decision-making should be accountable, inclusive, open and transparent, reasonable, and responsive. While some companies will already have a code in place, together with principles and possibly an ethical decision-making framework to address ethical dilemmas, applying existing business frameworks to a possible flu pandemic will likely be a difficult transition.

Ignorance regarding pandemic flu and worst-case scenarios is no longer an acceptable defense; therefore, Figure 2 gives a possible pandemic planning guideline for business. Companies need to also recognize that choosing the least cost, effort, and time is a choice. They must decide how much information regarding pandemic preparedness to release to civil society and to government. Moreover, businesses need to recognize the moral distress employees might experience in choosing between family and work, and in making difficult decisions repeatedly over extended periods of time.

Lastly, according to Peter Singer, Director of the University of Toronto Joint Centre for Bioethics (JCB), ‘Afterwards, history will judge today’s leaders on how well they took decision on the ethical challenges they faced in the midst of the crisis.’ Therefore, how do you want your organization to be judged following a disaster by your employees, shareholders, local communities, and indeed, the global community?

Fig. 1 POSSIBLE ETHICAL FRAMEWORK

PRE-CRISIS

- Precautionary Principle
- Survey of employee, management, and union concerns
 - List of concerns to be addressed
 - Accepted process for addressing concerns
- Determine/re-visit guiding principles/ethical values
- Determine inclusive process for addressing ethical decision-making

CRISIS

- Inclusive forum
- Review of relevant values and decision-making process
- Open discussion of issues
- Decision
- Action
- Record of results of decisions

POST-CRISIS

- Presentation of outcomes
 - Need for, and usefulness of processes
- Possible improvements

Fig. 2 POSSIBLE PANDEMIC PLANNING GUIDELINE

Leadership companies in pandemic planning might tackle the following:

PANDEMIC PLANNING

Pandemic planning organizational chart

Structure and key roles

Succession planning

Emergency budget

Pandemic scenarios

Starting assumptions and challenges

Strategy

Reducing economic impacts

Reducing cases, hospitalizations, and deaths

Needs

Education on pandemic influenza

Compliance with international, national, and local laws and regulations

Consistency with industry customs and norms

Development of an ethical framework

Collective action

Top priorities for protecting business, employees, and community

Requirements to maintain functionality

Anticipated demand for goods and services

Core activities, key employees, and necessary supplies

Security

Insurance

Risk identification and analysis

Alert levels and organizational risk

Business continuity

Review of existing business continuity plans

Development of pandemic-specific procedures

Communication

With government, staff, suppliers, and customers

Employee health and well-being

Personal hygiene, protection, and workplace cleanliness

Social distancing

Policies for sick employees and contact management

Travel restrictions

Review and testing

Recovery

Criteria and process for return to business

PANDEMIC*Recognizing the event**International control measures**Containment**National roles and responsibilities**Business actions*

Border management

Pandemic management

Alert staff to change in pandemic status

Activate business continuity measures

Activate infection control measures, and case management

Activate process for recovered staff to return to work

RECOVERY*Manage return to business**Conduct full debrief**Up-date continuity and pandemic plans**Communicate lessons learned*