Should triage guidelines be revisited ahead of a second wave of COVID-19?

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The first wave of coronavirus disease 2019 (COVID-19) left doctors and medical ethicists across Canada scrambling to draft guidelines for allocating limited resources should hospitals become overwhelmed during the pandemic. But some ethicists and patient advocates fear these recommendations could lead to discrimination based on age or disability if Canada sees a resurgence of cases.

The Canadian Medical Association (CMA) put together an ethical framework for decision making during the pandemic as it became clear that COVID-19 had the potential to overwhelm hospitals. “When we saw what was happening in Italy, with doctors forced to make unfathomable decisions, we felt it was important to have some frame in place,” says CMA President Dr. Sandy Buchman.

Largely based on an article in the *New England Journal of Medicine*, the CMA’s framework is built around the principle of “saving more lives and more years of life.” In practice, this means prioritizing patients who are most likely to survive treatment with a “reasonable” life expectancy, and preferring those who are likely to live longest when choosing between patients with similar chances of survival. Under these guidelines, it would be “justifiable” to remove an older, frailer patient from a ventilator if needed to save a younger person.

The CMA counsels against considering a person’s future quality of life in triage decisions but acknowledges that following the framework will tend to give priority to patients who are “at risk of dying young and not having a full life.” The framework also recommends that critical interventions, from ventilators to vaccines, go first to front-line caregivers and other essen-

Triage decisions should not be based on age or disability, say some advocates.

tial workers whose training makes them difficult to replace.

Dr. Ross Upshur, one of the authors of the *NEJM* article that informed CMA’s framework, says the recommendations reflect the general ethical consensus on maximizing benefit in an emergency.

Like the CMA’s framework, a COVID-19 triage protocol drafted by Ontario Health gives lower priority to patients who are unlikely to survive acute illness or who have a low probability of surviving more than a few months regardless. In the worst-case scenario, the not-yet-approved protocol recommends denying critical care to anyone with a less than 70% chance of survival, including anyone who scores as even mildly frail due to a progressive illness or condition.

Upshur notes that the situation in hospitals would have to be extremely dire to trigger worst-case protocols. In such scenarios, “there is no algorithm that results in a good situation for everybody,” he says.

But advocates for older people and people with disabilities say an emphasis on maximizing “life-years” may be discriminatory.

“That language raises alarms for me,” says Marissa Lennox, chief policy officer at the Canadian Association for Retired Persons. “The moment you introduce life-years, it’s a proxy for age.”

Lennox says it is understandable that doctors must consider a person’s medical situation in triage decisions, and that clinical factors may disproportionately

exclude older adults from receiving scarce resources. But she argues that using age, or any proxy for age, as a determining factor would violate the Canadian Charter of Rights and Freedoms. “The equality provisions of the charter also apply to hospitals,” Lennox says.

Melanie Benard, national director of policy and advocacy at the Canadian Health Coalition, says that triage guidelines could do more to call attention to unconscious biases. For example, they could include a clear statement against basing decisions on age, disability or other factors protected under the charter. “We hope by drawing attention to it we would help guard against some of these biases,” she says.

Trudo Lemmens, a bioethicist and professor of health law at the University of Toronto, says doctors could use other frameworks that would not disadvantage people with disabilities. For example, Canada has sometimes decided to devote extra resources to people with disabilities in the interest of fairness to enable them to participate in public life. During the

pandemic, that could extend to giving people with disabilities extra chances in lotteries for resources when deciding between people with similar prognoses.

“Reasonable accommodation can require us to provide additional chances to people with disabilities,” Lemmens explains. “It definitely means more than just treating everyone the same according to clinical criteria that disadvantage some people with disabilities.”

The University of Pittsburgh has a triage policy that explicitly does not exclude any individual or group from eligibility for critical care. However, that policy still recommends giving higher priority to younger patients as a “tiebreaker” when choosing between patients with similar prognoses, based on the argument that everyone should have an equal chance to “pass through the stages of life.”

New York State’s ventilator allocation guidelines prioritize patients most likely to survive with treatment, excluding those at high risk of death based “primarily on current organ function, rather than on specific disease.” However, the guidelines

also acknowledges other triage approaches, each with unique pitfalls. According to the document, a lottery system “seems the fairest” but could result in resources being wasted on people who are too sick to benefit. A “first-come, first-serve” approach is straightforward but may penalize those who become ill later in the pandemic. Meanwhile, the guidelines reject triage by age because it already factors into a person’s overall health, or by social role because it’s difficult to do in a fair way.

Buchman says the CMA is aware of concerns raised about Canadian triage guidelines and welcomes feedback on the association’s framework. The urgency of the situation early in the pandemic meant that the document didn’t undergo the usual process of consultations with patients and the public. Buchman says the framework remains a work in progress, but he does not believe it will lead to discrimination based on age or disability. “Physicians will look at the overall picture, at which person can do best post-treatment,” he says.

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