Healthcare

ALERTBULLETIN®

A Risk Management Update | 2022 Issue 2

Crisis Decision-making: Early Planning Helps Promote Better Outcomes

Natural disasters, disease outbreaks and other emergency situations can quickly overwhelm healthcare settings and medical practices, disrupting routine operations, depleting staff, and creating shortages and overcrowding. In such stressful circumstances, when pressure mounts and action must be taken quickly, customary administrative procedures may no longer suffice. By establishing a setting-specific, appropriately scaled framework for crisis decision-making *before* disaster strikes, leadership can accomplish the following objectives, among others:

- **Identify potential system vulnerabilities,** thus preventing unexpected breakdowns in functioning during a crisis.
- **Assist staff** in preparing for and coping with adversity and uncertainty.
- **Protect patients** from injury, neglect and undue stress.
- **Promote fairness** and transparency in decision-making.
- **Reduce potential liability** and negative publicity.

(See "Crisis Decisions and Liability" on page 2.)

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Emergency planning represents a complex, multifaceted endeavor.* This edition of *AlertBulletin*® focuses on one aspect of that process – crisis decision-making – through a discrete examination of the following central elements:

- Selecting a crisis decision team.
- Creating a centralized referral process.
- Making decisions during a crisis.
- Implementing crisis standards of care.
- Documenting decisions, outcomes and rationales.
- Avoiding implicit bias.
- Effectively communicating decisions.

The suggestions presented here, while applicable to all types of healthcare settings, should be tailored to the clinical specialty, culture, patient population and unique needs of a facility or practice.

Selecting a Crisis Decision Team

To manage urgent, time-sensitive situations, healthcare settings and medical practices are utilizing specialized *crisis decision teams*. These teams deploy in emergency situations, when facilities require rapid and judicious decision-making regarding staffing, service rationing, resource allocation and/or temporary practice alterations that may have standard of care implications. Depending upon the size of the setting or practice, teams can range from a limited number of individuals to a dozen or more, and typically include representatives of medical and nursing disciplines, facility administration, pharmacy, laboratory and radiology services, supply chain management, social work and risk management.

* Emergency planning includes such key components (among others) as risk analysis, readiness assessment, action planning, crisis team training, and staff drills and education. (For more information, see the CNA special resource, "Emergency Planning: A Risk Management Guide for Healthcare Facilities and Providers," published January 2022.)

Crisis decision team members should not be impeded by individual biases, beliefs, fears and personality traits that may impair the group's ability to work as a unit. Nor should they be selected simply based upon their position within the organization. Rather, selection criteria should also include their collaborative skills and decision-making style, as well as the ability to communicate clearly in stressful settings, quickly assimilate information from various sources, acknowledge competing needs in an equitable manner and calmly mediate conflicting opinions when they arise.**

In addition, team members should possess a knowledge of and commitment to accepted ethical standards, including the following fundamental principles:

- **Minimizing harm,** including physical and psychological pain, as well as social and economic injury.
- **Proportionality,** ensuring that actions taken reflect the scope of the crisis and of patient and staff needs.
- **Solidarity,** producing consensual decisions that support all stakeholders.
- **Fairness,** allocating scarce resources without prejudice and with the goal of maximizing overall benefit.
- **Duty to provide healthcare services,** reflecting the obligation of healthcare workers to care for those in need in emergency situations.
- **Reciprocity,** ensuring that those responsible for caring for patients obtain the consideration, guidance and resources they need to maintain their own well-being during a crisis.
- **Privacy,** protecting patient confidentiality and dignity, and striving to prevent discrimination and stigmatization.

Creating a Centralized Referral Process

One central entry point for referrals helps maintain tighter control over the task of accepting and processing referral forms, while minimizing potential inefficiency and miscommunication. For large healthcare facilities, referrals to the crisis decision team should be channeled through a designated incident command center, which is activated when necessary to provide command, control and coordination of emergency response. In smaller settings, where the crisis decision team also may serve as the command center, designate a team member to assume the responsibility of processing referral forms.

Crisis Decisions and Liability

The following hypothetical scenarios exemplify the difficult decisions that must be made swiftly during a crisis:

- **Rationing services** and allocating scarce supplies and equipment to some patients rather than others, based upon health status.
- **Emergency use of drugs or devices,** often in an off-label mode.
- **Reuse of disposable equipment,** when not ordinarily permitted.
- **Relocation of staff members to high-impact areas,** irrespective of their individual training and readiness.
- **Reallocating treatment space during periods of extreme overcrowding** and triaging patients to waiting rooms, hallways, parking lots and other alternate care sites that may lack basic hygienic amenities and/or medical supplies.

If not managed in a fair, thoughtful and well-documented manner, decisions such as these can affect staff morale, raise ethical issues and ultimately create potential liability. The following strategies can help minimize risk for healthcare providers and administrators:

- **When making resource allocation decisions, avoid making assumptions about a patient's quality of life, gender or race,** as such determinations may lead to allegations of discrimination.
- **Utilize and document a vital organ assessment approach when rationing acute care,** in order to enhance fairness and objectivity.
- **To the extent possible, assign staff to familiar tasks** and ensure that they are properly supervised and acting within their scope of practice.
- **When shifting to crisis standards of care (as described on page 3), coordinate the decision with local and state emergency management systems** and comprehensively document the supporting rationale.

** Ideally, team members should have "WAR" game training, which fosters crisis preparedness through drills, pre-work and other exercises. (For more information, see "Crisis War Gaming and Risk Modeling." *Perspectives* from Deloitte US, 2022.)

A standard referral form should be adopted, enabling the team leader to expeditiously discern the nature of a request, determine whether it falls within the scope of the team's decision-making power and assess the urgency of the issue. A qualified staff member should be assigned the task of archiving decision-related documentation.

Making Decisions During a Crisis

Once a referral has been accepted, the team must first determine whether the issue needs to be addressed immediately or can be safely deferred to a future date. Factors to consider include whether the proposed decision will …

- **Reduce patient morbidity** and/or mortality.
- **Minimize disruption** to facility operations and patient care.
- **Limit patient suffering,** physical and/or mental.
- **Ensure a more equitable distribution** of limited resources and/or services.

Proposed solutions should be based on objective evidence, crisis management guidelines, and analysis of clinical, staffing and supply data. By utilizing specialized resource allocation software, team members can strengthen and streamline the decision-making process.

When rendering a decision, team members are expected to calculate the risks, benefits, ethical implications and potential consequences of a proposed course of action, and also to weigh the proposed solution against possible alternatives, including taking no action at all. The following questions, among others, should be considered:

- **How urgent** is the medical need?
- **What patient populations** are most affected?
- **What staffing levels are necessary** to implement the proposed solution?
- **Is the affected resource or service available** at another healthcare facility?
- **Can the proposed solution be delivered in a more efficient manner,** such as through virtual care or telemedicine?
- **Will the proposed solution negatively affect other patients**, operations or supply chains?
- **Does the proposed solution reflect fundamental ethical principles,** including fairness, impartiality and benevolence?

Implementing Crisis Standards of Care

When a healthcare setting is overwhelmed by a public health crisis or other disruptive event, potentially leading to a reduction in services or therapies, it may be necessary to implement *crisis standards of care*, which represent a deviation from ordinary standards. Implementation of crisis standards requires a coordinated response by the crisis decision team, incident command and medical triage, in consultation with local and state emergency response professionals. (See Levin, D. et al. "FAQ: Crisis Standards of Care and Health Provider Liability." The Network for Public Health Law, March 23, 2020.)

Documenting Decisions, Outcomes and Rationales

Rigorous documentation of decisions made, rationales and patient outcomes is necessary in order to demonstrate transparency and accountability, as well as support defensibility in the event of a claim. If clinical information is fragmented or incomplete, this fact should be noted. As new findings emerge, they should be added to the decision-making record. It is also important to archive information regarding all regulatory waivers and other federal, state and local directives issued in response to widespread emergencies that may potentially impact decisions.

Avoiding Implicit Bias

Crisis conditions are not conducive to calm reasoning, and important decisions may become subject to emotions and personal bias. Team members can avoid this pitfall by undergoing bias training and by soliciting information from a variety of reliable sources – including staff, clinical leaders and members of the incident command structure – thereby helping ensure that the decision-making record reflects wide-ranging input and credible data, rather than the preferences and predilections of a select few.

If there is no time to consult others, team members should avoid making decisions based upon the following flawed thought patterns or group dynamics, among others:

- **Anchoring bias,** i.e., placing a disproportionate emphasis on past clinical data and outcomes as a reference point for the current situation, thereby skewing the decision-making process.
- **Herd mentality,** i.e., taking the path of least resistance in deliberations, resulting in premature consensus and failure to contemplate a range of possible responses.
- **Loss aversion,** i.e., automatically gravitating to more cautious, seemingly safer actions, rather than considering riskier but potentially more effective options.
- **Hindsight bias,** i.e., allowing overconfidence in one's predictive ability to distort one's thought processes and justify the assumption of inordinate risk.

Training exercises can aid team members in evaluating their decision-making abilities and detecting common sources of implicit bias. (To learn more, see the "Implicit Bias Training – Facilitator Guide" issued by the American Academy of Family Physicians, 2019.)

Effectively Communicating Decisions

Final decisions must be swiftly conveyed to leadership, providers, staff members and patients, using multiple communication channels, such as text and email messaging, designated and secure crisis management websites, and message trees. In the event that proposed solutions disrupt routine services or alter customary standards of care, it is also necessary to inform external authorities and community partners of these changes.

The following strategies can help strengthen communication practices during times of crisis and promote a more effective, equitable and transparent decision-making process:

- **Foster an open culture** that welcomes prompt and balanced feedback.
- **Brief facility leaders and practice directors on decisions made** before issuing statements.
- **Repeat key points in messages,** such as the *how*, *where*, *when* and *why* of a proposed solution, as well as *what* tasks must be performed and *who* is accountable.
- **Issue routine updates** on the status of the response plan as circumstances unfold, keeping messages simple and avoiding unnecessary details.
- **Permit appeal of decisions,** when time permits.
- **Hold post-crisis debriefing sessions** where all relevant stakeholders can participate in a candid discussion of decisions made and consequent outcomes.
- **Welcome a two-way dialogue** on how to improve the crisis decision-making framework.

During times of crisis, complex decisions about patient triage, resource allocation and other high-stakes issues often must be made quickly. By proactively establishing a crisis decision team and decision-making process, healthcare settings and medical practices can function more fairly, rationally and smoothly in emergency situations and prudently evaluate potential risk, thus enhancing the safety of patients, staff and providers, while minimizing potential conflict and liability.

Quick Links

- Crisis Standards of Care: Guidance from the AMA Code of Medical Ethics. Issued by the American Medical Association, updated April 5, 2020.
- Guidolin, K., et al. "Ethical Decision-making During a Healthcare Crisis: A Resource Allocation Framework and Tool." *Journal of Medical Ethics*, May 21, 2021.
- "Out-of-hospital and Alternate Care Systems," a chapter in *Crisis Standards of Care: A Systems Framework for Catastrophic Disaster Response*. Issued by the Institute of Medicine, 2021.
- Oxman, D. "The Crisis in Crisis Standards of Care." *Annals of the American Thoracic Society*, August 2021, volume 18:8, pages 1283-1284.

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