

2. The Context for Preparing for an Influenza Pandemic

To have any chance in alleviating the devastation of the 1918 influenza epidemic required organization, coordination, and implementation. It required leadership and it required that institutions follow the leadership.

The Great Influenza, John M. Barry

The Peterborough County-City Health Unit Pandemic Influenza Plan is based on and reflects:

- a collaborative approach to pandemic planning;
- an ethical framework to guide decision-making; and
- relevant provincial legislation.

2.1 WHO Pandemic Periods and Phases

The World Health Organization (WHO) Global Influenza Preparedness Plan, released in April 2005, revised the phases of a pandemic. WHO decided to update the original plan in response to recent developments surrounding the H5N1 avian influenza virus, including endemic animal infection in several Southeast Asian countries and continuing human cases, better understanding of the evolution of flu viruses, new techniques for diagnosis and vaccine development, improved antivirals, and the ongoing revisions of the International Health Regulations.

The new plan lays out six pandemic phases. According to the plan, the world is currently in a Pandemic Alert Period – Phase 3, and countries should already have detailed pandemic preparedness plans in place.

World Health Organization Pandemic Periods and Phases, April 2005

Inter-pandemic Period

Phase 1. No new influenza virus subtypes have been detected in humans. An influenza virus subtype that has caused infection may be present in animals. If present in animals, the risk of human infection or disease is considered to be low.

Phase 2. No new influenza virus subtypes have been detected in humans. However, a circulating animal influenza virus subtype poses a substantial risk of human disease.

Pandemic Alert Period

Phase 3. Human infection(s) with a new subtype, but no human-to-human spread, or at most rare instances of spread to a close contact.

Phase 4. Small cluster(s) with limited human-to-human transmission but spread is highly localized, suggesting that the virus is not well adapted to humans.

Phase 5. Larger cluster(s) but human-to-human spread still localized, suggesting that the virus is becoming increasingly better adapted to humans, but may not yet be fully transmissible (substantial pandemic risk).

Pandemic Period

Phase 6. Pandemic: increased and sustained transmission in the general population.

Source: World Health Organization website:
http://www.paho.org/English/DD/PIN/ptoday08_sep05.htm

2.2 A Collaborative Approach to Pandemic Planning

Because viruses do not respect borders, planning must occur at all levels: internationally, nationally, provincially and locally. Each level of government has different roles depending on their jurisdictional authority, but their plans and activities must be coordinated. The PCCHU plan is based on coordination and collaboration among the City and County.

A coordinated collaborative approach will ensure effective communication from local health authorities who will be the first to detect influenza in their communities, to the provincial and federal governments, and to other countries and international health authorities.

The figure below illustrates the respective roles of different levels of government in pandemic planning:

2.3 Roles and Responsibilities in Collaborative Pandemic Planning

In Peterborough City and County, the Health Unit is part of the Interagency Pandemic Influenza Planning Team. The Team consists of representatives from the Peterborough Regional Health Centre and the Emergency Management Coordinators for the City and County. Other agencies, such as the Peterborough Community Access Centre, Emergency Medical Services, United Way, etc. have also been involved in various aspects of the planning process.

2.4 Ethical Framework for Decision Making

The PCCHU will adopt the Ethical Framework for Decision Making as outlined in the Ontario Health Pandemic Influenza Plan. (to access a copy of the Ontario Health Pandemic Influenza Plan at http://www.health.gov.on.ca/english/providers/program/emu/pan_flu/pan_flu_plan.html)

During a pandemic, governments and public health authorities will have to make difficult decisions (e.g., access to vaccines and antivirals, reallocation of people and resources). Stakeholders (e.g., members of the public, patients, health care workers, other organizations) are more likely to accept the difficult decisions-making processes are:

- Open and transparent – the process by which decisions are made must be open to scrutiny and the basis for decisions should be explained;
- Reasonable – Decisions should be based on reasons (i.e., evidence, principles, values) and be made by people who are credible and accountable;
- Inclusive – Decisions should be made explicitly with stakeholder views in mind and stakeholders should have opportunities to be engaged in the decision-making process;
- Responsive – Decisions should be revisited and revised as new information emerges, and stakeholders should have opportunities to voice any concerns they have about decisions (i.e., dispute and complaint mechanisms); and
- Accountable – There should be mechanisms to ensure that ethical decision-making is sustained throughout the pandemic.

Core ethical values will be adopted during an influenza pandemic. More than one value may be relevant in any given situation, and some values will be in tension with others. This tension is the cause of the ethical dilemmas that may emerge during a pandemic, and reinforces the importance of shared ethical language as well as decision-making processes that can assign a moral weight to each value when values are in conflict. The core ethical values (not listed in priority) follows:

Individual Liberty. Individual liberty (i.e., respect for autonomy) is a value enshrined in our laws and in health care practice. During a pandemic, it may be necessary to restrict individual liberty in order to protect *the public* from serious harm. Individual liberty can be preserved to the extent that the imposed limits and the reasons for them are transparent. Restrictions to individual liberty will:

- be proportional to the risk of public harm;
- be necessary and relevant to protecting the public good;
- employ the least restrictive means necessary to achieve public health goals; and
- be applied without discrimination.

Protection of the Public from Harm. Public health authorities have an obligation to protect the public from serious harm. For public health to fulfill this obligation and minimize serious illness, death and social disruption, public health may isolate people or use other containment strategies, require health care facilities to restrict public access to some areas or limit some services (e.g., elective surgeries). For these protective measures to be effective, citizens must comply with them. The ethical value of individual liberty is often in tension with the obligation to protect the public from harm; however, it is also in individuals' interests to serve the public good and minimize harm to others. When making decisions designed to protect the public from harm, public health authorities will:

- weigh the benefits of protecting the public from harm against the loss of liberty of some individuals (e.g. isolation);
- ensure all stakeholders are aware of the medical and moral reasons for the measures, the benefits of complying, and the consequences of not complying; and
- establish mechanisms to review decisions as the situation changes and to address stakeholder concerns or complaints.

Proportionality. Restrictions on individual liberty and measures to protect the public from harm should not exceed the minimum required to address the actual level of risk or need in the community. The City and County of Peterborough will:

- use the least restrictive or coercive measure possible when limiting or restricting liberties or entitlements; and
- use more coercive measures only in circumstances where less restrictive means have failed to achieve appropriate [public health] ends.

Privacy. Individuals have a right to privacy, including the privacy of their health information. During a pandemic, it may be necessary to override this right to protect the public from serious harm; however, to be consistent with the ethical principle of proportionality, the City and County of Peterborough will:

- determine whether the good intended is significant enough to justify the potential harm of suspending privacy rights (e.g., potential stigmatization of individuals and communities);
- require private information only if there are no less intrusive means to protect public health;
- limit any disclosure to only that information required to achieve legitimate public health goals; and
- take steps to prevent stigmatization (e.g., public education to correct misperceptions about disease transmission).

Note: Where the plan contains any reference to the collection, use or disclosure of information or data, it is referring to non-identifiable information or data whenever possible. Any collection, use or disclosure of personal information will be done in compliance with governing legislation.

Equity. All patients have an equal claim to receive the health care they need, and health care institutions are obligated to ensure sufficient supply of health services and materials. During a pandemic, tough decisions may have to be made about who will receive antiviral medication and vaccinations, and which health services will be temporarily suspended. Depending on the extent of the pandemic, measures taken to contain the spread of disease may limit access to emergency or essential services. In these circumstances, decision makers will:

- strive to preserve as much equity as possible between the needs of influenza patients and patients who need urgent treatment for other diseases; and
- establish fair decision-making processes/criteria.

Duty to Provide Care. Health care workers have an ethical duty to provide care and respond to suffering. During a pandemic, demands for care may overwhelm health care workers and their institutions, and create challenges related to resources, practice, liability and workplace safety.

Health care workers may have to weigh their duty to provide care against competing obligations (i.e., to their own health, family and friends).

When providers cannot provide appropriate care because of constraints caused by the pandemic, they may be faced with moral dilemmas. To support providers in their efforts to discharge their duty to provide care, Peterborough County and City will:

- work collaboratively with stakeholders, regulatory colleges and labour associations to establish practice guidelines;
- work collaboratively with stakeholders, including labour associations, to establish fair dispute resolution processes;
- strive to ensure the appropriate supports are in place (e.g., resources, supplies, equipment); and
- develop a mechanism for provider complaints and claims for work exemptions.

Reciprocity. Society has an ethical responsibility to support those who face a disproportionate burden in protecting the public good. During a pandemic, the greatest burden will fall on public health practitioners, other health care workers, patients, and their families. Health care workers will be asked to take on expanded duties. They may be exposed to greater risk in the workplace, suffer physical and emotional stress, and be isolated from peers and family. Individuals who are isolated may experience significant social, economic, and emotional burdens. Decision-makers will:

- take steps to ease the burdens of health care workers, patients, and patient's families.

Trust. Trust is an essential part of the relationship between government and citizens, between health care workers and patients, between organizations and their staff, between the public and health care workers, and among organizations within a health system. During a pandemic, some people may perceive measures to protect the public from harm (e.g., limiting access to certain health services) as a betrayal of trust.

In order to maintain trust during a pandemic, decision-makers will:

- take steps to build trust with stakeholders before the pandemic occurs (i.e., engage stakeholders early); and
- ensure decision making processes are ethical and transparent.

Solidarity. Stemming an influenza pandemic will require solidarity among community, health care institutions, public health units, and government. Solidarity requires good, straightforward communication and open collaboration within and between these stakeholders to share information

and coordinate health care delivery. By identifying that the health of the general public (and service providers) is a good worth promoting during an influenza pandemic, government decision-makers, public health workers and other health care professionals could model values of solidarity while encouraging others to broaden traditional ethical values focused on rights or interests of individuals.

Stewardship. In our society, both institutions and individuals will be entrusted with governance over scarce resources, such as vaccines, antivirals, ventilators, hospital beds and even health care workers. Those entrusted with governance should be guided by the notion of stewardship, which includes protecting and developing one's resources, and being accountable for public well-being. To ensure good stewardship of scarce resources, decision makers will:

- consider both the benefit to the public good and equity (i.e., fair distribution of both benefits and burdens).

Peterborough County and City will use this ethical framework to guide decision-making in pandemic planning and management.

2.5 Relevant Provincial Legislation

During a pandemic, individuals and institutions responsible for managing the response will require the legal authority to implement pandemic plans. Much of that legislation is already in place (e.g., the Health Protection and Promotion Act, the Emergency Management Act), and some is now under development. During pandemic planning and during a pandemic, Ontario will work within a legal framework that attempts to balance the rights of individuals (e.g., privacy, liberty, equity) with the responsibility to protect the public from harm and the rights of workers to work in safety. Below is a summary of relevant legislation which will guide the province and the City and County of Peterborough.

2.5.a. Emergency Legislation

The Emergency Management Act (EMA), 1990 addresses public safety risks in Ontario. The Act governs all municipalities in Ontario, ministers presiding over a provincial ministry, and agencies, boards, commissions and other branches of the provincial government designated by the Lieutenant Governor in Council. Under the Act:

- the Premier may declare that an emergency exists throughout Ontario or in any part thereof and may take action and issue orders necessary to implement the emergency plans of ministers and designated provincial bodies, and to protect property and the health, safety and welfare of the inhabitants of the emergency area
- a head of municipal council may declare that an emergency exists in the municipality and may take action and issue orders to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area
- the Premier may at any time declare that an emergency has been terminated.

- heads of municipal councils and ministers presiding over a provincial ministry and designated agencies, boards, commissions and branches of government are required to develop and implement emergency management programs which must consist of:
 - an emergency plan
 - training programs and exercises for municipal and Crown employees and other persons
 - public education
 - any other element required by regulation.

Pursuant to Order-in-Council 167/2004 (February 2, 2004), the Minister of Health and Long-Term Care is responsible for two areas in formulating emergency plans: human health disease and epidemics; and provision of health services during an emergency (e.g., floods, ice storm).

2.5.b. Public Health Legislation

Under the Health Protection and Promotion Act:

- physicians, laboratories, school principals and others must report certain diseases, including influenza to medical officers of health
- persons who pose a risk to the public health may be ordered to do, or to stop doing, anything to reduce the risk of disease transmission
- information about patients who are infected with communicable diseases may be disclosed to the ministry and medical officers of health, while protecting the confidentiality of sensitive health information
- physicians are required to report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.
- The Chief Medical Officer of Health may take appropriate action to prevent, eliminate or decrease a health risk
- premises may be required to be used as temporary isolation facilities.

2.5.c. Pre-Hospital Care Legislation

Regulations under the Ambulance Act include provisions concerning education, protection, prevention of disease transmission, reporting of possible exposure and sterilization of equipment. They also deal with issues surrounding the immunization of emergency medical attendants.

2.5.d. Hospital Legislation

Under the Public Hospitals Act:

- hospitals are required to obtain ministry approval before using additional sites for hospital services
- Cabinet is authorized to appoint a hospital supervisor on the recommendation of the Minister of Health and Long-Term Care

- the Minister is authorized to make regulations, subject to Cabinet approval, to address the safety of any hospital site and to deal with patient admissions, care and discharge
- the administrator, medical staff, chief nursing executive, staff nurses and nurses who are managers are required to develop plans to deal with: i) emergency situations that could place a greater than normal demand on the services provided by the hospital or disrupt the normal hospital routine, and ii) the failure to provide services by persons who ordinarily provide services in the hospital.

Under the Private Hospitals Act:

- private hospitals are required to obtain ministry approval before constructing or adding to, altering or renovating a private hospital building or enlarging the patient bed capacity of a private hospital building
- private hospitals are required to be used for the treatment only of the number of patients permitted by the license, except in the case of emergency; only for purposes in respect of which the license is issued; and only for patients of a class permitted by the license
- Cabinet is authorized to make regulations considered necessary for the alteration, safety, equipment, maintenance and repair of private hospital sites; the management, conduct, operation and use of private hospitals; prescribing the type and amount of surgery, gynecology or obstetrics that may be performed in any class of private hospital and the facilities and equipment that shall be provided for such purposes; the admission, treatment, care, conduct, discipline and discharge of patients; and the classification of patients.

2.5.e. Other Facility Legislation

The Nursing Homes Act, the Charitable Institutions Act, the Homes for the Aged and Rest Homes Act, and the Health Facilities Special Orders Act (which govern long-term care facilities in Ontario) in conjunction with the service agreements entered into with these operators require the operators of long-term care facilities to:

- implement surveillance protocols for a particular communicable disease provided by the MOHLTC
- report all communicable disease outbreaks to the medical officer of health Ontario Health Plan for an Influenza Pandemic June 2005
- comply with the Long-Term Care Facility Program Manual
- provide information to the MOHLTC relating to the operation of the facility (e.g., bed occupancy rates, service levels, staffing levels)

2.5.f. Legislation Governing Community Health Services

The Long-Term Care Act, 1994 and the Community Care Access Corporations Act, 2001 in conjunction with the memorandum of understanding and funding agreements between the ministry and community-based agencies, give the ministry the authority to require CCACs and other approved community-based agencies to:

- provide reports and information
- comply with all ministry directives, policies, guidelines and procedures, including surveillance protocols for communicable diseases
- comply with the most recent Planning, Funding and Accountability Manual.

2.5.g. Legislation Governing Health Information

Schedule A to Bill 31, the Health Information Protection Act, 2004 is the Personal Health Information Protection Act, 2004. The Act, effective November 1, 2004, governs the collection, use, and disclosure of personal health information by health information custodians, including physicians, hospitals, long-term care facilities, boards of health, medical officers of health and the Ministry of Health and Long-Term Care. It includes provisions providing for the disclosure of personal health information to the Chief Medical Officer of Health or a medical officer of health by health information custodians without the consent of the individuals to whom the information relates where the information is disclosed for a purpose of the Health Protection and Promotion Act. It also includes provisions providing for the disclosure of personal health information by health information custodians without the consent of the individuals to whom the information relates to public health authorities in other jurisdictions where the disclosure is made for a purpose that is substantially similar to a purpose of the Health Protection and Promotion Act.

2.5.h. Legislation Governing Regulated Health Professionals

Under the authority of the Regulated Health Professions Act, 1991 (RHPA), the power to register physicians, nurses and other regulated health professionals is provided to the College which governs the health profession, not the Ministry of Health and Long-Term Care.

Temporary registration in the event of an emergency is possible under the RHPA, the Health Professions Procedural Code (Code), which is Schedule 2 to the RHPA and the health profession specific Acts. See, for example, the registration regulations made under the Medicine Act, 1991, Nursing Act, 1991 and the Medical Laboratory Technology Act, 1991. Specific requirements and procedures for temporary registration varies from College to College under their registration regulations.

Depending on the provisions within the Colleges' registration regulations, temporary registration of a regulated health professional in an emergency situation may be available. Under Regulation 865/93–Registration, made by the College of Physicians and Surgeons of Ontario (CPSO), a certificate of registration may be issued for supervised, short duration practice without first requiring an order of the CPSO's Ontario Health Plan for an Influenza Pandemic June 2005 Registration Committee. In these circumstances, the appointment must be for the purpose of providing, among other things, medical services for a short interval that would otherwise be unavailable due to a lack of persons to provide them.

The applicant must also meet all the criteria under the regulation relating to supervised practice of short duration. The certificate expires thirty days after it is issued unless a panel of the Registration Committee orders an extension. Some Colleges may be unable to issue temporary certificates in emergency circumstances. Under the Code, a College Registrar may grant a certificate of registration with terms and conditions, for example, limiting the time or location of the professional's practice, but only with the approval of a panel of the Registration Committee. Other Colleges have developed expedited processes for use in emergency circumstances.

2.5.i. Legislation Governing Workplace

Health and Safety The Ministry of Labour enforces the Occupational Health and Safety Act (OHSA) and the Health Care and Residential Facilities Regulation (HCRF). Under the OHSA, an employer has the duty to take all reasonable precautions in the circumstances for the protection of a worker. Further, under the HCRF Regulation, there is a duty for employers in health care facilities to establish measures and procedures including the following:

- control of infections
- immunization
- the use of disinfectants
- the handling, cleaning and disposal of soiled linen, sharp objects and waste.

Employers, in consultation with the Joint Health and Safety Committee (JHSC) in the workplace, are required to develop these procedures and provide workers with relevant training.