

COVID-19 crisis triage—Optimizing health outcomes and disability rights

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Disability rights advocates are concerned that crisis triage protocols aimed at allocating scarce health care resources to save the most lives could be biased against people with disabilities. These concerns have prompted an investigation by the Office of Civil Rights at the Department of Health and Human Services and appeals to Congress to prohibit crisis triage based on "anticipated or demonstrated resource-intensity needs, the relative survival probabilities of patients deemed likely to benefit from medical treatment, and assessments of pre- or post-treatment quality of life."

An article published in the *New England Journal of Medicine* on May 19 gives policy recommendations that aim to meet the goals of allocating scarce resources primarily to save the most lives, but doing so in a way that explicitly protects core values, such as the equal moral worth of all people. The article, "Covid-19 Crisis Triage—Optimizing Health Outcomes and Disability Rights," was written by Mildred Z. Solomon, EdD, president of The Hastings Center; Matthew K. Wynia, MD, MPH, a professor at the Colorado School of Medicine and the Colorado School of Public Health and director of the Center for Bioethics and Humanities at the University of Colorado Anschutz Medical Campus; and Lawrence O. Gostin, JD, director of the O'Neill Institute for National and Global Health Law at Georgetown Law School.

"Allocation of ventilators has become symbolic of the difficult ethical choices we face, but the criteria and processes we recommend apply to any scarce medical resource," the authors write.

Crisis [triage](#) arises when not everyone can receive essential care. Some disability rights advocates argue that triage based on assessing patients' likelihood of benefit is fundamentally incompatible with respect for human dignity. Instead, these advocates call for allocating ventilators and other

resources on a first-come, first served basis. But this approach would result in more deaths overall and would leave many people with disabilities worse off, especially if they face barriers in accessing care, such as difficulty with transportation and communication, write Solomon, Wynia, and Gostin.

"We believe that crisis triage protocols should focus on identifying the patients who are most likely to die without a ventilator yet most likely to survive with one, using the best available clinical survivability scores, not broad categorical exclusions," they write.

The authors recommend focusing on near-term survivability—living 1 year after hospital discharge—rather than on long-term survival because near-term survivability can be assessed more accurately, whereas long-term survival is hard to predict and, therefore, subject to bias.

The most controversial triage protocols, the authors state, are those that aim to maximize the number of life-years saved, either by prioritizing [young people](#) over older ones or by giving lower priority to people with severe life-limiting illnesses. "Both kinds of life-year considerations are ethically acceptable, though only as tiebreakers," they write. "Privileging younger patients is justifiable because it's based not on stereotyping or bias against [older patients](#) but on equal opportunity and minimizing harm: the younger persons have had less opportunity to experience a full life and therefore would suffer greater harm if they were to die."

With regard to advanced illness, if two patients have the same likelihood of near-term survival, but one patient has advanced cancer and a low likelihood of 5-year survival, the authors say that it would be ethical to choose the person with the greater prospect of living longer. "It would not be acceptable, however, to assume that all patients with a given disability have shorter life expectancies

than other patients and decide that therefore none should receive scarce resources," they write.

Solomon summed up the rationale for writing the paper. "Discrimination against the disabled in health care is well documented, so it behooves us to ensure that triage protocols do all they can to avoid bias," she said. "Responsible health systems and health care leaders are doing the nation a service by anticipating the potential, tragic need for these protocols and working to design them as responsibly as possible."

Given that the science and epidemiology of Covid-19 are rapidly changing, the authors recommend that health care organizations consider current triage protocols provisional. "To ensure the trustworthiness of the health system," they write, "disability rights advocates and health care leaders should work together to finalize crisis triage plans that save the most lives, protect the equal worth of all persons, and enhance communities' capacity to heal in the wake of a once-in-a-century pandemic."

More information: Mildred Z. Solomon et al, Covid-19 Crisis Triage—Optimizing Health Outcomes and Disability Rights, *New England Journal of Medicine* (2020). [DOI: 10.1056/NEJMp2008300](https://doi.org/10.1056/NEJMp2008300)

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