

# At what risk?

## The duties of physicians in public emergencies

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# Introduction

- **Major disasters are public emergencies**
  - High demand for medical resources & expertise
  - Demands for medical services are exacerbated:
    - Medical professionals are themselves injured
    - Physically unable to access to their workplace
      - Damaged infrastructure & transportation routes
    - Unwilling to enter or remain in disaster-affected area
  - May result in hospitals being understaffed and unable to cope with influx of patients requiring medical assistance

# Introduction

- **Difficult decisions**
  - **Physicians must balance personal commitments with professional duties to provide medical care**



# Research question

- **What legal and moral obligations do physicians have to treat in disasters?**
  - **STS Handbook on Health in Disasters**
    - **A/Professor Satoshi Kodama,**  
**Department of Ethics at Kyoto University**
    - **Inspired by doctors at FMU**
  - **Two scenarios are considered:**
    - 1. Physician works in or near a disaster zone**
    - 2. Physician works away from the disaster zone**

# The Law and Ethics

- **What is ethics?**
  - **Individual's conduct towards others**
    - **Physician's conduct towards their patients**
    - **Unethical medical practice occurs when physicians do not act for the benefit of their patients**
      - **A doctor acting in the best interests of the patient is unlikely to act unethically**
  - **Acting ethically is acting for the good of others**
    - **A physician has professional obligations to put the interests of the patient ahead of his or her personal interests**

# The Law and Ethics

- **What is the law?**
  - **Different expectations for individual conduct**
    - *Reasonable*, rather than acting for the good of others.
      - Physicians should show compassion, but it is not reasonable to require that of a doctor in all circumstances.
    - **The law enforces rules through sanctions**
      - Ethics are guided by either one's conscience or social influences, such as praise and criticism from others
  - **Doctors acting illegally may face criminal charges or lose their license to practice medicine**
    - **Doctors who are not compassionate may be criticized, but are unlikely to be sanctioned under the law**

# Legal Obligations

- **Medical Practitioners Act (MPA)**
  - **Article 19(1)**
    - *No medical practitioner who provides medical treatment shall refuse any request for examination or treatment without just cause.*
      - This law applies to physicians in relation to the patient(s) whom he/she is currently in charge of
    - **No penal sanction is attached for abandonment**
      - **Physician flees or resigns from his/her place of work.**

# Legal Obligations

- Penal Code

- Article 218 (Abandonment by a Person Responsible for Protection)

- *When a person who is responsible for protection of a [...] sick person, abandons, or fails to give necessary protection to such person, the person shall be punished by imprisonment.*

- May not apply if a physician arranges the transfer of patient to another hospital so their interests are not harmed
      - Limited to where a hospitalized patients who needs care but nothing is done to assist, such as transferring the patient to some other facility

# Professional guidance

- **Japan Medical Association (JMA) Guidelines for Physician's Professional Ethics**
  - **Section 2(8) interprets Article 19(1) of MPA**
    - **A physician must provide medical care, particularly *when there is an urgent need for treatment.***
      - **Physicians may refuse where there is “justifiable reason”**
        - ***working outside a specialty, working outside business hours, and the past nonpayment of medical fees***
      - **Controversy surrounds their use as “just causes”**
  - **Section 2(9)**
    - ***In emergency situations, the physician should voluntarily provide care to the extent possible***

# Legal Obligations

- **Physicians may not be legally required to..**
  - Enter into a patient-doctor relationship with people injured in a disaster or remain in or around disaster-affected areas
  - No laws for ordering physicians to travel to an affected area and offer assistance
- **Professional ethics to assist when possible**

# Ethical Obligations

- Are physicians morally obliged to treat patients affected by disasters?
  - Few would agree that physicians should be obliged to treat patients in public emergencies without any regard for their own safety.
    - Eg. physicians not be expected to place themselves in immediate danger of injury during acute phase.
  - After acute phase, many argue that physicians are obliged to provide assistance
    - In spite of potential health risks of chronic phase, which may be unknown or not fully understood

# Ethical Obligations

- Ethical justifications **for** an obligation
  - Physicians have special training
  - Express or implicit consent
  - Reciprocity (social contract)
  - Professional oaths and codes of ethics
  - Solidarity with wider medical community
  - Supporting work colleagues

# Ethical Obligations

- Ethical justifications **against** an obligation
  - Personal commitments
  - Types of harm may be unknown
  - Social benefits vary between individuals
  - Unjust distribution of burdens
  - Codes of ethics/oaths are too vague

# Ethical Obligations

- **Decisions to ‘stay or go’ are likely to be difficult**
  - **Decision to stay..**
    - **Strong desire to remain in, or travel to, a disaster zone to provide medical care - the ‘doctor’s call’**
    - **Strong desire to support employers and colleagues under strain if fewer physicians are available to assist**
  - **Decision to go..**
    - **Physicians with young children or elderly parents may worry about their welfare and feel an even great need to ensure their safety over the wellbeing of unrelated patients**

# Ethical Obligations

- **What does it mean to be a *good doctor*?**
  - **Normative approach of Virtue Ethics**
    - **Considers the embodiment of values and character as determinants of ethical behavior**
      - **Eg. *brave, altruistic and selfless* might be considered as characteristics of a virtuous doctor acting in public emergencies**
    - **Recognising decisions to assist in a disaster may go beyond what is expected from the social contract**
      - **Help to reconcile the many conflicting obligations physicians are likely to face when needed in a public emergency**

# Conclusion

- Further research needed to articulate values and characteristics of how a *good doctor behaves in a public emergency*
  - For inspiration, we need not look far..

