SHORTAGE OF PERSONAL PROTECTIVE EQUIPMENT DURING THE COVID-19 PANDEMIC

Between the professional duty to care and the duty to self-protect: which to choose?

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POSITION STATEMENT

COLLÈGE DES MÉDECINS DU QUÉBEC
Ordre des infirmières et infirmiers du Québec
Ordre des infirmières et infirmiers auxiliaires du Québec
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Table of contents

Summary

- This position statement applies to health care providers in all health care settings.
- Scientific bodies and other competent authorities determine, based on information that is constantly being updated, what the most appropriate personal protective equipment (PPE) is for the level of risk associated with the care activity. Every health care provider should be fully informed about recognized infection prevention and control measures. It is their professional responsibility.
- A health care provider who does not have access to appropriate PPE for the risk involved when providing care may be faced with a major ethical dilemma: choosing between their professional duty to care and the duty to protect themselves adequately, for their own sake but also for everyone else's sake.

Is a health care provider obligated to intervene when appropriate PPE is not available?

- During a pandemic and in situations where PPE is in short supply, health care providers have a duty to protect themselves before they intervene. This means that a health care provider should have appropriate PPE for the level of risk involved when they intervene.
- A health care provider who does not have access to appropriate PPE and who should therefore refrain from providing care to a patient in order to protect themselves must inform their superior, interdisciplinary team members and, in some instances, the institution's directors or the relevant public health authorities.

Every effort must be made to take corrective action as necessary in order to minimize risk and provide patients with the care they need under the best possible conditions and as expeditiously as possible.

What if a health care provider decides to intervene despite suboptimal PPE?

- In some clinical situations, a health care provider may find withholding care intolerable and might prefer to be exposed to a risk of infection rather than leave a patient untreated.
- If they decide to intervene, they should be able to justify the risk they have taken for themselves, other patients, their colleagues, the health care system and society.
- A health care provider who is considering intervening should always exercise their judgement and weigh their decision based on the level of urgency, the objective risk and possible risk mitigation strategies.

- A health care provider should also consider the potential consequences of intervening were all health care providers to intervene without PPE or with suboptimal protection for the risk.

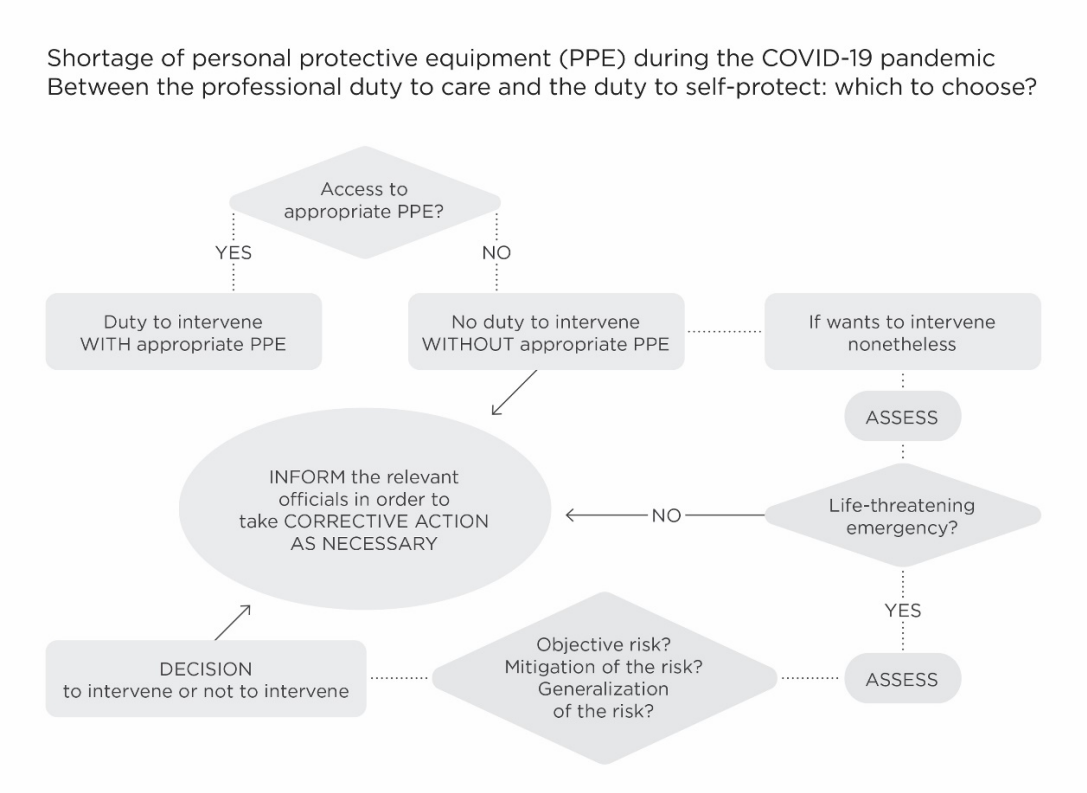
If a health care provider decides to provide care despite suboptimal PPE, what are their obligations?

- A health care provider who has to choose between their duty to provide care and their duty to protect themselves adequately must act responsibly and show solidarity, determination and discernment.

- It is their duty to inform their superior, interdisciplinary team members and, in some instances, the institution's directors or the public health authorities of their decision and the risk they have taken.

Health care providers must be able to rely on the clear and transparent communication of information about COVID-19, the rationale for public health decisions, the fair and equitable allocation of available resources, including appropriate PPE for the care they are required to provide. The institution or the employer has an important role to play in this regard. Since health care providers work together in an interdisciplinary approach, sharing information is important so that everyone has the same knowledge.

The context in which care is provided is difficult and gives rise to stress and anxiety. Measures to prevent and relieve psychological distress and mental health problems during a pandemic are available to health care providers if necessary. They should not hesitate to use them.



Introduction

In the context of the COVID-19 pandemic, the implementation of measures to contain the spread of the virus is essential, both for the population as a whole and for all workers who have contact with other people, *a fortiori* if they might be or might become vectors of infection.

This position statement applies to health care providers in all health care settings.

As the number of people infected with SARS-CoV-2 continues to rise in Quebec, ensuring a supply of personal protective equipment (PPE) for the health and social services network is a critical issue. Scientific bodies and other competent authorities determine, based on information that is constantly being updated, what the most appropriate PPE is for the level of risk associated with the care activity.[1] Measures have already been taken to reserve the use of appropriate PPE for care activities where it is required.[2]

Health care providers who do not have access to appropriate PPE for the risk involved when providing care may be faced with a major ethical dilemma: choosing between their professional duty to care and the duty to protect themselves adequately, for their own sake but also for everyone else's sake.

The tension between their moral convictions, their legal and ethical obligations and their duty to comply with public health measures aimed at curbing the pandemic is tested. Whatever their practice setting, be it home care, a private seniors' home or intermediate or family-type resource, a residential and long-term care centre, a medical clinic or hospital, the right course of action is far from obvious.

As can be seen from articles published on the subject, the issue has stimulated debate for years and especially during recent epidemics.[3] Guidance, if any, is not always consistent. That said, the arguments presented in the publications can serve as a basis for reflection and have informed this position statement on the rights and responsibilities of health care providers during the COVID-19 pandemic and in situations of PPE rationing.

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[1] Such as the Institut national de santé publique du Québec (INSPQ) and the Comité sur les infections nosocomiales du Québec (CINQ).

[2] INSPQ (2020a).

[3] Reid (2005); Ruderman et al. (2006); CNA (2008); Bensimon et al. (2012); AMA (2020); Bean et al. (2020); BMA (2020); Morgenstern (2020); Provincial COVID-19 Task Force (2020a and 2020b).

> In a health emergency, a new balance must be struck between health care providers' individual interests and the public interest, between their personal obligations and their professional obligations.[4]

In other words, health care providers must assume the responsibilities incumbent upon them by reason of the contract that binds them to society at large, their obligation[5] to provide necessary care, even when it involves exposure to risk for them, by virtue of a necessary social solidarity. In return, society must assume its responsibilities toward health care providers out of a duty of reciprocity and solidarity: it must safeguard their health (including priority access to PPE, for example) and their loved ones' health, assure them of some degree of security if they become ill while practicing their profession, maintain and adapt legal protections with respect to their civil liability, etc.[6] Patients who need care must participate in the collective effort of solidarity and assume certain responsibilities[7] with respect to their loved ones and health care providers.

During a pandemic, legislation and professional codes remain in force.[8] With respect to codes of ethics, the orders are committed to continuing to enforce them with discernment during the health crisis, in particular by following the principle of "the most competent in the circumstances"[9] and factoring in the [Translation] "particular emergency context in which [the health care provider] provided care and where the collective interest was involved."[10]

That said, if a health care provider who is supposed to intervene with a patient who may transmit SARS-CoV-2 does not have access to appropriate PPE for the risk involved, it raises a number of questions.

What is appropriate personal protective equipment for the risk?

Health care providers might have a false perception of the risk and minimize it or, on the contrary, exaggerate and fear it depending on their knowledge, their understanding or their personality. An objective risk assessment is essential in the context.

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4 CMQ (2008).
5 *Civil Protection Act*, *Public Health Act*, *Act respecting health services and social services*, codes of ethics, etc.
6 CMQ (2008).
7 For example, transparency in reporting their state of health and compliance with measures to prevent the spread of the virus.
8 *Civil Code of Québec, Charter of human rights and freedoms, Professional Code, Medical Act, codes of ethics, Act respecting health services and social services.*
9 This refers to the redeployment of health care providers to services in need, the impact of certain protective measures (PPE, care protocols, etc.) on quality of care.
10 CMQ (2020).

Every health care provider should, to the extent possible, know what the risk of infection is and what the most appropriate PPE is for the care activity they have to perform. They must be fully informed about recognized, up-to-date infection prevention and control measures.[11] It is their professional responsibility.

What we know about COVID-19 is evolving very quickly. The behaviour required of health care providers is based on the information available at the time. It may change in the following days. To improve compliance, health care providers must be able to understand why protective measures change over time, across units and depending on the care activity.

In this regard, it is a shared responsibility: on the one hand, patients must be transparent about their symptoms and their risk of SARS-CoV-2 infection; on the other hand, the health care institution or long-term care facility or the employer must inform health care providers regularly and as objectively as possible about the status in their institution, about guidance and other directives, which are based on the latest evidence.

It is equally necessary for the institution or the employer to clearly and transparently communicate information about the allocation of PPE to health care providers based on the risk associated with care activities and the availability of equipment.

Care procedures must be optimized to reconcile the duty to protect with the duty to provide the most appropriate care to every patient in need. This means that the appropriateness and manner of performing certain care activities must continually be reevaluated and adjusted.

The orders stress the challenge this continual adjustment represents for home care and long-term care in particular, given the reality of how health care is organized, the variety of risks inherent to health care and the need to ensure PPE is used efficiently.

Is a health care provider obligated to intervene when appropriate personal protective equipment is not available?

A health care provider is not obligated, either by law or by their code of ethics, to expose themselves to a risk of infection by providing care to a patient who may transmit SARS-CoV-2. They may even be required to refrain from exposing themselves to risk when care is needed.[12]

In non-pandemic times, health care providers tend to protect patient interests[13] first and regularly take risks to do so.[14] During a pandemic, they are sometimes required to act differently. Without renouncing their defence of each of their patients' interests, health care

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[11] INSPQ (2020a).
[12] In accordance with the directives of certain institutions and other employers.
[13] In accordance with their codes of ethics.
[14] For example, risk of physical injury (agitated or aggressive patients), risk of infection (parvovirus and cytomegalovirus [CMV] in a pregnant worker, tuberculosis, etc.).

providers must respect the priorities established from a population-based perspective, which makes exercising their clinical judgement more complicated.

During a pandemic and in situations where PPE is in short supply, health care providers have a duty to protect themselves before they intervene: first, so that they can continue to function; second, so that they do not become vectors of viral transmission themselves. This means they must fulfil their obligations toward themselves, their loved ones, but also toward other patients and their colleagues.

A health care provider should have appropriate PPE for the level of risk involved when they intervene.

A health care provider who does not have access to appropriate PPE and who should therefore refrain from providing care to a patient in order to protect themselves must inform their superior, interdisciplinary team members and, in some instances, the institution's directors or the relevant public health authorities.[15]

Every effort must be made to take corrective action as necessary in order to minimize risk and provide patients with the care they need under the best possible conditions and as expeditiously as possible.

What if a health care provider decides to intervene nonetheless?

In some clinical situations, a health care provider may find withholding care intolerable and might prefer to be exposed to a risk of infection rather than leave a patient without urgently needed care. There are all kinds of clinical situations: daily care for people with severe cognitive impairment in a family-type resource; pediatric intensive care; a home birth; etc.

If they decide to intervene nonetheless, they should be able to justify, based on the benefit of the care provided to a patient, the risk they have taken, for themselves, their colleagues or the health care system.

Rashness is out of the question in the context of a pandemic such as COVID-19, where everyone must show professionalism and responsible solidarity: a health care provider might do more harm than good if they get infected because they failed to take precautions.

A health care provider who is considering intervening nonetheless should always exercise their judgement and weigh their decision based on the level of urgency, the objective risk and possible risk mitigation strategies.

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[15] Under section 40 of the *Code of ethics of physicians*, a physician who has reason to believe that the health of the population or of a group of individuals is threatened should notify the appropriate public health authorities.

Level of urgency

If intervention is not urgently needed and the patient's life is not in danger, a health care provider must take the time to inform their superior, interdisciplinary team members and, in some instances, the institution's directors or the relevant public health authorities so that corrective action can be taken as necessary.

Whenever feasible, a health care provider must take the time to find a better alternative to taking an excessive risk.

In a life-threatening emergency, a health care provider must identify and weigh the possible consequences of immediate intervention:

- for the patient[16] and their loved ones;
- for the health care provider and their loved ones, depending on their unique personal circumstances: pregnant worker / loved one, immunocompromised or chronically ill person,[17] etc.;
- for the community: colleagues and the health care system as a whole.

Objective risk

A health care provider who is willing to intervene without protection or at least with suboptimal protection must weigh the risk against the expected benefit.

Possible risk mitigation strategies

The health care provider must quickly consider how to mitigate the risk. To do this, they are encouraged to take a few moments if necessary to discuss the situation briefly with their peers, other interdisciplinary team members or their superior in order to find a reasonable solution.

What if all health care providers were to make the same decision?

When assessing the risk involved, a health care provider should also consider the potential consequences of intervening were all health care providers to intervene without PPE or with suboptimal protection for the risk:

- removal from the health care system, if isolation is necessary;
- increased pressure on the health care system, if they develop COVID-19;
- new vectors of contamination in the health care system and in the population.

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[16] INSPQ (2020a).
[17] INSPQ (2020b).

Issues of fairness and equity must be considered: if the health care provider saves a single patient, how many others would not receive care?

If a health care provider decides to provide care despite suboptimal PPE, what are their obligations?

If, after exercising their judgement, a health care provider decides to intervene with suboptimal protection, it is their duty to inform their superior, the interdisciplinary team members concerned and, in some instances, the institution's directors[18] or the public health authorities of their decision and the risk they have taken.

A health care provider who has to choose between their duty to provide care and their duty to protect themselves adequately must act responsibly and show solidarity, determination and discernment.

They are not alone. They are part of a team and often of an institution that assists and supports them in their decision making. There is no question that during the pandemic, solidarity is a strong principle and is seen at all levels of intervention. The context in which care is provided is difficult and gives rise to stress and anxiety. Measures to prevent and relieve psychological distress and mental health problems during a pandemic are available to health care providers if necessary.[19] They should not hesitate to use them.

With their peers and the interdisciplinary team, a health care provider, if they are to provide the best possible care while exercising their judgement, must be able to rely on the clear and transparent communication of information about COVID-19, the rationale for public health decisions, the fair and equitable allocation of available resources, including appropriate PPE for the care they are required to provide, *a fortiori* if it is rationed, etc. The institution or the employer has an important role to play in this regard. Since health care providers work together in an interdisciplinary approach, sharing information is important so that everyone has the same knowledge.

Professional orders support each of their members and work in collaboration with the government and public health officials to improve the efficiency of available resources and to adapt them to ensure the best possible care is provided to everyone in need, whether or not they are infected with SARS-CoV-2 and whatever the setting.

It should be noted that this statement is based on the scientific evidence available at the time of publication.

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[18] Such as the institution's health office, the employer and/or the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) for those who work in the private sector, etc.
[19] INESSS (2020).

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