

## Who Will Be There?

### Ethics, the law, and a nurse's duty to respond in a disaster

#### When disaster strikes, nurses are needed

Registered nurses have consistently shown to be reliable responders, and their compassionate nature typically compels them to respond to those in need, even when it puts their own safety or well-being at risk. There is a strong relationship between the nurse and the public who expects that nurses and other health care providers will respond to their needs in an infectious disease emergency or in other types of disaster resulting in mass injury or illness. Society, as such, sanctions professions to be self-regulating on the understanding that such a response would occur. But do registered nurses have a contractual “duty” to answer a call to help in disaster situations? Do they have an ethical obligation to respond? Can the law require them to respond?

A nurse's duty to care is an ethical component of the nurse-patient relationship that can be inferred from Provision 2 of the [ANA Code of Ethics for Nurses with Interpretive Statements](#) which states that “the nurse's primary commitment is to the patient.” However, nurses not only have an ethical obligation to care for others but also to care for themselves. Provision 5 of *the Code* states that the nurse owes the same duty to self as to others. This conflict of obligation is especially prominent during times of disaster when nurses are put in the position to provide care to critically ill or wounded patients for extended periods of time. During these times of pandemics or natural catastrophes, nurses and other health care providers must decide how much high quality care they can provide to others while also taking care of themselves.

Registered nurses, especially those in non-emergency response functions, may find themselves in a difficult predicament. They are called upon to respond in times of mass casualty—such as a catastrophic weather event (hurricanes/floods) — or when the nature of their work puts them at risk for exposure—such as influenza or other infectious disease pandemics. It is reassuring to know that because of their compassionate nature and the nature of their role as caregiver, registered nurses are typically willing to respond. But many other registered nurses struggle with the call to respond. This is especially true if the nurse feels physically unsafe in the response situation, if there is inadequate support for meeting the nurses own family's needs, or if the nurse is concerned about professional ethical and legal protection for nursing care in a crisis situation.



These concerns faced by nurses represent a gap in our nation’s disaster preparedness and response systems. Critical questions remain unanswered as to what the registered nurse’s duty to respond is, especially if called upon to serve in a nontraditional role, and what expectations the registered nurse should have for physical, emotional, and legal protections. Resolving these problems would ultimately support registered nurses responding to a call for help will meet those needs and assure a robust response from registered nurses.

## A Careful Assessment

National associations like the American Nurses Association (ANA) are partnering with government groups, nongovernment organizations, employers and individual registered nurses to achieve systems, policies, and laws that enable the registered nurse and other providers to respond confidently, and to ensure that the needs of the American public will be met during a disaster.

In times of disaster we need to know that there will responders. But who will respond? It is evident that nurses have such a defined duty and this duty has some basis in licensure, regulations, and ethics.

There may be times when a registered nurse must make a choice between duties based on moral grounds. These choices are an important part of disaster planning and preparedness. Each nurse must know what line he or she will or will not cross when it comes to maintaining professional integrity. These concerns should be discussed prior to times of disaster. This is critical in disaster preparedness and planning. Hospitals, institutions, managers, administrators, and health care providers need to understand employer and employee expectations during times of disaster. Effective communication regarding a nurse’s ability to commit to providing any level of care to patients is essential when such events occur.

Nurses have a duty to uphold the standards of their profession. As such, they have a commitment to help care for and protect their patients while also protecting their own right to self-preservation and self-care. Nurses need to be proactive to address such issues. Nurses and the ANA are positioned to drive decisions regarding the conflict between a nurse’s duty to care versus duty to self.

INTERPRETIVE STATEMENT 8.4  
“All actions, and omissions risk unintended consequences with implications for human rights. Thus, nurses must engage in discernment, carefully assessing their intentions, reflectively weighing all possible options and rationales, and formulating a clear moral justification for their actions. Only under extreme and exceptional conditions, while conforming to international standards and engaging in an appropriate and transparent process of authorization, may nurses subordinate human rights concerns to other considerations”

### Code of Ethics for Nurses with Interpretive Statements

## Questions a Registered Nurse Might Ask

A hurricane rages through several states, destroying buildings, flooding roads, and falling countless trees and power lines. In several towns and cities, hospitals are struggling to remain open and serve the injured and ill victims from the storm, as well as to meet the routine medical needs of the community. Registered nurses are told to report to work, and a call is made for nurse volunteers. Some nurses are given patient assignments in areas and in physical locations that they are not accustomed to due to the austere conditions. What questions would go through a nurse’s mind in this instance?

Registered nurses think about safety. How can the nurse get to the hospital safely? Are there structural damages to the hospital that could cause injury? Is there risk of disease or exposure to the elements, which

could cause the nurse illness or something that could spread to family or others in the home? Are security services at the hospital or at the site of care to prevent violence? What if the registered nurse has family members or other dependents that are affected by the disaster and need help at home? How can the registered nurse balance this obligation with a practice obligation to provide care to patients?

Registered nurses think about ethics. Registered nurses have an ethical obligation to put patients ahead of themselves, but in times where the registered nurse is in imminent danger by providing patient care, how can the nurse balance the ethical obligation to protect oneself? How will the nurse deal with being unable to provide care to everyone, especially if supplies and resources are scarce? What if the nurse or the medical teams face very difficult— almost unthinkable— situations and decisions regarding life and death?

Registered nurses would think about legal implications. Is there a law compelling the registered nurse to respond, even if the nurse has concerns about security and ethics? Is the nurse's license protected? Are there assurances that the nurse would not become an easy target for lawsuits for negligence or malpractice, especially in circumstances of scarce resources or where practicing outside of the normal specialty area?

These are complicated questions, and individual registered nurses would answer them differently. The challenge, however, is before a disaster occurs, policies are in place that assure protections make clear the expectations of the registered nurse, the employer, and the government response systems.

## Legal Elements

The legal elements of response can help or hinder a nurse's decision to respond. In some cases, states have implemented laws that require licensed health care professionals to respond, and refusal to comply can be punishable. This approach does not help nurses feel comfortable about responding, especially when the other assurance systems for professional and personal protection are lacking.

A more helpful approach via the legal route is policymakers and governing bodies setting protocols for disaster medical responses that take account for the constraints of a disaster situation. Disasters can test the capacity of licensed practitioners to offer what would be deemed appropriate care in "normal" circumstances. They must ensure the legal protections such as liability standards, license verification, and definition of scope of practice for nurses and other licensed practitioners providing care in disasters.

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA) is model legislation drafted to alleviate some of these legal concerns. Produced by the National Conference of Commissioners on Uniform State Laws, the act establishes a system for rapid, streamlined deployment of licensed human service providers in areas of declared emergency. In addition, it provides legal safeguards for practitioners acting within their scope and in good faith, clarifies some interstate practice differences, and deems the legal scope of practice authority to the state requesting the practitioners to maximize their participation. [Read the UEVHPA](#) and see what states have adopted it as law.

## Battlefield Medicine vs. Ingrained Ethics

One of the most difficult policies to hammer out deals with ethics. Ethics are certainly not black and white, and in a disaster situation, they become even more blurred. As a nurse, it may be difficult to fathom walking past a mortally wounded person to treat someone else, or to take a terminally ill patient off a ventilator to allocate it to a patient with a better chance of survival. But during a disaster, those and other ethical dilemmas can and do arise. For example, in New Orleans following the floods after Hurricane Katrina in 2005, nurses and physicians found themselves in terrible ethical situations, unable to provide life-sustaining

care for patients, and faced with dire circumstances.

While every response situation is not that extreme, nurses and other health care personnel can find themselves operating in altered standards of care environments during a disaster. There is no clear consensus about mitigating ethical considerations, and continued uncertainty about applying altered standards of care. A utilitarian framework usually guides decisions and actions with special emphasis on transparency, protection of the public, proportional restriction of individual liberty, and fair stewardship of resources. Conforming to international emergency management standards and collaboration with public health officials and members of the healthcare team are essential throughout the event.



ANA works alongside government, non-government organizations and professional and academic medical groups as part of a forum on disaster medicine to confront some of these complicated and difficult policy questions. One deliverable has been a document written at the request of the U.S. Assistant Secretary for Preparedness and Response called [Guidance for Establishing Crisis Standards of Care for use in Disaster Situations: A Letter Report](#). ANA, as a member of the Institute of Medicine's Forum on Medical and Public Health

Preparedness for Catastrophic Events, participated in writing this framework. It suggests tenets that policymaking bodies should adhere to when designing the crisis standards of care for medical providers. Nothing in the framework will change nurses' obligation practice ethically, but they do outline how protocols can be designed to protect medical professionals operating in extreme conditions and scarcities, and to ensure that the public receives the most adequate medical services possible in the situation.

This is the first step to establishing the ethical and legal framework, but the issue remains far from unresolved. ANA will continue to work with its partners to see these recommendations implemented at the state level, and will ensure that the ethical provisions in crisis standards of care mirror those in the Code of Ethics for registered nurses. Also, ANA will strive to educate individual registered nurses on the existence and application of this framework, as well as help them professionally prepare to be functioning in stressful and ethically challenging situations.

## Together a Solution is Possible

A concerted effort is essential to bringing some of these very difficult and high-level concepts into practice. The federal government has a role in setting the vision for seamless, coordinated, safe response efforts. The states—legislatures, planners, policymakers and response agencies—have a role in creating non-punitive environments that enhance the registered nurse's efficiency and capacity to provide ethical care in response efforts. Employers need to create, maintain, and constantly improve disaster plans that help meet the medical needs of the community within a system that protects registered nurses and other employees or volunteers. This should include the provision of sufficient, appropriate personal protective equipment, immunizations, physical security, and operational protocols.

ANA and other national associations must continue working to ensure that policies and plans for disaster response, including the creation of crisis standards of care, meet the needs and expectations of communities and registered nurses. As the largest nursing organization in the U.S., and one of the few nursing organizations actively engaged in national disaster response policy conversations, ANA is poised to continue this work. Visit ANA's [disaster preparedness webpage](#) to learn more about efforts to advocate for nurses in disasters.

Individual registered nurses are critical participants in this work. They must be aware of their employers' emergency response plans, as well as have a general sense of what state and local disaster preparedness and response efforts are taking place where they live and practice. They should be aware of their expected role in any response efforts—some employers make plans for their registered nurse staff that the individual nurse might not even know about. If they know they want to be an integral responder in a disaster, they should volunteer with a disaster registry, such as federal Disaster Medical Assistance Teams, nationally or locally with the American Red Cross, or their local Medical Reserve Corps. This will ensure they have the proper credentialing and training for responding to a disaster, and will be part of an organized system.

Nurses must be professionally and personally prepared. They should know in advance that they may be called upon, and will need to make arrangements with their families for communication, and even for care of children or dependents during their absence. Registered nurses need to be aware of the ethical situations they may encounter, especially in times of scarce resources and supplies when they may face unimaginable patient care decisions. They need to advocate for systems and protocols that protect their ethical obligations as nurses, as well as ensure equity and fairness in disaster medical care planning. Human rights may be jeopardized in extraordinary contexts related to fields of battle, pandemics, political turmoil, regional conflicts or environmental catastrophes where nurses must necessarily practice under altered standards of care. Provision 8 of *the Code* obligates nurses to always “stress human rights protection under all conditions, with particular attention to preserving the human rights of vulnerable groups such as women, children, the elderly, prisoners, refugees and socially stigmatized groups.”

Future disasters all are but guaranteed to occur. We cannot stop them, but we can be better prepared to for them. Creating better systems for nurses to respond, including ensuring an ethical and safe environment for response and recovery, will give some assurance that when the call for nurses goes out, there will be a robust answer.



## KEY POINTS

Disasters strike at any time. They can be predicted, or without warning, large-scale or local, extreme or limited. Registered nurses are considered essential responders, and will be there when called upon.

But unresolved issues of legal, ethical, and professional considerations of disaster medical response remain a challenge, and could hamper the ability of nurses to respond. A concerted effort to solving these problems is needed, with nurses and stakeholders at the national, state, and local levels.

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