

ASPR TRACIE Technical Assistance Request

Request Receipt Date (by ASPR TRACIE): October 28, 2021

Response Date: October 28, 2021

Type of TA Request: Complex

Request:

The ASPR TRACIE Team received a request for information on the terminology of crisis standards of care (CSC). In particular, the requestor expressed concerns over the possible legal ramifications from the term “standard of care” noting that it may set organizations up for future litigation because they are not able to provide traditional standard of care as defined by the legal system.

Response:

The ASPR TRACIE Team reviewed existing resources, including those in our [Crisis Standards of Care Topic Collection](#) (not specific to COVID-19), and our [COVID-19 Crisis Standards of Care Resources](#) and [COVID-19 Legal/Regulatory/Authorities Resources](#) pages. We also reached out to members of our Subject Matter Expert (SME) Cadre for feedback. Section I of this document includes comments from SMEs and section II provides relevant resources that may be helpful to this request.

I. ASPR TRACIE SME Cadre Member Comments

Please note: These are direct quotes or paraphrased comments from emails and other correspondence provided by ASPR TRACIE SME Cadre members in response to this specific request. They do not necessarily express the views of ASPR or ASPR TRACIE.

SME Cadre Members:

- We have been referring to the care at the bedside as “crisis care” and that “crisis standards of care” is the overarching framework that should be enacted regionally or at the state level to recognize the pervasive and continued situation for a few years now because of issues such as the one posed by the requestor.
- Often times, crisis care situations exist (e.g., rural hospital that receives many trauma victims from bus accident) but they are mitigated rapidly therefore no regional standard is changed nor governmental action needed to enact/ codify crisis standards of care.
- At the end of the day, the standard of care is always that which a reasonable provider would give under similar circumstances. So I think the use of either term is equally valid.
- The requestor is not the first to experience this pushback on the terminology. Legally and practically, the point is moot. The care delivered at the bedside is adapted to the circumstances in reasonable fashion.

II. Select Resources

ASPR TRACIE. (2020). [Crisis Standards of Care Considerations for COVID-19](#).

This resource includes links to quick sheets on crisis standards of care considerations during COVID-19.

ASPR TRACIE. (2020). [Crisis Standards of Care and Infectious Disease Planning](#).

This ASPR TRACIE Technical Assistance response covers Crisis Standards of Care (CSC) for infectious diseases.

ASPR TRACIE. (2020). [Patient Surge Management Strategies and CSC during COVID-19](#).

This ASPR TRACIE TA response provides an overview of crisis care and crisis standards of care for situations where there are scarce resources available to care for high numbers of patients. Patient surge management strategies at the individual facility and community level are discussed and links to resources for more information and to operationalize the strategies are provided throughout.

Hodge, Jr, J.. (2020). [Legal & Regulatory Challenges to Crisis Standards of Care \(CSC\) in Response to COVID-19](#). The Network for Public Health Law.

This brief overview of challenges to crisis standards of care applied in the early days of the COVID-19 pandemic links to related articles, letters and regulations.

Levin, D. (2021). COVID-19: [Crisis Standards of Care—Guidance for Health Care Systems and Providers](#). The Network for Public Health Law.

Presenters in this webinar recording discuss the decisions healthcare workers must make to address scarce resource allocation. Topics include ethical decision-making, provider liability and other legal issues, and the role of CSC.

Piatt, J. (2021). [Crisis Standards of Care: Legal Issues Underlying Key Decisions Regarding Scarce Resources](#). The Network for Public Health Law.

This resource identifies principal legal issues that may come up when decisions for resource allocation or treatment are made under CSC.