

Oregon stands apart in some COVID policies

■ Gov. Kate Brown's decision to put teachers ahead of some seniors for vaccines illustrates autonomy that states have

By Gary A. Warner
Oregon Capital Bureau

Oregon vaccinates teachers before seniors.

California punishes hospitals for vaccinating teachers.

Washington vaccinates all seniors — and warns older Oregonians against trying to sneak north for an early shot.

Governors around the country have issued edicts during the COVID-19 crisis that often conflict with neighboring states, creating a national patchwork of dos and don'ts.

"States are all over the place," said Dr. Arthur Caplan, director of New York University Langone's Division of Medical Ethics. "It's rarely clear why restrictions are expanded or removed. Criteria are modified without explanation."

The COVID-19 pandemic is the greatest public health crisis in a century, made all the more difficult by strict adherence to a geographical fiction: The United States is 50 distinct states.

Hawaii is an island in the middle of the Pacific. All other states are connected by land mass, with demarcations of boundaries sometimes a river or mountain range, but often just a 19th-century surveyor's line. The problem is the virus doesn't factor in whether the human it is infecting lives on the Idaho or Oregon side of the Snake River.

The result has been 50 states fighting COVID-19 in 50 different ways. Masks or no masks. Open for business or shut for safety. Lockdown or liberty.

The states' fragmented war on COVID-19 has resulted in a resounding defeat. No corner of the planet has been ravaged like the United States. The nation makes up 4% of the world population, but has accounted for 20% of the nearly 2.5 million killed in the pandemic, according to the Johns Hopkins Coronavirus Resource Center and the U.S. Census Bureau.

Vaccine arrival leads to new differences

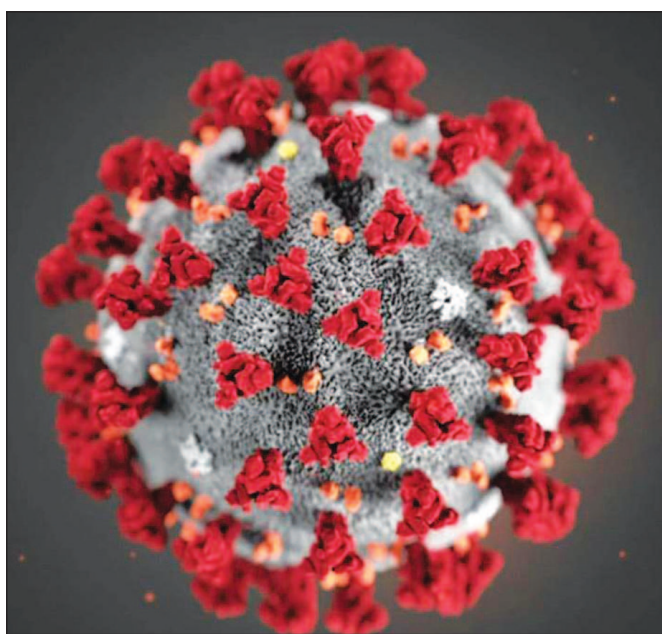
The political equivalent of herding cats has continued with the arrival of two vaccines that could snuff out the virus. The Pfizer and Moderna vaccines require two shots, given about a month apart.

States have been allocated a portion of the available vaccine equal to their percentage of the national population.

For Oregon, that comes out to about 1.3%.

With the initial shipments, state health agencies were sent a long list of recommendations on how to parcel out the shots. But in the end, the final priority list for the scarce vaccine was up to each of the 50 governors.

Ethicists call these "lifeboat" decisions — who, when and why someone could be chosen to live or die. An inoc-



CDC/Contributed Photo

A COVID-19 particle is pictured in this image provided by the Centers for Disease Control and Prevention.

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ulation against a potentially deadly virus fits the bill.

Gov. Kate Brown promised Oregon would distribute the shots with equity.

The decisions are necessary, but the fragmentation of evaluating a comparative value of human lives through 50 different prisms, was going to be problematic from the start.

Governors and health officials are human beings who bring their own beliefs to decisions. Any choice will attach a social value to people or groups.

The start was the easiest part from an ethical standpoint.

The first shots were sent to protect doctors, nurses, and other health care workers. The pandemic took a toll on hospitals and medical centers who saw severe illness and sometimes death of the very people whose jobs were to save lives of others.

The long months of the pandemic had also shown society's weakest points. Nursing homes reported just 5% of all COVID-19 infections nationwide. But the often frail residents and close quarters mean these residents account for just over one-third of all deaths. Oregon is one of 10 states where more than half of all deaths are from these "congregate care" facilities, according to the New York Times.

Residents and staff of the homes were put next to medical workers at the top of the priority list.

At that point, the states' unanimity ends.

The Centers for Disease Control and Prevention recommended that those over age 65 be next in line. About 80 percent of deaths from COVID-19 in the United States are aged 65 and over. Risk rises with age so that while someone 85 is only twice as likely as a 17-year-old to become infected, they

are 7,900 times more likely to die, according to the CDC.

All but five states followed the recommendation, including California and Washington.

Oregon did not.

Gov. Kate Brown decided teachers, school staff and day care workers should be next in hopes of jump-starting a return to school this spring by students shuttered at home with "virtual learning."

Brown argued that 153,000 educators and school staff were a relatively small number of people to put ahead of the 795,000 Oregonians over the age of 65. Oregon Public Broadcasting estimated that about 86 seniors would die for each week of delay.

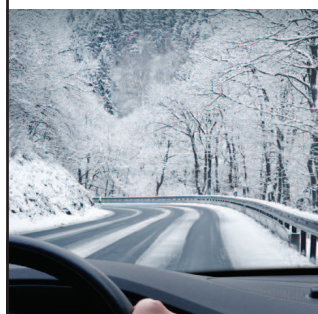
It was a price Brown believed was worth it to get the state's future functioning. The governor and health officials portrayed it as a short delay.

"I know there will still be some who disagree with this choice," Brown said at a press conference Jan. 22. "The harsh reality is we are managing a scarce resource right now."

The blowback was immediate. Senior advocates, medical groups and even her own Governor's Commission on Senior Services weighed in against Brown's decision.

"There are 45 other states that are listening to the science and vaccinating vulnerable seniors," commission members said in a Jan. 28 letter to the governor.

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Adding to the timeline troubles was a Feb. 3 federal court order requiring Brown to immediately start vaccinating about 12,000 inmates at Oregon correctional facilities. About 28% of inmates had been infected with COVID-19, compared to 3% of Oregon's overall population. The delay in vaccination violated the U.S. Constitution ban against "cruel and unusual punishment." The state did not appeal the ruling.

Caplan, the NYU ethicist, said governors who deviate sharply from federal guidelines risk cracking public consensus.

"Why are elderly in group homes vaccinated, but the elderly living on their own must wait?" Caplan asked rhetorically. "Why are teachers more important than the grocery store bagger or UPS guy?"

Political favoritism?

The governor's objectivity was called into question because she had received \$240,000 in contributions from the Oregon Education Association PAC in her 2018 race for governor, a relatively small portion of the \$18.5 million she raised for the race.

Some union officials said even with the vaccine, they might not go back to the classroom without wider vaccination of the public. The CDC announced last week that schools could safely reopen without vaccinating teachers.

Brown also had Oregon go its own way for age-related vaccinations. Eligibility was staggered, beginning with those 80 and older on Feb. 8, two weeks after the education group. The minimum age for eligibility would drop

five years every week until everyone 65 and older was eligible March 1.

Vaccine shortages hit every state. But media reports of 65-year-olds lucky enough to get an early appointment at mass inoculation sites like Disneyland and Dodger Stadium in California stoked resentment in Oregon.

"States are amending their criteria of who is eligible — sometimes adding millions of people — but without any additional supply," Caplan said.

The differences between states were inexplicable to someone who was eligible across the country, but not in their own hometown.

"It erodes public trust," Caplan said. "In the end, it comes down to I'm just going to do whatever I have to do to get a shot."

Also souring the public mood were reports of well-connected people getting shots through dubious eligibility. In Oregon, Providence Health included its board of directors — which includes large donors — in the medical group at the top of the list.

"We all hate people who butt in line," Brown said when told of the action.

Brown, 60, said on Feb. 18 that she had not been vaccinated. Under her current plan, there is no timeline for when she would become eligible.

Often overlooked was the sheer size of the national effort to eventually offer vaccination to the estimated 333 million Americans.

President Joe Biden made headlines with a promise to put 100 million shots into Americans' arms in his first 100 days in office. Since the current vaccines require two shots, the promise covers

only 50 million people. At that pace, vaccination eligibility for some Americans will stretch into 2022.

Vaccinating children

Problems ahead include getting a vaccine that is safe for children. The current vaccines are only recommended for those 16 and over.

New vaccines could significantly shorten the timeline. The estimates also don't take into account Americans who decline to get vaccinated. Some estimates put the refusal rate at 30 percent.

Caplan says that is the issue that looms large in the future.

"The focus now is on who is getting the vaccine," he said. "At some point the question will be who is not getting the vaccine."

States will have to navigate legal and ethical questions on treatment of those who do not get vaccinated.

Israel has vaccinated almost half its population and is planning laws and rules for post-pandemic activity. Israelis who are vaccinated received a "Green Badge" — a certificate with a unique QR code, according to the Associated Press. When museums, concert halls, theaters and other public venues reopen, the "Green Badge" will be required to get inside.

Caplan said a similar system could be used in the United States for everything from football stadiums to neighborhood bars.

How far the prohibitions facing those who go unvaccinated will be an ethical debate still over the horizon for now.

"Can you require vaccination for a job?" Caplan said. "It's problematic. But it is a question that's coming."

VACCINATIONS

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Critics said even a short delay that led to an avoidable death was wrong, with unofficial estimates putting the possible deaths from the two-week delay at up to 100.

OHA said it would issue updated guidance on the availability of vaccine and the various ways to sign up and receive a notification when a resident's eligibility group comes up.

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