41

HIV/AIDS: Guidelines for practitioner conduct — within a legal and ethical framework

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Preamble

The HIV/AIDS pandemic affects every sector and the very fabric of South African society and presents a challenge to every health practitioner and student¹.

As a profession and association, we accept that we need actively to deal with issues around HIV/AIDS, not only in terms of patients in our care, but also our students in training and our own colleagues. We acknowledge that whereas we need to protect ourselves against infection, we likewise need to protect the public from infection from ourselves.

Legislation and numerous regulations and protocols exist which govern the duties and responsibilities of all sectors of the public, including occupational therapy practitioners. The fundamental premise of all legislation and regulations is that the person with HIV/AIDS may under no circumstances be discriminated against and must enjoy equal rights as a citizen. These rights are enshrined in the Bill of Rights². This premise is enthusiastically endorsed by OTASA.

Position statement

- This Association agrees with scientific opinion that HIV causes AIDS. It furthermore agrees that poverty, malnutrition and stigma exacerbate this situation which is of grave consequence not only to the individual who is infected but also to the population of our country, the health service and the profession of occupational therapy.
- OTASA believes in the value of and supports the provision of appropriate affordable treatment, including antiretrovirals, for persons with HIV/AIDS and we further believe that good nutrition is imperative.
- OTASA actively supports initiatives to decrease the stigma attached to HIV/AIDS and believes in an approach of openness, acceptance and support for persons with HIV/ AIDS and their families/caregivers.
- OTASA believes that measures need to be put in place within every working situation and all occupational therapy training centres to ensure enhanced awareness, education, decreased stigmatisation, adequate support systems and appropriate precautionary control measures. OTASA ascribes to legislative provisions and policy guidelines regarding HIV/AIDS management.
- Management protocols need to be put in place to deal with practitioners who are HIV positive, or have Aids, in the most sensitive and appropriate manner. Practitioners who have been exposed to infection within the clinical situation should be actively supported, PEP arranged and counselling provided. The ethical dilemmas that need to be resolved and distressing consequences of dealing with large numbers of clients with AIDS should be acknowledged, practitioners should be supported to develop the necessary coping skills and opportunities for debriefing need to be provided.
- OTASA strongly supports the training of all OT students and practitioners as HIV/AIDS counsellors. Palliative care should form part of training.

Legal situation

The legal situation is briefly as follows.

The person with HIV/AIDS has the right to:

- fair labour practices and may not be denied an interview, appointment or promotion, or be dismissed on the basis of his/her status;
- an environment that is not harmful to his/her health or wellbeing;
- access to health care services;
- access to pre-and post-test counselling.

Several Acts, policy statements and documents are relevant. These include the following:

- The South African Medical Association guidelines¹. These are informative and provide explicit guidelines.
- Health Professions Council of South Africa Guidelines³. This user friendly document provides comprehensive practical guidelines.
- Compensation for Occupational Injuries and Diseases Act⁴ (COIDA). This allows the practitioner, who was injured whilst on duty as an employee, to make a claim in terms of the Act.
- The Employment Equity Act⁵ prescribes that the employer should implement HIV programmes for employees and also that employees may claim reasonable accommodation of their illness or disability in terms this Act. Such employee then also has the duty to disclose all relevant information to the employer. The Act further prohibits the medical testing of employees and job applicants, unless of material significance to the job.
- The Promotion of Equity and Prevention of Unfair Discrimination⁶ Act which binds employers who are not covered by the Employment Equity Act.
- The Occupational Health and Safety Act Guidelines/Code⁷ of Conduct for employers.
- Public Service regulations and collective agreements. An agreement has been reached through the Public Sector Coordinating Bargaining Council (PSCBC) on payment for Post Exposure Prophylaxis¹ which is binding to all state employees. The Department of Health policy, however, does not allow for absolute access to PEP in all cases of exposure. Private employers are also bound by COIDA and should put the necessary policies in place for access to and payment of PEP in cases of occupational exposure.
- National Policy for Health Act⁸ which sets out the national policy in terms of HIV testing.
 - National Education Policy Act⁹ which provides a comprehensive draft policy on HIV/AIDS for learners and educators in public schools and students and educators in further education and training institutions. It affirms the rights of the learner to equality, to study, to participate fully and not be discriminated against. It also emphasises the need for education, guidance and counselling on HIV/AIDS and the right to be treated in a humane and life affirming way. No learner is however obliged to disclose his or her HIV status to the school/ educational institution. Specific guidelines are furthermore given to ensure a safe learning environment and prevention of HIV transmission. The policy document clearly outlines expectations in terms of duties and responsibilities of learners, educators and parents, implementation plans, the establishment of a Health Advisory Committee and the implementation of the national policy.



The rights of all persons (including patients)

- No person is obligated or may be forced to disclose his/her HIV status, unless this is justified by law, for example as an essential condition of employment 3,10.
- No person may be forced to undergo an HIV test.
- A person who is HIV positive, or has AIDS³, is entitled to:
 - access to appropriate medical care support and counselling confidentiality informed consent privacy and information
- Should a person with HIV/AIDS behave in such a way that it places his/her partner/colleagues or the public at risk, a health practitioner is duty bound to report the condition. All attempts should however be made to persuade the person with HIV/AIDS to disclose his/her status to the persons at risk. Should this fail, consent should be sought by the practitioner to make such a disclosure and, only failing that, may the practitioner disclose this information, in the interest of the safety of persons identified as being under real risk of infection.

The responsibilities of the occupational therapy practitioner towards patients who are HIV positive or who have AIDS

- The occupational therapist must become completely familiar with the disease process, the effects of ARVs and the various opportunistic diseases and conditions arising from the disease, and should plan and implement intervention for such disorders using occupational therapy principles and methods.
- The occupational therapy practitioner may under no circumstance discriminate against a patient on the basis of HIV status or AIDS. This means that treatment may not be curtailed, withheld or terminated solely based on the person's status³.
- The occupational therapy practitioner must maintain normal standards of treatment for all patients regardless of HIV status³.
- Confidentiality of the patient's status must be maintained, the patient should be supported and counselling provided on the importance of disclosure and need to take preventative measures³. Disclosure by a health practitioner is only acceptable, after counselling and where possible with the consent of the patient, when a real danger of infection exists for an identifiable party.
- The occupational therapy practitioner must be able to provide the necessary support and counselling to both the patient and his/her family, to enable the patient and his/her family to better cope with the situation and concomitant circumstances.
- The occupational therapist must ensure the development of health promotion, prevention and wellness programmes within the Occupational Therapy department/ facility.
- The occupational therapy practitioner should use his/her knowledge and skills to: Assist patients and families to develop appropriate home care programmes and maintain good nutritional status. Assist patients and families to adapt tasks to ensure maintenance of roles and responsibilities. Assist patients and families to develop coping skills and lifestyle changes to promote maximal health and welfare. Utilise expertise to develop and assist employers to implement plans to accommodate the worker with HIV/AIDS in the work place. Assist family and caregivers to facilitate quality of life in the terminal stages of the disease.
- The occupational therapy practitioner should maintain his/her clinical independence at all times and make every attempt to ensure that patients receive appropriate, effective treatment.
- The occupational therapy practitioner should at all times act in the best interests of his/her patients, upholding the principles of beneficence, non-maleficence, respect for autonomy, justice and truthfulness, despite limited resources.
- Occupational therapy staff should not, through negligence, intentionally or recklessly, expose another person to infection. Such a practitioner may be held liable in a criminal or civil action should such infection lead to a person's death.
- All health practitioners should diligently and at all times practise universal precautions. Facilities to enable staff to institute such

precautions need to be made available to all health care workers including students³.

The occupational therapy practitioner who is HIV positive or has AIDS

- The practitioner is under no obligation to disclose his/her status to employees, co-workers or patients/clients unless his/her status may put his/her patient/clients or colleagues in danger of infection.
- The practitioner who is HIV positive or has AIDS can continue to practise as long as the necessary precautions are taken to protect patients, colleagues and the public. It is recommended that such a practitioner seek advice and/or consult an experienced colleague to determine the extent of possible risk to others and accordingly adapt his/her practice in such a way that it will not put his/her patient at risk!.3.
- The practitioners' rights include:
 - a state of environment that is not harmful to their health or wellbeing;
 - Post Exposure Prophylaxis (PEP) after being exposed to HIV infection¹;
 - compensation for occupational injuries sustained in the health care situation¹¹;
 - competent, compassionate treatment and not to be treated unfairly or discriminated against¹².

References

- The South African Medical Association (SAMA) Human Rights and Ethical guidelines on HIV: A manual for medical practitioners. Policy approved November 2001.
- 2. Constitution of the Republic of South Africa Act 108 of 1996 Chapter 2.
- Health Professions Council of South Africa Guidelines for Management of patients with HIV infection or Aids. Booklet 8. Pretoria July 2002. (Compiled by Medical and Dental Professions Board as part of a series of 15 booklets.)
- Compensation for Occupational Injuries and Disease Act 130 of 1993.
- 5. Employment Equity Act 55 of 1998.
- Promotion of Equality and Prevention of unfair Discrimination Act 4 of 2000.
- 7. Occupational Health and Safety Act 85 of 1993.
- 8. National Policy for Health Act 116 of 1990 S2.
- 9. National Education Policy Act 27 of 1996 S 3(4).
- Code of good Practice on key aspects of HIV/AIDS and Employment
 Also, Department of Health's National Policy on Testing for HIV, National Policy for Health Act 116 of 1990.
- Employment Equity Act 55 of 1998. Code of good practice on key aspects of HIV/AIDS and Employment S 9.
- World Medical Association Statement on the Professional Responsibilities of Physicians Treating AIDS Patients. Adopted by the 40th World Medical Assembly, Vienna, Austria, September 1988.

The above Position Paper is published for comment. Those wishing to discuss the sentiments expressed in this document, add to the document or change it in any way should send their comments to:

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