Dental ethics case 17

What are my obligations and ethical responsibilities when treating patients with HIV?

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CASE SCENARIO

A 20 year old female patient presented with recurrent ulcers in and around her mouth that have not been amenable to treatment. Intra-oral examination revealed multiple creamy-white lesions on her mouth, cheeks and buccal mucosa. The dentist suspected that the recurrent ulcers and candidiasis were oral manifestations of HIV and wondered whether he could refuse to treat her. He then decided to confront her with his suspicions of her being HIV-positive, in the presence of his dental assistant and within earshot of his receptionist. The patient was highly embarrassed and rushed out of the surgery.

COMMENTARY

The HIV/AIDS pandemic has challenged the traditional ethical values of the healthcare profession and resulted in intense debate and discussion in the fields of medicine, ethics, law, sociology, politics and economics. Its infectious nature, discrimination and social stigma has forced healthcare practitioners to reconsider issues of informed consent, confidentiality and disclosure. In South Africa, at present, HIV testing and notification are not compulsory.

The Health Professions Council has re-iterated that the primary responsibility of healthcare practitioners is to their patients and that it is against all ethical and professional rules for a healthcare practitioner to refuse to treat a patient solely on the grounds of the latter's perceived or actual HIV status.[1] Furthermore, no personal characteristics, such as race, colour, creed, sexual identity and culture should impinge on treatment planning.[2] Treatment should not be suboptimal because of a perceived potential HIV risk to the healthcare worker. HIV-positive patients should always receive treatment which is standard in its substance (i.e. the same treatment that would be delivered to HIV-negative patients) though the treatment may be non-standard in its manner (e.g. slower, more careful treatment, involving greater protective measures).[3]

Although there is no legal obligation upon any health professional to treat a patient, the issue is complex one, because health professionals have taken the Hippocratic Oath that affirms the ethical obligation to treat. Everyone has the right to access of healthcare services as stipulated in the South African Constitution. In terms of the Constitution, no patient may be refused emergency treatment - both in public and private health facilities. In the latter case, the patient has to at least be stabilised before being transferred to a state facility.

Up to 70% of patients with HIV/AIDS have oral manifestations of the infection. Oral health professionals are often the first to diagnose this and need to discuss their findings with their patients. Under such circumstances, they must however acknowledge the rights of patients[4] and need to take into account the ethical principles of beneficence and justice.[5] Beneficence encompasses the following: not to inflict evil or harm, to prevent evil or harm, to remove evil or harm and to do or promote good. Justice has been described in terms of fairness and "what is deserved".[5] Doyal[6] argues further that in the ethical management of patients with HIV, the virtues of courage, prudence, charity and hope need to be part of the approach to treatment. There are however, limits to the exercise of these virtues in the course of work. It is accepted that the courage which is expected within professional practice must be mediated by the additional virtue of prudence.

Ethics, the South African Constitution (Act 108 of 1996) and the law recognise the importance of maintaining the confidentiality of the HIV status of a patient. The obligation of confidentiality is virtually universal in professional codes of ethics. In the case of HIV, there is an inherent conflict between the patient's interest in confidentiality and the public's interest in protection from infectious diseases. We must remember that only the patient themselves know which disclosures to third parties will have consequences on their private, public and professional lives. A person with HIV/AIDS has a right to privacy, especially with regard to the doctor/patient relationship. Deliberate breach of this right by disclosing it to another, constitutes an unlawful act.

However, confidentiality is not absolute and clinical information must sometimes be shared by other health professionals.[7] The ethical duty of the oral health professional extends not only to patients, but also to other individuals whose lives and safety may be affected by non-disclosure of information. If a patient, after appropriate counseling, refuses to have other healthcare workers informed of his/her status, the patient should be told that the practitioner may be duty bound to divulge this information to other workers who are also involved in the management of the patient. Health professionals who wish to make such disclosures, should ALWAYS first discuss this with the patient, since

the patient may refuse consent to such a disclosure.[1] All persons receiving such information must of course consider themselves under the general obligation to confidentiality. If it were found that an act or omission on the part of a medical practitioner or dentist has led to the unnecessary exposure to HIV infection of another healthcare worker, it could have serious consequences. The ethical tension inherent in the duties and obligations of the dental practitioner to his/her patient with HIV/AIDS as opposed to obligations to the profession and public health needs to be carefully thought through.

The management of patients with HIV/AIDS requires a holistic approach – medical and dental treatment, counselling, support, prevention of stigma and discrimination and significant attempts at behaviour and lifestyle modification - all situated within an ethical framework. In addition, the autonomy of the patient occupies a strong moral position – the patient's right to confidentiality, obtaining informed consent to or refusal of testing for HIV.[8] Ethical practice however, needs to be conducted in a spirit of compassion which transcends the letter of the law and no patient may be refused treatment because of being HIV sero-positive. Oral health professionals are not expected to provide treatment beyond their areas of expertise and referrals are appropriate as long as they are not pretexts for discrimination or a refusal to treat.

Declaration: No conflict of interests.

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