

Social Tract

Module on

Ethics and consent

LEARNING OUTCOMES FOR ALL PARTICIPANTS

After completion of this module the learner should:

1. Have a clear understanding of ethical guidelines in practice.
- 2.** Know what informed consent means within practice.

1. ETHICAL GUIDELINES

Ethical guidelines guide the work of professionals such as health care workers, lawyers and accountants. They are not law, but are guiding principles to follow in order to ensure that the patients'/clients are not abused or exploited during or after their interaction with the professional.

The Health Professional Council of South Africa (HPCSA), which replaced the South African Medical and Dental Council (SAMDC), is a professional body established to oversee the training, registration and conduct of doctors, dentists, psychologists and other health care professionals. In July 2001, HPCSA updated the ethical guidelines of SAMDC on the treatment and management of patients with HIV.

The South African Medical Association (SAMA), a voluntary body, has also issued ethical guidelines, which includes the need for informed consent before testing, pre and post-test counselling whenever possible, and confidentiality of results of HIV tests.

The South African Nurses Council (SANC) is a statutory body that was set up to govern the training, registration and conduct of nurses. It is mandatory for all nurses to belong to SANC. SANC also has ethical guidelines on the treatment of people living with HIV/AIDS.

2. WHAT IS INFORMED CONSENT?

Section 12(2) of the Constitution states that people have the right to bodily and psychological integrity, which means that a person must be free to consent to all medical treatment, and have the right to refuse medical treatment.

Consenting to medical treatment means that a person must give their informed consent before they are examined, treated, tested, given medicine or operated on. Express permission is when a person clearly states that he/she agrees to the treatment. People have the right to refuse medical treatment and testing.

Informed consent to medical treatment means that a person must understand the nature and all the information on the treatment that is proposed, including the advantages and risks involved, and must give his/her agreement in writing or verbally. The HPCSA guidelines require health care professionals to obtain informed consent before undertaking an HIV test. Thus a person must know what the test is, why it being done and what the result will mean. A person cannot be coerced or tricked into going for a test. The same is true for HIV vaccine trials, and will hold true for ARVs treatment.

The National Policy on testing for HIV requires informed consent, pre-test counselling and post-test counselling.

The requirement for informed consent can be waived in the cases of emergencies, testing done on blood donations, for mentally ill patients who are unable to give consent and where consent is obtained by either a parent, curator, child (if over 21 years), parent, or sibling, anonymous and unlinked testing for research purposes.

All adults who have legal capacity and are of sound mind are able to consent. Mentally ill patients may require assistance to consent or others may be able to

consent for them. Under the Child Care Act, children over 14 can give consent to medical treatment (this does not include an operation; a child must be over 18 to consent to an operation). When a child is under 14, either the parent or guardian must consent.