

MODULE 4: STIGMA, CONFIDENTIALITY & LEGAL ISSUES IN HIV/AIDS

General Objective: On completion of this module the health care workers have a basic understanding of the fundamental rights of an individual and how confidentiality and providing health services is connected with them. Furthermore they understand the implications and consequences of a breach in confidentiality both for the individual and the effectiveness of public AIDS prevention programs.

Materials:

Power point, flip chart, paper, curriculum

Procedure for Module 4:

- 1) Each participant writes down his/her definition of confidentiality.
- 2) Group discussion going around the room giving definition. (Each participant should have the chance to speak even if the definition is already given.) Definitions should be written on chart paper or board.
- 3) Slide presentation of confidentiality
- 4) Case scenarios (Ramu)
- 5) Stigma Statement exercise (page 7)
- 6) Slides presentation of levels and forms of stigma
- 7) **Invite an HIV positive person for a question and answer session**
- 8) Brainstorm what a HCW can and should not do in order for stigma to be reduced for HIV patients
- 9) Lecture on ethical issues and partner notification (page 11)

(A) Brainstorm on the concept of Confidentiality

Facilitator will ask the participants to list out what they understand by the term confidentiality especially in the context of health care setting. The facilitator will then conduct a guided discussion on the various levels of confidentiality in the health care setting.

Case Scenario -1 **Relay of information**

Ramu, a thirty-year-old factory worker, came to the hospital for an HIV test as he was suffering from tuberculosis, which was resistant to normal medicines. The doctor in the medicine department admitted him and sent his blood for an HIV test after taking consent. The report of the HIV test was relayed back to the head nurse in the ward in an ordinary form. All the nurses and the ward boys who brought the test result got to know the HIV positive status of the patient.

Questions

1. How do you think Ramu felt when all the HCWs knew his status?
2. How could confidentiality of the test result have been maintained?
3. What should be done to ensure confidentiality of the result?

Case scenario -2 **Sharing of status**

Ramu's test result has come to the ward. The head nurse informs all the ward boys and sweepers to be careful. The case sheet of Ramu is marked prominently with a red mark saying HIV positive and his bed is shifted to the veranda near the toilet. During the rounds, the head doctor during the rounds announces Ramu's status loudly in front of all the other patients.

Questions

1. How do you think Ramu felt?
 - A) When all the HCWs were informed of his status
 - B) When his case sheet was marked with a prominent sign
 - C) When he was isolated to the verandah
 - D) When his result was known to the other fellow patients

FACILITATOR'S NOTES

A. CONFIDENTIALITY

i The Ethics of Confidentiality

People have a right to confidentiality. To divulge information, which is highly personal, could be detrimental not only for the individual but also for people around them, such as partners and family members. The requirement of confidentiality forbids any reference to, or discussion about, a client except within a professional relationship and only with

the consent of the client. Professional ethics requires the counselors and HCWs to maintain strict confidentiality concerning all personal information obtained from clients.

- One of the most important factors influencing the relationship between the HCW and the person being counselled (patient) is trust.
- Trust in the HCW enhances the relationship and improves the chance that the individual will act on the counselling provided.
- Given the possibility of discrimination and ostracism when individuals are diagnosed as sero- positive or as having AIDS, it is all the more important that confidentiality should be guaranteed.
- The relationship between the HCW and the person being counselled must be built on the understanding that whatever is discussed remains a private issue between the two.
- It is enjoined upon all HCWs to protect the privacy of every patient, and refrain from disclosing about his illness to any third party.
- Exceptions can be made only in certain situations- if the doctor feels that some third party is likely to contract the disease because of close association with the patient.
- People have to keep confidential any information, which is highly personal, and the divulgence of, which could be detrimental for them, including information about their HIV/AIDS status.
- Being diagnosed as HIV positive creates uncertainties in the mind of the clients. The counselor should be able to gain the trust of the client and convince him that all the information provided by him will be kept confidential

B. IMPORTANCE OF CONFIDENTIALITY

i In General

Rationale

Not only can testing represent a serious violation of the right to privacy, but the information generated can result in discrimination and violation of other rights, as well as drive people away from testing and other health and social services. Confidentiality in the end is an issue only between the doctor/counselor and the patient. **If Universal Precautions are followed, there is no need for any other HCW to know about a patient's HIV-status!**

The following facts need to be remembered:

1. HIV/AIDS affected individuals deserve the same dignity and human rights as any other person
2. HIV test of any individual is not to be conducted without his/her consent unless all identification features of the individual are eliminated from his specimen
3. Since professional blood donors and commercial sex workers have no other source of income, and when found sero-positive they are likely to go underground or move to new areas for the fear of being boycotted from society.
4. Since there is no infrastructure to rehabilitate the PLHA, maintaining confidentiality is absolutely essential to ensure care at home in the family as well as in the community.

HIV/AIDS counselling sessions are confidential and must involve the participation of a single client and a single care provider. The client has an absolute right to confidentiality and/or anonymity unless and until the client decides otherwise. However, at the discretion of the client and the care provider, the following people may also be involved in an HIV /AIDS counselling session:

1. Members of the clients family
2. A second care provider with additional counseling skills that may be required to help the client address a particular problem
3. Other resource persons such as clinicians.
 - Notification of the partner should be done only with the consent of the patient and psycho-social support must be available for the partner and the family.
 - The result for testing must be kept confidential and even health care workers who are not directly involved in care of the patient should not be told about the result.
 - The sharing of the result of HIV should be in principle restricted among those Haws whose ignorance about the HIV status of the patient might influence the outcome in treatment and care of the patient.
 - The diagnosis of HIV infection has profound social and economic consequence. The social ostracism connected with the diagnosis may deprive them of the social and family support. Therefore, measures should be taken to maintain complete confidentiality.

Note

Many people are afraid to seek HIV services because they fear stigma and discrimination from their families and community. Voluntary testing and

counseling services should always preserve individuals' needs for confidentiality. Trust between the counselor and the client enhances adherence to care, and discussion of the HIV infection. In circumstances where people test sero positive may face discrimination, violence and abuse it is important that confidentiality be guaranteed. In some circumstances the person requesting VCT will ask for a partner, relative or friend to be present. This shared confidentiality is appropriate and often very beneficial.

ii. **PARTNER NOTIFICATION: Advantages and dilemmas (WHO)**

Confidentiality means that the person who does the test results tells the result only to the patient tested. However, sometimes and HIV positive person chooses not to tell her/his partner. Does the spouse have the right to know?

The main arguments in favor of partner notification are

- The partner of someone with HIV may or may not yet be infected. The risk of infection is very high unless condoms are properly used all the time. The partner has the right to know the information as it may be life saving
- The partner has the right to know that she or he may already have HIV infection and to seek a test and treatment as needed.

The arguments against partner notification include:

- Patient confidentiality must be upheld, and if this is not guaranteed, some people will be deterred from seeking treatment
- Giving the partner information in the absence of any other support merely creates anxiety and conflict and may do nothing to reduce sexual risk, particularly for women.

i. **UNAIDS - Partner notification**

Recent international consultations have confirmed that the **principles of confidentiality** and informed consent are not obstacles to effective prevention and care programs. If employed appropriately, they are not only valid ethical principles, but are also pragmatic tools by which to best **protect both the non-infected and the infected**. There are many reasons for stigma, denial, and discrimination that surround HIV/AIDS. HIV/AIDS is a condition related to sex, blood, death and disease, which may be illegal- commercial sex, homosexuality and injecting drugs. The fear and taboos associated with these subjects lead to denial, stigma and discrimination.

Denial causes individuals to refuse to acknowledge that they are threatened by a previously unknown virus, which requires them to talk about, and to change, intimate behavior, possibly for the rest of their lives.

In the context of HIV/AIDS the World Health Organization encourages "beneficial disclosure" of a patient's status.

- This is voluntary disclosure and it respects the dignity and autonomy of the affected individuals
- The maintains confidentiality
- Leads to beneficial results for the individuals, his/her sexual partners and family
- Leads to greater openness in the community about HIV/AIDS
- Meets ethical imperatives so as to maximize good for both uninfected and the infected

In order to encourage beneficial disclosure, there should be created an environment in which more people are willing and able to get tested for HIV, and are empowered and encouraged to change their behavior according to the results. This can be done by

- Establishing more voluntary counseling and testing services
- Providing incentives to get tested in the form of greater access to community care and support and examples of positive living

With regard to partner counseling (partner notification) UNAIDS and WHO encourage **ethical partner counseling**. Such partner counseling is based on the **informed consent** of the source client, and maintains **confidentiality** of the source client, where possible. HIV counseling programs should involve **efforts to encourage and support** HIV positive persons to notify and counsel partners.

- Repeated efforts to persuade the source client to counsel partners,
- Informing the source client that partner counseling will occur,
- Keeping his/her name confidential if possible, and
- Ensuring social and legal support for the source client and other relevant parties (spouses, partners and family members) to
- Protect them from any physical abuse, discrimination and stigma, which may result from partner counseling.

UNAIDS and WHO recommend the **appropriate use of HIV case reporting**. It has been suggested that HIV case reporting including named HIV case reporting (i.e. the reporting to public health authorities of each individual identified as HIV positive) could provide accurate information on the spread of HIV, and allow effective actions to prevent further infections and ensure access to care services.

HUMAN RIGHTS

Basic human rights apply to all, including those living with HIV. Several basic human rights have direct relevance to HIV /AIDS.

- The right to the highest attainable level of care
- The right to confidentiality and privacy
- The right to shelter and housing
- The right to employment without discrimination

The right of protection against oppressive laws and policies of the state

LEGALITY OF TESTING

Depends on several questions:

- Are the results to be used for a prohibited purpose, such as denial of employment or to refuse treatment?
- Are there protocols in place that require disclosure of HIV-status, and do they deliver a legitimate purpose for the hospital or the employer?
- Are reasonable accommodations made for an individual with HIV or AIDS in the workplace, and are they based on a general set of criteria applicable to all individuals in the same or similar circumstances?
- Does the protocol for testing meet the current state standards? Often states require specific protocols to be established before testing can be undertaken.
- Was the test itself properly done by a capable laboratory, and were all other safeguards against false negatives or false positives in place?

Stigma & Ethics in HIV/AIDS

General Objective: On completion the health care worker should be able to understand how their own attitudes have positive and negative effects on the HIV positive individuals. The HCWs should also understand the cause and effect of stigma and discrimination against PLHAs especially in the Health care settings.

Statement Exercise

Purpose

- To explore and identify one's own values and attitudes towards specific groups or people such as people living with HIV/AIDS, commercial sex workers etc.

- To get a different perspective on the issues of marginalized groups.
- To develop patience to listen to viewpoints and ideas which you may disagree with.

Methodology

The facilitator will read out the following statements, and the participants can say whether they agree or disagree with those statements. Have them explain why they agree or disagree.

Statements

- Women with HIV infection should not have children.
- People with AIDS should not be allowed to continue work.
- AIDS is mainly a problem of people with immoral behavior.
- Men who have with men indulge in abnormal sexual behavior.
- People with HIV infection should be isolated to prevent further transmission.
- It is collective responsibility to care for people with HIV infection.
- I would feel uncomfortable inviting someone with HIV infection into my house.
- Surgeons should screen all patients for HIV infection before surgery.
- I would feel uncomfortable discussing sexuality with a person of the opposite sex.
- Intravenous drug users should compulsorily be tested for HIV.
- It is all right for men to have sex before marriage.
- School children should not be educated about safer sex, condoms.
- Women should never have extra-marital sexual relations.
- All professional blood donors should be jailed.
- It is difficult for male counselors to talk to women clients about condom use.
- Homosexuals spread AIDS.
- Foreigners are responsible for the spread of AIDS.
- All foreigners entering the country should be tested for HIV.
- AIDS is a problem of western nations and it is not a problem in India.
- Talking to women about condoms makes no sense, as the decision is not in their hands.
- Commercial sex workers are responsible for the spread of AIDS.
- Needle exchange programs will promote needle use.
- People who get infected have got only themselves to blame.
- Only dirty persons talk about sex.
- All patients with STDs should be screened for HIV/AIDS as they are at a high risk of HIV/AIDS infection.
- HCW have a right to refuse treatment for HIV positive patient
- Surgeons should screen all patients for HIV infection before surgery

- All pregnant women should be tested for HIV
- HCWs can divulge the test result to the patient's relative without taking patients consent
- Injecting drug users should compulsorily be tested for HIV
- Women with HIV infection should not have children
- All professional blood donors should be jailed
- **People with HIV infection should be isolated to prevent further transmission**

Facilitator's Guidelines

Since this exercise often generates disagreements amongst the group, the facilitator should stress on the following guidelines before commencing the exercise: -

- Everyone should be given an opportunity to speak.
- There are no absolutely right or wrong answers.
- We need not come to a consensus as we are trying to get different viewpoints.
- Only one person is allowed to speak at a time.
- All responses are to be addressed to the facilitator and not to the person with whom you disagree.
- From all the above statements, the facilitator can choose the ones that she/he feels will be relevant to the group.

To go further into the realm of exploring our attitudes we can look at the following situations and have a discussion or a role-play. Explain to the group that these are the types of situations that they are likely to come across when working in the field of sexual health counseling.

- A 12-year old child living on the streets is having with both men and women.
- An 18-year-old man from a Muslim family is having sex with his stepmother who is 24 years old.
- An HIV positive sex worker who continues to sell sex.

Points for discussion: -

Do you have strong feelings for or against the behavior practices?
Will your feelings towards that behavior affect you as a counselor?

THIS IS AN ADDITIONAL EXERCISE IF YOU HAVE EXTRA TIME:

Exercise on Stigma

Purpose:

To compare social attitudes and beliefs about AIDS with those held about other diseases.

Materials required

Flip charts, white board, marker and paper

METHODOLOGY:

GUIDED DISCUSSION

All the participants will be asked to name one disease other than AIDS. They will be asked to divide their sheet of paper into two columns. They should write AIDS at the head of one column and the other disease they named at the head of the other. Then list out the differences between the chosen disease and AIDS.

When this process is over, invite all the participants to discuss the reasons why they think AIDS is seen as being different from other diseases and what implications it might have for individuals with AIDS. The facilitator will summarize the key points that emerged during the discussion.

FACILITATOR'S NOTES:

ATTITUDES

Initiating change

- For people to change their behavior, they must believe change will do some good, and believe that they have a reasonable chance of accomplishing it
- The required change must be consistent with the individuals beliefs and values
- People need assistant and support in order to change and many will not be completely successful in adhering to the new behavior patterns
- It is often easier to get people to modify a behavior than to eliminate it
- Offer choices among alternative behaviors rather than rigidly presenting a single behavior. Options and choices encourage a motivated response

STIGMA

Stigma has been seen as a quality that discredits the individual. People who are stigmatized by others may be cut off from society and the community; they may be shunned by their neighbors and talked about behind their backs, they may be denied access to the resources they need to live their daily lives -- water, food, access to the market place, to health care and to education, for example. In short, they are rendered unworthy in the eyes of others.

It is important to recognize that stigma is not a thing but a process. Ultimately, it is something that some people do to others.

HIV stigma can operationally be defined as that invisible but strongly felt mark given to a person that makes him or her feels different than others. Much of HIV and AIDS-related stigma builds upon and reinforces earlier prejudices. Human anxieties about germs, sex and death combine together to give rise to the kinds of AIDS-related stigmatization seen all around. All too frequently, they result in individuals being socially excluded from many aspects of life.

Many focus group discussions with patients and care givers reveal that the hospital was a key place where stigma was first felt or been sustained. The way an HIV suspicion or diagnosis was made, left a feeling of being different, of being looked down upon, inferior, or ignored. Examples of stigmatization & discrimination include -

- (a) Disclosure of patient's status without consent either to family members or others health care workers not directly involved in care.
- (b) Inability to inform patient of his/her status - Euphemisms used for HIV/AIDS among the clinical staff meant to “protect” the patient from bad news which in fact the staff cannot handle, resulting in news being spread as fire among all staff except the patient: the conspiracy of silence
- (c) Immediate discharge after lab result is known to clinician or withholding a lab result until discharge, with the argument that very little can be done in the hospital and that it is better to see a community or home care program. Where, how, when and why is hardly addressed, giving the patient and family the feeling of being neglected (“dumping care”).
- (d) Being provided with a different kind of care or lack of care, feeling ignored and less respected than other patients.
- (e) Refusal to be admitted, in many hospitals in various countries up till today is still a major issue where stigma is bluntly being translated in immediate discriminatory action, again by marking a patient in such a way that even rights to emergency health care are being denied.
- (f) Breaking of confidentiality of patient's status through segregation, isolation, labeling over bed (Immuno-compromised, High-risk, HIV positive, Biohazard etc.) or labeling on files.

HOW TO REDUCE STIGMA:

(1) **At the level of the care provider:** openness while maintaining the confidentiality for an individual patient. An environment like a clinic or hospital can normalize HIV as a day to day business to be openly discussed in staff meetings, health education, public meetings etc showing as an example to provide patient friendly care and as well having peer doctors and nurses as models to juniors how to provide care with dignity, very important in such an hierarchical establishment as a hospital, while at the same time maintaining the needed confidentiality at the individual level through establishing counseling services and giving the feeling of patients of being supported and being left alone. Small things do wonders: body language, an ear to listen, a touch or a small effort extra.

(2) **At the level of the client or patient:** Discussing at an early stage in the counseling process the options for sharing and disclosure, whenever a client is ready and involving that significant other identified by the client.

(3) **At the level of the hospital management:** Normalization of HIV, taking counseling serious, and providing staff time, space and support to implement services. Ensuring that breaking the news of a laboratory diagnosis is done in the context of counseling pre- and post-test and time to follow up. But also promoting all health staff to know their serostatus and facilitating an anonymous service including follow up care support for infected staff. Feelings of safety can be improved by setting standards to adhere to universal precautions and follow up through infectious disease management committees and provision of post exposure prophylaxis for accidental prick incidents.

(4) **At the level of the community and family:** informing and discussing again and again, stimulating care activities to be taken up by communities themselves, addressing prevention and care always together as that will help to normalize HIV/AIDS.

Therefore, a strategy that combines educating health care workers about AIDS, training them for handling Opportunistic Infections, and improving the supply of gloves and other essentials for practice of Universal precautions and availability of PEP, will go a long way in reducing fear of health care workers and in combating stigma in the health setting.

Forms of discrimination and stigmatization

The following behaviors show how PLHAs are discriminated against

A. In hospitals (some behaviors include those that are indirect, hidden and subtle)

- Refusal by hospitals/ doctors to give treatment for HIV/AIDS related illness
- Refusal to admit in the hospital for care/treatment
- Delay in treatment (made to wait in queues, asked to come again)
- Excuses /explanations for non admission of patients (but not direct refusal)
- Keep under observation (without any treatment plan)
- Ask for repeat HIV tests/other diagnostic reports
- Postpone treatment/operations
- Refusal to operate or assist in operation/surgeries or dressing of wounds
- Blocking access to facilities like common toilet and common vessels
- Physical isolation of the person in the ward, separate arrangements for bed outside the ward in a gallery/corridor
- Cessation of ongoing treatment/medication/injections
- Early discharge from the hospital
- Mandatory testing for HIV in surgery and pregnancy cases
- Restriction of the positive person's movements within the ward/room

- Selective use of protective gears like gloves, masks etc only for HIV/AIDS patients
- Refusal to lift/touch dead body of a positive person
- Wrapping the body with a plastic sheet
- Reluctance in providing services of ambulance/hearse

B. At home and in the community

- Sever relationships, desertion, separation
- Deny property share, access to finance
- Block access to ones spouse or children, or other relatives
- Physical isolation at home, separate sleeping arrangement
- Block entry to common areas, facilities like toilet etc.
- Block entry to common places like village or neighborhood areas
- Deny death rituals
- Give labels, call names

C. At work place

- Remove from job
- Compel to resign
- Withdraw health insurance facilities
- Maintain a social distance
- Call names/make fun

ETHICAL ISSUES IN HIV/AIDS

Medical Council of India – Code of Medical ethics - Declaration

GENERAL PRINCIPLES

DUTIES OF PHYSICIANS TO THEIR PATIENTS

Obligations to the sick

Though a physician is not bound to treat each and every one asking his services except in emergencies for the sake of humanity and the noble traditions of the profession, he should not only be ready to respond to the calls of the sick and the injured, but should be mindful of the high character of his mission and the responsibility he incurs in the discharge of his professional duties. In his ministrations, he should never forget that the health and the lives of those entrusted to his care depend on his skill and attention. A physician should endeavor to add to the comfort of the sick by making his visits at the hour indicated to the patients.

Patience, delicacy and secrecy

Patience and delicacy should characterize the physicians. Confidences concerning individual or domestic life entrusted by patients to a physician and defects in the disposition or character of patients, observed during medical attendance should never be revealed unless their revelation is required by the laws of the State. Sometimes, however, a physician must determine whether his duty to society requires him to employ knowledge, obtained through confidences to him as a physician, to protect a healthy person against a communicable disease to which he is about to be exposed. In such instance, the physician should act as he would desire another to act towards one of his own family in like circumstances.

Prognosis

The physician should neither exaggerate nor minimize the gravity of a patient's condition. He should assure himself that the patient, his relatives or his responsible friends have such knowledge of the patient's condition as will serve the best interests of the patient and the family.

The patient must not be neglected

A physician is free to choose whom he will serve. He should, however, respond to any request for his assistance in an emergency or whenever temperate public opinion expects the service. Once having undertaken a case, the physician should not neglect the patient, nor should he withdraw from the case without giving notice to the patient, his relatives or his responsible friends sufficiently long in advance of his withdraw to allow them to secure another medical attendant. No provisionally or fully registered medical practitioner shall willfully commit an act of negligence that may deprive his patient or patients from necessary medical care.

*DUTIES OF THE PHYSICIAN TO THE PROFESSION AT LARGE**Upholding the honor of the profession*

A physician is expected to uphold the dignity and honor of his profession.

Membership in medical society

For the advancement of his profession, a physician should affiliate with medical societies and contribute his time, energy and means so that these societies may represent the ideals of the profession.

Safeguarding the profession

Every physician should aid in safeguarding the profession against admission to it of those who are deficient in moral character or education. Physician should not employ, in connection with his professional practice, any attendant, who is neither registered nor enlisted under the Medical Act in force, and should not permit such persons to attend, treat or perform operations upon patients in respect of matters regarding professional discretion or skill, as it is dangerous to public health.

Exposure of Unethical Conduct

A physician should expose, without fear or favor, incompetent or corrupt, dishonest or unethical conduct on the part of members of the profession. Questions of such conduct should be considered, first before proper medical tribunals in executive sessions or by special or duly appointed committees on ethical relations, provided such a course is possible, and provided, also that the law is not hampered thereby. If doubt should arise as to the legality of the physician's conduct, the situation under investigation may be placed before officers of the law, and the physician

investigators may take the necessary steps to enlist the interest of the proper authority.

INTERNATIONAL CODE OF MEDICAL ETHICS

Duties of Doctors in General

- DOCTOR MUST always maintain the highest standards of professional conduct.
- A DOCTOR MUST practice his profession uninfluenced by motives of profit.

The following practices are deemed unethical:

- a. Any self-advertisement except such as is expressly authorized by the national code of medical ethics.
 - b. Collaboration in any form of medical service in which the does not have professional independence.
 - c. Receiving any money in connection with services rendered to a patient other than a proper professional care, even with the knowledge of the patient.
- ANY ACT OR ADVICE, which could weaken physical or mental resistance of a human being, may be used only in his interest.
 - A DOCTOR IS ADVISED to use great caution in divulging discoveries or new techniques of treatment.
 - A DOCTOR SHOULD certify or testify only to that which he has personally verified.

Duties of Doctors to the Sick

- A DOCTOR MUST always bear in mind the obligation of preserving human life.
- A DOCTOR OWES complete loyalty and all the resources of his science to his/her patient. Whenever an examination or treatment is beyond his capacity he should summon another doctor who has the necessary ability.
- A DOCTOR SHALL preserve absolute secrecy on all he knows about his patients because of the confidence entrusted in him.
- A DOCTOR MUST give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.

Duties of Doctors to Each Other

- A DOCTOR OUGHT to behave to his colleagues, as he would have them behaved to him.
- A DOCTOR MUST NOT entice patients from his colleagues.

- A DOCTOR MUST OBSERVE the principles of ‘The Declaration of Geneva’ approved by the World Medical Association.

General Principle

Medical ethics requires that health professionals must treat to their best of the ability all persons seeking their medical attention without discrimination and without prejudice based on the origin or nature of the patient’s illness, including HIV/AIDS.

Duties

- In the hospital setting, the hospital has an affirmative duty to provide a safe, healthy environment for its employees and its patients.
- Even if HCW knows that an individual is HIV-positive there is neither a legal nor an ethical alternative to the delivery of care for the HCW.
- Ethically, both physicians and nurses are obligated to render care, particularly if failure to do so can possibly harm the patient.

Physician’s duty of care to his/her patient

- Patient is entitled to receive care that is medically appropriate
- Before testing, the implications of a positive result should be fully explored. This should include discussion about which key individuals in the patient’s life, including sexual partners, should potentially be informed of the diagnosis – potential risk of exposure, facilitating positive sources of practical, psychological and social support for the newly diagnosed HIV positive individual.
- Physician’s primary concern is optimal care of their patient

Physician’s duty of care to his/her patient’s partner/s

- The HIV physician does have a duty of care to close contacts of an infected individual (especially when promising interventions like MTC transmission prophylaxis is available)
- Work towards the partner/s being informed in pre-test counseling; if the index patient cannot be persuaded to inform his sexual partner/s, the physician cannot avoid responsibility for doing so, and should inform the index patient of this decision.

HIV physician’s responsibility to the wider public health

- Public interest is best served by finding and treating as many HIV positive individuals as possible, with a strong emphasis on partner notification.

- Guarantee of confidentiality, to encourage as many people as possible to be tested without fear of losing their confidentiality.
- A doctor cannot disclose to others – including relatives – who are not at risk

Ethics of AIDS

- It is unethical to stigmatize or discriminate against people who are HIV infected or who have AIDS
- Human rights demand that people with HIV/AIDS be treated exactly like other people in terms of access to health care, work, education, travel and social welfare services
- Non- discrimination is not only a human rights imperative but it is also a technically sound strategy for ensuring that infected persons are not driven underground where they become inaccessible to education or health care programs.
- Any attempt to isolate, detect and confine infected persons is therefore not only unethical but is also, from a public health point of view, quite irrational
- Given the possibility of discrimination against and ostracism of an individual diagnosed as having HIV infection, it is also extremely important that the results of such tests are kept confidential.
- The ethics of AIDS also involves the ethics of HIV testing.

WHO recommends HIV testing only for selected purposes, these include

- Screening of blood including blood products and organs and tissues for transplantation
- Early diagnosis of HIV infection among asymptomatic persons who would like to know their HIV status (**with informed consent**)
- Diagnosis of symptomatic infection among those clinically suspected of having AIDS (**with informed consent**)
- Epidemiological surveillance, particularly HIV sentinel surveillance unlinked anonymous HIV testing methodology

HIV /AIDS has raised important ethical issues some of which have a direct bearing on care and support

- The need for informed consent to undertake individual HIV testing
- The right to know one's HIV status
- The requirement for health care workers and counselors to discuss sensitive issues, including the HIV status has increased the need for privacy in health care settings

- The requirement for confidentiality about HIV status in the face of stigma and prejudice has sometimes hindered the provision of care
- The issues of disclosure of HIV status for instance when discussing care needs and likely prognosis with care givers and family members
- The extent to which pre and post test counseling should be provided in all circumstances and settings
- The testing of an infant for HIV may indirectly test the mother and this may not necessarily follow the guidelines for voluntary counseling and testing

Controversial ethical issues

1. Right of HCW to protection from HIV-infection vs. Right of infected person to privacy, highest level of attainable care and freedom from fear of discrimination (includes right to be protected from infected doctor).
2. Confidentiality (as stated in Hippocratic oath) vs. reasons for breaching it
 - Doctor may be permitted to breach to divulge HIV-status to a spouse or sexual partner, should the patient refuse to do so, after adequate counseling about the consequences.
 - Right of HCW to warn a colleague of a patient's HIV status (?)
3. Informed consent vs. mandatory testing

MODULE 4 KEY POINTS

- Confidentiality means that there should be no reference or discussion about the patient except within a professional relationship.
- Consent of the patient must be obtained before an HIV test is done or ANY information about the patient is shared.
- If Universal Precautions are followed, there is no need for any HCW to know about a patient's HIV status.
- Stigma occurs on many levels: hospital/health care, community, and family.
- Stigma can be reduced by: providing patient friendly care; societal normalization of HIV, adherence to universal precautions.
- Nurses can promote patient confidence and reduce stigma by: serving as role models to other HCWs; listening; positive body language; speaking softly; offering privacy when speaking with the patient; and maintaining confidentiality.
- A HCW's personal and moral beliefs should not affect the treatment of patients regardless of lifestyle, economic status, or religious beliefs.
- "Beneficial Disclosure" of a patient's HIV status is voluntary and respects the dignity and confidentiality of affected individuals while also meeting ethical imperatives to protect uninfected persons.

Nursing Actions:

1. Talk in a low voice about a patient's HIV status
2. Take the patient's consent prior to sharing information about him/her, especially with family members
3. Do not write "biohazard" or "HIV" prominently on the patient's case paper.
4. Do not put an HIV patient at the end of a ward.
5. Apply universal precautions while caring for all patients
6. Speak with the patient in a less public area of the ward when discussing confidential matters