COMMENT

Mandatory HIV testing: rights of patients vs rights of health workers?

GEORGE THOMAS

Head of Emergency Services, St Isabel's Hospital, Oliver Rd, Chennai 600 004 INDIA email: george.s.thomas@gmail.com

Testing patients for infection with the Human Immunodeficiency Virus (HIV), before surgery, as a prerequisite for surgery, a practice called "mandatory testing", is considered ethically unacceptable internationally. In India, the National Aids Control Organisation has advised against this practice. In an article in this issue of the Journal, Sheikh and Porter surveyed five cities in India and found the practice to be widespread (1).

Mandatory testing for HIV, and even worse, refusing treatment for patients infected with HIV, are only two of a spectrum of ethical infarctions that occur in the healthcare sector in India. Before going into the general factors that make such ethically wrong practices so widespread in India, it is interesting to examine the background of mandatory testing for HIV, which are so cogently brought out in the present paper.

Fear of infection: It is clear that in spite of evidence that spread of HIV from patient to caregiver is unlikely if universal precautions are followed, the fear of infection is very strong. This is well brought out in the comment which is used as the title of the paper "It is 100% for me." In this comment, the speaker states that however small the risk, it is not zero, and if he is infected, the statistics do not mean a thing. The statement has to be understood in the reality of medical practice in India. In the government sector, guidelines are often not possible to follow as the required disposables to implement universal precautions may not be available.

Cost: It is interesting that doctors in the government sector feel that the added cost of universal precautions is not justified. In my opinion, this arises out of the belief of a large number of doctors that government-supplied care is a mater of largesse and that the poor who avail of it do not deserve it. The idea of medical care as a human right is very far from the minds of most doctors. The understanding that government hospitals are funded through taxes, the knowledge that the poor also pay taxes, the concept of distributive justice, are all very far from the world view of most doctors in India.

Responsibility for co-workers: This is a genuine concern. The lowest level employees in government hospitals, the cleaning staff, often have very little education. These jobs are meant for those with few skills and otherwise unemployable to mitigate unemployment. Enforcing universal precautions amongst this category of employees requires sustained effort, patience and perseverance.

Reuse of disposables: One factor which has not come out in the paper of Sheikh and Porter is the widespread practice of reusing disposables, especially expensive ones like cardiac angioplasty balloons, in India. Although sterilisation should effectively kill the virus, doctors are chary of reusing disposables that have been used on patients with diseases that can potentially infect another, like HIV or Hepatitis B. Some doctors who do these procedures justify mandatory testing on the ground that their responsibility to all patients overrides the right to privacy of an individual patient.

The political background of mandatory testing

In my opinion, mandatory testing is an outcome of the failure of government in India to provide an equitable and universal healthcare system. Medical practice in India is chaotic, and much curative care is provided from a poorly regulated private sector. Scientific practice is not an overriding priority in India, and regulators and academic bodies have done little to promote it. The largest professional body in India, The Indian Medical Association, has done little in the way of guidelines for scientific and ethical practice. The government issues a few guidelines, but does nothing to implement them.

In a situation of severely restricted finances in government hospitals, universal precautions are considered impractical and are ignored. True commitment on the part of government would mean education, implementation, and support to ensure compliance. It is hardly ever that these elements are a part of government policy. The result is that government guidelines are followed when possible and ignored when they are not. Hospitals make up their own policies, and these are guided primarily by convenience. In such a situation ethical infarctions abound.

It is unlikely that policy makers in India are unaware of the situation in the field. It appears more likely that they pay lip service to international ethical guidelines and then subvert them by not providing financial support, and by making little effort at implementation or regulation. In the absence of civil society pressure for better service, the government gets away with it.

Sheikh and Porter have made an important contribution to the understanding of why ethical practice is breached in India. It is now time for activists to act on this knowledge.

Reference

1. Sheikh K, Porter JDH. "It's 100% for me": hospital practitioners' perspectives on mandatory HIV testing. *Indian J Med Ethics*. 2009; 6(3):132-7.