

SAFETY GUIDELINES FOR MEDICAL PRACTITIONERS: VIOLENCE AGAINST PRACTITIONERS BY PATIENTS OR NON PATIENTS, WHILST IN THE EXECUTION OF THEIR PROFESSIONAL DUTIES.

1. INTRODUCTION

The South African Medical Association (SAMA) notes with concern that the number of incidents of violence against Medical Practitioners whilst in the performance of their professional duties is on the increase. It is further noted that the nature of the violence is becoming more intense, there has been an increase in the number of recorded cases of rape and assault with intent to do grievous bodily harm. SAMA finds such violent behavior against medical practitioners to be totally unacceptable particularly as Medical Practitioners are care givers. SAMA is also mindful of the increased level of violence and crime in our country and therefore the need to deal with the problem of violence against Medical Practitioners, the very people who often have to treat victims of violence and crime, SAMA believes that there should be a comprehensive approach towards the issue of violence including the intervention of government institutions, the community, professional associations and individual health care professionals on an ongoing basis. Such an approach should concentrate both on the promotion of a more peaceful society and the prevention of violence towards Medical Practitioners by ensuring that Medical Practitioners are adequately protected in their work environment on the one hand and adequate sanction and punishment of the perpetrators of violence against Medical Practitioners on the other. SAMA calls for a zero tolerance approach to violence against Practitioners by government, the employers of Medical Practitioners and the community. In fact, SAMA calls for the Government to consider, promulgating legislation to protect Medical Practitioners, as is the situation in some other countries around the world i.e., Scotland.

Violence towards Medical Practitioners may be classified in various ways using different points of reference. The violence may be physical or verbal and it may vary from being minor to life-threatening. The perpetrator may be a patient or just another member of the community.

It is indeed regrettable to note the ongoing problems faced by medical practitioners in respect of their personal safety in the working environment. In an attempt to curtail violent incidents against practitioners, SAMA has compiled guidelines below to assist practitioners that find themselves in violent situations. It is impossible to anticipate every possible scenario and, as such, we provide guidelines and legal principles that we trust can be applied to various situations.

2. GUIDELINES:

2.1 THE VIOLENT PATIENT: PATIENTS WITH DIMINISHED MENTAL CAPACITY

Medical Practitioners in the execution of their professional duties have to treat violent patients. The cause of the violent acts may be organic pathology (example head injuries) or psychological disorders (example, psychosis from Schizophrenia) or intoxication from habit forming drugs and alcohol. In such situations, the Medical Practitioner is in the position of the provider of care and is dealing, in general, with a patient with diminished mental capacity. The professional training of a Medical Practitioner should be adequate in dealing with these situations. However, certain guidelines will be helpful.

These guidelines include:

- 2.1.1 The Medical Practitioner should be vigilant about the general environment he or she works in. He should assess, for example, the presence of dangerous objects in the consulting environment (example: scissors, scalpel blades and even the generally innocuous pen). A generally safe environment can become a dangerous environment in the presence of a patient with diminished mental capacity.
- 2.1.2 The Medical Practitioner should be aware of the escape routes from his consulting room. It is advisable that there should be at least two doors giving access to consulting room.
- 2.1.3 The Medical Practitioner or the nursing staff should summon the security personnel immediately and preferably before the Medical Practitioner assesses such a patient so that the security personnel are in readiness to assist the Medical Practitioner if the need should arise. Ideally such patients should have been searched and any dangerous items, especially knives and firearms, should be removed from their possession when they enter the premises to be consulted (at, for example, the hospital gate).
- 2.1.4 The Medical Practitioner should avoid consulting with such persons alone.
- 2.1.5 The Medical Practitioner should make sure that he or she has enough assistance to restrain the patient if the need should arise. Restraining of the patient should be done in a safe and acceptable manner.

- 2.1.6 The Medical Practitioner should make a preliminary survey and determine the cause of the diminished mental capacity. More often the cause is quite obvious. The Medical Practitioner should then treat the patient appropriately.
- 2.1.7 The Medical Practitioner should check that adequate sedation is at hand to treat the patient as indicated by the clinical condition.
- 2.1.8 The Medical Practitioner should familiarize himself or herself with the guidelines of the institution he or she works at. If the institution does not have guidelines, the Medical Practitioner should engage the employer in framing such guidelines.
- 2.1.9 The Medical Practitioner should be familiar with the relevant provisions of the Constitution of South Africa, Occupational Health and Safety Act and the Labour Relations Act that compel the employer to provide a safe working environment.

2.2 VIOLENCE AGAINST A MEDICAL PRACTITIONERS WHILST IN THE EXECUTION OF THEIR PROFESSIONAL DUTIES PERPETRATED BY MEMBERS OF THE COMMUNITY WHO ARE NOT PATIENTS

Violent acts by non patients or patients with full mental capacity are generally and almost invariably illegal acts and the perpetrators are liable and should be prosecuted.

- 2.2.1. The Medical Practitioner should assess his normal work environment from the perspective of an assumed exposure to a violent member of the community and engage with his or her employer to take the necessary and reasonable steps to provide a safe working environment. The employer should be made aware of the danger that seems to be greater over weekends and holidays when often, less security staff is on duty.
- 2.2.2. The employer should ensure that security staff is close at hand to assist should a violent incident occur.
- 2.2.3. The Medical Practitioner should be wary of unlit areas (as for example, dark passages in between wards) and should make the employer aware of these. It should also be stressed that it is the duty of the employer to provide a safe environment for its employees and patients.
- 2.2.4. When there is a threat of violence, the Medical Practitioner should immediately call for help from security personnel who SHOULD be close at hand.

- 2.2.5. The Medical Practitioner should remain as calm as possible and should take any reasonable steps to protect himself / herself from imminent danger.
- 2.2.6. If the Medical Practitioner is assaulted, he should urgently seek medical care, even if the injury is minor. Medical records will play a vital role when legal proceedings are pursued against the perpetrator. The Medical Practitioner should report the incident to his / her manager and follow the procedures related to such instances, if any, at the institution.
- 2.2.7. The Medical Practitioner should document the incident while the details of the incident are still fresh in his or her mind. Details of witnesses should be noted and the employer should ensure that the institution's security personnel record details of witnesses.
- 2.2.8. The Medical Practitioner should contact the police, lay charges against the perpetrator and make sure that a J88 is duly completed.
- 2.2.9. An often difficult but nonetheless common situation is when a Medical Practitioner is assaulted and he or she is therefore a patient and a professional with the responsibility of attending to the other patients in his/her care. Often the violence takes place in a casualty, out-patient department or less often in an inpatient ward where other patients are waiting to be treated. Ethically, the Medical Practitioner has a duty to care. Legally, he or she is bound by his employment contract but there is no general duty of care. If the Medical Practitioner is in real and imminent danger. It is well within his/ her legal rights to remove himself from that situation or to take reasonable steps to prevent injury to himself and to protect him or herself. His right to security overrides the ethical and contractual duty to care. If he does what a reasonable Medical Practitioner would have done in the same circumstances he would be protected by the law. If the Medical Practitioner is in a position to, he or she should hand over the care of the remaining patients to a colleague or to the Medical Manager in a public hospital. If the Medical manager or a colleague cannot take over the care of the patients, he may still remove himself or herself from that dangerous situation or take reasonable and necessary steps to protect himself or herself. It must be stressed that the employer has the over-arching duty to provide medical care.

- 2.2.10. The Medical Practitioner should ensure that the legal process is followed and that the perpetrators of the violence, even if the injuries were minor, are prosecuted. This is important in creating an attitude of zero tolerance *vis a vis* violence towards Medical Practitioners.
- 2.2.11. The Medical Practitioner should report the incident to the South African Medical Association who should deal with the matter as it deems fit. In view of the fact that the SAMA commits itself to a zero tolerance approach to violence against Medical Practitioners, SAMA will do all that it can to assist its members in terms of legal advice and support.
- 2.2.12. The Medical Practitioner should familiarize himself / herself with his / her employment contract, more specifically with the provisions relating to a safe working environment and ensure that he or she is adequately protected by the contract. If members of the Association are unsure, assistance can be sought from the legal unit at SAMA.
- 2.2.13. The Medical Practitioner, who is the victim of a violent attack, is entitled to the necessary medical care, psychological support and leave from work and the employer is obligated to provide same.

2.3 MEDICAL PRACTITIONERS AND VERBAL ABUSE WHILST IN THE EXECUTION OF THEIR DUTIES

It is highly likely that medical practitioners while in execution of their professional duties will be subject to verbal abuse. The verbal abuse may be from patients or other members of the community. With regard to patients, the Medical Practitioners should exercise discretion but should remain firm. The patient should have no doubt that abuse will not be tolerated. Obviously, the Medical Practitioner will be able to distinguish wanton verbal abuse from abuse caused by diminished mental capacity. As each situation will be different, some general guidelines may be appropriate:

- 2.3.1 The Medical Practitioner should always attempt to establish a good rapport with his or her patient. This always helps to minimize conflict between the patient and the Medical Practitioner.

- 2.3.2 The Medical Practitioner should always carry himself or herself with dignity and treat his or her patients with dignity and respect.
- 2.3.3 If the Medical Practitioner is subject to verbal abuse, he or she should exercise appropriate restraint and remain calm. The Medical Practitioner should avoid an abuse slinging match with his or her patient. Sometimes, it may be prudent to just remain silent or to walk away if the situation so demands.
- 2.3.4 It is unacceptable that the Medical Practitioners should be subjected to any form of abuse, including verbal abuse. The Medical Practitioner is entitled to the protection and support of his employer and is also entitled to exercise whatever legal rights he has in such a situation. He or she may even consider taking legal action when subjected to verbal abuse.
- 2.3.5 Verbal abuse from members of the community should not be tolerated and security personnel or the police should be contacted to have such person removed from the place of work. A firm and decisive approach towards verbal abuse will deter other persons from doing the same and will also act as a detriment to physical violence. A zero tolerance approach includes a firm and effective response to verbal abuse.
- 2.3.6 If a Medical Practitioner is the victim of verbal abuse on the telephone:
- 2.3.6.1 The Medical Practitioner should remain calm.
 - 2.3.6.2 The Medical Practitioner should attempt to get the caller to reveal his or her identity.
 - 2.3.6.3 The Medical Practitioner should attempt to get the address of the caller.
 - 2.3.6.4 The Medical Practitioner should attempt to identify who the person is either from the contents of the conversation or from the voice.
 - 2.3.6.5 The Medical Practitioner should avoid getting into a verbal slinging match and should avoid being abusive or vulgar on the telephone.
 - 2.3.6.6 If the verbal abuse on the telephone becomes repetitive, the employer and or the police should be notified.
 - 2.3.6.7** If the Medical Practitioner is unable to deal with the verbal abuse he/she should end the call.

3. LEGAL PRINCIPLES:-

3.1 The Obligation of the Employer to provide a Safe Working Environment

South African labour law places a duty on the employer to provide a working environment that is safe for their employees. This duty is equally applicable to the State (as an employer of doctors in the Public Sector) as well as to doctors who are employers in the private sector.

Measures must therefore be put in place by the employer to ensure that the working environment is safe. It must be remembered that we live in a violent society and it is unreasonable to expect the employer to guarantee with absolute certainty the safety of their employees. Where the employer has taken all reasonable steps to provide a safe working environment, they will be considered to have duly discharged their duty.

3.2 The Reasonable Man Test

In assessing the conduct of an individual, South African courts adopt the “reasonable man” test. This test asks the question: “What would a reasonable man have done when faced with the similar situation?” If the answer to the question is that the “reasonable man” would have done the same as the person in question, then the conduct is regarded as reasonable. Reasonable action will, in most cases, negate any civil or criminal responsibility.

In addition, the “reasonable man” test is not applied as a fixed norm but rather to the specific instance at hand. For example if a doctor is involved, the test would be “What would a reasonable doctor have done under the circumstances”.

When deciding on what course of action to take in a situation, it is advisable to apply this test to oneself before taking action.

3.3 Self Defence

When an individual claims that their actions were taken in self defence, the following will be taken into consideration in assessing the justification of the action:

- 3.3.1 Was the action of the individual in proportion to the threat they allege was imminent. .i.e. if a person was slapped in the face by an unarmed person, it would be out of proportion to defend oneself by shooting the other person with a pistol. This cannot be said to be self defence.

- 3.3.2 The threat imposed by the other person must be immediate and imminent. One cannot act in self defence towards an act that is not imminent; moreover; self defence cannot be post the violent act.

It is possible to act in protection of another person. For example where a person is being attacked, another person may come to their assistance and ward off the attack. However the same requirements of immediacy and imminence must be present and the rescuer must also act in proportion to the attack. There is, however, no obligation on a person to come to the assistance of another party unless the person stands in a position of authority over the other (e.g. a police officer).

4. CONCLUSION

It is clear that doctors are faced with violent situations regularly. We therefore advise that one prioritises his/her own safety first, while taking into account the needs of patients under your care and the need for one to act within the limits of the law.

In light of the above it is therefore important to note that when one is confronted with a dynamic situation, the following must be borne in mind:-

- 4.1 Wherever possible attempt to calm the situation and do not get dragged into an argument that may escalate into a violent confrontation.
- 4.2 Where possible alert security to come and assist you should the situation not diffuse.
- 4.3 First, and only if it is possible, remove yourself from the situation. Factors that must be considered before leaving the situation include:-
- 4.4 Whether or not there are patients under your care which require immediate attention;
- 4.5 Whether or not there are other medical personnel who can take over the care of the patient during your temporary absence. Should you abandon a patient you would be liable for all damages suffered by the patient unless you leave that patient under threat of death, or grievous bodily harm. An unpleasant or distressing incident will not excuse you of your duty to your patient.

- 4.6 If physically attacked, use whatever force necessary and appropriate to ward off the attack, bearing in mind that your conduct must be in proportion to the level of violence of the attack.
- 4.7 There is no obligation on you to intervene should there be a violent confrontation between two or more other people. Should you choose to become involved you will have to adhere to the principle described above and you further run the risk of being harmed yourself.