Recommended Ethical Principles on Partner Counselling and Referral for HIV Infected Individuals in Hong Kong

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Committee on Promoting Acceptance of
People Living with HIV/AIDS (CPA)

of the Hong Kong Advisory Council on AIDS

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Introduction

1. The spectrum of public health activities in which current and past partners of individuals with HIV infection are notified, counselled about their exposure and offered appropriate referrals have been described by different authorities as *contact tracing*, *partner notification* and *partner counselling*. The U.S. Centres for Disease Control and Prevention introduced the term *Partner Counselling and Referral Services (PCRS)*[1] to describe the nature of activities for working with the sex and needle-sharing partners of HIV infected persons. In this recommendation, the term PCRS is used to cover all activities with similar functions but in a local context. Specifically, “partners” refers to people who have had sex, shared injection equipment with a HIV infected person since the time of one’s HIV infection.

2. The goals of PCRS are to firstly, prevent HIV transmission to people who may be exposed either sexually or through needle sharing and secondly, improve care and support for the already infected partners. Specific objectives are 1) to inform partners who have had significant HIV exposure; 2) to provide appropriate information to partners that will assist them to evaluate their risk and to decide whether to go for an HIV test or not; 3) to provide access to HIV counselling and testing, HIV treatment and other supporting services when necessary; and 4) to alert partners of any possible secondary transmission to other partners and their children.

3. PCRS is recommended by overseas authorities as one component of a comprehensive HIV prevention programme. The advance of highly active antiretroviral therapy (HAART), on the one hand, has dramatically decreased the morbidity and mortality of HIV infection, on the other hand has also prolonged the period during which HIV transmission can possibly occur. A local study has revealed that one quarter of the HIV infected patients did not disclose their serostatus to their spouse or co-inhabiting partners[2]. In Hong Kong, specific HIV treatment is available at the public clinical services. It is expected that, by promoting early diagnosis, appropriately conducted PCRS would maximize the benefits from appropriate treatment to infected individuals, and strengthen the control of HIV infection.

4. The Committee of Promotion of Acceptance of People Living with HIV/AIDS of the Hong Kong Advisory Council on AIDS concurs with the aforementioned benefits of appropriately conducted PCRS, and hence sets out the following ethical principles. It

aims to provide health professionals with an ethical framework for considerations when conducting PCRS for HIV infected persons.

Principle ONE: PCRS should be conducted by health professionals who are taking care of HIV infected patients. Appropriately conducted PCRS is beneficial to HIV infected individuals, their partners and the community.

5. Disclosure is one of the most significant factors affecting the quality of life of HIV positive persons[3]. Through the counselling process, the issue of disclosure is addressed, while information and counselling on risk behaviours as well as encouragement, support and choices to inform their partners are provided.

6. Not only do the partners who test positive benefit from early diagnosis and treatment, PCRS also addresses the rights of individuals to be informed of their exposure to HIV. It serves as a channel for risk communication and raising awareness of HIV infection among the notified partners who might then take up preventive actions[4]. As for the community, successfully conducted PCRS is a critical measure to control HIV infection from the source of an infection, i.e., people with HIV infection.

7. However, it should be noted that PCRS carries potential risks. Relationship conflict, psychological stresses, domestic violence, breakdown of the trusting relationship between health care providers and patients are the quoted examples of such. On the extremes, patients may refrain from HIV testing and other services when they consider that their autonomy is threatened.[1]

8. Above all, the benefits of PCRS should outweigh its risks when *appropriately conducted*. Health professionals should therefore assess and minimize the risks of PCRS to their best, and attempt to conduct PCRS for every HIV infected patient. The process should be documented properly.

Principle TWO: Approaches to provide PCRS is diversified with different pros and cons. Health professionals should work with the patient to decide on the most appropriate approach.

9. A brief description of PCRS methods and their respective pros and cons are provided in Appendix I.

10. There is no single method that stands out to be superior to the others. The approach,

or approaches adopted is an individualized and joint decision made by the patient and the attending health professionals, who should support and work with the patients throughout the counselling and referral process. Together, they should choose and formulate the most appropriate method or combination of methods, at the appropriate time and context to ultimately notify the partners and minimize potential negative consequences.

Principle THREE: The conduct of PCRS should always comply with local law and professional codes.

11. In Hong Kong, there is currently no HIV-specific legislation or administrative means on the control of HIV transmission. PCRS, as a public health tool to control HIV spread should always comply with existing law in its execution. The ethical dogma of beneficence, nonmaleficence, autonomy, justice, and confidentiality should be upheld and established guidelines followed all the times.

12. Guidelines on the disclosure of medical information to third parties and handling of serious contagious/infectious diseases, sections III.A.1.4 and III.G.29 of the Professional Code and Conduct established by The Hong Kong Medical Council (Appendix II and III), and under the Privacy Ordinance (excerpts in Appendix IV) should be referred to when appropriate.

13. Health professionals should understand that exceptional circumstances occur should the risk of HIV transmission to partners justifies a duty to inform, even though they are being bound by the rule of confidentiality and autonomy.

Principle FOUR: PCRS protocol should be developed by individual health service taking care of HIV infected patients. In case of doubt when handling difficult cases, advice from relevant authority should be sought.

14. Establishment of protocol facilitates the conduct of PCRS by frontline health professionals. Health services should develop their own set of protocol relevant to their unique setting, taking reference from local and overseas recommendations and experiences. Health professionals should, if necessary, seek advice from relevant professional authorities or ethical committees on case-by-case basis.

Appendix I

PCRS Methods

(a) **Source referral (Patient referral, client referral or self referral):** HIV positive people are encouraged to counsel partners concerning their possible exposure to HIV by themselves. This is usually the most socially accepted method but could be less effective than other means.

(b) **Provider referral**: HIV positive people give the name(s) of the partners to a health care provider who then counsels the partner(s) directly. The health care providers do not disclose the name of the source person, but only provide the information that the partner is likely to have been exposed to HIV infection. This method demands more resources, requires patient cooperation to locate the partners and an informed consent needs to be obtained whenever possible. It is more effective than source referral and immediate counselling and support can be provided to the partners. Confidentiality very often is the area for concern for both patients and the health care workers.

(c) **Conditional referral (Contract referral)**: health care providers of the source client obtain names of the partners, but allow the source client a period of time to counsel the partners him/herself. If partners are not counselled and tested within this time period at certain designated sites, the health care providers will contact and counsel the partners, without naming the source client concerned.

(d) **Dual referral:** the partners are informed by the HIV infected patient in the presence of the health care providers, who can render immediate counselling and referrals when needed.

These methods are recommended to be used in combination and have to be culturally accepted.

Source of information:

US Department of Health and Human Services. HIV Partner Counseling and Referral Services Guidance. Atlanta: Centres for Disease Control and Prevention;1998.

UNAIDS and WHO. Opening up the HIV/AIDS epidemic. Guidance on encouraging beneficial disclosure, ethical partner counselling and appropriate use of HIV case-reporting. Geneva: UNAIDS; 2000.

Appendix II

Guidelines on disclosure of medical information to third parties. Professional Code and Conduct. Hong Kong Medical Council

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III.A.1.4. Disclosure of medical information to third parties

1.4.1. A doctor should obtain consent from a patient before disclosure of medical information to a third party not involved in the medical referral.

1.4.2. In exceptional circumstances medical information about a patient may be disclosed to a third party without the patient's consent. Examples are: (i) where disclosure in the public interest or in the interests of an individual is justified because the failure to disclose the appropriate information would expose the patient, or someone else, to a risk of death or serious harm; (ii) when required by law to do so.

1.4.3. However, before making such a disclosure a doctor must weigh carefully the arguments for and against disclosure and be prepared to justify the decision. If in doubt, it would be wise to discuss the matter with an experienced colleague or to seek help from a medical defence society, a professional association or an ethics committee.

Source of information:

Medical Council of Hong Kong. Professional Code and Conduct for the guidance of registered medical practitioners. 2000. Available at http://www.mchk.org.hk/draft.htm . Accessed 14 February 2004.

Appendix III

Guidelines on handling of serious contagious/infectious diseases. Professional Code and Conduct. Hong Kong Medical Council

III.G.29. Serious contagious/infectious diseases

29.1 All patients, including those with serious contagious/infectious diseases, are entitled to timely and appropriate investigations and treatment. A patient should not be denied of care even if his own actions and lifestyle may have contributed to the disease condition.

29.2 In any given case when it appears that others - spouses, those close to the patient, other doctors and health care workers - may be at risk if not informed that a patient has a serious infection, the doctor should discuss the situation fully and completely with the patient laying particular stress, in the case of other medical or allied health staff, on the need for them to know the situation so that they may, if required, be able to treat and support the patient. In the case of spouses, or other partners, similar considerations will apply, and the doctor should endeavour here also to obtain the patient's permission for the disclosure of the facts to those at risk.

29.3 Difficulties may clearly arise if the patient, after full discussion and consideration, refuses to consent to disclosure. If mutual trust between doctor and patient has been established such a case will, hopefully, be rare. In this case, it is covered by the general ethical standards of the profession and should be respected. Should permission be refused, however, the doctor will have to decide how to proceed, in the knowledge that the decision reached, may have to be justified subsequently. Should it appear that the welfare of other health workers may be properly considered to be endangered, the Council would not consider it to be unethical if those who might be at risk of infection, whilst treating the patient, were to be informed of the risk to themselves. They in their turn would, of course, be bound by the general rules of confidentiality.

29.4 In the exceptional circumstances of spouses or other partners being at risk, the need to disclose the position to them might be more pressing, but here again the doctor should urgently seek the patient's consent to disclosure. If this is refused, the doctor may, given the circumstances of the case, consider it a duty to inform the spouse or other partner.

29.5 Doctors involved in the diagnosis and treatment of HIV infection or AIDS must endeavour to ensure that all allied health and ancillary staff, e.g. in laboratories, fully understand their obligations to maintain confidentiality at all times.

Source of information:

Medical Council of Hong Kong. Professional Code and Conduct for the guidance of registered medical practitioners. 2000. Available at http://www.mchk.org.hk/draft.htm. Accessed 14 February 2004.

Appendix IV

Personal Data (Privacy) Ordinance (excerpts)

Scope of Coverage

The Ordinance covers any data relating directly or indirectly to a living individual (data subject), from which it is practicable to ascertain the identity of the individual and which are in a form in which access or processing is practicable. It applies to any person (data user) that controls the collection, holding, processing or use of personal data.

Data Protection Principles

Principle 1 -- Purpose and manner of collection. This provides for the lawful and fair collection of personal data and sets out the information a data user must give to a data subject when collecting personal data from that subject.

Principle 2 -- Accuracy and duration of retention. This provides that personal data should be accurate, up-to-date and kept no longer than necessary.

Principle 3 -- Use of personal data. This provides that unless the data subject gives consent otherwise personal data should be used for the purposes for which they were collected or a directly related purpose.

Principle 4 -- Security of personal data. This requires appropriate security measures to be applied to personal data (including data in a form in which access to or processing of the data is not practicable).

Principle 5 -- Information to be generally available. This provides for openness by data users about the kinds of personal data they hold and the main purposes for which personal data are used.

Principle 6 -- Access to personal data. This provides for data subjects to have rights of access to and correction of their personal data.

Part VIII - EXEMPTIONS

59. Health

Personal data relating to the physical or mental health of the data subject are exempt from the provisions of either or both of-

(a) data protection principle 6 and section 18(1)(b);

(b) data protection principle 3, in any case in which the application of those provisions to the data would be likely to cause serious harm to the physical or mental health of-

i. the data subject; or
ii. any other individual

Source of information:

Chapter 486. Personal Data (Privacy) Ordinance. Office of the Privacy Commissioner for Personal Data. Hong Kong. Available at http://www.pco.org.hk/english/ordinance/ordglance.html. Accessed 14 February 2004.

Reference

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1 US Department of Health and Human Services. HIV Partner Counseling and Referral Services Guidance. Atlanta: Centre for Disease Control and Prevention; 1998.

2 Lau JTF, Tsui HY & Li CK et al. Needs assessment and social environment of people living with HIV/AIDS in Hong Kong. AIDS Care 2003;15(5):669-706

3 Jones RH, Candlin CN & Yu KK. Culture, communication and the quality of life of people living with HIV/AIDS in Hong Kong. Hong Kong: City University of Hong Kong; 2000.

4 Hoxworth T, Spencer NE & Peterman TA et al. Changes in Partnerships and HIV risk behaviours after partner notification. Sexually Transmitted Diseases 2003; 30(1);83-8

Committee on Promoting Acceptance of People Living with HIV/AIDS (CPA)

The Committee on Promoting Acceptance of People Living with HIV/AIDS (CPA) was formed in 1999. Its terms of reference and membership are as follows:

Terms of Reference

- To recommend measures conducive to promoting acceptance of people living with HIV/AIDS;
- To explore legal and ethical issues of HIV/AIDS and their implications on societal acceptance;
- To examine and recommend responses to incidents relating to the acceptance of people infected or affected by HIV/AIDS.

Membership 2002 - 2005

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Secretaries :	Dr	LEE Chi-kei, Krystal
	Mr	WONG Man-kong

Correspondence

Address : 5/F, Yaumatei Jockey Club Clinic
145 Battery Street, Yaumatei, Kowloon, Hong Kong
Tel : (852) 2304 6100
Fax : (852) 2337 0897
E-mail : aca@dh.gov.hk
Website: http://www.aca-hk.com