

GUIDELINES FOR THE PROVISION OF HEALTH CARE SERVICES DURING HIGHER EDUCATION PROTEST ACTION

In the context of protest action affecting South African institutions of higher education this document lays out principles and offers guidance to ensure access to health care, during periods of potential disruption of usual or routine health care services due to protest action and responses. The document serves as a guide for all parties, including but not limited to: the university management; university health professional staff; volunteer student first aiders; student protestors; staff protestors; South African Police Services (SAPS); private medical services as well as private security, on their roles, acceptable conduct and expectations, towards the realisation of the safe delivery of health care, including but not restricted to emergency medical treatment.

This document should be read as putting forward foundational principles that would support the development of specific plans by institutions of higher education, which should be contextualised to the distinctive circumstances of each institution.

1. PREAMBLE

Recognising that medical ethics remain the same in times of violence, protest action, or states of emergency as in times of peace,

Recalling the neutrality and sanctity of health care services and the need to safeguard access to and delivery of health care services at all times;

Recalling that the maintenance of medical neutrality also necessitates non-interference, meaning that no party may obstruct the duties of health care personnel.

Recalling the ethical obligations of health professionals to maintain patient confidentiality and privacy;

Recognising that SAPS has a commitment to ensure and/or provide first aid response services;

Recognising that the Policy on the Minimum Norms and Standards for Student Housing at Public Universities (2015) obliges university management to provide for adequate provision of access to medical and psychological services to cater for the well-being of student residents during work hours, and must ensure that emergency support is available after hours for those in on-campus and off-campus student housing;

Recognising that law enforcement officials have a duty to ensure the safety and security of the public and to uphold the law;

Recalling the provisions of the South African Police Services (SAPS) Code of Conduct, , the Regulation of Gatherings Act 205 of 1993, the National Instruction 4 of 2014 and the National Instruction 1 of 2016;

Recognising the right to assembly as a human right protected under Article 17 of the South African Constitution (1996);

Recalling the provisions of international human rights mechanisms, in particular the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), and domestic law, namely the Bill of Rights of the South African Constitution (1996), which affirm the following:

- a. Everyone has the right to life, which is non-derogable.
- b. States must refrain from deliberately withholding or delaying health care to the wounded and the sick in life-threatening circumstances. No one may be denied access to emergency medical treatment.
- c. Whenever the use of force is unavoidable, law enforcement officials must minimise the harmful consequences from the use of force and ensure medical assistance to those affected as early as possible.
- d. Everyone has the right to access health care services on a non-discriminatory basis. States must refrain from arbitrarily denying or limiting such access, for instance, against political opponents.
- e. States must take active measures to enable and assist individuals to enjoy their right to health, including the highest attainable standard of physical and mental health.

Concerned that to date that the provision of health care services is compromised or at risk of such, due to the lack of effective mechanisms to foster communication and negotiation between all relevant stakeholders;

and

Acknowledging the need for a common understanding and implementation approach for all stakeholders during higher education protests to secure unimpeded access to necessary health care services,

The following principles serve as a guide for stakeholder conduct and planning in relation to university protests with the specific aim of facilitating access to health care services during higher education protests and safeguarding the delivery of those health care services.

2. DEFINITIONS

Emergency medical attention: emergency medical services rendered by health care personnel as defined herein.

First aid provider: a type of health care personnel, either volunteer or employed, who is either a medical or nursing student in good standing and/or the holder at a minimum of a valid level one emergency first aid certificate. The first aid provider is formally recognised as being on duty during protest action by the display of visible identification markings or insignia.

Health care: any activity relating to the prevention, diagnosis, management and treatment of injuries and disease affecting mental and physical health. This also includes services necessary to attain the objective such as transporting the wounded as well as administration of a health care facility.

Health care facility: any location where health care is provided. This includes: temporary facilities—even those reasonably established under a fast-moving situation, mobile clinics, medical transport or any location designated as such.

Health care providers: all personnel working in the area of health care, including professional health personnel, personnel of non-governmental organisations, medical personnel of law enforcement agencies, medical student volunteers and first aiders.

Identification/symbols/insignia: designated, agreed upon, recognisable and visibly displayed markings that indicate where and by whom medical care is being provided.

Injured person: a person who has undergone injury to body, mind or emotions by being subject to harmful external factors.

Law enforcement agencies: mandated, regulated and supervised by legitimate authorities (the State) to ensure safety, security and/or enforce the law. In this context, law enforcement agencies may include private security, campus security and state police services.

Law enforcement official: includes uniformed and ununiformed officers of the law who exercise police powers and extends to include campus security, whether insourced or outsourced, as well as any security privately contracted by the university.

Medical impartiality: the ethical principle whereby health care providers must provide care to those most in need, based on accepted triage norms, regardless of where they are from, their own religious and/or political affiliations, and of those whom they are treating.

Medical neutrality: the ethical principle of health care providers not taking part in protest action while providing health care services.

Medical vehicle or transport: public or private ambulances, university transport or personal vehicles transporting injured people.

Patient: any person who requires health care.

Stakeholder/party: these are synonymous terms including but not limited to: the university management; university health professional staff; volunteer student first aiders; student protestors; staff protestors; South African Police Services (SAPS); private medical services as well as private security

University management: any person or structure so designated and duly authorised in accordance with university/higher educational institution constitutive documents.

3. FACILITATION OF ACCESS TO HEALTH CARE

3.1 Taking into account the various forms of protest action, all parties should, where practicable, formulate a university specific plan to facilitate access to health care services. This plan should enumerate detailed information for the provision of health care services, including contact numbers, command chains, site maps indicating the location of health care facilities and any other relevant matters, in order to ensure the principle of medical neutrality.

3.2 Any health care provided by volunteer first aiders, university staff, the local population, non-governmental organisations or other third parties does not relieve the state of its obligations to provide health care.

3.3 Health care personnel for so long as they are legitimately acting in their capacity as health care workers during periods of protest action may not be attacked, harassed, harmed or punished by anyone at the time of service provision or later as a form of victimisation. Health care personnel, presenting themselves as such, shall not carry out activities outside the course and scope of practice while working or volunteering in their medical capacity.

3.4 Health care personnel must prioritise assessment and treatment without discrimination, based only on the patient's medical condition. Health care personnel decide, in accordance with triage norms, clinical reasoning and ethical principles of health care, which patient receives priority.

3.5 All health care personnel, transport and facilities should be marked with objectively visible markings to indicate the nature of that object, person or location as designated for medical care. Upon adoption of the plan referred to in 3.1 or as soon as is practicable, all stakeholders must agree on distinctive signs, or emblems to be used to distinguish health care services and individuals providing such services during the protest.

3.6 The provision of medical attention must be the first priority for a suspect who requires health care prior to his/her arrest and/or removal from a health care facility. To this end, a dialogue between law enforcement officials and health care personnel will take place before the transfer of the patient into the custody of law enforcement officials.

4. PROTECTION OF HEALTH CARE FACILITIES AND TRANSPORT

4.1 All parties shall respect and protect health care facilities, transport and equipment at all times and these shall not be the object of attack or violence.

4.2 In accordance with the neutral status of health care facilities and in order to protect staff and patients, health care facilities or first aid posts should be weapon-free areas.

4.3 Recognising that protest action may have the potential to hinder access to health care facilities, such access to health care facilities must be ensured at all times by all stakeholders/parties.

4.4 Law enforcement agencies should respect health care facilities and use the principle of precaution by carefully planning their operations to avoid the strict necessity to use force near such facilities and their being harmed. If the use of force is nevertheless unavoidable, the force used must respect the principles of necessity and be strictly proportionate to the threat posed by an individual or group of individuals. This use of force does not justify harm to health care facilities in proximity to any such threat.

4.5 No health care facility should be used for purposes other than for providing health care. Likewise, information about injured persons is privileged.

4.6 Medical vehicles or transport shall be respected by all stakeholders and shall not be subject to violence of any kind from any source. The access of medical vehicles to patients should be unhindered at all times and consideration of this taken into account in the planning of or management of a protest. Designated routes for the transporting of the injured persons should be identified and with coordination among all parties to ensure appropriate medical assistance to injured people.

4.7 Commanders of law enforcement agencies should give suitable operational orders to all law enforcement officials deployed in order to ensure that priority and coordination is given to medical transports and those in need of emergency medical care.

5. COORDINATION AND TRAINING

5.1 All stakeholders must ensure adequate training and credentialing of all relevant personnel. Training should take into account emergency preparedness, risk assessment and management, negotiation, stress management, communication skills and capacity building.

5.2 Where practicable, stakeholders should include social sensitisation on the roles and responsibilities of all stakeholders involved in protest action, or the management of such situations including responses to incidents involving threats of or actual incidents of violence. Such training (sensitisation) should make specific mention of the obligation of state law enforcement officers to provide first aid and ways to ensure minimal disruption for health care facilities.

5.3 First aid providers must receive adequate training on their rights and responsibilities, in particular on their ethical obligations as well as specific training on the delivery of health care services during protest action.

6. IMPLEMENTATION

6.1 Following the acceptance of these guidelines, all stakeholders should establish a university specific plan, as outlined in 3.1 above, which indicates their adherence to the principle of medical neutrality and impartiality through policies and procedures to safeguard health care in situations of protest actions.

6.2 The plan referred to in 6.1 must take into account contingency planning for all possible and anticipated health care needs, which should also conform to the spirit and intention of these guidelines.

6.3 The development and implementation of the university specific plan must be sufficiently resourced to ensure that health care is available and accessible in relation to protest action.

6.4 By endorsing these guidelines, all parties commit themselves to work for the promotion of the stipulated principles within these guidelines, including by appropriate dissemination and training amongst relevant officials and concerned parties.

6.5 The principles enumerated herein apply to all in-sourced and out-sourced services to the university and the compliance thereto should be a condition of the hiring of such services by university management or any other stakeholder.

6.6 A technical working group should be established to operationalise and govern each university specific plan and must include representation from all stakeholders at each institution.

6.7 The technical working group that is responsible for the implementation and governance of the university specific plan arising from these guidelines must include the establishment of appropriate, independent and impartial monitoring and evaluation mechanisms.

ENDS