



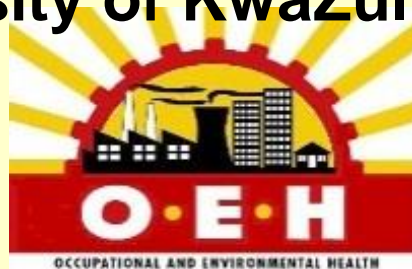
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The Occupational Health Surveillance System: Ethics of Data Submission

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Introduction: Ethics and C-19

- Patient/worker confidentiality during the epidemic
- Balance between worker rights and public health
- Collection of information by employer vs health professional
- Release of information by employer vs health professional to external agencies
- Workers (as patients) are protected by the National Health Act (ethical protection)
- Workers (as citizens) are protected by the Protection of Personal Information Act (information protection)

Ethics and Law of Informed Consent/Confidentiality

- The National Health Act, guides ethical conduct
- Patient consent is not needed if:
 - Inability of patient
 - Mandated by law
 - Public health risk
 - Serious effect on patient who has not expressly refused
- Confidentiality breach allowed for, if:
 - Written permission by patient
 - Mandated by law
 - Failure to act will result in serious risk to public health
- This clause does not specify the recipient of the health information



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No. 61 of 2003: National Health Act, 2004.

C-19 and Disclosure

- The DMA Regulations prescribe the collection of information at the point of testing.
- The regulations prescribe that this must be submitted to the DG Health
- No provision made for consent for this disclosure, but there is an obligation that confidentiality must be maintained
- Disclosure is permitted if:
 - Authorised by regulations
 - Necessary to intervene in disease spread
- Patient must be informed about this process

Disclosure Limits

- Health professional is bound to submit testing data to DG Health
- If positive, health professional is bound to inform employer in terms of public health risk containment
- But, what about disclosure of:
 - Information on vulnerability for adverse C-19 outcomes?
 - Clinical management of patient?
 - Post-infection details?



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GUIDANCE NOTE ON THE PROCESSING OF PERSONAL INFORMATION IN THE MANAGEMENT AND CONTAINMENT OF COVID-19 PANDEMIC IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 (POPIA)

2.3. The Regulator recognises the need to effectively manage the spread of COVID-19, which has necessitated the limitation of various constitutional rights of data subjects. The Regulator therefore supports the need to process personal information of data subjects in order to curb the spread of COVID-19.

4.3.1. It is not necessary for a responsible party to obtain consent from a data subject to process his or her personal information in the context of COVID -19, when:

4.3.1.1. processing complies with the obligation imposed by law on the responsible party;

4.3.1.2. processing protects a legitimate interest of the data subject;

4.3.1.3. processing is necessary for the proper performance of a public law duty by a public body; or

4.11.2. A responsible party may only process special personal information subject to an obligation of confidentiality by virtue of office, employment,



Workplace Ethics

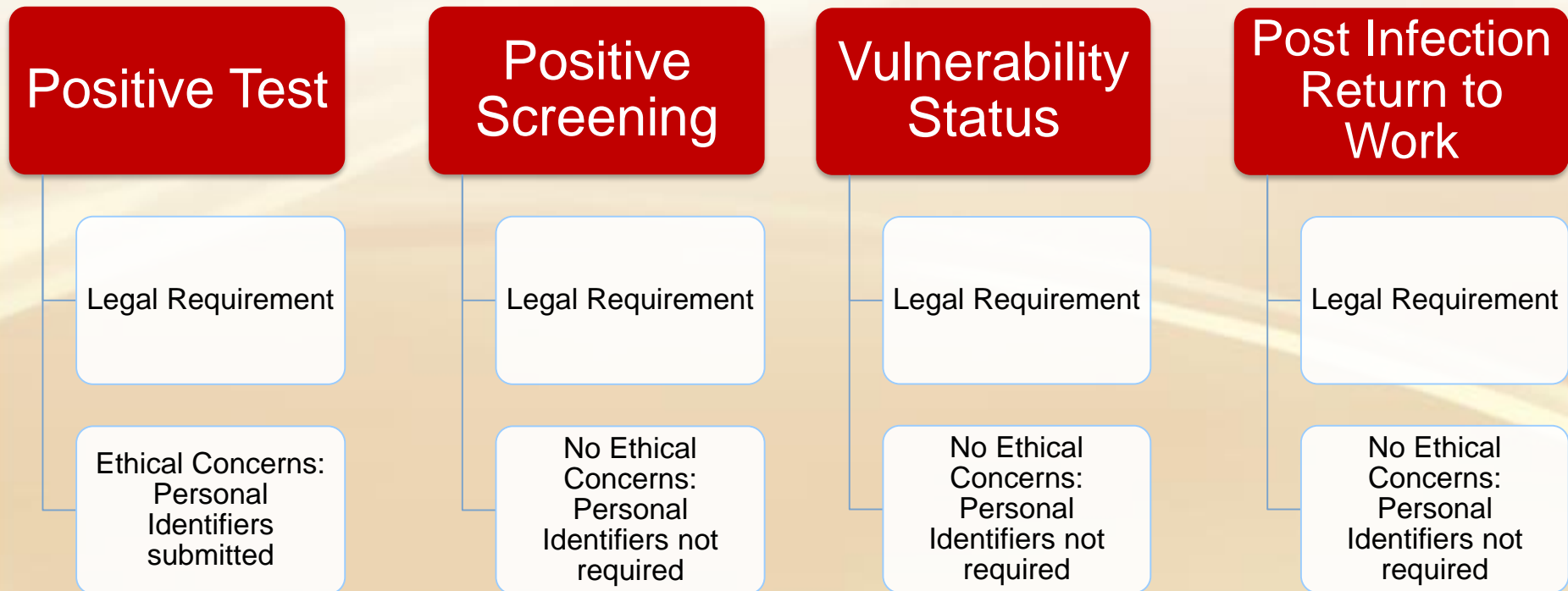
- Employers are bound by the Direction and the OHS Act to test and to report positive employees
- The health professional is ethically bound NOT to divulge health information to the employer without consent:
 - that may increase vulnerability to C-19;
 - clinical management of positive worker
 - post infection medical details

Ethics and the OHSS

- Positive workers: a legal obligation to report to the DG Health or its designated agency (NIOH)
- Positive Symptoms Screen: a legal requirement, with no personal identifier – no ethical impediment
- Vulnerability Status: a legal requirement – no health data and no personal identifier – no ethical impediment
- Post infection: a legal requirement – no health data and no personal identifier – no ethical impediment



OHSS Ethics/Legal Summary



Thank you!

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