

Dr Z L Mkhize

Minister of Health

National Department of Health

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Copied to: MECs for Health, Gauteng; KwaZulu Natal; Limpopo; Western Cape; Eastern Cape; Free State; Northern Cape; North West; and Mpumalanga

17 April 2020

Dear Minister Mkhize,

RE: PROTECTING SAFE ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES DURING COVID-19

South Africa began its national lockdown on 27 March 2020 to slow the spread of the COVID-19 pandemic, a global health crisis that has overwhelmed health systems around the world. The response by the South African government, and the Department of Health at national and provincial levels, has been swift and direct in response to a pandemic that has worsened since the start of the national lockdown. After considering the host of evidence on the management, spread and effect of the virus, President Cyril Ramaphosa announced that the lockdown would be extended for another two weeks. This decision was taken to ensure the health and safety of South Africans, holding the best interests of the nation at its centre. With this characteristic approach in mind, we write as follows:

1. The efforts undertaken to slow and manage the spread of COVID-19 in South Africa introduced measures that limit freedom of movement; deployed the South African Police Services and South African National Defence Force; and limited the services one may seek during the lockdown to essential goods and/or services.

2. As per the Regulations Made under the Disaster Management Act ('the Regulations'), as amended on 25 March 2020, 26 March 2020, 02 April 2020, and 16 April 2020, medical or health services are 'essential services' which are accessible during the lockdown period. Further, regulation 11B of the Regulations allows for a person to leave their home to seek "emergency, life-saving or chronic medical attention". The Regulations do not prioritise or exclude one over the other, but envision access to healthcare in its many forms within the parameters set by the lockdown and the pandemic. We stress that sexual and reproductive health services, which includes fertility planning, forms part of these services.
3. Further, in terms of sub-regulation 11B(4A)(b), the Minister of Health, amongst others, may issue directions designating services which are necessary to provide or maintain essential health or social services, as listed in Annexure B to the Regulations.
4. We note that on 8 April 2020, the Minister of Health issued Directions in terms of Regulation 10(1)(a) of the Regulations, which detail measures to address and combat the spread of COVID-19. Whilst these are necessary and welcome measures, we are concerned that there appears to be little direction relating to the description of essential health services which ought to be provided during the lockdown period, in particular, services relating to sexual and reproductive healthcare.
5. We note with appreciation the current social media efforts of B-Wise, the health platform created by the National Department of Health promoting health among young people and adolescents, and which has provided important messaging around sexual and reproductive health services as essential services.
6. On 7 April 2020, the Gauteng Department of Health issued a circular relating to primary healthcare services during the lockdown period. This circular limits services provided at primary healthcare facilities in Gauteng to emergency cases and services for pregnant women. It also states that patients stable on chronic medication but who have not joined the CCMDD programme should be issued with a two-month supply of treatment at a time, when possible. We are concerned that these provisions are being interpreted to exclude access to sexual and reproductive health services at facility level.
7. Since the lockdown was initiated, our organisations have received various complaints relating to the lack of availability and accessibility of fertility planning services, including access to safe abortion services and access to contraceptive services.

8. Access to sexual and reproductive health services is critical to ensure that the safety, dignity, and wellbeing of women are upheld during the lockdown period and therefore should be classified as essential health services for the purpose of the Disaster Management Regulations.
9. We also bring to your attention the advisory issued by the Health Professions Council of South Africa on 26 March 2020 relating to the use of Telemedicine during the COVID-19 pandemic. This allows for healthcare services to be dispensed in line with physical distancing guidelines during the lockdown period. The advisory notes the need for client-centred care, and for health providers to use telemedicine to act in the best interests of the client. It allows for medical practitioners to diagnose, treat and dispense medical advice and treatment using virtual or telephonic platforms. This provides a unique opportunity to allow for the virtual prescription of contraceptives and self-managed medical abortion pills, in line with international practices as per WHO clinical guidelines. The ability to access healthcare telephonically reduces the need for women to travel to clinics and the risk of exposure to COVID-19. Telephonic medicine should operate in conjunction with physical assistance being provided at health facilities for those who are accessing sexual and reproductive health services. [Regional resources](#)¹ can also be relied upon as public health information.
10. We also note with concern the recent Sexual and Reproductive Health Matters webinar² which anticipates a global shortage of reproductive health commodities. We would like to encourage the Department to explore all avenues to address this, such as arranging a parallel import licensing process of reproductive health commodities from other countries.

In light of the above, we request the following:

11. An unequivocal undertaking that sexual and reproductive health services, including access to abortion, is an essential medical service; and that women may continue to

¹ <https://mamanetwork.org/resource/>

² <https://www.devex.com/news/opinion-how-will-covid-19-affect-global-access-to-contraceptives-and-what-can-we-do-about-it-96745#.XmvOg7TFbPo.twitter>
<https://www.who.int/reproductivehealth/publications/emergencies/COVID-19-VAW-full-text.pdf>
<https://www.unaids.org/en/resources/documents/2020/human-rights-and-covid-19>
<https://transactivists.org/covid-19>
<http://www.this-ability.org/>

access such services from the state during the lockdown in a manner that is safe, free from violence and discrimination, and free from stigma. These services necessarily include:

- 11.1. Access to safe and legal abortion services, both medical and surgical;
 - 11.2. Access to contraceptives, which includes emergency contraceptives;
 - 11.3. Access to anti-retroviral treatment;
 - 11.4. Access to post-exposure prophylaxis treatment and pre-exposure prophylaxis treatment;
 - 11.5. Access to screening and treatment of sexually transmitted infections;
 - 11.6. Continued supply of gender affirming care (hormones);
 - 11.7. Screening, testing and treatment of reproductive cancers; and
 - 11.8. Expansion of the female (internal) and male (external) condom distribution program
12. The above undertaking be communicated to all health facilities and the public in the form of a directive or other official communique;
 13. Confirmation that medical practitioners may provide access to contraception options and medical abortion services directly and via telemedicine, allowing for prescriptions to be issued for medical abortion drugs in South Africa;
 14. Publication of a list of public health facilities in each province where women may access abortion services, specifying whether it is first or second trimester services. This list should be disseminated widely;
 15. An undertaking that stable patients on chronic treatment such as antiretroviral treatment will be given a six-month supply of such treatment to minimize the exposure of patients when traveling to health facilities, as recommended by the Southern African HIV Clinician's Society; and
 16. Guidelines are put in place to ensure that the necessary care is taken during triage procedures in health facilities to protect marginalised persons when they approach facilities for sexual and reproductive health services. These marginalised persons include, but are not limited to, members of the LGBTQIA+ community, young women, sex workers, and persons with disabilities.

We are grateful to the government for its efforts to ensure the safety of everyone living in South Africa, and its commitment to safeguarding the health and safety of all those seeking and providing services during these extraordinary times. The COVID-19 pandemic calls for nuanced, but strict approaches to maintaining access to healthcare services during the period of lockdown. Through the strength of the women who have come forward to raise these issues of lack of access, we hope to strengthen the current system of healthcare service provision by bringing these serious concerns to your attention.

We thank you for taking the time to consider this urgent correspondence during these unprecedented times. We look forward to receiving a response from you on or before 24 April 2020.

Yours sincerely,

Women's Legal Centre

SECTION27

Sexual and Reproductive Justice Coalition

Medicins Sans Frontieres South Africa

Treatment Action Campaign

Lawyers for Human Rights

Triangle Project

HealthEnabled

People's Health Movement

SWEAT

Standing Committee of Sexual and Reproductive Health, including HIV&AIDS (SCORA)

Medical Students For Choice (MSFC UCT)

Legal Resources Centre

Amnesty International South Africa

Professor Cathi Albertyn, University of Witwatersrand, School of Law

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