

ESRD NETWORK 13

Serving Arkansas, Louisiana & Oklahoma Renal Communities



UNDERSTANDING THE RIGHTS OF HIV+/AIDS PATIENTS

The three civil rights laws, which apply to these patients, are:

- I. Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin;
- II. Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of handicap; and
- III. The Americans with Disabilities (ADA) enacted July 26, 1990, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications. ADA prohibits discrimination on the basis of handicap.

Both Section 504 of the Rehabilitation Act and the ADA protects persons with HIV infection and/or AIDS from discrimination because HIV and AIDS are regarded as handicaps and are disabling. Since the incidence of HIV and AIDS frequently occur among minorities, protection may also be afforded by Title VI, as well.

WHAT CONSTITUTES DISCRIMINATION IN A DIALYSIS FACILITY ???

Denial of Services - First and foremost is denial of services, either on a regular or transient basis. According to the Office of Civil Rights (OCR), facilities may not exclude patients based on their HIV/AIDS status.

Isolation - The second most common discriminatory act is isolation from other patients, and this relates to safety concerns expressed by facility staff for themselves and for their non-infected patients. HIV/AIDS patients CANNOT be isolated in a facility and assignment to a specific dialysis machine for receipt of dialysis services is not acceptable. Recommendations from CDC emphatically state that routine universal precautions, which apply to all patients, are sufficient in treating HIV+/AIDS patients, and in protecting health care workers and other patients.

Discriminate Testing - The third most common violation of patients' rights is discriminate testing of patients, particularly among transients. Facilities requiring testing of transients must also test ALL patients entering their facility, and they must not refuse to accept any patient on the basis of a positive test. There is disagreement, therefore, over the rationale for testing since it cannot be used as an exclusionary tool. Some of those in favor of testing point to an ethical obligation of health care providers to inform HIV+ patients of their illness so that early intervention can be undertaken and precautions can be taken with family members and acquaintances.

Breaches of confidentiality in sampling, labeling, and reporting are also a means of violating patient rights. In a word, care for the HIV+/AIDS patient must be indistinguishable from the care of other patients. Any violation of these civil rights is reportable to:

1. The Office of Civil Rights (OCR), Region VI, Dallas, TX at 214.767.4056 or 214.767.4057
2. The OCR HOTLINE at 1.800.368.1019
3. TDD Line: 214.767.8940