WERKSMANS
ATTORNEYS

ENVIRONMENTAL | HEALTHCARE & LIFE SCIENCES

Disposal of medical waste in the contexts of COVID-19

9 April 2020 *6 min read*

by Helen Michael, Director; Bronwyn Parker; Senior Associate; and Tsebo Masia, Candidate Attorney

In the midst of a global pandemic such as the one caused by COVID-19, one ought to be reminded of the provisions regulating the proper disposal of waste in South Africa, with reference to the provisions of the National Health Act No. 61 of 2003 (NHA), the National Environmental Management Act No. 107 of 1998 (NEMA) and the National Environmental Management: Waste Act No. 59 of 2008 (NEMWA).

Notably, the Norms and Standards Regulations Applicable to Different Categories of Health Establishments, published in terms of the NHA, under GN 67 in *Government Gazette* No. 41419 dated 2 February 2018 (NHA Regulations), provide in regulation 8(1) that:

"[H]ealth establishment[s] must maintain an environment, which minimises the risk of disease outbreaks, the transmission of infection to users, health care personnel and visitors".

A health establishment is defined in the NHA as a public or private institution that is operated or designed to provide health services. In order to comply with regulation 8(1), the NHA Regulations provide that health establishments must:

- ensure that there are hand washing facilities in every service area;
- provide isolation units or cubicles where users with contagious infections may be accommodated;
- ensure clean linen is available to meet the needs of users; and
- ensure that health care personnel are protected from acquiring infections through the use of personal protective equipment and prophylactic immunisations.

Regulation 9 of the NHA Regulations deals specifically with waste management and provides that health establishments must ensure that waste is handled, stored and disposed of safely in accordance with the law. Additionally, regulation 9 requires that all health establishments must have appropriate waste containers at the point of waste generation and should implement procedures for the collection, handling, storage and disposal of waste.

On 16 March 2020, the Chief Director of Environmental Health and Port Health Services, of the Department of Health, released Environmental Health Guidelines relating to COVID-19 (the Guidelines). The Guidelines seek to provide guidance on the manner in which to control the outbreak of COVID-19 with reference to "Environmental Health Services".

Guideline 3.7 of the Guidelines deals with waste management monitoring, with a particular focus on health care risk waste, including blood products, cultures, pathological wastes, sharps and human anatomical wastes that contain or may contain infectious substances. According to guideline 3.7:

- the identification, segregation, storage and disposal of HCRW must be managed in accordance with SANS 10248-1: South African National Standard for the Management of Health Care Waste, Part 1: Management of Health Care Risk Waste from a Health Care Facility (SANS 10248-1);
- waste generated from patients in isolation or quarantine in a designated facility, health facility or home must be treated as health care risk waste ("**HCRW**") in terms of SANS 10248-1;

- HCRW should be properly packaged in sealed, leak and puncture proof containers or boxes;
- HCRW must be labelled with the relevant bio-hazard symbols or signs and marked “Corona virus or COVID-19” and should be stored separately from other wastes generated;
- the collection, transportation, treatment and disposal of HCRW may only be performed by an appropriate, qualified service provider. However, a health establishment must ensure that waste is safely stored until a health care waste management company collects the HCRW and that the company is aware and acknowledges that waste was generated by suspected or confirmed COVID-19 case;
- waste management companies must ensure that the treatment and disposal of HCRW is conducted at licenced waste treatment or disposal facilities;
- all personnel or staff in contact with patients must be geared with appropriate personal protective equipment at all times to prevent exposure or risk to health; and
- finally, all bags, bins and boxes must adequately be sealed, as not to leak any fluids, and must be wiped down with 0.05% chlorine solution before being stored or removed.

From an environmental law perspective, the Environmental Impact Assessment Regulations made in terms of section 24(5) of NEMA and Schedule 1 of NEMWA lists those activities which require a waste management licence. Amongst the activities included in the aforementioned legislation, are the “storage and transfer of waste, treatment of waste and the disposal of waste”, including hazardous (or infection) waste in certain quantities. NEMWA also creates various general obligations in so far as the handling of waste (including HCRW) is concerned. In particular, NEMWA stipulates that a holder of waste must, within the holder's power, take all reasonable measures to:

- avoid the generation of waste, where possible or minimise the toxicity of the waste;
- where waste must be disposed of, ensure that the waste is disposed of in an environmentally sound manner;
- manage the waste in such a manner that it does not endanger health or the environment or cause a nuisance;
- where waste must be stored, ensure, *inter alia*, that the containers in which the waste is stored are fit for purpose, that adequate measures are taken to prevent accidental spillage or leaking and that pollution of the environment and harm to health are prevented.

With reference to the implications of the COVID-19 national lockdown on the processes in NEMWA, the Department of Environment, Forestry And Fisheries (DEFF), on 31 March 2020, released directions (Directions) in terms of the Disaster Management Act No. 57 of 2002 (Disaster Management Act), which seek to minimise the effects of the national state of disaster on environmental processes in South Africa.

Other than the Directions, members of the public have been advised to adhere to the all other regulations, published in terms of National Disaster Act, from time to time, dealing with the continued functioning of “essential services” – which include services provided by health establishments and essential municipal services that encompass the storage, transfer, treatment and disposal of HCRW. Compliance with the relevant provisions of the NEMA and NEMWA in respect of waste management, therefore, remain a priority and are, in fact, crucial in light of the COVID 19 pandemic.

Collaboration between municipalities and health establishment also appear to be crucial, particularly in respect of waste management, which collaboration is also encouraged in terms of the Directions issued in terms of the Disaster Management Act in GN 43147 in *Government Gazette* No. 43147 dated 25 March 2020. In the aforementioned Directions, the Minister of Cooperative Governance and Traditional Affairs calls on municipalities to collaborate with the relevant health authorities and “establish capacitated, well-equipped response teams … who could be deployed to provide cleansing and sanitization of places and facilities that could be at high risk for transmission of the virus” and to ensure that the relevant protocols are followed when disposing of HCRW.



Helen Michael

Director

View Profile