

ANNEXURE A

Policy on HIV/ Aids for the Public Service Co-ordinating Bargaining Council

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1. PREAMBLE

The Public Service Co-ordinating Bargaining Council (PSCBC) acknowledges the seriousness of the HIV/AIDS epidemic and that there is still no cure. HIV knows no social, gender or racial boundaries but it is accepted that socio-economic circumstances do influence disease patterns and that it thrives in environments of poverty, violence and crimes such as rape. Transmission is exacerbated by disparities in resources, patterns of labour migration and people's mobility. Women are particularly vulnerable to infection due to economic and gender imbalances and certain cultural practices. The spread of HIV/AIDS does not preclude the sexual abuse (sodomy) of men.

The PSCBC seeks to eliminate the social stigma and discrimination based on ignorance and prejudice of members who openly declare their HIV status and practices such as pre-employment HIV testing and dismissal for being HIV positive or AIDS ill.

It seeks to minimise economic and developmental consequences which impact negatively on service delivery, productivity and costs, employee benefits, workplace morale and health.

2. MISSION

The PSCBC commits itself to support the provision of resources and leadership to implement HIV/AIDS and STD's workplace programmes.

VISION

The PSCBC commits itself to mobilise it's social partners to actively engage in:

- Prevention programmes
- Counselling and support to infected and affected members and their families where possible to support the provision of means to speed up delivery on educating our members on HIV/AIDS issues
- Resources and leadership to implement HIV/AIDS and STD workplace programmes.
- The creation of a non-discriminatory environment that will ensure the ability to deal with HIV/AIDS in a sensitive and humane manner within the working environment.
- Protection of confidentiality for members whose HIV status is known and those who voluntary test and disclose.

3. SCOPE OF APPLICATION

This policy will apply to all official signatories within the ambit of the PSCBC and as per Constitution of membership of the PSCBC.

4. DEFINITIONS

4.1 *What is HIV?*

HIV stands for **HUMAN IMMUNODEFICIENCY VIRUS**. It is a blood borne virus transmitted amongst human beings. HIV attacks the immune system and once it has rendered it incompetent, a person could develop variable illnesses because the body will be too weak to defend itself.

4.2 *What is AIDS?*

ACQUIRED IMMUNE DEFICIENCY SYNDROME. AIDS is a condition when the body's defense system is deficient and various life-threatening infections occur. These life-threatening infections are called opportunistic infections or diseases.

4.3 *Stages of HIV*

There are six stages in the progression of HIV.

4.3.1 The first stage is the initial Infection with HIV.

4.3.2 The **WINDOW PERIOD**. This is the stage where a person is already infected with HIV but the antibodies that determine the presence of HIV have not formulated.

4.3.3 **SEROCONVERSION**. This is when the status of a person changes from HIV negative to becoming HIV positive. Although the person may not be ill, they can infect others.

4.3.4 The **ASYMPTOMATIC** stage is when a person has been diagnosed HIV positive but shows no signs of illness. As in the previous stage, the person can infect others.

4.3.5 The fifth stage is **AIDS RELATED COMPLEX (ARC)** sometimes called the **SYMPTOMATIC** stage. It is a stage when a person develops certain symptoms that are persistent but takes longer to cure.

4.3.6 The sixth and last stage is **AIDS**. It is when a person's body is full of HIV and the immune system is deficient. A person with AIDS will develop several illnesses that are difficult to control or cure, which may finally be the cause of death. Life expectancy depends on the availability of treatment.

4.4 Modes of Transmission

HIV can be transmitted from one person to another through the following means:

4.1.1 Unprotected sex

4.1.2 During pregnancy or through the birth canal during birth

4.1.3 Exposure to contaminated blood or

4.1.4 Exposure to other body fluids and breastfeeding.

5. WELLNESS MANAGEMENT PROGRAMMES

The PSCBC acknowledges that it is cost effective to establish HIV health management programmes in a work environment. HIV care and treatment should be made a priority. Treatment means better access to HIV testing and counselling, providing medicines for opportunistic infections caused by HIV, encouraging openness and treating HIV/AIDS as a Human rights issue. Wellness management is a useful concept to use in relation to HIV/AIDS and STD, as it clearly highlights the need and importance of keeping a person with HIV healthy. Therefore; PSCBC will encourage the establishment of HIV/AIDS wellness management programmes to provide the following:

5.1 Care

5.1.1 Ongoing HIV/AIDS training and information sharing by trained professional personnel on sexuality, sexually transmitted diseases, information on treatment and their relation to HIV infection.

5.1.2 Prevention awareness on an ongoing process that includes a condom distribution programme.

5.1.3 Counselling at three levels; psychological, spiritual and emotional counselling for employers/employees who are infected or affected

5.1.4 Group therapy counselling.

- 5.1.5 Provision of resources/information on anti-retroviral medicines, opportunistic infections and prophylaxis for post-occupational exposure or rape.
- 5.1.6 Unlinked voluntary testing and counselling.
- 5.1.7 Encouragement to test and disclose with protected confidentiality

5.2 Support

A successful and effective HIV/AIDS programme depends on a collaborative action that involves partnership. The partnership must include non-governmental (NGO's) and community-based organizations (CBO's) support should include:

- 5.2.1 bereavement counselling extended to family where possible.
- 5.2.2 active role-playing in HIV/AIDS education for the infected/affected
- 5.2.3 Support for those who want to live openly with HIV (disclosure)

5.3 Employee benefits

Principle of non-discrimination in relation to all employee benefits including:

- 5.3.1 Disability benefits
- 5.3.2 Group life assurance
- 5.3.3 Spouse and children death and funeral benefits
- 5.3.4 Health benefits (chronic and health management group) medical aid
- 5.3.5 Pension and provident funds
- 5.3.6 Occupational and injury compensation

6. LEGAL FRAMEWORK

Relevant labour legislation:

6.1 Constitution

The Constitution gives all employees the right to “fair labour practices”. Furthermore, the equality clause states that everyone is entitled to equality and freedom from unfair discrimination.

6.2 *Labour Relations Act (LRA) 66 of 1995*

The LRA regulates the relationship between employer and employees. It prohibits unfair discrimination and protects employees against arbitrary dismissals.

Unfair discriminatory practices of the following grounds are outlawed by the LRA:

- if an employer acts unfairly in promoting, demoting, providing training opportunities or supplying benefits to employee, if discipline is arbitrary or if they fail to refuse to reinstate or re-employ in terms of an agreement. This Act protects employees from being dismissed simply because they are HIV positive and from being discriminated against with regard to employee benefits, staff training and other work-related opportunities.

6.3 *Basic Conditions of Employment 75 of 1997*

This Act sets out the minimum employment standards to which every employee is entitled. It therefore sets out, amongst others, maximum working hours and the minimum number of days of sick leave every employee is entitled to.

6.4 *Compensation of Occupational, Injuries and Disease Act 130 of 1993*

This Act provides compensation for employees who are injured in the “course and scope” of their employment. Should an employee be exposed to HIV during occupational accidents then:

- 6.4.1 an accident report should be completed and handed to the supervisor.
- 6.4.2 the employee should be tested for HIV to determine his/her baseline status.
- 6.4.3 any other person who has been involved in the accident should be tested with his/her informed consent.

6.4.4 if the employee was negative at the time of accident, he/she should be re-tested at three and six months periods after the accident.

6.4.5 if he/she sero-converts during this period, an application for compensation may be made.

6.5 *Employment Equity Act 55 of 1998*

Prohibition of unfair discrimination.

The provisions of chapter 2 of the Act prohibit unfair discrimination either directly or indirectly on a wide range of the following grounds:

- Race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth. Medical testing is not allowed unless it is an inherent requirement of the job, while no psychological testing or other assessments can be done unless such tests are validated and not biased. In addition, HIV testing can only be carried out if authorised by the Labour Court.

6.6. Occupational Health and Safety Act 85 of 1993

This Act requires employers, as far as is reasonably practicable, to create a safe working environment. In an HIV/AIDS context, this can mean that employers must ensure that universal precautions are adhered to at all times, and that every person is treated as a potential HIV carrier.

Universal precautions must also be adhered to when responding to an occupational accident. Furthermore, employers should ensure that proper equipment needed to protect staff against infection and appropriate training in the use of universal precautions is provided.

6.7 *Employee's right to confidentiality*

Every employee has a common law right to privacy. This means that an employee does not have a legal duty to inform their employer of their HIV status, nor may a healthcare worker reveal their HIV status to their employer without their consent. Should an employee voluntarily divulge their HIV status to management, it cannot be used against them, or be prejudiced or divulged without the employee's consent.

6.8 *National Policy on testing as Gazetted by Minister of Health. Gazette No 20710*

6.9 *The Code of Good Practice*

The Code of Good Practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. This Act emphasises the primacy of collective agreements. It is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum. The key principle in this code is that the employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

7. IMPLEMENTATION, MONITORING AND EVALUATION

As per Resolution 7 of 2000 and as amended.

8. APPENDIX (A and B)

Code of Good Practice

9. GLOSSARY

HIV	Human Immunodeficiency Virus
AIDS	Acquired Immune Deficiency Syndrome
Acquired	a condition which is not inherited
AIDS Related Complex	a term used to describe some of the signs and symptoms that a person with HIV may experience
Antibody	a protein substance produced by the immune system in response to a pathogen
Antiretroviral	a drug that acts against retroviruses such as HIV
Antiviral	A drug that acts against viruses
Asymptomatic	a condition when a person with HIV shows no signs of illness
AZT	abbreviated chemical name of anti-HIV drug zidovudine (trade name Retrovir)
HIV antibody test	a blood test that looks for the presence of antibodies to HIV. A positive test result means that antibodies have been detected, and that the person has HIV infection. A negative result means that antibodies have not been detected.
Immunocompetent	someone whose immune system is working normally
Immune system	the body's system for fighting infection and eradicating tumor cells. There are two parts: humoral and cell-mediated immunity.
Immune deficiency	breakdown or inability of certain parts of the immune system to function, thus making a person susceptible to certain diseases which they would not ordinarily develop
Immunosuppression	reduced function of the immune system
Immunosuppressive	something that reduces the immune system's responses

Infectious	able to communicate disease by infection
Lymphadenopathy syndrome	a chronic enlargement of lymph nodes (glands) often associated with HIV infection
Latency	a period of time in which an organism is in the body but not producing any ill effects
Lymph glands/nodes	special areas in the body where lymphocytes and other important cells in the immune system are found. They swell up in response to infection
Myopathy	muscle wastage or disease
OI	opportunistic infections. Specific infections which are not harmful to people with healthy immune systems but do cause disease in people with damaged immunity
Primary infection	a time when an individual has just become infected by HIV and the immune system is starting to respond
Prophylaxis	taking a drug to delay or prevent an illness developing
Retrovirus	a class of viruses, which copy genetic material using RNA as a template to make DNA, an essential step in the life-cycle of HIV
Seroconversion	time at which a person's antibody status changes from negative to positive
Symptomatic	having symptoms
Syndrome	a group of symptoms and diseases that together are characteristic of a specific condition
Viral load	the amount of virus in the blood
Virus	a microscopic germ which cannot reproduce itself outside the living cell of the organism that it infects. Viruses can divert cells from their normal functions and thus damage or destroy them

Window Period

the time between HIV entering a person's body and the person making antibodies to HIV. This is usually around two months, but in a significant number of people may take several months longer.