

Right of access to healthcare

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Human rights & the Constitution

- Why???
- S27: Right of access to health care
- S27: Right of access to social security
- S9: Equal benefit & protection – law, no unfair discrimination (“equal” does not equal “same”)
- S14: Right to privacy
- S36: Limitation of human rights

Access to health care

- *What makes this right difficult?*
- The state ... reasonable measures ... progressively realise
- Rational, coherent plans
- Address needs of most vulnerable at least
- Absolute right to emergency treatment



Access to social security

- = Social Health Insurance: medical scheme benefits & public health – free or state supported (cf stokvel)
- Solidarity, safety net, community risk-rating
- Relates to other social security mechanisms, e.g. disability benefits, (early) pensions, unemployment benefits, etc.

Do you know when people can claim these and where?)

Other important rights

- Right of access to information (about health care, about benefits offered, about facilities, etc.)
- Right to administrative justice (to get justifiable reasons in writing)
- Employment rights (Employment Equity Act):
 - No discrimination
 - Reasonable accommodation
 - Affirmative action

National Health Act

- Minister will set categories of who will be able to access FREE care...
- Informed consent (BEFORE treatment/tests):
 - Health care professional must give generally available options
 - Risks & benefits
 - Costs
- May mandate another person to consent on your behalf

National Health Act

- Right to Confidentiality:
 - Unless:
 - Consent in WRITING
 - Court or a law...
- Link with stigma and discrimination...
- Essential Drug Lists ... – drug procurement & supply (*who do you contact if it is not available???*)

Promotion of Equality & Prevention of Unfair Discrimination Act (PEPUDA)

3. Health care services and benefits

(b) Unfairly denying or refusing any person access to health care facilities or failing to make health care facilities accessible to any person.

5. Insurance services

(a) Unfairly refusing ... to make available an insurance policy to any person.

(b) Unfair discrimination in the provision of benefits, facilities and services related to insurance.

6. Pensions

(a) Unfairly excluding any person from ... a retirement fund or from receiving any benefits from the fund ...

Medical Schemes Act & regulations

- One of mechanisms by state to realise access to health care progressively
- PMB's as basic safety net (*does it cater sufficiently for mental health??*)
- If it is a PMB, must pay in full (or until person's treated...)
- BUT: (a) DSP's and (b) Formularies, etc.

DSP's & Formularies/protocols, etc.

- Voluntarily to non-DSP (co-pay)
- Involuntarily to non-DSP (no co-pay)
- Formularies & protocols:
 - Appropriate exceptions – do not respond or adverse event (drugs) / harm (protocol)
- Pt may knowingly decline clinically appropriate & effective drug...



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- To be an innovation-based Pharmaceutical industry association
- To be credible, sought out and listened to by key stakeholders in public and private healthcare markets
- Focus on building an environment for sustainable access to innovative research-based healthcare

THANK YOU!

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