

# Patient rights

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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
- 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...

# Innovative Medicines SA

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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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