Democratic Nursing organisation of South Africa

HIV AND AIDS POSITION PAPER
**Background**

Human Immunodeficiency virus is transmitted through fluids like blood & semen whilst. Tuberculosis is regarded as the most dangerous & common opportunistic Infection found amongst HIV positive patients hence HIV &TB integration has been proposed by the National Strategic Plan in dealing with the 2 diseases. The presence of STIs amongst the HIV negative is also thought to accelerate the spread of the human immunodeficiency virus and as such the early treatment of STIs is proposed as a remedy to slow down the transmission of the virus.

**Confidentiality & Disclosure**

- All persons with HIV or AIDS have a legal right to privacy. An employee will therefore not force a nurse to disclose his/her HIV status & the same is true for patients for seeking health care.

- In instances where the nurse/midwife chooses to voluntarily disclose their status, the employer may not continue to disclose this information to others without the employee’s written consent.

- Real/Perceived HIV status/TB should not be a ground of discrimination preventing recruitment or continued employment, or the pursuit of equal opportunities. Nurses with HIV related illness should not be denied the possibility of continuing to carry out their work, with reasonable accommodation if necessary for as long as they are medically fit to do so.

**Nurse/Midwife as a CLINICIAN**

- Has a responsibility of integrating HIV, TB & STI services through checking for any possibility of a patients’ chances of contracting TB & STIs amongst all clients seeking HIV Counselling & Testing services.

- The nurse has a responsibility of informing all clients regardless of condition on the possibility of accessing HIV testing services.

- Care for all patients regardless of their condition.

- Has a responsibility of commencing all HIV patients with a CD4 of less than 350 on ARVs depending on their availability.
• Patients have right to access HIV testing services without being cohersed.

• Disclosure of HIV results will remain the responsibility of a client & they shall do so to third parties at their own will.

• Nurses are obliged to observe confidentiality when conducting an HIV test and the bridge of that will be treated as clearly spelt out in the Patients Charter.

The Employer

• An employer is obliged to provide and maintain a safe reasonable workplace that is free & safe without risk to the health of employees as per Occupational Health and Safety regulations.

• The employer has a responsibility of providing lighter work to an employee who has voluntarily disclosed his/her HIV positive status and has made an indication of a need of lighter work inorder to lessen AIDS progression chances.

• Employees with HIV or AIDS may not be unfairly discriminated against allocation against in the allocation of benefits.

• The employer through its staff development programme should provide opportunities for nurses dealing with HIV & AIDS to be trained on counseling techniques.

• The employer has a responsibility of periodically providing psychological support to allow for debriefing by nurses who deal with HIV & AIDS issues.

• Information from benefit schemes on the medical status of an employee should be kept confidential and should not be used to unfairly discriminate.

• The Employer should do everything possible to ensure the employees’ right to confidentiality regarding HIV status is protected during any incapacity proceedings.

• An employee cannot be compelled to undergo an HIV test or to disclose status as part of such proceedings unless the Labour Court authorized such a test.
Employers should ensure that the rights of employees with regard to HIV/AIDS, and the remedies available to them in the event of a breach of such rights, become integrated into existing grievance procedures.

The employer should provide counselling training for nurses working with HIV, TB & STIs clients.

Employer should provide an opportunity for psychological support (debriefing sessions) to nurses working with HIV, TB & STIs clients.

The risk for contraction of HIV & TB bacterium should be minimal, however in cases where occupational accidents occur through exposure to bodily fluids, it is recommended that every health care center should comply with the provisions of the Occupational Health & Safety Act which stipulates that:

1. Need for appropriate training, awareness, education on the use of the universal infection control measures as to identify, deal with & reduce the risk of HIV transmission at the place of work.

2. Provide the necessary & appropriate equipment inorder to minimize the risk of exposure to the HIV virus or TB bacterium by the nurse.

3. Universal availability of free timely post-exposure prophylaxis should be provided to all nurses/midwives.

4. Isoniazid preventive therapy should be made available to prevent the contraction of TB by HIV positive nurses/midwives.

5. Develop a policy & necessary guidelines for the management of accidental injury or exposure to blood or body fluids.

In the event that a nurse/midwife contracts HIV and or TB at the place of work, the employer shall provide the following comprehensive compensation package as prescribed as follows in the Compensation for Occupational Injuries & Diseases Act:

1. Immediate post prophylaxis.
2. Treatment of the disease, particularly at the initial stages.

3. Paid leave for sickness & absence due to the disease.

4. Early retirement benefits connected to early resignation or medically recommended work stoppage.

5. Death benefits for survivors.

References

- The Employment Equity Act, 1998 (ACT No. 55 of 1998)
- The National Strategic Plan on HIV, STIs and TB, 2012-2016.
- International Labor Office Recommendation concerning HIV & AIDS and the World of Work, 2010 (No 200)
- DENOSA Basic Conditions of Employment.
- DENOSA Grievance Procedure and Disciplinary Code.
- DENOSA Code of Good Practice: Dismissals.
DENOSA

Has the following responsibility with regards to HIV, TB & STIs:

- Monitor the employers to ensure a safe working environment free from contracting HIV & TB is made available to its members.

- To ensure that none of its members is discriminated or stigmatized on the basis of their HIV status at the place of work.

- Hold the employer accountable in terms of facilitating compensation benefits in instances where the nurse/midwife contracts HIV & TB bacterium at the place of work.

- Provide legal assistance, referrals of members to services and to foster networking with other health workers living with HIV & AIDS & STIs.

- Lobby for the promotion or change of legislation that will ensure that the rights of persons living with HIV or TB are realized.

- To actively safeguard the occupational safety rights of its members through ensuring that its members actively participate in policy consultative forums.

- Its members are kept updated on information regarding their occupational health safety rights.

- Forge strategic national & international partners in sharing good practices & disseminating information on HIV & AIDS.

RIGHTS

Patient Rights

Patients’ rights to be observed with regards to HIV, STI & TB:

- Accurate & correct information to be given on HIV & STI & TB

- Informed consent especially when taking an HIV test.

- Confidentiality
- Privacy
- Competent treatment & care
- Treated with dignity & respect
- Be afforded counselling on “living with HIV & managing TB & STIs”.
- To be given appropriate referral services.

Rights of Nurses/Midwives/Accoucheur
Regarding HIV, STIs & TB, nurses/midwives/accoucheur has the right to:

- Expect the employer to draft a Workplace HIV & AIDS policy that is line with other National & International instruments.

- Expect an employer to develop an employee targeted HIV, STI & TB programmes at the place of work that is in line with the prevailing National Strategic Plan.

Nurses/Midwives/Accoucheur living with HIV, STIs & TB have the following rights:
- May not be dismissed solely based on HIV status or testing sputum positive to TB.

- Where an employee has become too ill to perform their current work, an employer is obliged to follow accepted guidelines regarding dismissal for incapacity before terminating an employee services, as set out in the Code of Good Practice on Dismissal contained in Schedule 8 of the Labour Relations Act.