

SAMED Position on Mandatory Vaccine Policies

As the world works towards controlling COVID-19, more countries and health sector entities are implementing measures such as mandatory vaccination. Vaccine mandates include policies that compel vaccination and which may carry consequences for non-compliance.

An employer has several obligations as set out in the [Consolidated Directions on Occupational Health and Safety Measure in Certain Workplaces](#) (“the Directions”) issued by the Department of Employment and Labour in June 2021. The Directions supplements the Occupational Health and Safety Act (OHSA) and has been a catalyst for companies to start rolling out mandatory vaccination for their employees and vendors. The matter of health in employment is also governed by the Employment Equity Act (EEA), in addition to issues of consent which are governed by the National Health Act (NHA).

According to section 8 of the OHSA, employers are obliged to take reasonable measures to ensure a safe working environment without risk to the health of their employees. The employer’s obligation to take reasonable measures extends to non-employees (the public) who may be affected by its activities (section 9). The EEA then governs when differentiation on health status would constitute fair or unfair discrimination in a workplace.

Hence “the Directions” provides a framework for mandatory vaccination in the workplace, including obligatory risk assessments, identification of employees who must be vaccinated, the development of a vaccination plan and exemption policy and appropriate measures to implement these.

Since the publication of “the Directions”, several health sector entities have introduced mandatory vaccine policies for employees, and some have also applied these to vendors and others who frequent their place(s) of business, including healthcare facilities.

The South African Medical Technology Industry Association (SAMED) recognises that implementing mandatory vaccines at healthcare facilities will affect medtech company representatives who enter these establishments during the course of business activities.

Medtech company representatives conduct sales discussions at healthcare facilities as well as provide in-theatre or in-ward training and support or maintain, service and calibrate medical equipment.

As the voice of the medical technology industry, our members look to SAMED for guidance on how to respond to vaccine mandates being introduced by customers/stakeholders and how to implement mandates of their own.

The SAMED board have sought expert counsel on this matter and due to the evolving legislative landscape, have decided that it is not SAMED’s mandate to pass opinion on either members or other stakeholder vaccination policies. According to the above legal frameworks, each entity must undertake its own risk assessment, and then institute appropriate measures. The analysis of when health status (such as being vaccinated) is an inherent requirement for a specific position must also be done on a case by case basis. SAMED reminds its members of the so-called “Annexure E” Covid Plans under the Disaster Management act, which will continue to be relevant under the OHSA and EEA. “The Directions” also refer to these frameworks. Measures must include aspects such as non-pharmaceutical interventions, visitors, etc. as well as the business’s position on vaccination.

SAMED supports members by facilitating forums on pertinent legal frameworks and current case studies. It is the Members' responsibility to make their own informed decisions on mandating vaccines for their staff or vendors.

Disclaimer

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