One of the most common myths about people with epilepsy is that they are not able to work. The reality is that people with epilepsy have the same range of abilities and intelligence as the rest of the population. Some have severe seizures and cannot work while others are successful and productive in challenging careers. South African examples of successful professionals with epilepsy include Jonty Rhodes (cricketer), Pat Pillai (news anchor), Gerry Rantseli (public speaker) and Vusi Mahlasela (musician).

People with epilepsy are found in all walks of life and can function effectively at all levels in business, government, the arts and sport.

Because epilepsy affects each person differently and workplaces differ vastly, it is not possible to set guidelines in terms of job categories. In South Africa, no job categories are closed to people with epilepsy. However, a thorough assessment will ensure not only safety, but a successful placement of the person with epilepsy in a particular job.

Accessing employment as a person with epilepsy

Competition for jobs is fierce in South Africa, with high unemployment rates characteristic of the open labour market. Thus, people with epilepsy may find it more difficult than able-bodied people to compete for job opportunities. To be successful in finding employment, people with epilepsy must:

- ensure that they possess skills sought after in the labour market;
- identify an appropriate career path;
- prepare and update their curriculum vitae (CV);
- match their own knowledge, skills and abilities to vacancies;
- know their rights and responsibilities as a job-seeker and an employee; and
- ensure that their seizures are optimally controlled.

Disclosure versus non-disclosure

Given the high levels of discrimination and stigmatisation experienced by people with epilepsy, many are not willing to disclose their diagnosis to potential or existing employers.

The decision to disclose the diagnosis is influenced by a number of factors:

- The types of seizures experienced
- The nature of the job
- The working environment
- Knowledge of epilepsy within the workplace
- Confidence of the person with epilepsy

Is it risky to employ a person with epilepsy?

Each person must be assessed on an individual basis to determine potential risks to health and safety that they may face at work. However, a risk assessment should not form the basis for deciding whether to employ a person with epilepsy. As with any other potential employee the suitability of the candidate must be the deciding factor. A risk assessment will simply assist in limiting risks.

Some of the questions the employer may ask during a risk assessment include:

- What type(s) of seizure does the person have?
- How often does he/she experience seizures?
- How long does a seizure usually last?
- What usually happens when he/she has a seizure?
- How long does it usually take him/her to recover from a seizure?
- What time of the day does he/she usually have seizures?
- Does he/she get a warning (also known as an ‘aura’) prior to a seizure?

The answers to these questions will help the employer to identify potential risks to the safety of the person with epilepsy, as well as others. This information can then be used for adjustments to reduce or remove these risks.

The critical factor in the successful employment of a person with epilepsy should be the level of seizure control. It follows that some job categories would not be suitable for a person with epilepsy for health and safety reasons.

Where can people with epilepsy and employers obtain assistance?

Epilepsy South Africa offers assistance in terms of employment to people with epilepsy and employers. The nearest branch of Epilepsy South Africa will be able to provide information and advice in terms of employment, including counseling, job seeking, job-readiness, placement and follow-up.

You can contact Epilepsy South Africa by dialing 0860 EPILEPSY (0860 374 537) to automatically connect to your nearest branch. Alternatively, contact the National Office telephonically on (021) 595 4900 or via e-mail on economicdev.noc@epilepsy.org.za. You can also visit our website (www.epilepsy.org.za) for more information.
THE RIGHT TO WORK

The South African Constitution is the cornerstone of democracy in the country. The Bill of Rights contained in Chapter 2 of the Constitution enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

The Bill of Rights stipulates that everyone is equal before the law and has the right to equal protection and benefits of the law. Such equality includes the full and equal enjoyment of all rights and freedoms.

The Constitution also prohibits direct or indirect discrimination against anyone on the grounds of “race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth”. This implies that discrimination in the workplace against people with disabilities is unconstitutional and thus illegal. These clauses laid the basis for the promulgation of the Employment Equity Act in 1998. In the preamble of this Act, the purpose is clearly stated, namely to:

- promote the constitutional rights of equality and the exercise of true democracy;
- eliminate unfair discrimination in employment;
- ensure the implementation of employment equity to redress the effects of discrimination;
- achieve a diverse workforce broadly representative of our people;
- promote economic development and efficiency in the workforce; and
- give effect to the obligations of the Republic as a member of the International Labour Organisation.

There is thus no doubt regarding the intention of the South African government (and by inference the South African people) to remove discrimination in the workplace on the basis of disability and to ensure the rights of people with disabilities to enter the world of work as equal citizens.

The Employment Equity Act (ACT 55 of 1998)

It is important that people with epilepsy, employers and other role-players in the world of work, study the legislation. However, a brief summary shows that the Act:

- prohibits discrimination;
- condones affirmative action in terms of the purpose of the Act;
- generally prohibits medical and psychological testing;
- places the burden of proof on employers accused of unfair discrimination.

Designated employer

Most public and private employers that employ 50 or more people are considered a “designated employer” according to the Employment Equity Act.

Designated groups

The Employment Equity Act defines designated groups as meaning black people, women and people with disabilities.

Affirmative action

Chapter III of the Employment Equity Act places a responsibility on designated employers in terms of affirmative action to:

- consult with employees on the analysis, preparation and implementation of employment equity plans and reporting;
- conduct an analysis of employment policies, practices, procedures and the working environment to identify employment barriers;
- prepare an employment equity plan focusing on objectives, affirmative action measures, numerical goals, timeframes, duration, monitoring and evaluation, dispute resolution and responsible persons; and
- report regularly to the Department of Labour on progress made in implementing the employment equity plan.

Affirmative action measures implemented by a designated employer must include:

- the identification and elimination of employment barriers (including unfair discrimination);
- furthering workplace diversity based on equal dignity and respect of all people;
- reasonable accommodation for people from designated groups to ensure equal opportunities and equitable representation in the workforce;
- preferential treatment and numerical goals (excluding quotas) to ensure equitable representation, retention and advancement of people from designated groups in all occupational categories and levels in the workforce.

IS EPILEPSY A DISABILITY?

The Employment Equity Act defines disability as being “A long-term or recurring physical or mental impairment which substantially limits entry or advancement into employment.”

The key aspects of the definition are that disability is:

- impairment related;
- an impairment which substantially limits entry or advancement;
- a barrier to equal participation which can be related either to impairment or attitudes and perceptions;
- aligned with the International Classification of Functioning (ICF).

So, let’s test epilepsy against this definition:

Impairment related: Yes, in most cases epilepsy arises from a structural or chemical defect or imbalance in the brain.

“...which substantially limits…” Yes, it is well documented that the disclosure of a diagnosis of epilepsy substantially limits a person’s prospects of being employed or advancing in the workplace.

Barrier to equal participation related to attitudes and perceptions: Yes, the stigma associated with epilepsy is well documented and the exclusion from equal participation in several areas of life because of this stigma cannot be refuted.

Aligns with the ICF: Yes, the International Classification of Functioning, Health and Disability stresses that disability cannot be defined on the basis of bodily structure or function alone. Attitudes, environmental circumstances and perceptions have to be taken into account too.

It is thus clear that epilepsy is considered a disability in terms of the definition of the Employment Equity Act and that people with epilepsy will enjoy the protection conferred by this legislation.