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MEDIA AND PUBLIC CONCERNS RAISED ABOUT THE HPCSA

STATEMENT BY THE REGISTRAR OF THE HPCSA

30TH AUGUST 2023

A. BACKGROUND

The Health Council of South Africa (HPCSA) has become aware of concerns expressed publicly, mainly through the media, on several areas relating to its functions. Among the concerns expressed were the following:

1. That the HPCSA ignored the recommendations from the report compiled by the Ministerial Task Team (MTT – Also known as the Mayosi) Report submitted to the Minister in 2015. The report had concluded that the HPCSA was dysfunctional, and lacked an efficient organizational structure to ensure effective responsiveness to its stakeholders, mainly registered practitioners;
2. That, the HPCSA was implementing "unlawful" regulations with exorbitant fees being levied to the detriment of registered practitioners.

These concerns, although understandable, are based on either misunderstanding and/or lack of information about how the HPCSA carries out its functions. It is for this reason that the HPCSA offers herewith a response that rebuts the raised allegations. In addition to this statement, engagements will be arranged with all relevant stakeholders to shed more light on these and other matters that relate to the legislative mandate that this regulatory body is required

to carry out diligently.

B. RESPONSE

1. Non-implementation of the MTT recommendations

Following the finalization and submission of the MTT report, the HPCSA undertook a painstaking review process of the report which had concluded that the regulator was in "a state of multi-system organisational dysfunction which was resulting in the failure of the organisation to deliver effectively and efficiently on its primary objects and functions in terms of the Health Professions Act 56 of 1974". In response, the HPCSA, under the leadership of Council instituted the following interventions in response:

1.1 To institute disciplinary and incapacity proceedings against the Registrar/CEO, COO and General Manager for Legal Services

1.1.1 Amicable settlement agreements were reached with the previous Registrar/CEO and COO in terms of which, their services with the HPCSA were terminated. Comprehensive reports were submitted to the Minister of Health (Executive Authority) thereby closing the matter;

1.1.2 The matter relating to GM Legal Services, Adv P Khumalo was resolved and finalised after he was exonerated of charges levelled against him, by the Council, with the consent of the Minister of Health.

1.2 To appoint an interim executive management team

1.2.1 All critical vacant senior management positions were filled with a diverse team that was able to ensure that the HPCSA upholds its mandate of protecting the public and guiding the professions. The matter was closed,

and reports were submitted to the Minister of Health;

1.2.2 Following a Business Process and Reengineering Process (BPR), a new organisational structure design was instituted including the establishment of a permanent Executive Management structure that oversees managerial and administrative functions of the HPCSA;

1.3 That the incoming and future Councils of the HPCSA should undergo a structured induction process to ensure an understanding and appreciation by all its members of their legal and governance obligations;

The strategic plans of the HPCSA require of all council, professional board members and the executive management team to undergo inductions (upon appointment) as well as annual governance training annual, currently offered by the Institute of Directors in South Africa (IoDSA);

1.4 To address the recommendations of the KPMG Forensic Report of November 2011

The council considered and implemented the recommendations made by the KPMG and a comprehensive report was submitted to the Minister. The matter was closed;

1.5 To institute "Full organizational review and submit proposals to the Minister for the reform of the administrative and governance structures of the health professions"

In response, the Council, from 2016 embarked on a Turnaround Strategy, to enhance its effectiveness and efficiencies through streamlined services. The strategy would build a new organisation that will be

reputable for its innovation, professionalism, and excellence in service delivery;

1.5.1 Turnaround Strategy, Objectives & Benefits

1.5.1.1 The Turnaround Strategy focussed on five key workstreams that are critical to achieving the above-mentioned objective, namely: Vision & Design (Operating Model design), Business Process Re-engineering, Structure & People (Organisational Design), IT and Governance;

1.5.1.2 Several key benefits, including efficient & effective service delivery, a streamlined organisational structure, improved management of decision-making processes and ICT systems aligned with business requirements were anticipated to be realised through completion of the Turnaround Strategy;

1.5.1.3 Significant progress was made towards achieving the Turnaround Strategy objectives through the analysis of the current state and the design of HPCSA 's desired state. Furthermore, implementation of "Quick Win" initiatives have resulted in a significant reduction of registration processing time and the elimination of backlogs in the Registration and Records Division;

1.5.1.4 As a result of the Turnaround Strategy, a new Vision & Design was defined. A Customer Cube was developed with 4 stages and 6 key inputs used to develop the future state targets as follows:

i) Benchmarks from local and international Health Professions Regulators
ii) The Customer Survey conducted in April and May 2017
iii) The Business Process Re-engineering exercise
iv) Volumetric Analysis of customer and service volumes
v) Best practice principles, and
vi) Key legislation governing the HPCSA;

1.5.1.5 The Organisational Design workstream completed the design of a new functional and organisational structure, using extensive research, best

practice analysis and collaborative consultation with five high-level functional areas enabling:

i. Development of specific functional knowledge and expertise within each function,

ii. Clear accountability enabling identification of inefficiencies,

iii. Better departmental coordination & a stable environment, and

iv. Faster decision making.

1.5.2 Business Process Re-Engineering

1.5.2.1 An extensive analysis of the HPCSA 's core processes was undertaken. Several issues and opportunities for improvement were identified during the "as-is" analysis and incorporated into the design of the future to-be processes;

1.5.2.2 An internal Business Improvement (BI) was trained to sustain/maintain and spearhead any future BPR initiatives within HPCSA. The BI team has been trained to have a thorough understanding of the BPR framework and the tools used in the framework;

1.5.2.3 The "to-be" Registration Process was identified as a "Quick Win" and was piloted in June and July 2017, resulting in a significant reduction in turnaround time of this core customer-facing service;

1.5.2.4 The "to-be process" for Mail Room, Registration and Records was workshopped and approved by the programme steering committee. The steering committee authorised the BPR work stream to selected process steps and areas (in the to-be process) that could be implemented easily with high impact, little or no financial investment and limited staff and organisational realignment. Processes meeting the above criteria were selected for the pilot;

1.5.2.5 The second Quick-Win to be implemented was the elimination of backlog applications and documents to be archived in the Registration and Records Department. Within 2 weeks of implementing the backlog reduction plan, 67% of the backlog applications were eliminated.

1.5.3 ICT Governance Framework

1.5.3.1 The newly approved ICT Governance Framework set a high-level framework for the HPCSA that guides the definition and implementation of a prudent and effective set of ICT governance processes and structures. The Framework also informs the development and implementation of procedures supporting the HPCSA ‘s general compliance to Corporate Governance requirements and expectations;

1.5.4 Digitizing HPCSA processes (in the form of Oracle Service Cloud - OSvC) to enhance efficiency was central to the BPR. In this regard, OSvC has enabled the HPCSA to achieve the following:

1.5.4.1 Making the HPCSA to be accessible to Practitioners and Society through all possible available channels that has capability to remove geography from the equation;

1.5.4.2 Improving practitioners as well as society’s experience of the HPCSA services environment;

1.5.4.3 Giving back time and money to practitioners and society as they can avoid physically presenting themselves at HPCSA’s offices at cost (for example, travel);

1.5.4.4 Creating consistency of service provision and guarantees attainment of service charter commitments;

1.5.4.5 Eradicating incidence of lost files and inability to track employees that last worked on files and cases;

1.5.4.6 Easing of performance reporting to all stakeholders that require information about the performance of the HPCSA;

1.5.4.7 OSvC has a platform that enables renewal of registration by about 180,000 registered practitioners online, literally, in minutes;

1.5.4.8 Practitioners can upload their Continuing Professional Development (CPD) documents online, with processing taking no longer than a day to process on average;

1.5.4.9 The OSvC Finance Module enables payment by registered practitioners to be implemented seamlessly, and again online (without having to make

payments physically or in banks);

1.5.5 Governance and specifically, recommendations on unbundling

1.5.5.1 Significant progress has been made towards understanding HPCSA 's current governance structure. The Governance team have conducted a baseline assessment of the overarching Acts, Regulations, Rules & Policies governing the HPCSA;

1.5.5.2 Council tasked Fever Tree Consulting and Secretariat to embark on a consultative process with all the relevant structures of Council and submit a comprehensive report in the subsequent meetings of Council inclusive of a clear framework on the functioning of Council, Professional Boards and Secretariat; the New Functional/Organizational Design and the New Delegations of Powers/Duties;

1.5.5.3 Professional Boards deliberated on the matter of unbundling of the HPCSA and provided feedback to the Council. In terms of those deliberations, the following observations were made:

i. the recommendation to unbundle originated from dysfunctional and defective service rendered by Secretariat to Council and its structures;

ii. the endeavors to address administration inefficiencies in the form of the Business Processes Re-engineering (BPR) negates the MTT rationale for unbundling;

iii. currently the HPCSA utilises a partial regulatory health model and with the BPR turn around it is recommended that this model should be continued and optimised;

iv. the NHI is moving towards a centralised national health delivery scheme and a multi- professional regulatory model will correlate with the health ecosystem of South Africa, legislative frameworks and key functions which need to be effectively executed in the best interests of the public and patient safety;

v. the excessive time taken to change governing regulation will contribute to process impediments and functional inefficiencies (i.e., Legislation takes on average 5 years to develop and in the current socio-economic and political

climate it is forecasted to take up to 10 years);

vi. the convergence model will maintain professional board autonomy;

vii. in the current environment Council and Professional Boards enjoy advantage of economies of scale in the currently shared services;

viii. international benchmarking conducted with Australia and United Kingdom revealed the following –

a. all health professions are regulated by one regulator under a single legislative framework;

b. all regulated professions are registered by a specific board with one implementation urgency called the Australian Health Practitioner Regulation Agency (AHPRA);

c. whilst the United Kingdom has both multi and single professional regulatory system characterised in the following manner –

d. Also, health professions are regulated by various regulators, governed by separate pieces of legislation;

e. separate Councils regulate separate and / or a group of professions independently;

f. There are various Councils for various professions with assurance executed by PSA.

ix. Multi-profession regulatory systems do well in terms of consistency, uniformity, collaboration, and ease of sharing innovations than the single profession regulatory systems;

x. there is evidence that a collaborative and efficient Secretariat (that HPCSA can achieved through the ongoing turnaround changes) can indeed support the current 12 board structure and provide further opportunities for revenue generation through possible merging with other councils in the future;

1.5.5.4 Taking all the above into account coupled with the resolutions of eight (8) Professional Boards against the MTT recommendation of unbundling, the Council **RESOLVED** against unbundling and that the current governance model should be continued and optimised through the Turn Around Strategy and Business Reengineering Process.

2. Council knowingly and intentionally enforced regulations declared illegal by the Competition Commission in 2011 and issued fines of up to R60 000 to medical professionals who contravened these unlawful regulations.

2.1 The view that the HPCSA Ethical Rules (not regulations as depicted in the media) were found to be illegal by the Competition Commission is inaccurate;

2.2 In 2011, the Competition Commission in response to the application of exemption by Council found that the ethical rules did not qualify for an exemption because there was no evidence that it would result in substantial prevention or lessening of competition;

2.3 The Competition Commission also found that the rules did not contravene the Competitions Commission Act, therefore depending on the manner in which the rules are applied in context of a given set of facts, may contravene the Act, therefore it should be assessed and addressed on a case-by-case basis.

2.4 Later, in 2019, the Competition Commission through its Health Market Inquiry process found the Ethical Rules to be anti-competitive, limit innovation, anti-permissive to encourage actions that promote value for consumers, and they were thought to restrict multidisciplinary group practices.

2.5 The HPCSA, after many consultations with the HMI Panel, the HPCSA and its Professional Boards moved to implement the recommendations of the HMI report by revising its ethical rules to address allegations.

2.6 The revisions of such ethical rules specifically targeted the above issues as raised in the report and the Council resolved to approve the changes, at its meeting held on 29 – 30th June 2023, for implementation. What is outstanding is, for the revised rules to be gazetted into law;

2.7 The fines that the HPCSA imposes sanctions are based on practitioners having been found guilty of misconduct as provided for in Section 42 of the Health Professions Act of 1974 as (well as the Regulations relating to Fines which may

be imposed by a Committee of inquiry against practitioners found guilty of improper or disgraceful conduct, published under government notice R632 IN*GG* 33385 of 23 JULY 2010)

2.8 These regulations are lawful as they are promulgated by the Minister in line with the Health Professions Act. It is therefore inaccurate for anyone to say that the HPCSA is issuing fines in contravention of the Competition Commission's findings or any other law.

3. The HPCSA has failed to serve the interests of its members for a very long time. Annually, the DA is inundated with requests for help from unplaced interns and community service doctors, doctors who qualified in foreign countries struggling with accreditation and registration, and concerns that complaints and investigations are being mismanaged.

3.1 The HPCSA is only responsible for registering practitioners including interns and community service doctors. Their placements in various health facilities and institutions is the responsibility of the National Department of Health and its provincial counterparts

3.2 In registering applicants who are foreign qualified, the HPCSA must satisfy itself that the applicants have gone through the training that is either equivalent to that offered in South Africa or that it is, at least, satisfactory to allow for the applicant to be assessed through a Board Examination. Depending on the training received and the institution at which the applicant has trained, the process may be lengthy as it includes amongst others, translation of notarization of documents and a review of curricula in line with stipulated requirements set by a relevant Board;

3.3 It should be noted that being foreign qualified is no guarantee for registration with the HPCSA, unless the above is met. The relevant Professional Board is legislatively required to always satisfy itself that applicants meet requirements ahead of registration.

C. CONCLUSION

The Council is committed to executing its responsibilities diligently in pursuit of delivering the HPCSA's overall mandate.

The new Registrar, Dr Magome Masike, his Executive Management and Secretariat have embarked on a drive called NGOKU based on the need **TO BE GOAL DRIVEN**, **ON-HAND, KIND AND UNITED.**

The principles of NGOKU ensures that –

- The Impossible is Possible;
- When We Do Good Now, We Will Feel Good Now;
- We Do Not Exist for Ourselves We Exist as a Collective;
- We Work Proactively to Deal with The Tasks at Hand.

Regards,

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DR MAGOME MASIKE
REGISTRAR / CEO