

SADA Communique



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It has been a while since we provided an overall view as to progress with regards to various issues in the statutory environment that we are dealing with on behalf of the profession. This month, I focus on matters referred to the HPCSA. On reading through the various matters below, members will no doubt note that there is a common theme throughout the majority of these issues – the fact that the HPCSA is failing to provide the required direction in the context of a changing health landscape and economic environment.

As a profession, we cannot possibly respond to every single concern we experience in our changing environment with litigation. We need a robust, fair and respected Health Professions Council to give direction to the professions in the interest of the public. The matters detailed below are all clearly within the domain of expertise of the HPCSA and there is no other organisation that can be requested to resolve these issues. Unfortunately, the delays experienced in bringing these matters to conclusion does not bode well for the future of health regulation in our country.

These concerns over the tardiness of the HPCSA have even been escalated to the Minister of Health approximately a year ago, but even that escalation has not resulted in any improvement. In the context of the frustration to get seemingly simple issues resolved, one has no option but to ask the question as to why the HPCSA does not act effectively in terms of its mandate?

Tariff Regulation

During October 2013 the HPCSA published a "Proposed Process for the Determination of Fee Norms by the Medical and Dental Professional Board", indicating their annual process for determination of fee norms as from 2015 onwards, with a condensed timeline for the publication of fee norms for 2014.

In our engagements with the HPCSA and in our documented submissions, it was made clear that there were certain procedural flaws in their proposed process for 2014 and SADA, along with

some of the other health professions associations, indicated that the publication of any fee norms for 2014 may lead to court action.

No further action has been forthcoming from the HPCSA. No communication was forwarded to associations, no publication of 2014 fees and no indication as to their intentions to proceed with the publication of a 2015 list of fees.

It is our understanding that the process was abandoned pending the outcome of the Market Inquiry into Healthcare, but this has not been formally confirmed.

In this matter, SADA maintains its position that there are compelling economic arguments to suggest that tariff regulation results in an increase in healthcare pricing, not a decrease. In order to improve access to oral health services, we need to consider constructive exploitation of free market principles as an alternative to the micro-management approach of tariff regulation.

Scope of Practice: Dental Therapy

On 31 August 2012 the Dental Therapy and Oral Hygiene Board of the HPCSA published a new Scope of Practice for Dental Therapists. The provisions were of concern to SADA as included were many procedures that Dental Therapists were not qualified to perform. The Association made an application to court for a review of the regulations.

Over the last two years, as the result of many stakeholder meetings in this regard, it has transpired that there is an industry-wide acknowledgement that the Scope of Practice should be reviewed. It is our understanding that this process is underway.

Unfortunately the HPCSA has not yet formally withdrawn the published Scope of Practice and SADA can therefore not yet abandon its legal action.

Split billing/Balanced Billing

SADA's first formal submissions to the HPCSA, requesting a review of the ethical rule regarding split billing and balanced billing, was sent on 14 March 2011. Since that date, the HPCSA has referred the matter from committee to

committee, without any constructive progress made over a period of at least three years. Current status is that the Human Rights, Ethics and Professional Practice Committee requested the HPCSA legal services department to obtain expert opinion on the matter, but this past year has seen no progress in obtaining such opinion. Follow-up letters are continuously being submitted by the Association in this regard.

Advance payment of fees

Similarly, the first formal submission regarding a review of the ethical rule regarding advance payment of fees was made on 11 May 2012. This matter has also been referred to committees, and then to the HPCSA legal department who, more than a year later, is still busy with preparation of proposed changes to the ethical rules. Follow-up letters are continuously being submitted in this regard.

Charging for appointments not kept
The HPCSA issued a directive in their May bulletin to indicate that practitioners are not allowed to charge patients for appointments not kept by the patient. SADA informed the HPCSA that we are in disagreement with them as to their interpretation of the relevant ethical rule and requested that the directive be withdrawn, pending further discussion. We were informed that this matter will serve at the upcoming meeting of the Medical and Dental Professional Board in September. In the interim, however, the HPCSA reissued exactly the same statement in their bulletin on 25 July 2014. It was very disappointing to note that the HPCSA dogmatically proceeds with their chosen position, without considering the submissions made by the profession. Follow-up letters have been submitted in this matter.

Review of Scope of Practice for Dentists – Non-Surgical Cosmetic Procedures
On 3rd October 2012, SADA requested the HPCSA to review the scope of practice for dentists, in particular the right to perform aesthetic or cosmetic procedures to include administration of Botox beyond the oral and peri-oral areas.

The Executive Committee of the Medical and Dental Professions Board ap-

proved amendments to Rule 21 pertaining to performance of professional acts. The legal services department was then instructed to amend the booklets to make provision for guidelines on the interpretation of Rule 21 of the Generic Rules. We are, however, still waiting for the department to gazette these rules.

Dental Technicians – Administration Fee
Dental technicians have been allowed, since February 2006, to claim directly from Medical Aids for laboratory work. However, many technicians prefer not to claim directly, thus transferring the administrative burden and risk of non-payment to the dentist.

SADA addressed the matter of dentists being allowed to charge their technicians an administration fee to in respect of these services rendered and submitted proposals to both the Dental Technicians Association of South Africa (DENTASA) and the South African Dental Technicians Council (SADTC).

After several years of discussion, SADA was informed by e-mail earlier in August that the SADTC was of the view that SADA had no locus standi to engage in this debate, as it is not a regulator. They requested that the matter be referred to the HPCSA for resolution with

the SADTC. This is clearly a tactic to ensure that the matter does not progress any further, as the fact that SADA is not a regulator does not preclude us from contributing to discussions in respect of the landscape of dentistry.

As the HPCSA appears to not have the ability to bring any matters to conclusion, SADA does not have any confidence that this issue will be resolved and, as such, we wish to encourage members to demand that technicians claim directly from schemes in respect of laboratory services rendered.

The extensive delays in bringing these matters to conclusion are of great concern and the regulatory ability of the HPCSA has to be questioned. Perhaps it is time for the profession to start considering alternative courses of action other than to proceed with official submissions that are clearly not receiving appropriate attention.

