

EXCLUSIVE | Health council plagued by mismanagement, unfairly punishing doctors

3h ago

Khaya Koko

Comments

Gift article

Bookmark



news24

Listen to this article

09:27



The South African Medical Association (Sama) accuses consecutive health ministers, including the incumbent Joe Phaahla, of ignoring the findings of a 2015 report against the HPCSA.

Alfonso Nqunjana/News24

The Health Professions Council of South Africa, according to the Competition Commission, has been using illegal regulations since November 2011.

The council's head of legal services was also found by a forensic investigation to be unfit to hold senior positions at the body.

The council, which will be key in registering health workers in the mooted National Health Insurance, has been punishing doctors with hefty fines based on its unlawful regulations.

For 12 years, illegal and anti-competitive behaviour has engulfed the statutory body envisioned to regulate health professionals in the contentious multibillion-rand National Health Insurance (NHI) scheme, the Competition Commission confirmed.

Moreover, the South African Medical Association (SAMA) accused the national health department of not implementing an October 2015 report that found that the Health Professions Council of South Africa (HPCSA) was rife with mismanagement and maladministration.

The HPCSA, despite being told that its rules were illegal and anti-competitive, has continued to punish health workers, mainly doctors, with fines of up to R60 000 for practitioners who have breached the council's unlawful regulations.

The illegality at the HPCSA followed the Competition Commission's 2011 rejection of the council's application to exempt 10 ethical rules that were found to contravene the Competition Act, according to a November 2011 gazette announcing the commission's rejection.

SAMA chairperson Dr Mvuyisi Mzukwa told News24 that former health ministers Aaron Motsoaledi and Zweli Mkhize – as well as current Health Minister Joe Phaahla – had ignored his association's repeated pleas for the implementation of the October 2015 report.

The HPCSA has as its head of legal services, advocate Phelelani Khumalo, who was found by an October 2015 ministerial report to have overseen a "dysfunctional system of professional conduct enquiries which has prejudiced practitioners and the public".

According to the NHI Bill that the National Assembly passed in June, the council will be responsible for the registration and accreditation of all health workers should the single-fund system be enacted.

HPCSA breaks the law

Competition Commission spokesperson Siya Makhunga told News24 that the HPCSA was still implementing its anti-competitive rules that breach the Competition Act, saying the commission had tried since 2011 to "facilitate the amendment of the [regulations] to achieve competitive outcomes".

Section 59 of the Competition Act states that a body can be penalised by the Competition Tribunal should it breach the country's competition laws.

Makhunga said: "The engagements were still ongoing when a new process through the Health Market Inquiry was launched in 2013 to fully examine the competition issues in the private health sector as a whole, including regulatory issues such as the HPCSA ethical rules."

He added:

A detailed report of the HMI was published in September 2019, which made recommendations on reforms to the HPCSA and the ethical rules, a process that would have to be under the auspices of the National Department of Health. In this regard, the [health department] is best placed to respond regarding developments on the amendments.

Health workers, who will be central to the NHI's implementation, have faced punitive fines for charges sanctioned by Khumalo on rules found to be unlawful.

News24 sourced a list of 17 doctors who were charged and found guilty based on the illegal rules, including a woman fined a cumulative R60 000 for operating "a mobile clinic for purposes of advertising" in December 2013.

The woman, an optometrist, whose identity has been withheld, operated an eye clinic outside a licensing department office for people who are applying for driving licences or renewals to do eye tests.

She was found guilty on three counts, despite the Competition Commission stating that the rules prohibiting people from operating mobile clinics were unlawful.

Makhunga, meanwhile, said the Competition Commission, in its 2019 market inquiry report, also made findings against the HPCSA to strengthen its role ahead of the NHI's expected implementation.

READ | NHI: Medical aid schemes fight for their place as National Assembly greenlights the bill

Speaking on behalf of the council, the health department spokesperson, Foster Mohale, said Khumalo had been "exonerated" by the HPCSA because the complaints against him happened before the legal head's arrival.

Mohale did not elaborate on which complaints those were, nor why Khumalo, according to the ministerial investigation, refused to co-operate with the probe.

"On the question of whether it is in the interest of the HPCSA for Phelelani Khumalo to remain part of the organisation, in particular as part of its senior management, [the] council exonerated advocate FP Khumalo on the basis that the issues listed in the report occurred prior to his joining HPCSA. This question, therefore, becomes irrelevant," Mohale said.

Mzukwa, representing the medical association, disputed that the report was heeded, asserting that SAMA had "continuously called for the neglected recommendations of the [October 2015 report] to be implemented".

Mzukwa said another recommendation that would help the country's health system was the "unbundling of the HPCSA into at least two entities: the historic Medical and Dental Council (which constitutes a third of the current membership of the HPCSA) and a Health and Rehabilitation Council (for the rest of the professional membership of the HPCSA)".

Mzukwa said:

SAMA has on numerous occasions engaged and requested the ministers of health (Motsoaledi, Mkhize, and Phaahla) to follow through on this recommendation. SAMA even furnished the ministers with a draft bill that would assist in the unbundling of the council.


"SAMA firmly believes that the time has come to appoint a task team to work towards implementing [these] long-overdue reforms."

Mohale, regarding the HPCSA's illegal rules, said the council had "made progress" in reviewing and amending its rules, saying the approval for the revisions was apparently approved in March.

"The only outstanding step, which is in process, is for such amendments to be gazetted into law," he said.


However, a highly-placed HPCSA source, who asked to remain anonymous, said Mohale's point of imminent amendments was a ruse because the council had not approved anything in March, and only mentioned revisions following News24's questions.



"The implications are serious – unlawful rules are being used to extract fines and suspend healthcare workers in South Africa. The criminality of the conduct is led, ironically, by an advocate of law [Khumalo], who the ministerial task team found had acted unlawfully," the insider said.


 jobportal.pnet


P is for #Partnership
Enhance your #recruitment efforts with a partner that will work with you to find the right candidates. At Pnet, our tech is built for people. For their needs, wants and ambitions. Our #technology brings recruiters and #jobseekers together, to uplift businesses of all sizes and pivot #careers towards possibility.

We'll connect the dots between employer and employee so that you can fulfil the true potential of your #business. Contact our sales team to find out more: <https://bit.ly/3O4VD4I>



  11 • 6 Shares

 Like

 Comment

[Learn More](#)

The National Education, Health and Allied Workers' Union (Nehawu) said it had been at the "forefront" in calling for the 2015 report to be implemented.

Nehawu spokesperson Lwazi Nkolonzi said the report's recommendation had been implemented, without elaborating further.

Nkolonzi, on the NHI, said the union supported the NHI's implementation, adding that healthcare had "become a commodity that only a privileged few [could] afford".

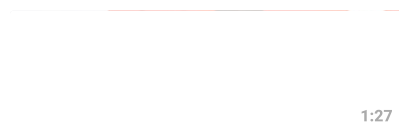
Nkolonzi said: "Access to quality healthcare is a right, not to be delayed any further by private sector interests whose only concern is profiting from our people."

HPCSA and the NHI

The NHI Bill proposes that an NHI Fund be formed to support the mooted scheme financially, adding that the fund's accreditation requirement included registration "with a recognised statutory health professional council"; that is, the HPCSA.

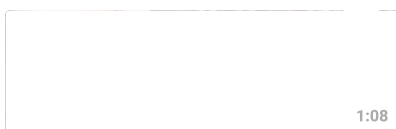
"All health professionals offering services in South Africa must be registered with the relevant professional bodies [including the HPCSA] and comply with the rules and regulations and requirements of continuous professional development of the various bodies," the bill reads.

News24 **reported last month** that, based on National Treasury and budget factsheets, between R140 billion and R280 billion in additional taxes would have to be raised to implement the NHI.



WATCH | Ramaphosa concedes that Indian, coloured and white citizens have been ignored since 1994

news 24 15 hours ago



WATCH | Slain Eastern Cape physio remembered with tears, laughter, champagne... and plenty of pink

news 24 1 day ago



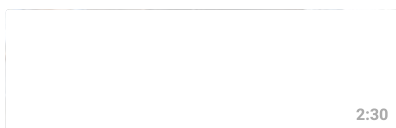
WATCH | African art

news 24 2 days ago



WATCH | Ramaphosa calls multiparty 'moonshot pact' a 'sideshow' as ANC fights to retain Gauteng

news 24 1 day ago



WATCH | Joburg mayor promises to find effective way of dealing with zama zama scoundrels

news 24 2 days ago



WATCH | search for shootout

news 24 2 days ago

Powered by OOVVUU

You have invested in the future

Your News24 subscription is an investment in independent journalism. Thank you. Your support strengthens our ability to hold power to account and unearth stories you can trust.

[Read subscriber articles](#)

READ MORE ON:

HEALTH PROFESSIONS COUNCIL OF SA

PHELELANI KHUMALO

HEALTHCARE

POLITICS

SERVICE DELIVERY

[COMMENTS](#)

[MY PROFILE](#)