

# VOICE

A HEALTH CARE PROVIDER'S GUIDE TO REPORTING  
HEALTHCARE CHALLENGES: PRINCIPLES, TOOLS & STRATEGIES



Acting in the best interest of your patients -  
a human-rights based, ethical & contextual approach

## Rural Health Advocacy Project

In partnership with:



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“There’s really no such thing as the ‘voiceless’. There are only the deliberately silenced, or the preferably unheard.”

- Arundhati Roy, Author and human rights activist

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# FOREWORD

As a rural doctor at the coalface, I highly recommend this guide to all health care workers that are committed to providing patient-centred, quality health care.

It is often very frustrating when we are unable to offer the health care that our patients need. When this continues day after day, week after week and month after month, many a health care worker becomes resigned to a sub-standard of care, becomes demoralised about health care, and for rural health care workers in specific, too often we end up moving away from working in rural areas, and the public sector in general.

What do you do when the ambulance doesn't arrive in an emergency situation? What do you do when there is no TB medication or antiretroviral medication at your health facility? How do you respond when your health facility is chronically understaffed, resulting in health care workers working extra, unpaid overtime? This guide provides some answers to the questions. It gives useful insights into the legal and policy foundations of the right to health, the internal and external mechanisms to resolve an issue, the different advocacy approaches that are available at our disposal, and the importance of working together with fellow health care workers, management, NGOs and the community. These mechanisms and approaches are usually not well taught at tertiary institutions, and may appear very daunting to the newly qualified (or not so newly qualified!) health care worker. This guide provides a contextual framework to help the health care worker decide which approach would be most useful in a given context. The first recommended step is to start locally, using internal reporting mechanisms to address a health care problem. This step may be rather daunting, as it usually involves interacting with fellow health care workers or middle management, who the health care worker sees on a daily basis. Wise counsel is offered to negotiate

this initial reporting. However, sometimes the necessary changes are not forthcoming, and further action needs to be sought. This guide reminds the health care worker to constantly put the interests of the patients first, and to continue to advocate for excellent health care for all people, across our country. We each have a role to play in the realm of "advocacy". Advocacy should not scare or daunt health care workers: it is likely that many are practising these principles on a daily basis, without even realising it. This guide helps the health care worker to understand this responsibility, and equips them to realise the goal of building a better healthcare system for all.

## Dr Jenny Nash

*Dr Jenny Nash is the Rural Doctor of the Year 2014. She received this award at the annual Rural Health Conference in September 2014, amongst others for "never hesitat[ing] to speak out for better care for her patients". Dr Nash has been an active member and advocate as part of the Rural Doctors Association of South Africa.*

*“Medical practitioners have an ethical duty and a professional responsibility to act in the best interests of their patients. This duty includes **advocating for patients**, both as a group (such as advocating on public health issues) and as individuals.”*

*(World Medical Association’s Statement on Patient Advocacy and Confidentiality).*

Despite a progressive Constitution, which gives everyone the right to access health care services, and the current efforts to improve the performance of the health system, many patients continue to experience violations to their health rights. Drug shortages, lack of equipment, corruption, freezing of posts and understaffing, lack of ambulance services and abuse of the Remuneration for Work Outside the Public Service system (RWOPS) are some examples of common health system problems that undermine patients’ access to quality care. While the causes of the health care failures are varied, many are preventable if the problem is identified early and acted on swiftly. However, for various reasons this does not happen often; broken communication channels, lack of trust in the local or provincial leadership to act, not recognising health rights violations, not knowing how to act,

not caring to act, not having time to act in understaffed facilities, and fear of victimisation when speaking out are among the multitude of reasons that could lead to delayed problem resolution. Notably, in these circumstances patients bear the brunt.

As a health care provider, you have probably been in situations where you observed things going wrong and you had to make a decision regarding what to do. Throughout the Rural Health Advocacy Project’s (RHAP) years of work with rural health care provider associations and individual health care providers at the grassroots level, it has become clear that many health care providers do not know what to do when they see abuses or rights violations; when and how to report a matter internally and when to seek help externally.

### CAN HEALTH CARE PROVIDERS SPEAK OUT?

According to the Public Service Regulations of 2001, updated 2012, health care providers are expected to raise any problems with their immediate supervisors and are not to criticise government policy “irresponsibly” in the public domain.

Yet the same regulations also state that health care providers must put the public interest first in the execution of her or his duties. According to the World Medical Association on Patient Advocacy and Confidentiality, medical practitioners do not only have a right to advocate for their patients, “they have an ethical duty and a professional responsibility to act in the best interests of their patients. This duty includes advocating for patients, both as a group (such as advocating on public health issues) and as individuals.”

It is well known that speaking out on health care failures can harm relations with colleagues and local health management, when often those same relations will be needed when you need to solve tomorrow’s problems. There is no one right approach to meet every challenge. Health care providers must make tough decisions about how to advocate for patients’ rights: this is a guide to the tools at your disposal. This guide is written for health care providers who enter such crossroads where patients’ rights and interests are at the centre and who need help deciding what the best way forward is in addressing a problem. Health care providers should not be punished for acting in the best interest of their patients. After all, it is their ethical duty and professional responsibility to do so. Speaking out should be encouraged and rewarded. Unfortunately many health care providers have found themselves in hot water after doing so. There is however ways in which you can protect yourself and your patient and yet still speak out.

This manual provides advice and tools to assist you in deciding how to act when you witness health care failures. There is no “one-size fits all approach”; the best response to a problem depends on the context, available support from colleagues, relations with management and the urgency of the issue at stake. The approach will differ if there is a minor, continuous systemic issue which reduces the quality of healthcare or a problem that places patients’ lives at immediate risk.

The importance of you as a healthcare provider taking action in an appropriate, context-sensitive, way to make the right to health real cannot be over-estimated.

This guide refers to “health care providers”. The National Health Act 61 of 2003 (NHA) provides that this term refers to:

- Doctors;
- Nurses;
- Dentists;
- Pharmacists;
- Psychologists; and
- Therapists.

The guide may also however be useful to any person working in the health sector, including for example, community health care workers. We trust you will find it useful.





## WHAT IS THE PROCESS TO LODGE A COMPLAINT?

The National Complaints Management Protocol sets out a “chain” or order of stages in which complaints should be directed. This means that complaints that are not addressed at a facility level can be taken higher up the chain. It is important to show that you have followed this chain properly as far as possible.

### COMPLAINTS **WITHIN** THE DEPARTMENT OF HEALTH

- Facility level: Informal verbal or formal written complaints
- District level
- Provincial level
- Office of Health Standards Compliance

### COMPLAINTS **OUTSIDE** THE DEPARTMENT OF HEALTH

- Consider external mechanisms (legal, independent bodies, professional councils/boards, unions, advocacy organisations)
- If needed, consider disclosing (whistle blowing)



## HOW CAN I ADVOCATE?

Healthcare workers can advocate for a better health system through different roles at different times:

- Representative (speaking for people)
- Accompanying (speaking with people)
- Empowering (enabling people to speak for themselves)
- Mediating (facilitating communication between people/organisations)
- Modelling (demonstrating practice to people and policy-makers)
- Negotiating (bargaining with those in power)
- Networking (building coalitions)



## WHAT ARE THE LEGAL FOUNDATIONS?

### BILL OF RIGHTS IN THE CONSTITUTION

- Section 9 Right to equality
- Section 10 Right to dignity
- Section 11 Right to life
- Section 16 Right to freedom of expression
- Section 18 Right to freedom of association
- Section 27 Right to access healthcare services
- Section 29 Every child has a right to basic healthcare services

### NATIONAL HEALTH ACT



## TOOLS AND STRATEGIES

Remember there is no one-size-fits-all approach. The best response depends on the context and urgency of the matter. You need to act in the best interests of your patients.

Here are some tips:

- Start as soon as possible
- Gather all the key facts
- Organise to empower yourself and others, there is strength in numbers
- Use mechanisms that exist to improve the health system e.g. complaints system, the Office of Health Standards Compliance
- Report at the level closest to you (at facility) before escalating it
- Use mortality and morbidity meetings
- Follow up in writing
- Cite relevant patient rights, ethical rules and national core standards
- Document all effort made to improve the situation
- Document all communication made
- Liaise with others (colleagues, patients, organisations)
- You can advise patients to use the complaints mechanism
- Escalate the problem to district or provincial or national level
- Seek external assistance (legal, unions, independent bodies, professional boards, advocacy organisations)
- Use the four doors of the Protected Disclosure Act, to ensure legal protection when whistle blowing



## AM I PROTECTED IF I SPEAK OUT?

The Protected Disclosure Act provides protection for people who blow the whistle on conduct that is prejudicial to public interest. You can ensure you are protected by going through one of the “four doors” when you blow the whistle:

- **First Door:** disclosure to an employer
- **Second Door:** disclosure to a legal advisor
- **Third Door:** disclosure to a regulatory body or independent body
- **Fourth door,** the “general protected disclosures” is when you go outside the first three doors because you had good cause i.e.
  1. The impropriety is of an exceptionally serious nature;
  2. The disclosure has been made to the employer and no action has been taken within a reasonable period;
  3. The employee has reason to believe that the evidence will be concealed or destroyed if the disclosure is made to the employer and there is no prescribed regulatory body to approach; or
  4. The employee has reason to believe that he or she will be subjected to occupational detriment.



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### NATIONAL HEALTH ACT

Health care providers deliver a constitutional right. The right to health care.

### What does the Constitution of the Republic of South Africa of 1996 say about health rights?

The Constitution is the supreme law of South Africa, it is the lodestar from which healthcare is provided. The Constitution outlines the rights of all people, including health care providers. Its founding values are human dignity, equality and freedom and it requires that the State respects, protects, promotes and fulfils all of the rights in the Bill of Rights. All law, policy and conduct are measured against the Constitution.

Section 27 of the Constitution states that:

1. Everyone has the right to have access to –
  - a) Health care services, including reproductive health care;
2. The State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of the rights.
3. No one may be refused emergency medical treatment.

This right, together with several others (shown to the right), plays an important role in empowering you and your patients.

Beyond Section 27 rights, there are several other rights that speak directly to healthcare including:

- S24: The right to an environment that is not harmful to your health
- S28: Children's rights to basic healthcare services
- S35 Prisoners right to medical treatment

Other rights which are also obviously implicated in the healthcare context are:

- S14: The right to privacy
- S10: The right to dignity
- S9: The right to equality
- S12: The right to bodily and psychological integrity
- S11: The right to life

There are also several international laws and treaties that promote and protect the right to health, such as:

- The Universal Declaration of Human Rights (1948)
- The Convention on the Rights of the Child
- The Convention on Disability
- The International Covenant on Economic, Social and Cultural Rights (1994)

### What are my patients' rights and duties?<sup>1</sup>

Your patients have rights and duties. As a health care provider, you can, and have an obligation to, promote and protect these rights. You can also inform patients of their duties so that they can speak openly, have an active role in their treatment choices, and promote their own safety and well-being. **It is important to note that while these duties are important, they are not pre-requisites for a patient's exercise and enjoyment of his or her rights. The Patients' Rights Charter of South Africa expands upon the constitutional rights explained before. As the Charter demonstrates, every patient has the right to:**

- A healthy and safe environment
- Participation in decision-making
- Access to health care services which include: receiving timely emergency care; treatment and rehabilitation; provision for special needs; counselling; and palliative care
- A positive disposition
- Health information
- Knowledge of one's own health insurance / medical aid scheme
- Choice of health services
- Be treated by a named health care provider
- Confidentiality and privacy
- Informed consent
- Refusal of treatment
- Be referred for a second opinion
- Continuity of care
- Complain about health services

### According to the Patients' Rights Charter of South Africa every patient has the following responsibilities:

- To take care of his or her health
- To care for and protect the environment

- To respect the rights of other patients and health care providers
- To utilise the health care system properly and not abuse it
- To know his or her local health service and what they offer
- To provide health care providers with the relevant and accurate information for diagnostic, treatment, rehabilitation or counselling purposes
- To advise the health care providers on his or her wishes with regard to his or her death
- To comply with the prescribed treatment or rehabilitation procedures
- To enquire about the related costs of the treatment and / or rehabilitation and arrange for payment
- To take care of health records in his or her possession

### There are also legal provisions that speak directly to the rights of patients to lay a complaint:

The right to complain emanates from the Constitution. Section 1 of the Constitution entrenches as founding values "accountability, responsiveness and openness". Section 195 dictates the values of the public service and says that "peoples' needs must be responded to" and that "public administration must be accountable."

Some health care providers may find it difficult to provide certain treatments- like the termination of pregnancy and the prescription of methadone- and block access to them because of personal sensibilities. However, the needs and rights of the patient override individual beliefs.

<sup>1</sup> "National Patients' Rights Charter." *Health Professions Council of South Africa*. [http://www.hpcs.co.za/downloads/conduct\\_ethics/rules/generic\\_ethical\\_rules/booklet\\_3\\_patients\\_rights\\_charter.pdf](http://www.hpcs.co.za/downloads/conduct_ethics/rules/generic_ethical_rules/booklet_3_patients_rights_charter.pdf)

Section 18 of the NHA provides that it is the right of every patient to lay a complaint. When a health care provider uses the services of a health establishment but feels that s/he has not been treated well s/he has the right to lay a complaint. Health care providers can also lay complaints when they see their patients are not being treated well or fairly.

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In May 2013, the Department of Health published the "National Complaints Management Protocol for the Public Health Sector in South Africa" (NCMP), a policy document providing the principles and standards for complaints management in the South African health sector. This document is explained more fully later. In addition, several provinces have established health laws ("Acts"), which set out procedures for laying complaints. You should study your provincial health Act as it may be useful to you

and your patients. As of now, the Eastern Cape, Free State and KwaZulu-Natal have provincial health Acts<sup>2</sup>. Provincial and facility-level procedures need to be consistent with the NCMP. This is not always the case. For instance, the Eastern Cape Health Act sets much longer timeframes for the finalisation of complaints than the NCMP; however the NCMP overrides inconsistent laws.



**CASE STUDY: UNDOCUMENTED REFUGEES**

An undocumented refugee was denied health services due to the improper implementation of a tariff policy with respect to the classification of non-South African health care users. This was brought to the attention of a legal advocacy organization, which subsequently articulated how the patient's rights had been violated and why the implementation was incorrect. The constitution's protections apply to all persons in South Africa, including refugees, whether or not they are documented.

You can and should advocate for patients regardless of immigration status.



<sup>2</sup>These can be found on Eastern Cape Provincial Health Act, 1999: <http://www.ecdoh.gov.za/uploads/files/130706091151.pdf>; Free State Provincial Health Act, 2009: [http://www.legalb.co.za/SAPROV/FS/fs\\_2009\\_003\\_000-Ove-v20090330.html](http://www.legalb.co.za/SAPROV/FS/fs_2009_003_000-Ove-v20090330.html); KwaZulu-Natal Provincial Health Act, 2009: <http://www.kznlegislature.gov.za/LinkClick.aspx?link=KZN+HEALTH+ACT+2009.pdf&tabid=54&mid=813>.  
<sup>3</sup>The Rights and Duties of Health Care Workers, go to: <http://www.section27.org.za/wp-content/uploads/2010/04/Chapter10.pdf>

### What are my rights and duties?<sup>3</sup>

You also have rights and duties that are in place to promote the safety of yourself and your patients. Like all workers, health care providers are protected by the Constitution and a range of employment related provisions embodied in law. Your rights and duties are intertwined with your patients' rights and duties.

#### Health care providers have the RIGHT to:

- Equality
- Fair labour practices
- Freedom of expression
- Form, join and participate in a trade union
- Paid leave
- Work in an environment that is not harmful to their health or well-being
- Have access to information about the health effects of the hazards that may be present in their workplaces
- Not be unfairly discriminated against on the account of their health status
- Refuse to treat a user who is physically or verbally abusive or sexually harasses him or her
- Compensation for occupational injuries and diseases
- Expose corruption and unethical practices
- Claim compensation if dismissed as a result of a protected disclosure

#### Health care providers have the DUTY to:

- Act in the best interests or well-being of their patients as their primary professional duty
- Respect the privacy and dignity of patients
- Treat patients politely and with consideration
- Give their patients the information they ask for or need about their condition, its treatment and prognosis--taking into

account the patient's level of literacy, understanding, values and belief systems

- Not disclose any personal and confidential information about a person they acquire in the course of their professional duties, unless the patient agrees to such disclosure, or unless health care providers have good and overriding reason for doing disclosure
- Respect the right of patients to be fully involved in decisions about their treatment and care even if they are not legally competent to give the necessary consent
- Respect the right of patients to refuse treatment or to take part in teaching or research
- Promote access to health care. If they are unable to provide a service, they should refer the patient to another health care provider or to a health care facility where the required service can be obtained
- Provide care in an emergency situation
- Avoid over-servicing
- Work with and respect other health-care providers in pursuit of the best health care possible for all patients
- Not discriminate against colleagues, including health care providers applying for posts, because of their views of their race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, or any condition of vulnerability
- Act quickly to protect patients from risk due to any reason
- Maintain and improve the standard of their performance by keeping their professional knowledge and skills up to date throughout their working life
- Acknowledge the limits of their professional knowledge and competence
- Deal responsibly with scarce health care resources
- Include ethical considerations, legal



requirements and human rights in the development of health care policies

- Report violations and seek redress in circumstances where they have a good or persuasive reason to believe that the rights of patients are being violated
- Provide self-care – recognise early

signs of burn-out, seek assistance and avoid impairment

Lastly, health care providers have a responsibility to create an environment of tolerance, respect and mutual support within health teams.

### DUAL LOYALTY AND HUMAN RIGHTS

Health care providers may face conflicts between professional ethics, the duty to the user and the duty to the state. This is sometimes referred to as dual loyalty.

“Lack of guidance and support for health professionals is especially poignant in an environment where the health system itself violates human rights because it fails to meet basic health needs, because distribution of existing resources is inequitable, or because of racial, gender or ethnic discrimination. Practicing in such an environment can lead the health professional to become complicit in human rights violations despite the professional's personal commitment to human rights.”<sup>4</sup>

<sup>4</sup>This excerpt from Dual Loyalty & Human Rights In Health Professional Practice; Proposed Guidelines & Institutional Mechanisms by a collaborative initiative of Physicians for Human Rights and the School of Public Health and Primary Health Care University of Cape Town, Health Sciences Faculty gives some insight into how dual loyalty can impact the rights of users.

The full document, which gives recommendations for how to promote human rights in health practice can be found here: [https://s3.amazonaws.com/PHR\\_Reports/dualloyalties-2002-report.pdf](https://s3.amazonaws.com/PHR_Reports/dualloyalties-2002-report.pdf)



## 3

# RAISING CONCERNS AND WHISTLE-BLOWING IN ORDER TO IMPROVE HEALTH STANDARDS

Raising concerns and whistle-blowing in order to improve health standards



## AM I PROTECTED IF I SPEAK OUT?

The Protected Disclosure Act provides protection for people who blow the whistle on conduct that is prejudicial to public interest. You can ensure you are protected by going through one of the “four doors” when you blow the whistle:

- **First Door:** disclosure to an employer
- **Second Door:** disclosure to a legal advisor
- **Third Door:** disclosure to a regulatory body or independent body
- **Fourth door,** the “general protected disclosures” is when you go outside the first three doors because you had good cause i.e.
  1. The impropriety is of an exceptionally serious nature;
  2. The disclosure has been made to the employer and no action has been taken within a reasonable period;
  3. The employee has reason to believe that the evidence will be concealed or destroyed if the disclosure is made to the employer and there is no prescribed regulatory body to approach; or
  4. The employee has reason to believe that he or she will be subjected to occupational detriment.

### What is whistle-blowing?

Whistle-blowing is about ensuring that malpractice, fraud or corruption is dealt with in a manner that promotes individual responsibility and organisational accountability. When an employee witnesses a danger that compromises the “health and safety of patients” and/or her ability to provide effective care, it is not only her right, but also her duty to report conduct that is “prejudicial to the public interest”. Whistle-blowers act in good faith and in the public interest raising concerns about real

problems in the work place. However, in these circumstances it is often the case that the employee is scared to speak due to fear of personal, political or professional repercussions; lack of support (if not outright hostility) from health care institutions; and lack of advocacy training and mentorship.

### Obtaining the protection of the Protected Disclosures Act

There are legal protections for whistle-blowers. The key is to follow the right procedure.

This is where the Protected Disclosures Act 26 of 2000 and the Intimidation Act 72 of 1982 come in.

You are protected from, and can challenge legally, victimisation arising from whistle blowing if you can show the disclosure pertained to:

- a. Crime;
- b. Someone not complying with their legal duties;
- c. Danger to health and safety;
- d. Discrimination; or
- e. Any of the above being concealed

AND

That the victimisation caused an “occupational detriment”, in other words, harm in the workplace as a result of making a protected disclosure.

In the *Practical Guidelines for Employees in Terms of Section 10(4)(a) of the Protected Disclosures Act 26 of 2000* published by the Department of Justice and Constitutional Development<sup>5</sup> it is specifically stated that:

“By remaining silent about corruption, offences or other malpractices taking place in the workplace, an employee contributes to, and becomes part of, a culture of fostering such improprieties which will undermine his or her own career as well as be detrimental to the legitimate interests of the South African society in general.”

There are several routes to obtaining the legal protection of the Protected Disclosures Act. Imagine four doors<sup>6</sup>: These are the four doors/routes to legal protection from the Protected Disclosures Act. If you go through any one of them when disclosing, you are protected. The fourth door, the “general protected disclosures” door, is perhaps the one most people think of when they refer to “whistle blowing”.

**Door 1:** A disclosure made to an employer is a protected disclosure as long as it is made in good faith and in substantial accordance with prescribed procedures (such as the Public Service Commission procedures and complaints mechanisms set out by the National Department of Health discussed later in this guide). The Protected Disclosures Act strongly encourages employees to use this door.

**Door 2:** A disclosure made to a legal advisor, which includes an employee’s attorney, shop steward or any person whose occupation is to give legal advice, is a protected disclosure. If you use this route you must be approaching the legal advisor in order to obtain advice about a concern and how to raise it. All advice is confidential and good faith is not required for protection.

**Door 3:** Disclosures to regulatory bodies, specifically the office of the Public Protector or Auditor-General, are protected as long as the disclosure is made in good faith, there is a reasonable belief that the concern falls within the mandate of these bodies and the information in the disclosure is substantially true. Along with the abovementioned bodies, other chapter nine institutions, such as the South African Human Rights Commission can be consulted. Chapter nine institutions have been established by the Constitution to guard democracy.

<sup>5</sup>“Practical Guidelines for Employees in Terms of Section 10(4)(a) of the Protected Disclosures Act 26 of 2000.” [http://www.justice.gov.za/legislation/notices/2011/20110831\\_gg34572\\_n702-disclosure-guidelines.pdf](http://www.justice.gov.za/legislation/notices/2011/20110831_gg34572_n702-disclosure-guidelines.pdf).

<sup>6</sup>“National Anti-Corruption Forum Guide to the Whistleblowing Act.”:[http://www.nacf.org.za/guide\\_to\\_the\\_whistle\\_blowing\\_act/section\\_two.html](http://www.nacf.org.za/guide_to_the_whistle_blowing_act/section_two.html).

**Door 4:** Protection is also offered when disclosures are made to an audience outside of the scope of the previous three doors, such as the police, a member of cabinet or executive council, the media or organisations like the Treatment Action Campaign or RHAP. These disclosures are called “**general protected disclosures**” and protection applies when the whistle-blower has a reasonable belief that the information is true, is not making the disclosure for personal gain and has “**good cause**” for speaking to a wider audience. There are four “good causes”:

1. The impropriety is of an exceptionally serious nature;
2. The disclosure has been made to the employer and no action has been taken within a reasonable period;
3. The employee has reason to believe that the evidence will be concealed or destroyed if the disclosure is made to the employer and there is no prescribed regulatory body to approach; or
4. The employee has reason to believe that he or she will be subjected to occupational detriment.

An employee who suffers an occupational detriment is entitled to refer his or her case to the Public Health and Social Development Sectoral Bargaining Council. She must do this within 90 days. She can do this by herself or with the assistance of a union representative. An attorney is not required and the Bargaining Council procedures are designed to be easily accessible to employees.

If you are dismissed as a result of a protected disclosure you are entitled to claim compensation up to a maximum amount of two years’ salary or to seek reinstatement. If you suffer an occupational detriment you have the right to claim compensation up to a maximum of one year’s salary.

### WHISTLE -BLOWING TIPS

The Protected Disclosure Act can only ensure protection after the act of occupational detriment has occurred i.e. it is curative. Hopefully, it also prevents victimization as well, but it only really kicks in once something bad has happened. Therefore to help you in the future i.e. preventative—it is critical that if you enter the door 1,2,3 or 4 described above that mention your issue in relation to

- a. Patient rights
- b. Danger to health and safety
- c. Relevant laws, policies and frameworks e.g. the National Core Standards or the Patient Rights Charter
- d. Your duties in terms of ethical rules of the HPCSA, the Code of Conduct for the Public Service and the Public Service Act
- e. The public interest
- f. All prior efforts or communications you have made.

You should also make sure that people know that you are blowing the whistle because your prior efforts have failed.

Organising with people and garnering support is also critical: there is strength in numbers!

### CONFIDENTIALITY CLAUSES IN EMPLOYMENT CONTRACTS

Confidentiality clauses in employment contracts are invalid if the conflict with the Protected Disclosure Act or the Code of Conduct for the Public Service, which says: *“An employee, in the course of his or her official duties, shall report to the appropriate authorities, fraud, corruption, nepotism, maladministration and any other act which constitutes an offence or which is prejudicial to the public interest.”*

### What about protection from physical threats?

The Intimidation Act 72 of 1982 makes it a crime to try to compel a person to do something or to abstain from doing something through assault, injury or the threat of assault, injury, death or damage to a person or property. It is therefore possible to bring criminal charges against anyone who tries to intimidate a health care provider or any other person who

wants to blow the whistle. A criminal case is brought by reporting the intimidation to the police for investigation and the formulation of charges.

**Remember:** *The protection under both the Protected Disclosures Act and the Intimidation Act require action by the employee to ensure protection.*

### CASE STUDY: ABSENCES (AUTHORISED VS. UNAUTHORISED)

The National Core Standards require staff absenteeism to be monitored. Monitoring is needed to evaluate the impact of absences on facilities as well as ensure that absences are authorised. Absenteeism may amount to fraud, corruption or an abuse of power and may be cause to blow the whistle.

### Why should health care providers blow the whistle or raise complaints?

Whistle-blowing and the use of complaints mechanisms should be done with the goal of making health care services better and for this reason they are an important tool at your disposal.

Many health care providers see themselves as advocates for each individual patient that comes to them, but this is not always enough. First-hand experience equips health care

providers with unique insights into the health needs and challenges of the country.

Many health care providers are afraid that they will not enjoy the protection accorded to them by law because they work in areas, clinics or hospitals that are not visible to civil society and that run according to a “different set of rules”. Health care providers can feel powerless in the face of widespread corruption. But improving health care services sometimes depends on the bravery of those in the know: and those in the know are often health care providers.

### CASE STUDY: WHISTLE-BLOWING IN ACTION

South African health care providers can find inspiring whistle-blowing guidance in recent history. In the campaign for a programme to prevent mother-to-child transmission of HIV, health practitioners became daring leaders and outspoken champions of the cause. In response to government’s unreasonable unwillingness to provide Nevirapine to expectant mothers, health practitioners became HIV activists and formed the Save our Babies campaign. The results? When the Treatment Action Campaign took the issue to court in 2001 mother-to-child transmission sat around 30%. Today it is about 3.5%. That outcome required health care providers to take risks—brave health care providers that joined marches, wrote protest letters and testified in court.

### CASE STUDY: THE CONSTITUTIONAL RIGHT TO SPEAK OUT

Health care providers may sometimes experience split loyalties. In some circumstances their work may throw up conflicts between:

- the ethics of the profession;
- the duty to the user or other users of the health care system;
- the duty to the state and/or any other employer.

Dr Costa Gazi, Head of the Department of Public Health at Cecilia Makiwane Hospital in Mdantsane, East London was concerned about the high numbers of infants dying of AIDS-related illnesses in local clinics and the government's failure to provide AZT, which had at the time been shown to reduce the risk of HIV transmission from mother to child. In 1999, Dr Costa Gazi criticised the Minister for refusing to provide AZT to pregnant women living with HIV and said that she should be charged with manslaughter. As a result, he was charged with misconduct under section 20 of the Public Service Act, Proclamation 103 of 1994. It was argued that he had caused prejudice to the administration of the department.

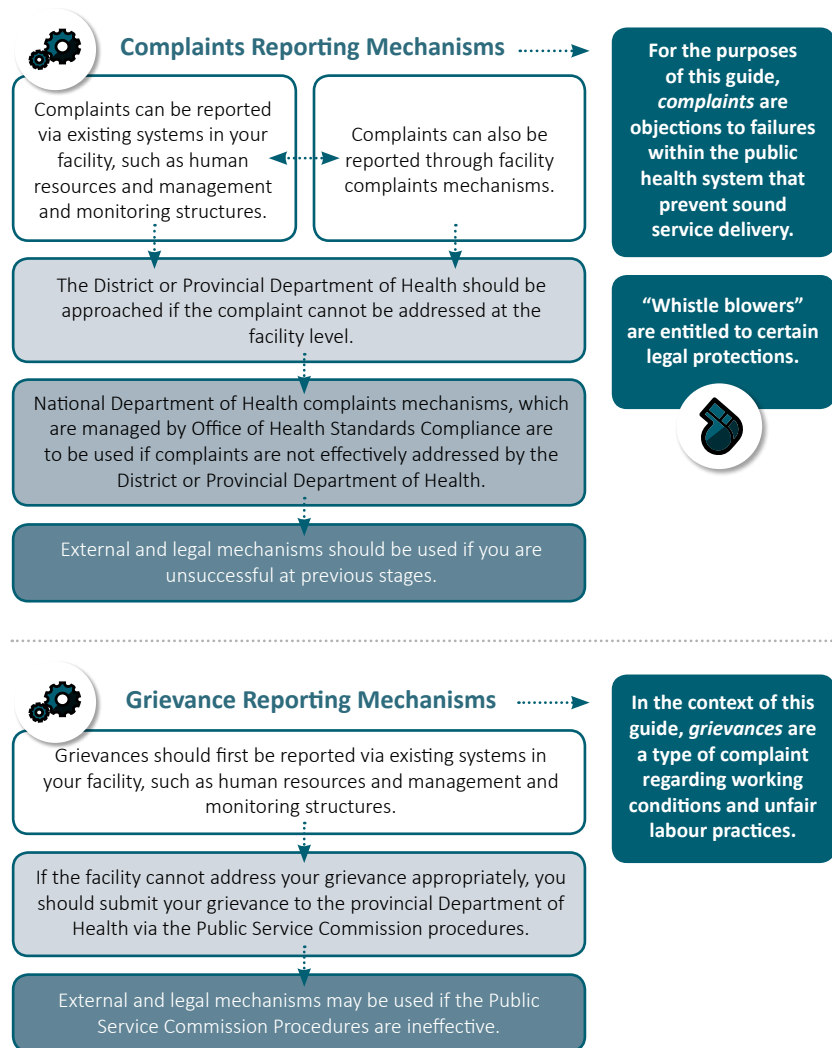
A disciplinary enquiry held in December 1999 found Dr Gazi guilty of violating section 20(f) of the Public Service Act, which states that an employee is guilty of misconduct if he or she publicly comments to the prejudice of the administration of any national or provincial department. Dr Gazi was warned not to repeat the same "unprofessional behaviour" and ordered to pay a fine of R1 000. Dr Gazi appealed. In March 2006, the Pretoria High Court in overturned the finding of misconduct against Dr Gazi. The Court held that, if the comments, or the widespread criticism of the policy not to supply AZT, caused any prejudice to the department, such prejudice already existed when the comments were made and there could therefore be no causal link between the appellant's actions and any prejudice the Department might have suffered.



# 4

## USING INTERNAL MECHANISMS TO RESOLVE AN ISSUE

This graphic shows the options you may have when reporting complaints and grievances. The guide goes into further detail on how and when to use these tools.



Using internal mechanisms to resolve an issue

There are many mechanisms available that you can use: the complaints mechanism, meetings, QI committees, clinic committees, hospital boards etc.

Usually quality improvement tools can be used to enhance the quality of patient care at a facility<sup>7</sup>. However, sometimes these tools prove not to work or your issue may be one that cannot be addressed by them. This section looks into the different steps you can take within the Department of Health to address problems in your facility. There are a number of reasons why it is often best to use internal procedures first before utilising the external mechanisms discussed in the next chapter:

- They are more likely to be able to be handled more quickly and effectively closer to home;
- Localized mechanisms are more accessible and the resolution of problems in your own environment can more easily lead to systemic change;
- The law often requires more localized mechanisms to be used before legal action is taken.

### 4.1 Clinical Governance and National Core Standards

In the event that you have a complaint, the first step is to look at the existing systems at your facility. It is often the case that governance issues are central to other problems you and your patients may be experiencing. There should be sound clinical governance procedures as clinical governance is an initiative to ensure health facilities have in place a system to support continuous improvement in the quality of care. This includes having policies and procedures to safeguard patient care and, importantly, promoting an organisational culture that encourages patients, visitors and staff to report any concerns they may have or make

suggestions for improvement.

There are policies, procedures and other mechanisms that can be used internally to raise alarm when patient rights are violated. Two examples of these tools are discussed below:

#### EXAMPLES OF OTHER INTERNAL MECHANISMS WHERE YOU CAN REPORT

“Morbidity and mortality (M&M) meetings are held on a monthly basis. Child health M&M and Maternal health M&M meetings are facilitated separately and can involve staff from PHC clinics in the district. Child health M&M is based on the Child Health Problem Identification Programme (CHIP), which is a computerised database of all children under 5 years old, admitted to the hospital.

M&M meetings are an extremely important part of clinical governance, in terms of reviewing difficult cases, clinical management and diagnoses, and need to be undertaken on a monthly basis. Holiday periods tend to disrupt continuity of care and this is the period when M&M meetings are often missed. The absence of routine M&M meetings at a facility is a sign of poor clinical leadership and should be addressed as a matter of urgency”.

- Dr Indira Govender

“Multidisciplinary team (MDT) monthly departmental meetings can be used as a forum where concerns specific to one discipline can be brought to light in front of the MDT and discussed in a non-time-pressured environment. Often, different disciplines (e.g. medical and nursing/ midwifery) have the same broad aim – the

<sup>7</sup>The Quality Improvement Guide 2012 can be downloaded here: <http://www.rudasa.org.za/index.php/resources/document-library/category/10-quality-improvement>

patient’s best interests – at heart, but have different approaches to that aim, which may cause conflict, confrontation and poor teamwork on a day-to-day basis. With the MDT at both senior and junior levels assembled in one place, these situations can be discussed and departmental policies drawn up with all key role-players present. It is important to involve junior members of each discipline, as these are the people who are at the coal-face of patient-care, and will have to act according to any policies drawn up”.

- Dr Adam Ashgar

### National Core Standards

#### NATIONAL CORE STANDARDS

- 1. Patient rights
- 2. Safety, clinical risk
- 3. Clinical support services
- 4. Public health
- 5. Leadership & corporate governance
- 6. Operational management
- 7. Facilities & infrastructure

It is a good idea to refer to the National Core Standards for Health Establishments when making a complaint. These standards are set by the Department of Health and every facility is expected to meet them.

The National Core Standards are structured into seven crosscutting domains; each domain is an area where quality or safety may be at risk as identified by the World Health Organisation. There are six priority areas linked to the first three standards which managers are expected to comply with in as short a time as possible. By referring to the National Core Standards, you can see what the expected standard of care or treatment is and what the criteria for meeting the standard is. The full set of National Core Standards can be found on the RHAP website<sup>8</sup>.

#### 6 PRIORITIES

- Patient Rights:**
  1. Values and attitudes
  2. Waiting times
  3. Cleanliness
- Patient Safety, Clinical Governance & Care:**
  4. Patient safety
  5. Infection prevention and control
- Facilities & infrastructure:**
  3. Cleanliness
- Clinical Support Services:**
  6. Availability of medicines and supplies

<sup>8</sup>The full set of National Core Standards can be found here: <http://www.rhap.org.za/advocate-for-improvements-using-the-national-core-standards-for-health-establishments/>

#### TIP

It is a good idea to reference a National Core Standard and how it affects patient health and safety.

#### Example: Using the National Core Standards to Assess Compliance

Domain 2: Patient Safety, Clinical Governance and Clinical Care

Sub-domain 2.4 Clinical Leadership.

The standard for clinical leadership is that “Doctors, nurses and other health professionals constantly work to improve the care they provide through the proper support systems” The criteria for meeting this standard is:

- 2.3.1.1 Health professionals are appointed as heads of department/sections, with clear job descriptions
- 2.3.1.2 There is a formal supervision programme for health professionals
- 2.3.1.3 Health professionals are responsible for setting up and managing a quality committee for the health establishment
- 2.3.1.4 Quality committee reviews are used by health professionals to continuously improve patient care.

If your facility lacks a formal supervision programme for health professionals, the establishment is not fully compliant with the standard.

<sup>9</sup>Access a copy of these guidelines on the RHAP website

### 4.2 Department of Health Complaint Mechanisms

The Department of Health recently revised its National Complaints Management Protocol<sup>9</sup>. Complaints management is a critical part of improving patient care. Besides assisting an individual patient, or his or her family to lay a complaint, as a health care provider you can also contribute to building a culture at your facility where patients who wish to complain about poor service are helped to do so and their concerns are properly addressed. More so, as a health care provider, you can actively advocate for the proper implementation of the NCMP.

#### 4.2.1 At facility level

1. There must be a **Complaints Manager** at each facility. The complaints manager can be the head of the facility or someone appointed by him/her.
2. There must be a **written complaints procedure** at each healthcare facility. This procedure must describe processes for:
  - *Lodging* a complaint;
  - *The acknowledgement* of complaints;
  - *The investigation* of complaints;
  - *The determination* of and *redress* for complaints; and
  - *Dealing with complaints in accordance with a set timeline.*
3. The complaints procedure must be **publicised** through:
  - **Displays:** Alongside the Patients’ Rights Charter at the entrances and exits of each facility there must be displays identifying the procedure.
  - **Materials:** The procedure must be made available and understandable in the form of pamphlets/booklets/posters in a language understood by users. These materials must be specifically proactively

- provided for first time users of a health facility.
  - **Posted Signs:** Visible signposting to where complaints are physically delivered is required.
- Each facility must establish a **Complaints Forum (see Annex for a template):**
    - There must be terms of reference for this forum, which explain how it operates; and
    - Meetings of this forum must be minuted and minutes made publically available.
    - Hospital Boards and Clinic Committees can assist in the process of addressing and resolving complaints.
  - Complaints form:**
    - The NCMP provides a standard template for complaints
    - Staff at facilities must make themselves available to assist users with complaints and must write their complaints down in the users own words if she or he cannot write
  - Acknowledgment** of complaints:
    - Must occur within **5 working days** in writing or telephonically, with a reference number for the complaint
    - Complainants must be informed how long they should wait for another response.
  - Appropriate action:**
    - Complaints should always be dealt with immediately, on the spot, if that is possible
    - Complaints that have serious consequences and are likely to happen again should be dealt with as matter of greater urgency
    - A “risk assessment” must be done immediately to determine the severity of the complaint and the likelihood of it recurring
  - Identifying System Failures:**
    - The complaints procedure and process should be aimed at dealing with specific problems and fixing systemic failures
  - Resolution:** the aim is to accomplish a “fair

- and reasonable resolution”. The resolution:
- Must be **completed and conveyed to the user within 25 working days** of the complaint being made. If as a result of the complexity of the complaint, it has not been resolved, the user must be provided with a progress report after 25 days.
  - Redress may include:
    - Apology;
    - Explanation;
    - Acknowledgement of responsibility;
    - Remedial Action, such as: Changing of initial decision or revising material or processes; and/or training of healthcare facility staff.
  - The outcomes of the investigation and the redress chosen must be communicated to the complainant and the **complainant must be provided with a written letter/report.**
- Complaints Register:** Each healthcare facility must maintain a detailed complaints register of complaints received and processed.

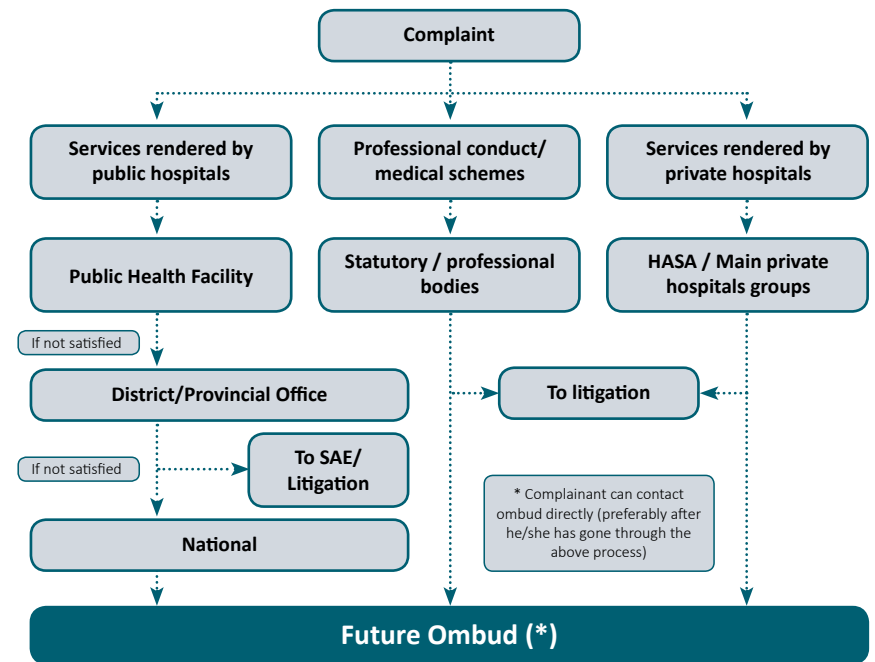


**Does YOUR facility have a mechanism to monitor recurrences of problems?**

The complaints protocol is not designed to address staff-specific grievances, nor complaints that relate more broadly to national health

policies. The figure below shows the complaint mechanisms for health care users per the National Department of Health.

**Current Systems for Managing Complaints**



Although each district and province may have slightly different procedures, the NCMP provides the standard for the management of complaints. Complaints can be received by any person who comes into contact with the health system, including health care personnel.

These types of complaints could relate to a doctor wanting to raise concern about the lack of an X-ray machine, the abuse of RWOPS by colleagues, medicine stock-outs etc. In most instances it is advisable to report the problem at the lowest level possible before escalating

an issue to the District, Provincial or National Department of Health, or seeking external assistance. As a member of personnel you are in a unique position to discuss poor service delivery and should first address the matter internally at your facility. You are advised to consider the following:

- Meet with the relevant party or immediate supervisor and state your concerns;
- Use available reporting and monitoring tools and structures, such as monthly mortality meetings; and
- Follow up in writing if there is no agreement or the agreed way forward is not adhered to. Get a witness if possible and appropriate.

There are exceptions, for instance when the trust relationship is broken, patients' lives are at risk and there is reasonable doubt that internal reporting will not yield the immediate results required, or when the situation is of such a volatile nature that you deem it to be more safe to report a matter anonymously.

If a complaint cannot be resolved at the facility, the complaint, whether by a patient or a health care provider, should be taken to the District or Provincial level or to external mechanisms. The next section discusses how to do this.

#### 4.2.2 At District or Provincial Level

If the complaint mechanism at facility level is dysfunctional, it is still recommendable for patients to lodge a complaint and keep a written copy or have a witness. As a health care provider you should then however advise them to also use other complaints mechanisms, (according to the NCMP) that a complainant is entitled to take the matter to the District Manager or Provincial Head of Health (PHOH). Each Provincial Department of Health should have appointed a complaints manager who assists the PHOH.

The Eastern Cape Department of Health has issued a policy document on Complaints Handling and Redress Mechanisms in order to institutionalise these procedures.

The policy document can be found at: <http://www.ecdoh.gov.za/uploads/files/250412112220.pdf> (Annexure B page 41).

#### 4.2.3 At National level: The Office of Health Standards Compliance

The National Department of Health has established the Office of Health Standards Compliance (OHSC), which will monitor and enforce the compliance with norms and standards by health establishments. The OHSC's main functions are to:

- Protect and promote the health and safety of people using health services;
- Act as a mechanism for complaints to be investigated and handled;
- Perform both advisory functions to the Minister; and
- Inspect and certify health establishments.

The OHSC protects the health of people using the health system by monitoring compliance by health establishments with National Core Standards. The OHSC has an Ombud that is appointed directly by the Minister and is independent and impartial and is required to investigate complaints.

After the investigation, the Ombud must write a report with recommendations and submit the report to the CEO of the OHSC. If the CEO doesn't take suitable action, the Ombud can escalate the matter to the Minister.

The Ombud has not yet been appointed at the time of writing and complaints received by the OHSC are currently referred to the relevant provincial Department of Health. It is critical that the OHSC appoint an Ombud urgently.

#### OVERVIEW OF SYSTEM FOR COMPLAINTS MANAGEMENT AT THE NATIONAL DEPARTMENT OF HEALTH:

- Complaints directed to Minister of Health, Director General or National Department of Health are registered on a national data base for categorization, analysis and tracking
- Urgent situations may at times demand the direct and immediate involvement of the Department of Health to resolve the problem
- Complaints received at the Department of Health are (i) referred to provincial Heads of Department for investigation, and (ii) reports on the outcome of the investigations are requested.
- Monthly reports are sent out to Heads of Department and Provincial Quality Assurance/Complaints Managers as a reminder of unresolved complaints.



#### TIPS FOR ADDRESSING PATIENT RIGHT VIOLATIONS AND COMPLAINTS

- Start as soon as possible
- Take stock of who you've already spoken to, including:
  - Your facility manager or clinical manager or CEO
  - Your colleagues
  - Other staff who may have witnessed the same issue
  - Your quality improvement committee
  - Your clinic committee
  - Your hospital board
  - Other?
- Document how the issue may affect your patients
- Document your prior attempts to improve the situation
- Document all your interactions/steps
- Seek assistance or advice if you feel alone
- Start a "complaints" file and keep everything in one place
- ORGANISE! ORGANISE! ORGANISE!
- Use this booklet to guide your decisions
- Ensure your compass is to act in the best interests of your patients.

Remember there is no "one-size fits all approach"; the best response to a problem depends on the context, available support from colleagues, relations with management and the urgency of the issue.

### 4.3 Grievances related to employment and unfair labour practices

If you have a work-related grievance, it is recommended that you address grievances as close to the source as possible, but if you are unable to resolve your grievance at the relevant health facility, you may approach the employee designated to facilitate the resolution of grievances in your Provincial Department of Health. A **“grievance” is a dissatisfaction regarding an official act or omission by an employer that adversely affects an employee in the employment relationship, excluding an alleged unfair dismissal.**

“The purpose of this grievance procedure is to advance sound labour relations and address grievances in the public service by fulfilling the primary objectives of this procedure which are-

1. to give effect to section 196 (4) (f) (ii) of the Constitution which empowers the Commission to investigate grievances of employees in the public service concerning official acts or omissions, and recommend appropriate remedies;
2. to give effect to section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), which empowers the Commission to make rules to deal with grievances;
3. to promote:
  - i) speedy, impartial and equitable handling of grievances;
  - ii) sound labour relations; and
  - iii) resolution of individual grievances at the lowest possible level in a department.”

You have 90 days from the date on which you become aware of the official act or omission to submit your grievance. The 90 days excludes the first day and includes the last day. You must adhere to these time limits unless you and the department mutually agree to extend the time limits.

Examples of official acts or omissions that could lead to grievances are:

1. Personal Evaluation;
2. Non-granting of notch increases;
3. Filling of posts;
4. Non-granting of merit awards;
5. Victimization; and/or
6. Discrimination/harassment (Public Service Commission Guidelines on New Grievance Rules 12 Aug 2004).

Your union can assist you on many of these issues.

**Step 1:** Find the person who is designated to facilitate the resolution of grievances in the Provincial Department of Health. In most cases this will be the Provincial Head of Health. Some provinces have set out procedures in provincial health acts. For more information, please see the appendix.

**Step 2:** Fill out the prescribed form<sup>10</sup> and put it to the attention of the person who is designated resolve grievances.

**Step 3:** The department has 30 days to respond to your grievance. This period may also be extended by mutual agreement in writing.

**Step 4:** If you are dissatisfied with the response to the grievance you must inform the department within 10 days AND the department must forward the grievance to the Public Service Commission.

If you are satisfied with the outcome of the review of the grievance then confirmation should be documented in writing

**Step 5:** If the department fails to respond to the grievance within the specified time frame then you can lodge the grievance directly with the Public Service Commission.

### Unfair Labour Practices

The Public Service Commission procedures for submitting a grievance also apply under the circumstances of an unfair labour practice.

Unfair labour practices include:

- Unfair suspension or other disciplinary actions less serious than dismissal; or
- Unfair conduct of the employer in relation to promotion, demotion, probation, providing training or supplying benefits.

In the event of an unfair labour practice, per the Public Service Act you are permitted to utilise the dispute resolution mechanisms provided for in the constitution of the Public Service Co-ordinating Bargaining Council or the Public Health and Social Development Sectoral Bargaining Council. If you choose to do this you should notify the Public Service Commission in writing as they should therefore not consider the grievance.

In the case of an unfair dismissal, you should follow the appeal procedure provided for in the Disciplinary Code and Procedure for the Public Service.

**Step 6:** Once the Commission has received all information from the executing authority, it must within 30 days consider such grievance and inform the department of its recommendation and the reasons for its decision in writing.

**Step 7:** On receipt of the Commission’s recommendation, the department must, within 5 days, inform you and the Commission of its decision in writing.

Please note that if you are using other channels while using the Public Service Commission procedures you are required to disclose this to the Department and the Public Service Commission.

It is **very, very important** that you keep a record of your steps and the agreed actions. It helps your case if you can:

- State a concern collectively, seek support and buy-in from colleagues;
- Provide evidence of how the situation deters patients’ access to health care or poses a direct threat to patient safety; and
- Refer to the rights and duties enshrined in the various pieces of legislation and policy; e.g. the National health Act, the Public Finance Management Act, PHC re-engineering policy.

### CASE STUDY: NOT GETTING PAID

A doctor did not receive his salary for several months after beginning work and when he did receive the first paycheck it was for 17% less than the amount he was due by contract. After unsuccessfully engaging with the facility and district management, he filed an Application for Conciliation with the Public Service Coordinating Bargaining Council and a subsequent request for arbitration. Arbitration can be a long process with mixed results but in some cases the result can be an order compelling the Department of Health to make payment. Alternatively you can approach your union for assistance.

<sup>10</sup>The form can be found at: [http://www.psc.gov.za/forms/Annexure14\\_2002.pdf](http://www.psc.gov.za/forms/Annexure14_2002.pdf)



#### TIPS FOR ADDRESSING EMPLOYER-EMPLOYEE RELATED GRIEVANCES

- Start as soon as possible
- Start as close to the point of origin as possible
- Ensure that you comply with the rules of regulations for submitting grievances per your chosen procedure
- Keep copies of all correspondence
- Record particulars of events e.g. dates, times, observations and relevant personnel
- Seek assistance legally or advisory if needed
- Relevant contact details can be found in the directory below



# 5

## USING EXTERNAL MECHANISMS TO RESOLVE AN ISSUE

Using external mechanisms to resolve an issue

Health advocacy organisations

South African Human Rights Commission

Public Protector

Professional Boards

Unions

Legal system

Depending on the situation at your facility and your personal circumstances, you may find it more suitable to seek external help for the issue at stake. There may be various reasons for this, such as:

1. You have used the internal channels and they did not function as they were supposed to;
2. There is an emergency that needs immediate action and you have reason to believe that the internal processes won't

3. There is a breakdown in the trust relationship at facility level or you may even be afraid for your own safety if you raise the issue locally.

If your grievance cannot be reported via the departmental procedures there are several other ways to seek a resolution. Patients can also use these mechanisms.

### CASE STUDY: STAFF SHORTAGES

In one rural hospital staff shortages and poor staff retention has made the maternal and postnatal wards ineffective units. A concerned health care provider was told by a Provincial Department of Health official that she was under no circumstances permitted to report staffing issues to the Provincial Department of Health. In addition, when she raised the issue at the Perinatal Problem Identification Meeting the response was not adequate.

In a situation like this there may be a need to use national mechanisms or even external mechanisms as this puts the life and health of patients at severe risk.

### South African Human Rights Commission<sup>11</sup>

The South African Human Rights Commission (SAHRC) is constitutionally required to promote, protect and monitor the realisation of human rights in South Africa. It investigates complaints from:

- Any person acting in his or her own interest;
- Any person acting on behalf of another person who cannot act in his or her own name;

- Any person acting as a member of or in the interests of a group or class of persons
- Any person acting in the public interest; or
- Any association or organisation acting in the interest of its members.

A complaint must be lodged at the Provincial Office of the area where the alleged violation of a fundamental right took place within three years of an alleged violation of a fundamental right. If the complaint is lodged after the expiry of three years it may be investigated if good cause is shown.

Complaints must contain:

- The full names of the complainant;
- physical address, postal address and phone numbers of the complainant;
- a copy of the complainant's identity document;
- the background of the complaint;
- the date and place of the violation;
- nature of the fundamental right;
- names and contact details for any person who may provide relevant information;

- information about any other mechanisms which have been used to resolve the complaint and the particulars of the people involved in that process;
- the recommended way in which the violation should be resolved; and
- any other relevant information that can assist the SAHRC in investigating the complaint.

### CASE STUDY: BASING COMPLAINTS ON FUNDAMENTAL RIGHTS

The Nqileni village lodged a complaint with the SAHRC about its lack of emergency medical services. The absence of an ambulance has led to a number of deaths and limited access to medical services for pregnant women.

The complaint was based on the failure of government to comply with section 27 and section 27(3) of the Constitution, which provides that "no one may be denied emergency medical treatment". The complaint is currently under investigation.

You should refer to the Bill of Rights in the Constitution to identify a fundamental right on which to base your complaint.

The SAHRC prefers complaints to be submitted in writing either on paper or via its website<sup>12</sup>, but it will also accept oral complaints by telephone or in person if the complainant cannot make a written submission or the complaint is a matter of urgency. You may submit the complaint in person, by facsimile, post, email or the SAHRC's online complaint form.

You can request that your particulars are kept confidential and not disclosed to any person outside of the SAHRC. You must provide a written statement explaining why the information should be kept confidential.

### Public Protector

The mandate of the Public Protector is:

- To strengthen constitutional democracy by investigating and redressing improper and

prejudicial conduct, maladministration and abuse of power in state affairs; resolving administrative disputes or rectifying any act or omission in administrative conduct through mediation, conciliation or negotiation;

- Advise on appropriate remedies or employ any other expedient means;
- Report and recommend; advise and investigate violations of the Executive Members Ethics Act of 1994; and
- Resolve disputes relating to the operation of the Promotion of Access to Information Act of 2000, and discharging other responsibilities as mandated by the certain legislation.

Any person can submit a complaint to the Public Protector, who will look at all sides of the problem and investigate the complaint. If

<sup>11</sup>For more information refer to *Government Gazette, 27 January 2012 No. 34963 Department of Justice, "Complaints Handling Procedures" South African Human Rights Commission*

<sup>12</sup>Online form can be found here: <http://www.sahrc.org.za/home/index.php?pkContentID=57>

the complaint is justified, he or she will seek a solution to the problem, which may include recommending changes to relevant systems. The Office of the Public Protector recommends that you first attempt to have your complaint addressed as close to the point of origin as possible.

The Public Protector can investigate the acts of government or its officials concerning improper prejudice suffered by the complainant or another person, for example as a result of:

- abuse of power;
- unfair, capricious, discourteous or other improper conduct;
- undue delay;
- the violation of a human right;
- any other cause brought about, or decision taken by the authorities;
- maladministration;
- dishonesty or improper dealings with respect to public money;
- improper enrichment; and
- receipt of improper advantage.

He or she will not investigate acts of private individuals or doctors who are not working for the state.

The National Office of the Public Protector is situated in Pretoria. Provincial Offices have been established in all provinces. Complainants will be expected to channel their complaints via the Provincial Office whenever complaints relate to provincial or local government. In order to submit a complaint you must write a letter with the following information:

1. The nature, background and history of the complaint;
2. The reasons why you feel the complaint should be investigated by the Public Protector;
3. The steps you have taken to solve the

problem yourself (if applicable). You should mention names of the officials you have been dealing with, on what dates, and what was said. Copies of any correspondence between you and the officials should be attached to your letter; and

4. A telephone number where you can be reached.

In some instances the Public Protector may require a statement under oath before investigating. If you are unsure whether your problem is something the Public Protector will investigate, or if you cannot write, you can phone the Public Protector's office. There are trained professional staff members who will listen to a complaint, big or small, and conduct investigations. In some cases the staff can help people to find quick solutions to their problems. The staff can also tell you where to complain if the Public Protector cannot help you. You could also visit the Office for an interview or consultation, if you prefer. It is better to write and ask for an interview in the letter instead of walking in and seeking an appointment. A complaint must be reported to the Public Protector within two years from the occurrence of the incident concerned.

### Professional Councils and Boards

If your grievance refers to ethical conduct or professional competence, professional councils or boards have mechanisms for receiving and reviewing complaints. The purpose of health councils is to protect and promote the public interest; they are accountable to the public, not the health practitioners. These councils include Health Professions Council of South Africa<sup>13</sup>, South African Nursing Council<sup>14</sup> and Allied Health Professions Council of South Africa<sup>15</sup>.

### CONTROVERSIAL MUSINA DOCTOR FINALLY GETS THE BOOT

The controversial clinical manager of the Messina Hospital, Dr Allick Dube, had been dismissed officially after complaints by staff, several humanitarian organisations and patients of the hospital about his alleged misconduct. These complaints were critical in this action. There were reportedly more than 64 complaints against Dube from the community alone. They claimed that Dube had been ill-treating patients by refusing them adequate care and medicine. One humanitarian organisation, Médecins Sans Frontières (MSF, also known as Doctors Without Borders), even compiled a report, which they filed with the Health Professions Council of South Africa (HPCSA).

Health care personnel registered with these councils are required to uphold prescribed ethical and professional standards.

According to the report, Dube refused to provide anti-retrovirals (ARVs) to rape victims, especially if they were from Zimbabwe. Apart from Dube's treatment of patients, the HPCSA was also provided with evidence that Dube had been convicted of involuntary manslaughter and had been barred from practicing medicine in the USA. He has been dismissed because the HPCSA had revoked his medical licence after that Dube had submitted false information upon applying for his medical licence.

### Unions

Unions also play an important role in addressing grievances and can act on your behalf in certain circumstances. For example:

DENOSA has a network of shop stewards in most health facilities. Should DENOSA members wish to report something, they would make a submission to the shop steward. Depending on the matter at hand, shop stewards are recognised by managers as representatives of DENOSA members. If a shop steward feels the issue is beyond her capacity, she can involve DENOSA regional elected leaders who would in turn also report to the Provincial Executive Structure.

SAMA has an Industrial Labour Unit, which provides members with advice and information on employment laws such as the Labour Relations Act, the Basic Conditions of Employment Act and Regulations that regulate aspects of employment in the public service and can represent members in certain labour disputes<sup>16</sup>.

### Legal System

If you are dissatisfied with the way your grievance has been handled, you may also seek recourse through the South African legal system. You should discuss this option with a qualified legal professional.

Depending on the circumstances, there are free resources available.

For example, if you have a complaint against a health establishment in regards to issues of unfair discrimination the complaint can be resolved through the Equality Courts. The Equality Court adjudicates complaints from any person acting in his or her own interest; any person acting on behalf of someone who cannot act in his or her own name, such a child; and any person acting as a member of, or in interest of, a group or class of persons. The Equality Court was created under "the Equality Act [, which] seeks to give effect to section 9 with item 23(1) of Schedule 6 to the Constitution of the Republic of South Africa,

<sup>13</sup>The Health Professions Council of South Africa Guidelines for Good Practice in Health Care Professions can be found here: [http://www.hpcsa.co.za/downloads/conduct\\_ethics/rules/generic\\_ethical\\_rules/booklet\\_1\\_guidelines\\_good\\_prac.pdf](http://www.hpcsa.co.za/downloads/conduct_ethics/rules/generic_ethical_rules/booklet_1_guidelines_good_prac.pdf)

<sup>14</sup>The South African Nursing Council Code of Ethics can be found here: <http://www.sanc.co.za/pdf/SANC%20Code%20of%20Ethics%20for%20Nursing%20in%20South%20Africa.pdf>

<sup>15</sup>The Allied Health Professions Council of South Africa Guidelines for Good Practice can be found here: [http://www.ahpcsa.co.za/pdf\\_files/faq/good-practice/Guidelines\\_for\\_good\\_practice.pdf](http://www.ahpcsa.co.za/pdf_files/faq/good-practice/Guidelines_for_good_practice.pdf)

<sup>16</sup>More details can be found on South African Medical Association website at: <https://www.samedical.org/industrial-relations.html>

Using external mechanisms to resolve an issue

1996, so as to prevent and prohibit unfair discrimination and harassment; to promote equality and eliminate unfair discrimination; to prevent and prohibit hate speech; and to provide for matters connected therewith.”

If you need assistance with any of these procedures, particularly if legal representation is needed, it is a good idea to contact a lawyer.

### Medical Protection Society

The Medical Protection Society (MPS) is a membership organisation that can provide you with assistance in the event of a legal problem. Members can approach MPS and obtain advice from professionals with medico legal

knowledge immediately and confidentially. Advice can be related to a wide range of issues, including: receiving a complaint, disciplinary procedures, HPCSA procedures and criminal procedures. If the situation requires legal representation, MPS provides a comprehensive service and will take care of all legal costs and compensation payments. Protection applies to all incidents that occurred while you were a member; therefore protection will apply if a claim is brought years after the event, even if you have ceased to remain a member of MPS.

Medical students and medical professionals can join for a fee. Further information can be found on the MPS website<sup>17</sup>.



### CASE STUDY: FOREIGN HEALTHCARE PROVIDERS IN SOUTH AFRICA

As a foreign healthcare provider, you also play an important role in ensuring that the South African health care system effectively provides all people with access to quality services. In some rural provinces, like Mpumalanga, more than half of public doctors are foreign qualified. In some cases foreign healthcare providers may be reluctant to speak out because:

- You are in South Africa on bilateral agreements and do not want to embarrass your government or even you signed a statement that you would not bring your government into disrepute;
- You are in South Africa on a work permit and are worried that your permit may not be extended if you speak out and are known as a troublemaker as a condition for a work permit extension is a local contract; and/or
- You feel that it is not appropriate to speak out as a guest in the country.

Doctors who are in these types of situations may feel vulnerable and unable to influence change in the health care system. This should not be a deterrent to speaking out. As with South African health care workers, you too have rights and the right to speak out. The procedures outlined in this manual can and should be used in order to address grievances.

It is a good idea to mobilize other health care providers to also speak out in order to ensure that you are not isolated and demonstrate strong support for change. In reality, speaking out in a group can be more powerful than speaking out alone as well as reduce the vulnerability of speaking out alone.

<sup>17</sup> www.Medicalprotection.org. More contact details can be found in chapter 8.

## 6

# ADVOCACY AND THE DIFFERENT ROLES OF HEALTH CARE PROVIDERS



### HOW CAN I ADVOCATE?

Healthcare workers can advocate for a better health system through different roles at different times:

- Representative (speaking for people)
- Accompanying (speaking with people)
- Empowering (enabling people to speak for themselves)
- Mediating (facilitating communication between people/organisations)
- Modelling (demonstrating practice to people and policy-makers)
- Negotiating (bargaining with those in power)
- Networking (building coalitions)

Health care providers can play different advocacy roles at different times, depending on the circumstances by:

- Being a representative and speaking for people
- Accompanying and therefore speaking with people
- Empowering thus enabling people to speak for themselves
- Mediating by facilitating communication

between people and/or organisations

- Modelling and demonstrating practice to people and policy-makers
- Negotiating in order to bargain with those in power
- Networking in order to build coalitions

Below are case studies that demonstrate the above



### CASE STUDY: EMPOWERING PATIENTS

Every year our Rehab unit organises a Christmas party for the children who attend our CP clinic. We write a letter to the local bus company asking them to transport the mothers and children to the venue. In the past they have been very generous and provided the transport free of charge. The letter has to go through the CEO's office and he/she also signs the letter. This year our new acting CEO put a spanner in the works and said that the letter had to go to Head Office to be signed. This was not an option as it would take months. So I decided to get the mothers who are on the CP clinic committee to write the letter to the bus company. There was no red tape stopping them! The rehab wrote a covering letter to verify who the mother was and that the Rehab unit was organising the party. This was an opportunity to empower them and also get them involved in the planning process. The red tape in our bureaucratic system trips me up so many times. This seemed a good way to get around this problem.

### CASE STUDY: STRIKE ACTION



Some nurses at a rural hospital started a go-slow in response to several issues with working conditions, primarily the impact of understaffing on the ability to provide health services. While they recognize the potential harm that could be caused by the go-slow, the facility has been under-resourced for a long time. Because of understaffing they have been unable to do outreach services all year – and not surprisingly these issues have contributed to lowered staff morale.

There are main two issues to address here:

The first is the issues of under staffing. The National Core Standards clearly state that an approved staffing plan must be in place. Using this criterion, it is a good basis on which to initiate a discussion with immediate supervisors and hospital managers.

The second issue is the right to strike. This is a complex issue because according to the Labour Relations Act, 1995 (Act 66 of 1995) health services are an essential service. This means that while health care providers can still exercise the Constitutional right to strike, a minimum level of services must be maintained. In order to define what this minimum level of services is a minimum service level agreement (MSLA) that balances the right to strike and the right to access health services must be made. However, the Minister of Health has been unwilling to negotiate such an agreement with the health worker unions and as a result workers are left without guidance as to how to strike.

Even in this situation a health care provider can start at the facility level. We recommend that the nurses and any other health care provider advocate for facility specific MSLAs that enable people to exercise strike rights and fulfil rights to access health. This should be developed when there is no need for strike action.

It may be difficult to negotiate a MSLA so you should have a discussion among the facility to determine how many personnel need to staff posts during a strike according to the needs and circumstances of your facility.



### CASE STUDY: COALITION BUILDING IN ACTION



Through the brave work of organizations like the Treatment Action Campaign and health care worker initiatives such as Save Our Babies, founded by Haroon Saloojee, Ashraf Coovadia & Keith Bolton, health care workers are today able to deliver the ARV drug Nevirapine in the public health care system freely. After years of resistance by Government, causing thousands of avoidable deaths and suffering, in April 2003 the Department of Health included PMTCT programs in their budgets. In November that year Cabinet resistance to a national ARV programme was broken. In April 2004, the public health system began rolling out treatment to people with AIDS.

Save Our Babies was started to declare the stance of paediatricians on HIV/AIDS issues, particularly in relation to children. The campaign arose from the perception that although paediatricians dealt with the effects of the HIV/AIDS epidemic on a daily basis, their opinions on these issues were not being effectively voiced and where they had been communicated to the Ministry of Health, their suggestions had been ignored.

The campaign collected 273 signatures of paediatricians and child health practitioners from around the country in support of the implementation of a mother to child transmission reduction programme and held a widely publicised march and press conference on World AIDS Day 2000. This serves as an example of what coalition building can do in the face of an unresponsive government.

Furthermore, Save our Babies, together with the Treatment Action Campaign and the Children's Rights Centre, filed a constitutional claim against government in order to compel the provision of Nevirapine to pregnant women. Economic, scientific, legal and moral arguments against the government policy were made through affidavits from a range of people, including the doctors and health professionals who were impacted by this policy. This played an important role in the success of the case as the input of doctors helped to shape the framework of a sound government policy with regard to PMTCT.

Due to the difficult position of health care providers when it comes to speaking out, it may be strategic to build partnerships with other organisations that can speak out. If you work in a rural area, you may decide to join one of the health care associations, such as the Rural Doctors Association of South Africa (RuDASA) and Rural Rehab South Africa (RuReSA), who can speak on behalf of health care providers without necessarily disclosing the identity of its members. You may also consider approaching a health care user activist organisation such as the Treatment Action Campaign for assistance. Without revealing your identity, such

organisations can put pressure on decision-makers to fix the problem that your patients are experiencing. Ideally you should be able to report this without fear but reporting can be done anonymously / confidentially. Indeed, health care provider/civil society collaboration can be very a strategic way for health care providers to address violations of patients' rights. Examples of strategic partnerships in action are:

Eastern Cape Health Crisis Action Coalition (EHCAC): Founded in June 2013, the EHCAC is a coalition of over 25 organisations working towards the realisation of the right to health

in the Eastern Cape, bringing together activist organisations such as the Treatment Action Campaign with health care provider organisations such as RuDASA, South African Medical Association (SAMA), DENOSA, Professional Association of Clinical Associates in South Africa

(PACASA) and RuReSA. Health care providers share information on challenges and solutions and these are taken up by the coalition as a whole.



### CASE STUDY: HEALTH CARE WORKER CAMPAIGN

In 2008, Manguzi doctor Colin Pfaff was facing misconduct charges from the Department of Health for implementing dual therapy to save babies from HIV. Pfaff had widespread support from health care providers for his implementation of improved prevention of mother to child transmission (PMTCT) regimens in a rural area. The charges sparked a huge outcry countrywide and a large petition, coordinated by Dr David Cameron, as well as letters, emails and meetings at multiple levels by from the HIV Clinicians Society, South African Medical Association, the Rural Doctors Association of SA, the AIDS law Project and the Treatment Action Campaign contributed to the withdrawal of charges. It was one of the largest health care worker campaigns ever seen in South Africa.

**Rural Health Advocacy Project:** Was established in 2009 as a partnership between RuDASA, SECTION27 and Wits Centre for Rural

Health, and provides a channel for health care workers to speak out. One of the objectives of the RHAP is to assist, advise and refer rural health care workers when faced with health care delivery challenges at the coalface.



### CASE STUDY: ARV CLIENT

The RHAP assisted an East London based doctor whose manager refused to allow her to conduct outreach services to outlying rural clinics, even though her own urban clinic was well staffed. Two weeks after the RHAP wrote to the Eastern Cape Department of Health, the doctor received approval to conduct support visits. As a result the doctor soon visited 5 clinics, ranging from 30 km to 90 km outside East London, which all serve rural communities. The outreach doctor sees about 450-500 patients a month. During these visits the doctor reviews the provision of chronic meds (including ARVs), acute patients, problem ARV clients who are referred by Nurse Initiated and Managed Antiretroviral Treatment nurses. The doctor trains nurses on the spot and receives calls approximately 4 times a day from nurses wanting advice.

**Stop Stock Outs Project (SSP).** This is a consortium between the SA HIV Clinicians Society, RuDASA, RHAP, MSF, Treatment Action Campaign (TAC) and SECTION27. The SSP has established a website and on-line reporting tools for essential medicines, and health care providers can report drugs shortages to the SSP which subsequently contacts the relevant stakeholders to problem resolution.

Whereas the ECHCAC and RHAP are larger-scale coalitions, there is a lot that can be done at local level through community-based organisations.



#### TIPS BEFORE DECIDING WHICH ACTION TO TAKE WHEN RAISING A CONCERN OR SPEAKING OUT:

- What type of problem do I have? E.g. is it a human resources issue? A problem with equipment? Or a potential case of corruption or fraud?
- Is this response the appropriate response- will it have counterproductive consequences? What are alternative methods?
- Is it ok to address this problem alone, or would a group action be more effective?
- Did I use the internal communication channels / available systems, procedures and to advocate for improvements/
- Do I have the key facts?

The next section has the details of organisations and groups that may be able to assist you in answering these questions.



## 7

# ORGANISATIONS THAT CAN ASSIST HEALTH CARE PROVIDERS WITH ADDRESSING AND AVOIDING HEALTH CARE FAILURES

Organisations that can Assist Health Care Providers

## Public Interest Organisations

### Rural Health Advocacy Project (RHAP):

RHAP was established in 2009 as a partnership between RuDASA, SECTION27 and Wits Centre for Rural Health, and provides a channel for health care workers to speak out. RHAP can provide assistance in your pursuit to advocate for improved access to high quality, comprehensive health care services in rural areas.

Physical Address: 1Sixty Jan Smuts Avenue, Rosebank, 2nd floor North Tower  
 Website: [www.rhap.org.za](http://www.rhap.org.za)  
 Email: [info@rhap.org.za](mailto:info@rhap.org.za)  
 Phone: 011 356 4100

### Rural Doctors Association for Southern Africa:

The vision for RuDASA is for all rural people in Southern Africa to have access to quality health care. RuDASA strives for the adequate staffing of rural health services by appropriately skilled medical staff and to be a voice for the rural doctor regarding training and working conditions.

Website: [www.rudasa.org.za](http://www.rudasa.org.za)  
 Email: [info@rudasa.org.za](mailto:info@rudasa.org.za)  
 Phone: 021 938 9108

### SECTION27:

SECTION27 is a public interest law centre that seeks to influence, develop and use the law to protect, promote and advance human rights.

Physical Address: 23 Jorissen Street, Braamfontein Centre, 5th Floor  
 Website: [www.section27.org.za](http://www.section27.org.za)  
 Email: [info@section27.org.za](mailto:info@section27.org.za)  
 Phone: 011 356 4100

**Budget and Expenditure Monitoring Forum (BEMF):** BEMF is a group of civil society organisations that monitors the National Strategic Plan on HIV and AIDS 2007-2011 (better known as the NSP)

Physical Address: 23 Jorissen Street, Braamfontein Centre, 5th Floor  
 Website: [www.section27.org.za](http://www.section27.org.za)  
 Email: [info@section27.org.za](mailto:info@section27.org.za)  
 Phone: 011 356 4100

### Medecins Sans Frontiers South Africa (MSF):

Since 2000 MSF has been working in South Africa, primarily in response to the HIV and TB epidemics and working to increase access to healthcare for vulnerable migrants. MSF South Africa also supports MSF programmes in the region by providing medical expertise, including specific medical training for MSF field staff.

#### Johannesburg

Physical Address: 3rd Floor, Orion Building 49 Jorissen Street, Braamfontein  
 Website: [www.msf.org.za](http://www.msf.org.za)  
 Email: [office-joburg@joburg.msf.org](mailto:office-joburg@joburg.msf.org)  
 Phone: 011 403 4440

#### Cape Town

Physical Address: Unit 23B, No 14 Waverly Business Park, Wyecroft Road, Mowbray  
 Website: [www.msf.org.za](http://www.msf.org.za)  
 Email: [samunews@joburg.msf.org](mailto:samunews@joburg.msf.org)  
 Phone: 021 448 3101

### Treatment Action Campaign (TAC):

TAC's mission is to ensure that every person living with HIV has access to quality comprehensive prevention and treatment services to live a healthy life. The Treatment Action Campaign (TAC) advocates for increased access to treatment, care and support services for people living with HIV and campaigns to reduce new HIV infections.

You can report challenges in the health care system like drug shortages affecting HIV and TB patients to TAC representatives.

#### Umgungundlovu

Physical Address: Office 28, Perks Arcade Building, 197 Langalibalele Street, Pietermaritzburg 3201  
 Phone: 033-394-0845

#### Lusikisiki

Physical Address: Embassy building, room 18, Jacaranda Street, Lusikisiki 4820  
 Phone: 039 253 1951

**Rural Rehab South Africa (RuReSA):**

RuReSA is a newly formed interest group for rehabilitation professionals who have an interest in rehabilitation in rural places. Members have the chance to input on policy, give and receive personal and professional support, work with universities to promote rural-friendly curricula and encourage students to go rural.

Website: [www.ruralrehab.co.za](http://www.ruralrehab.co.za)  
 Email: [kate.sherry@gmail.com](mailto:kate.sherry@gmail.com)

**The Professional Association of Clinical Associates in South Africa (PACASA):**

PACASA is a non-statutory, non-profitable organisation for clinical associate professionals. The mission of PACASA is to: strive for advocacy and recognition of the profession; promote and sustain the credibility of the profession; ensure medico-legal cover for members; and encourage continuing professional development

Website: [www.clinicalassociate.co.za](http://www.clinicalassociate.co.za)

**Southern African HIV Clinician Society:**

The Society advocates for the highest quality HIV care for people living with HIV, and is a powerful and independent voice within Southern Africa, with key representation from the most experienced and respected professionals working in the fight against HIV.

Physical Address: 112 Algernon Rd, Norwood 2192  
 Website: [www.sahivsoc.org](http://www.sahivsoc.org)  
 Email: [sahivsoc@sahivsoc.org](mailto:sahivsoc@sahivsoc.org)  
 Phone: 011 728 7365

**Eastern Cape Health Crisis Action Coalition (ECHCAC):**

Founded in June 2013, the ECHCAC is a coalition of over 25 organisations working towards the realisation of the right to health in Eastern Cape.

Email: [echcac@gmail.com](mailto:echcac@gmail.com)  
[Facebook.com/Echealthcrisis](https://www.facebook.com/Echealthcrisis)

**Stop Stock Outs Project:**

MSF, the RHAP, RuDASA, SA HIV Clinician's Society, SECTION27 and the TAC have launched a national Stop Stock Outs Project to assist the thousands of health care users whose lives remain threatened by the chronic plague of essential medication stock outs.

The Stop Stock Outs Project will crowd source stock-out reports from patients, healthcare workers and sentinel surveyors, mapping the reported cases and tracking specific issues. All reports will be escalated through the supply chain and resolution sought through the direct engagement of civil

society with accountable government individuals and entities. You can contact the Stop Stock Outs Project to report stock outs by sending an e-mail, filling out its online form, or calling, sending an sms or please call me or a whatsapp message to its phone.

Website: [www.stockouts.org](http://www.stockouts.org)  
 Phone: 084 855 STOP (7867)  
 Email: [report@stockouts.co.za](mailto:report@stockouts.co.za)

**Black Sash:**

The Black Sash has engaged in ongoing advocacy for civil society to effectively engage corruption undermining our public and private sectors, for the reform of competition legislation to ensure more accountability companies implicated in collusion, particularly with respect to basic food and services.

To lodge a complaint with the Black Sash one can call the helpline: 072 663 3739

**Cape Town Regional Office**

Physical Address: Black Sash National Office, Elta House, 3 Caledonian Road, Mowbray, 7700  
 Tel: +27 21 686 6952  
 Fax: +27 21 686 6971  
 Email: [info@blacksash.org.za](mailto:info@blacksash.org.za)

**Port Elizabeth Regional Office**

Physical Address: 1st Floor, Dorsham House, Cnr Elizabeth & 384 Govan Mbeki Ave, North End, Port Elizabeth, 6001  
 Tel: +27 41 4873288  
 Fax: +27 41 4841107  
 Email: [portelizabeth@blacksash.org.za](mailto:portelizabeth@blacksash.org.za)

**Durban Regional Office**

Physical Address: Diakonia Centre, 20 Diakonia Street (previously St Andrews Street), Durban, 4001  
 Tel: +27 31 3019215  
 Fax: +27 31 3052817  
 Email: [durban@blacksash.org.za](mailto:durban@blacksash.org.za)

**Gauteng Regional Office**

Physical Address: Khotso House, 1st Floor, 25 Anderson Street, Johannesburg 2001  
 Postal Address: P. O. Box 2827 Gauteng, 2000  
 Tel: +27 11 8348361/5  
 Fax: +27 11 4921177  
 Email: [gauteng@blacksash.org.za](mailto:gauteng@blacksash.org.za)



**African Centre for Migration and Society (ACMS):**

The ACMS is an independent, interdisciplinary and internationally engaged Africa-based centre of excellence for research and teaching that shapes global discourse on human mobility, development and social transformation. The ACMS is one of the continent's leading institutions for research, teaching and outreach on migration.

Physical address: Room 6, South West Engineering Building,  
East Campus, Univ. of the Witwatersrand Johannesburg, South Africa  
Phone: 011 717 4033  
Website: [www.migration.org.za](http://www.migration.org.za)  
Email: [info@migration.org.za](mailto:info@migration.org.za)

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**Lawyers for Human Rights (LHR):**

LHR is an independent human rights organisation with a 30-year track record of human rights activism and public interest litigation in South Africa. LHR uses the law as a positive instrument for change and to deepen the democratisation of South African society. To this end, it provides free legal services to vulnerable, marginalised and indigent individuals and communities, both non-national and South African, who are victims of unlawful infringements of their constitutional rights.

Website: [www.lhr.org.za](http://www.lhr.org.za)

**Durban**

Physical address: Room S104, Diakonia Centre, 20th Diakonia Avenue  
(formerly St. Andrews Street) 4001  
Phone: 031 301 0531

**Johannesburg**

Physical address: 4th Floor Heerengracht Building, 87 De Korte Street corner Melle Street,  
Braamfontein  
Phone: 011 339 1960

**Musina**

Physical address: 18 Watson Avenue, Musina, 0900  
Phone: 015 534 2203

**Pretoria**

Physical address: Kutlwanong Democracy Centre, 357 Visagie Street  
Phone: 012 320 2943

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**Legal Resources Centre (LRC):**

The LRC is a public interest law centre that is committed to a fully democratic society based on the principle of substantive equality and to ensure that the principles, rights and responsibilities enshrined in our national Constitution are respected, promoted, protected and fulfilled. You can seek legal advice from the LRC regarding a number of issues, such as labour related challenges,

unfair discrimination and corruption.

Website: [www.lrc.org.za](http://www.lrc.org.za)

**Cape Town**

Physical Address: 3rd Floor, Greenmarket Place, 54 Shortmarket Street, Cape Town  
Phone: 021 481 3000

**Durban**

Physical Address: N240 Diakonia Centre, 20 Diakonia Avenue, Durban  
Phone: 031 301 7572

**Grahamstown**

Physical Address: 116 High Street, Grahamstown  
Phone: 046 622 9230

**Johannesburg**

Physical Address: 15th Floor, Bram Fischer Towers, 20 Albert Street,  
Marshalltown, Johannesburg  
Phone: 011 836 9831

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**Legal Aid South Africa:**

Legal Aid South Africa derives its mandate from section 35 of the Constitution. In terms of this section, every person who is arrested, detained or accused has a right to a fair trial, which includes the right to have a legal practitioner assigned by the State and at State expense. You can report corruption in the health care system, but this will be only after they have exhausted all the methods of reporting within the health establishment and they have not been satisfied with how the issues have been dealt with.

Phone: 0800 110 110 (toll free)

Website: [www.legal-aid.co.za](http://www.legal-aid.co.za)

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**Corruption Watch:**

Corruption Watch is a non-profit organisation launched in January 2012 that uses reports of corruption as an important source of information to hold leaders accountable for their actions. Corruption Watch provides a platform for reporting corruption. Anyone can safely share what they experience and observe and can speak out against corruption. You can report corruption issues in the health care system

Website: [www.corruptionwatch.org.za](http://www.corruptionwatch.org.za)

Email: [info@corruptionwatch.org.za](mailto:info@corruptionwatch.org.za)

Phone: 011 447 1472

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**Centre for Applied Legal Services (CALs):**

The mission of CALS is to use the law to implement and protect the human rights of individuals; facilitate the speedy development of a politically and economically just and sustainable society; challenge systems of power and act on behalf of the vulnerable through a combination of litigation, advocacy and research; and act with courage against impunity.

Physical Address: DJ du Plessis Building, West Campus, University of the Witwatersrand  
Braamfontein, Johannesburg  
Website: <https://www.wits.ac.za/law/cals/16858/home.html>  
Email: [Dudzile.Mlambo@wits.ac.za](mailto:Dudzile.Mlambo@wits.ac.za)  
Phone: +27 11 717 8600

**Medical Protection Society (MPS):**

MPS is a membership organisation that provides medical professionals with medicolegal advice and representation. You can use the following contact details to seek advice. For membership you should visit the MPS website.

Website: [www.medicalprotection.org](http://www.medicalprotection.org)  
Email: [medical.rsa@mps-group.org](mailto:medical.rsa@mps-group.org)  
Phone: 0800 982 766

**Health Care Workers Unions****South African Medical Association (SAMA):**

The South African Medical Association (SAMA) is a non-statutory, professional association for public and private sector medical practitioners. Registered as an independent, non-profit Section 21 company SAMA acts as a trade union for its public sector members and as a champion for doctors and patients. On behalf of its members, the Association strives for a health care dispensation that will best serve their needs.

SAMA membership is voluntary, with some 70% of public and private sector doctors in South Africa currently registered as members of SAMA. The SAMA head office is situated in Pretoria, South Africa.

Physical Address: South African Medical Association,  
Block F Castle Walk Corporate Park,  
Nossob Street, Erasmuskloof Ext3, Pretoria  
Website: [www.samedical.org](http://www.samedical.org)  
Email: [online@samedical.org](mailto:online@samedical.org)  
Phone: 012 481 2000

**The Junior Doctors Association of South Africa (JUDASA):**

Judasa is a special interest group of SAMA. It provides a forum for medical students, interns and community service doctors to interact and promote their interests. These include issues concerning internship, compulsory community service and conditions of service. Judasa is represented on National Council of SAMA where the particular interests of this grouping are addressed at a broader level.

National Education and Health Allied Workers' Union (NEHAWU): NEHAWU struggles for union recognition, a living wage and a free and democratic South Africa. NEHAWU is the biggest Public Sector Union and the biggest in the Public Service Coordinating Bargaining Council, a negotiations structure for public service employees in South Africa.

**National Office**

Physical Address: 56 Marshall Street, Marshalltown, Johannesburg  
Website: [www.nehawu.org.za](http://www.nehawu.org.za)  
Phone: 011 833 2902

**Democratic Nursing Education Organisation of South Africa (DENOSA):**

DENOSA supports, represents and develops its members as the backbone of South African health care.

Physical Address: 605 Stanza Bopape Street, Pretoria  
Website: <http://www.denosa.org.za/>  
Email: [info@denosa.org.za](mailto:info@denosa.org.za)  
Phone: 012 343 2315/6/7

**Health & Other Services Personnel Trade Union of South Africa (Hospersa):**

Hospersa is a trade union for employees in the Public Service as well as in the private sector. Hospersa also organises members in nongovernmental organisations and parastatals. Visit the website for region specific details.

**National Office**

Physical Address: Strangeways Office Park, 6 Delamore Road, Hillcrest, 3610  
Website: [www.hospersa.co.za](http://www.hospersa.co.za)  
Email: [hillcrest@hospersa.co.za](mailto:hillcrest@hospersa.co.za)  
Phone: 031 765 4625

Below are references and links to some of the original websites.

All documents additionally can be accessed on the RHAP website [www.rhap.org.za](http://www.rhap.org.za)

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**1** Introduction and Quick Guide to reporting healthcare challenges

**2** Legal Foundations

**3** Raising concerns and whistle-blowing in order to improve health standards

**4** Using internal mechanisms to resolve an issue

**5** Using external mechanisms to resolve an issue

**6** Advocacy and the different roles of health care providers

**7** Organisations that can Assist Health Care Providers with Addressing and Avoiding Health Care Failures

**8** References