

MEDIA RELEASE by:

The Federation of South African Surgeons (FoSAS); the South African Medical Association (SAMA); the South African Private Practitioners Forum (SAPPF); and the South African Society of Anaesthesiologists (SASA)

Dated today, Friday, September 25, 2020 at 2pm

Subbed on September 25. For final approval

Health care workers call for accountability and action

To restore the confidence of health care workers in the legislature of South Africa and to avoid the destruction of any semblance of a functional health system.

Note to editors: the medical groups issuing this statement represent the vast majority of general practitioners and specialists in South Africa's public and private health care sectors. Attached to this statement are memoranda issued on March 18, 2020.

Perspective History – December to March 2020

In December 2019, two medical practitioners were arrested, hand-cuffed and charged with culpable homicide. This related to a severe complication of medical care that resulted in the death of a child. The warrants of arrest were issued prior to the initiation of any inquiry or inquest by either the Health Professions Council of South Africa (HPCSA) or the Department of Public Prosecutions (DPP).

At the time, the medical fraternity, and in particular the above-mentioned representative societies expressed serious concerns about the implications of these actions on all health care practitioners and the national health care system.

These concerns, inter-alia, related to:

1. The continued failures of the HPCSA to carry out its own purported mandate of “protecting the public and guiding the professions” resulting in mistrust of process and timeous address of complaints by both the public and the professions.
2. The failure of the criminal justice system to recognise the precepts and intentions of Inquiry through the HPCSA as well as enabled in the Inquest Act 58 of 1959 as last amended in Act 145 of 1992, and the failure to implement these.
3. The lack of intervention by the Minister and Department of Health to ensure health care professionals can continue to provide medical care, which inherent in its provision is the risk of medical morbidity and mortality. This lack of intervention has resulted in a direct threat to the provision of health care across the entire health care system.
4. The stance and action taken by private facilities and their groups that suspension of practitioners is better for patient care and legal protection (in a resource constrained environment) than measured engagement that allows for better review and decision making. We are cognisant that some of this is as a direct result of failures of the HPCSA.

The treatment of South African health care professionals as common criminals prior to inquiry is untenable. The collective concerns for the national health care asset include a reticence for young South Africans to choose medicine as a career choice; avoidance of complex and high risk interventions in providing medical care (that leaves high risk patients without access to medical care); and an exodus of health care professionals from the country. These are all based on fear of arrest for recognised complications.

A failure to address these concerns represents a real and tangible threat to our national health care asset and therefore a threat to the goal of achieving universal health care.

On March 18, 2020, the above-mentioned societies issued memoranda to the Department of Justice and Director of Public Prosecutions; the Minister and Departments of Health; Facility Groups through the Hospital Association of South Africa and Day Hospital Association of South

Africa; and the HPCSA. They copied The Presidency on all these memoranda that were aligned to the precepts of the Presidential Health Summit.

These memoranda (copies attached) called for:

- A review of processes instituted in the recent case/s;
- Commitment to procedural process and fairness;
- Actions to prioritise patient clinical and safety complaints through the HPCSA;
- Recognition of the threat to national healthcare should precedent of assumed criminal liability be set or adopted;
- A review of HPCSA structures to serve patients and the profession better.

As a united group, the member societies made recommendations and invited collaboration in finding solutions to the current crisis.

The memoranda were submitted two weeks before South Africa went into Covid-19 Level 5 lockdown. Delays in responding to them is understandable as the nation faced the pandemic head-on. It must be noted that health care workers invested heavily in selflessly combating Covid-19 and sacrificed much to save lives. However, months of non-engagement is unsatisfactory.

Despite the united societal grouping having every confidence that the respective parties would engage constructively and expeditiously, to date only the Director of Public Prosecutions and the Health Professions Council have responded. Both these responses avoided action or dedication to addressing the concerns raised.

Today

On 17 September 2020, Dr Abdhulay Munshi, our respected and dedicated colleague was murdered. Learning of the murder of a much admired and respected colleague has pushed the

health care workforce to breaking point. It follows on from the assault and attack on a number of health care workers by the public and families of patients over the past year. The health care workers are insistent on action and response to the 18 March 2020 memoranda.

Until investigations and judicial processes have run their course, it's impossible to speculate on who killed Dr Munshi or why he was killed. The above-mentioned organisations call again on the authorities to effectively and quickly investigate his death and bring to book person/s responsible for killing him and to ensure investigation and action in all such attacks on healthcare workers.

South Africa's health care workers are afraid to practice, and are afraid for their lives. Yet their dedication to delivering quality health care remains firm. They encourage best practice and absolutely support investigations into patient harm. However, it's increasingly difficult to deliver health care to the nation while health care workers feel besieged.

The organisations cannot but wonder if the failure of structures that received the memoranda referred to here have perpetuated and permitted the belief that criminal action may be reasonable, justified and acceptable in any number of reported cases of health worker assault. In the Beale and Munshi case, there is every possibility that facts will come to light that will show objectively that these respected clinicians were not guilty of gross negligence or misconduct.

The health care organisations call on South African citizens and in particular the media, to finally accept and acknowledge the ramifications of the murder of Dr Munshi:

- First, it is an execution of a father, a husband, a respected medical professional and someone who spent a majority of his adult life helping people
- Second, it represents a lawlessness accepted by our society that threatens the health care asset which requires extreme dedication to qualify and to practice. Dr Munshi's case is not the only such incident

- Third, if related to any patient complication that may have occurred in the past, it represents mob justice outside of any semblance of a reasonable justice system
- Fourth, it represents a direct attack on the fragile health care asset – where medical professional or health worker numbers are already too low

Trial by media, presenting our colleagues as common criminals and offering strong opinions without an understanding of medical complexities, have at least some responsibility in this outcome.

In summary:

- The profession of medicine and surgery is unique – it requires injury to be inflicted in order to heal. Inquest and inquiry allow for interrogation of complex medical matters to understand the causes. Demanding due process does not place doctors above the law but enables fair treatment for the practice of a unique profession.
- Law and mechanisms are already in place for inquest into any medical complication in an expeditious manner. The HPCSA must prioritise clinical patient related inquiries and come to findings with speed.
- There is a failure of interdepartmental collaboration and communication between the Ministry of Health, the Ministry of Justice, the Department of Public Prosecutions, the HPCSA and The Presidency in this matter
- The absence of efficient regulators, in particular the HPCSA, forces some private or public facilities to act as quasi-regulators. This is damaging to clinicians and facilities and serves to undermine quality patient care. Our regulators and prosecuting authorities must fulfill their mandate and expedite inquiry and inquest.
- The majority of functional healthcare systems globally have established procedures and mechanisms to ensure no medical professional reaches criminal prosecution without clear evidence of reckless negligence.

Our call to action for media and the citizenry is simple

If the public fails to hold these structures to account; demand answerability, rapid action and a mandated procedural solution; the prosecution of ingenuous health care workers will have dire consequences for South Africa's healthcare asset. Without immediate action and intervention to restore the confidence of health care workers in regulators and the justice system of our country, we will witness the destruction of any semblance of a functional health system – public and private.

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