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Seven year overview (2007–2013) of ethical transgressions by registered healthcare professionals in South Africa

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ABSTRACT

A move has taken place internationally in the delivery and "consumption" of health care where if clients and patients (health care consumers) hold the opinion that the health care professionals/providers' behaviour has had a negative effect, impact or outcome on them, they may lodge a complaint with the relevant health professional regulatory body. Ethical transgressions of health care providers can generally be clustered into the following three categories: a) Competence and conduct with clients (e.g. abandonment, sexual intimacies, dishonesty, disclosure of information); b) Business practices (e.g. billing, reports, documentation); and c) Professional practice (e.g. referral upon termination, obtaining appropriate potential employment opportunities, nonprofessional relationships).

The primary objective of this study was to analyse the ethical transgressions of registered members of the twelve professional boards in the Health Professions Council of South Africa (HPCSA) in the period 2007 to 2013. A mixed methods approach was followed in this study which specifically focused on a historical research approach.

The results indicate that the boards with the highest number of transgressions per the registered practitioners were firstly the Medical and Dental practitioners, closely followed by the Optometry and Dispensing Opticians Board. The predominantly complaint made against members of both these boards was for fraudulent conduct (collectively totalling to 85% of all fraudulent cases during the period) and included actions such as charging for non-rendered services, issuing false statements and submitting fraudulent medical aid claims.

Cognisance needs to be taken that the South African public will increasingly demand better services and that since they are being better informed via the media of their rights and have access to a broader database of knowledge (rightly or wrongly so the internet) practitioners' opinions will not necessarily be accepted outright and that they (the public) will challenge it accordingly. This raises the concern that practitioners need to take on the responsibility to communicate with their patients/clients in order to educate them and keep them informed.

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1. Introduction

There is an international trend towards consumerism in healthcare settings, especially seen against the rise in private healthcare provision (Fischer, 2015). In many countries this is complemented with advances in human rights principles being imposed around a more patient-centred approach to healthcare (Tritter, 2009). The change from paternalistic healthcare models to a patient-participation model is underpinned by a rights-based approach which focuses on rights and reciprocal duties (also called obligations or prohibitions). Central to this approach is the assumption that patients have rights (e.g. rights to privacy, confidentiality and physical integrity) that can be enforced and that healthcare professionals have a duty to respect and uphold (Tritter, 2009). Thus, it is no surprise that patients who seek medical assistance and/or care have become increasingly well-informed about their rights, as well as the responsibilities and obligations of those providing care. A significant contribution to this awareness is the ever-expanding influence of printed and electronic media where information enables patients to pose educated questions, to become more sophisticated consumers, and to appropriately address healthcare professionals' errors and/or misconduct (Thomas, 2005). As such, many patients ("healthcare consumers") are increasingly becoming aware of the structures and processes to lodge a complaint with relevant health professional regulatory bodies when they are of the opinion that healthcare professionals' ("healthcare providers") behaviour have had a negative effect, impact or outcome on them.

In South Africa, the Health Professions Council of South Africa (HPCSA) is a statutory body which was established in terms of the Health Professions Act (No 56 of 1974) to regulate the behaviour of professionals, and which is committed to serving and protecting the public and offering guidance to registered healthcare professionals (Nortjé & Hoffmann, 2015a). The HPCSA provides a process through which the public can lodge ethical complaints against healthcare professionals they deem to have acted in an unethical way (HPCSA, n.d.).

According to Brüggemann, Wijma, and Swahnberg (2012) an ethical transgression refers to the violation of a specific ethical principle but does not necessarily imply intentional wrongful behaviour. It is important to keep in mind that the obligation to follow one ethical principle can at times be outweighed by the obligation to follow another competing stronger principle in that particular situation. Furthermore, the ethical transgressions of healthcare professionals can generally be clustered into the following three categories: 1) Competence and conduct with clients (e.g. abandonment, sexual intimacies, dishonesty, disclosure of confidential information, providing incompetent patient treatment and/or care); 2) Business practices pertaining to contractual obligations (e.g. fraudulent billing, charging excessive fees, negligent document completion and/or storage, employing non-registered healthcare professionals); and 3) Professional practice (e.g. referral upon termination, nonprofessional relationships) (Saunders, Barros-Bailey, Rudman, Dew, & Garcia, 2007; HPCSA, n.d.). It is therefore the duty of the preliminary investigative committee in each HPCSA professional board to consult and liaise with all parties involved, namely the relevant members of the public and/or patient/s, as well as the accused healthcare professional, to ascertain the context and seriousness of the alleged transgression. This will then enable the investigative committee to establish whether the alleged transgression must be dealt with by the HPCSA disciplinary structures or another organ of the state (e.g. a court of law).

The objective of this study was to analyse the ethical transgressions of registered members of all the HPCSA professional boards in the period 2007 to 2013, specifically to ultimately empower healthcare professionals with an understanding of the incidence and qualitative content of ethical transgressions in South Africa. Such a deeper understanding of ethical transgressions can then result in higher levels of professional conduct and patient care.

2. Methodology

2.1. *Research design*

A mixed methods approach, specifically an explanatory sequential design (Creswell, 2013), was followed in this study to describe and explain the incidence and qualitative content of ethical transgressions by registered healthcare professionals in South Africa. Initially, quantitative data were collected and analysed to obtain quantitative results, namely the following: the annual number of sanctioned professionals per professional board for the period under review; the incidence of sanctioned professionals and frequency of transgressions per sanctioned professional in each professional board for the total study period; and the frequency of penalties imposed on sanctioned healthcare professionals across the study period. This was followed by qualitative data collection and analysis to identify the main transgression categories and to describe the actual transgression content of each category. Lastly, the qualitative results, specifically the identified transgression categories, were used to analyse quantitative data regarding the frequency of transgressions per transgression categories for each professional board across the total study period.

In order to further strengthen the research design, the study also focused on a historical research approach. The focus of historical research is the interpretation of events that occurred over a specified period of time (Morse & Field, 1995) with archival material (e.g. documents and records) as the primary data source (Neuman, 1997). In this study the archive refers specifically to the collated information in the annual lists (2007–2013) of professional codes of conduct breaches and ethics misconduct against HPCSA-registered healthcare professionals across all twelve professional boards. These HPCSA annual lists are accessible in the public domain (http://www.hpcsa.co.za/RecentConvitions/Historical).