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PRESENTATION TO THE HPCSA
NATIONAL CONFERENCE ON
PROPOSED AMENDMENTS TO ETHICAL
RULES
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STRUCTURE

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- The impugned rules
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INTRODUCTION

- In its report, the Health Market Inquiry (“HMI”), stated, *inter alia*, that the healthcare market “*is characterised by high and rising costs of healthcare and medical scheme cover, highly concentrated funders’ and facilities’ markets, disempowered and uninformed consumers, a general absence of value-based purchasing, ineffective constraints on rising volumes of care, practitioners that are subject to little regulation and failures of accountability at many levels.*”
- In order to address some of these concerns, the HMI considered the HPCSA’s regulatory governance with a view to eliminate impediments within the market.



ESSENCE OF THE HMI'S FINDINGS

- The HMI is of the view that the HPCSA should review all Ethical Rules with a view to their impact on competition. The HMI proposes *significant changes to the wording of ethical rules to make them more permissive to ensure that they encourage actions that promote value for consumers.*



THE IMPUGNED RULES

- The HMI identified the following Rules which may give rise to competition concerns:
 - Rule 7 – Fees and commission;
 - Rule 8 and 8A – Partnership and juristic persons & Sharing of rooms;
 - Rule 18 – Professional appointments;
 - Rule 23 – Financial interests in hospitals.
- The nub of each rule is set out below:



THE IMPUGNED RULES *cont.*

- Rule 7 restricts practitioners from accepting or paying certain commissions or material considerations (monetary or otherwise) to third parties (including suppliers and other practitioners).
- Rules 8 and 8A allow practitioners to practise in partnerships or associations provided that it is in relation to supportive/ complementary or supplementary and restricts practitioners from sharing rooms with practitioners or entities not registered under the Health Professions Act (“the HPA”).
- Rule 18 restricts the employment of practitioners by non-practitioners without approval from the HPCSA and an employment contract which states that such employment is in the interest of the public and the profession.
- Rule 23 permits practitioners to have a direct or indirect financial interest or shares in a hospital or any other healthcare institution, provided that they meet several conditions.



HPCSA proposals in addressing the HMI's concerns (Proposed amendments)

- A Joint Committee of the HPCSA was constituted consisting of the Human Rights and Ethics Practice Committee; and the Undesirable Business Practice Committee (“the Joint Committee”).
- They conducted an extensive workshop to understand the rationale of the impugned Rules.
- Having done so, they instructed the Registrar and his team to review the impugned Rules to balance Regulatory authority vs the HMI concerns.
- Proposed changes were canvassed with the HMI which gave input



HPCSA proposals in addressing the HMI's concerns (Proposed amendments) (Cont.)

- The essence of the interaction was that there was minimal difference between the HPCSA's proposals and the HMI's response.
- The primary changes relate to enabling quality healthcare services in multi-disciplinary based healthcare services that contain costs and enhance access to healthcare services.
- The primary difference between the HPCSA and the HMI relates to whether there should be prior approval of any model or agreement relating thereto.
- The amendments were presented at a workshop of the Joint Committee.



WAY FORWARD

- We anticipate that there will further engagements with the HMI with regard to the proposed amendments and the HPCSA's stance on the wording proposed by the HMI.
- The requisite statutory processes by professional boards will follow, with a view to advising Council on the proposed amendments.
- The HPCSA will engage with the proposed amendments; promulgate them for comment by the public and stakeholders.
- Such comments will receive Council's considerations and the final version of the amended Rules will be published.





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