



WHAT IF I receive a HPCSA complaint? Part 1 of 2

What is a HPCSA complaint?

Any person or company may lodge a complaint to the Health Professions Council of South Africa (HPCSA) against a healthcare professional registered with the HPCSA, for unprofessional conduct. Section 61 of the Health Professions Act, 1974 regulates the complaint process. The HPCSA administers the complaint process. Conduct is unprofessional if a healthcare professional acts in a manner that is detrimental to a patient's good health and quality healthcare. For example, a patient can complain to the HPCSA if the healthcare practitioner has conducted themselves in such a way that the patient:

- does not receive appropriate treatment;
- personal information is not treated confidentially;
- is not informed about their healthcare status, the treatment to be provided or the cost of the treatment;
- is not given the opportunity to accept or refuse treatment.

The above list is not exhaustive.

A HPCSA complaint could lead to fines, suspension of license or complete striking off of the register but is not the same as a civil court case as the patient or complainant cannot claim damages. So it is important that the response is comprehensive and accurate and that it addresses all the allegations.

The initial complaint process

The complaint process begins when the patient, or an affected party, completes a complaint form and sends it to the HPCSA.

The HPCSA registrar will then:

- Peruse and analyse the complaint;
- Categorise the complaint according to the degree of significance and seriousness;
- Register the complaint against the healthcare practitioner's name;
- Refer minor complaints to the relevant ombudsman.

When the registrar has analysed and accepted the complaint they can ask the complainant for more information. After the registrar is satisfied that they have the necessary information the registrar must notify the healthcare practitioner by sending them a copy of the complaint and any further information. The registrar then requests the healthcare practitioner to respond to the complaint. The healthcare practitioner must respond to the complaint within 40 working days from the date of receipt of the complaint.

When the response is received by the HPCSA the registrar will refer the complaint, additional information and the healthcare practitioner's response to the preliminary committee of inquiry.

The preliminary committee of inquiry will assess the documents to determine whether they are satisfied with the response from the healthcare practitioner and the explanation provided or if they wish to take further steps.

The healthcare practitioner can choose to remain silent and not respond to the complaint but this must be communicated to the HPCSA. If the healthcare practitioner does not respond to the complaint the HPCSA can still take disciplinary action, therefore it is advisable for the healthcare practitioner to respond substantively.

See part two of this "What If" series for what follows if the preliminary committee chooses to take further steps.

What to do first?



Check who has written the complaint, either the patient or a family member of the patient;



If the request is from a representative of the patient ensure there is a copy of the ID and a signed consent form;



Confirm that you treated the patient;



Check the date of the letter from the HPCSA and the date which you received it;



Check the date that the response is due, and diarise that date and set a reminder for a week before the due date;



Inform Natmed immediately by doing the following:

- Log in to Natmed.mobi, and register, the request, record the due date and upload a copy of the HPCSA complaint to the system;
- Call the legal helpline on 0824 628 633 for assistance with the next steps.



Gather all of your notes on the patient and prepare copies for the legal team;



Prepare a draft response to the complaint for discussion with Natmed and the legal team.

What is next?

We will assist you by notifying the relevant insurer to confirm that the defence costs are covered by the insurance contract.

The legal team will assess the complaint and assist you in responding to the HPCSA. The insurer may decide to involve attorneys depending on the severity of the complaint. The attorneys that the insurer instructs to assist you will contact you to set up a meeting to discuss the process and the possible outcomes. The attorneys will need to be provided with all the patient's records and a draft response from you prior to this meeting.