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**SESSION 1**

**SECTION 59 INVESTIGATION**

**Meeting Minutes**

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| Date | Thursday, 29 August 2019 |
| Time | 13:10 |
| Location | 420 Witch-Hazel, Block A, Eco Glades |
| Chairman | Adv. T. Ngcukaitobi |

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| **Agenda Subject** | **Discussion** |
| 1. Call to order | Chair Adv. Ngcukaitobi called the meeting to order at 13:10 |
| 1. Witness swore under oath | Chair called the motion to have Doctors Mvuyisi Talatala and Sebolelo Seape from The South African Society of Psychiatrists (SASOP) to take the oath. |
| 1. Noting of submissions made by SASOP | Chair noted that they (the Secretariat, Advocates Ngcukaitobi, Williams and Hassim) received the submission of their power point presentation. |
| 1. Demographics of SASOP Membership | Dr. Talatala began by stating they were grateful for the opportunity granted to them and for the courtesy of giving them a postponement due to their unavailability last week. He then noted that the SASOP has about 700 members of which about 600 are mostly Psychiatrists and other members include other medical officers and doctors who are training to become Psychiatrists. Furthermore, he noted that Psychiatrists are divided into two categories, there are those that work in private practice whose affairs are managed by a board called Psychiatry Management (PsychMg) and those who work in public sector practice who are managed by a committee called the Public Sector Vocational group. SASOP takes the overall direction of the entire profession. He stated that there are 284 members of the SASOP who are under PsychMg which is a number of those in private practice. |
| 1. Key Issues of Discussion | **Objective:**  Dr. Talatala explained that the purpose or objective for their submission was to bring to light that the system of forensic investigations have been unfair, authoritarian and lack transparency. Furthermore, he noted that the system by design has been tailored to be unfair. He stated that such a system is a hallmark of a system that is discriminatory.  He then stated that the primary objective of their submission in light of this, was to suggest that the whole system needs be overhauled which will result to an independent, transparent and fair system that would include all state borders. |
|  | **Reasons to substantiate their suggestion/ proposal to the council:**   * Dr. Talatala stated that based on their findings, the system of forensic investigations has proven to be biased towards Black and Indian Psychiatrists. Furthermore, he stated that Psychiatry as a discipline is especially unfairly targeted and prone to these investigations, compared to other disciplines. He then stated that this was probably due to the prevalence stigma attached to mental health care and the people living with mental illnesses. He noted that this probably could be by design or caused by the financial pressures or prejudice. * Furthermore, Dr. Talatala stated that the process of forensic investigations followed by medical schemes was unethical and that they would submit evidence for this claim.   Chair then interjected by saying that one of the presentations pointed out that the schemes found it much easier to have investigations on the profession of Psychiatry because it is more time-based compared to other disciplines because of more time spent.  In response to this, Dr. Talatala stated that of course it would be easy if you are bias towards the profession. He stated that his view was that due to the escalation of the costs of mental care and the utilization of mental care require the schemes to deal with the practitioner so to continue with the costs of mental health care so that they could under charge, under code in order to reduce the cost of mental health care. He stated that he didn’t understand why it wouldn’t be easy to point out to and find problems or faults in other professions.  He also stated that if the nature of time-based of the discipline was the reason for the investigations then the cases that would be prevalent would be of those instances where practitioners spend about more than 12 hours a day with patients. Those that exceed the time limit per day should then be the ones to be put under scrutiny.  Chair interjected and pointed out that the investigations of course are not only centered around time-based discrepancies but other factors as well. He then making reference to the point that Dr. Talatala made of the escalation of costs of mental care as the reason the occupation is targeted, asked for clarification.  In response to this, Dr. Talatala stated that costs have been escalating not because of the increase in the fees or the doctors are charging because the increase in fees that psychiatrists have been charging has been affected by the consumer price index for many years. He then stated that what was actually happening with the increase in the utilization of mental health care was that more people were coming out presenting with bipolar, schizophrenia or depression, and therefore due to the increased utilization, the budget spent by the schemes or government is bound to increase. He stated that it was of course a good thing that people were presenting but is a problem that the country ought to deal with in terms of budgeting.  Adv. Hassim asked if more people coming out was a shift or change in the disease burden or just an awareness to the availability of mental health care services.  In response to this, Dr. Talatala stated that this was just an awareness about the available services. He stated that as he was stationed in Soweto in a community of black people, he has seen an increase in the numbers of the people who are becoming aware of the mental health care service that are at their disposal, and because of this he is busy all year long.  Dr. Seape then referred back to Chair’s comment on the nature of the discipline being time-based; she stated that it was actually beyond time. She stated that she thought that Psychiatrists and the mental health care users are more vulnerable and therefore are targets.She sets that this was because they aren’t vocal nor are susceptible to protest against any unfairness. Furthermore, she noted that in Psychiatry they use very few codes , there are about 15 codes that are commonly or always used, unlike in the instance of surgeons who use a variety of codes. This then suggests that it should have been much easier for schemes to follow or monitor what psychiatrists are doing.  Chair, Adv. Ngcukaitobi referred back to Dr. Talatala’s statement when he said the utilization of mental care and other underlying factors were responsible for the rise in costs. He then asked where it was that he got this data from, were his findings factual or whether just speculations.  In response to this, Dr. Talatala stated that they didn’t have the data themselves but based on their own experiences and how the medical schemes have shown that there was an increase in the costs. He stated that the schemes would provide this data.  Dr. Seape added saying that information should be easily accessed.   * Dr. Talatala also noted that there was bullying as medical schemes withheld payment if a psychiatrist raised objections about the investigations.   Furthermore, Dr. Talatala stated that noting all these faults like racial bias against black psychiatrists didn’t mean that they were saying white psychiatrists should be put under scrutiny nor were they denying the possibility of the prevalence of fraud because mental health care is also vulnerable to fraud and they would want it to be dealt with accordingly, which is the reason why they would have the overhaul of the system.  **Racial Bias**  Dr. Talatala presented data for investigation cases that SASOP has been involved in dating back to the year 2011. He then first began by noting that SASOP has a total of 284 psychiatrists of which of 137 are the total of both Black, colored and Indian psychiatrists put together and 147 are white psychiatrists.  Adv. Williams asked if Dr. Talatala knew what the sum total of all the private practice psychiatrists in SA was, meaning those that are their members and those that are not.  In response to this, Dr. Seape stated that it could be another 100 added to their membership but they don’t have the actual figure.  Dr. Talatala noted that they would make the information available and submit it to the secretariat.  Dr. Talatala then continued with explaining that from the year 2011 until 2019 there had been 120 cases of investigations that SASOP has had.  Dr. Talatala stated that although white psychiatrists are more in number than black, Indian and colored psychiatrists put together, most investigations were conducted on Black, Indian and colored psychiatrists . 72% of investigations were done on Black and Indian Psychiatrists. |
|  | **Stigma and disparaging of psychiatry and mental health**  Dr. Talatala stated that psychiatrists are a lesser percentage compared to other medical disciplines but are more prone investigations.  Adv. Hassim asked if Dr. Talatala knew the number of the total membership of each of the disciplines.  In response to this, Dr. Talatala stated that they made an error by not having the actual figures but they would make available for the panel and submit to the secretariat.  De. Talatala then stated that when these investigations were conducted , 34 audit cases were of anomalies where doctors had to refund the medical schemes. He also stated that there had also been 66 audit cases where no anomalies were found, which is an important figure because it shows that schemes have fishing expeditions with regards to psychiatrists.  Chair stated that similar data had been previously presented by one of the professional bodies, and he asked them out the 55% which was cleared after the investigation, how many of those had their payments suspended  In response to this, Dr. Talatala stated that he didn’t have tithe knowledge.  Adv. Hassim making reference to the cases in which anomalies were found, asked what type of anomalies were those. She asked if they were fraud, waste or abuse.  In response to this, stated that psychiatrists would sign AOD where they had been accused of spending less time with patients.  Dr. Seape added that it would be times when the schemes would say that their time was not enough and also the codes.  Dr. Talatala added that the disputes would be about codes, about how practitioners and the schemes interpret the codes.  Adv. Williams asked that in relation to the 66 audit cases and 55% are no anomalies found, which false positives are, would they know which schemes or administrators are responsible for producing these false positives.  In response to this, Dr. Talatala stated they didn’t bring the breakdown of the schemes but would get that information for the panel.  Furthermore, Dr. Talatala stated that the withholding of payments doesn’t only affect practitioners but patients too.  Adv. Hassim asked if Dr. Talatala by stopping of payment was referring to the instance of where schemes put doctors on indirect payment where the patients would have to pay the doctor upfront  In response to this, Dr. Talatala stated that it’s the instance where patients would pay and then get an invoice and then make a claim from the medical scheme.  This still is a problem because low income patients may not be able to pay the doctor as they also rely on the medical schemes for paying for their treatment. |
|  | **Unethical processes**  Dr. Talatala stated that schemes believe that they can follow an unethical process because mentally ill people cannot complain. The schemes make the rules unilaterally; they determine who should be investigated and carry the investigations themselves. He also noted the following:   * The sample methodology is incorrect and unfair in so far as sampling is biased; sample size is too small, not random. It is unscientific to generalize and base recoveries on a biased non-random sample.   Furthermore, Dr. Talatala stated that at times schemes call patients without prior notification that they would ever call them and investigate.  He suggested that that the questions that should be asked when patients are called should not be insensitive in a way that it would require them to disclose sensitive details about their illness. He also suggested that patients be part of how the verification of the services they received will be done.  Dr. Seape added that this means that patients ought to be aware so to ensure that whenever they would be called they would be comfortable.  Adv. Hassim asked who these schemes or administrators that call patients were.  Dr. Talatala responded and said that it was Discovery who then agreed that they would stop.  Chair asked what is it that they suggest the service verification be done.  In response to this, Dr. Talatala stated that ways or a system that would work for the psychiatric field should be developed. |
|  | **Other Problems**   * Ambiguous and outdated coding * Increasing utilization of mental health services * Vulnerability of mental health care to fraud * Coding needs to be updated and presented to the whole profession |
|  | **Suggestions/ Requests**   * Review of psychiatric coding * Establishment of an independent body to audit psychiatric private practice coding, services and utilization of psychotherapy * Re-organization of mental health services to be value-based, less hospi-centric and with outcome measurements determined and monitored by practitioners. |
| 1. Other business | **None** |

Adjournment: Adjourned at 14:45 pm to return at 15:00

**Part 2**

**SECTION 59 INVESTIGATION**

**Meeting Minutes**

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| Date | Thursday, 29 August 2019 |
| Time | 15:00 |
| Location | 420 Witch-Hazel, Block A, Eco Glades |
| Chairman | Adv. T. Ngcukaitobi |

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| Agenda Subject | Discussion | Status |
| 1. Call to order | Chair Adv. Ngcukaitobi called the meeting to order a 15:07 pm |  |
| 1. Witness swore under oath | Chair called the motion to have Dr Kohloffel to take an oath at 15:17 and then to begin with his power point presentation. | Actioned |
| 1. Noting of submissions made | Chair noted that they (the Secretariat, Advocates Ngcukaitobi, Williams and Hassim received a file from the NHC in July 2019. | Actioned |
| 1. Special request | Dr Kohloffel requested the chair to allow him to make his presentation before the commission privately and not live on camera. | Granted after deliberation |