



Staying Independent Together

*SECTION 59 INVESTIGATION PANEL
PROBE OF ALLEGED RACE DISCRIMINATION BY MEDICAL
SCHEMES FOR THE COUNCIL FOR MEDICAL SCHEMES
Oral Submission
Mr Kgabo Komape - Deputy Chairman ICPA*

Introduction

Registered non-profit company acting in the interest of independent pharmacy owners

Represent

- > 1 100 pharmacy owners
- > 2 500 pharmacists
- > 20 000 support healthcare personnel

ICPA membership represents arguably the largest pool of professional services in the healthcare sector in South Africa, with a substantial reach into both urban and rural South Africa

ICPA's key imperative is...

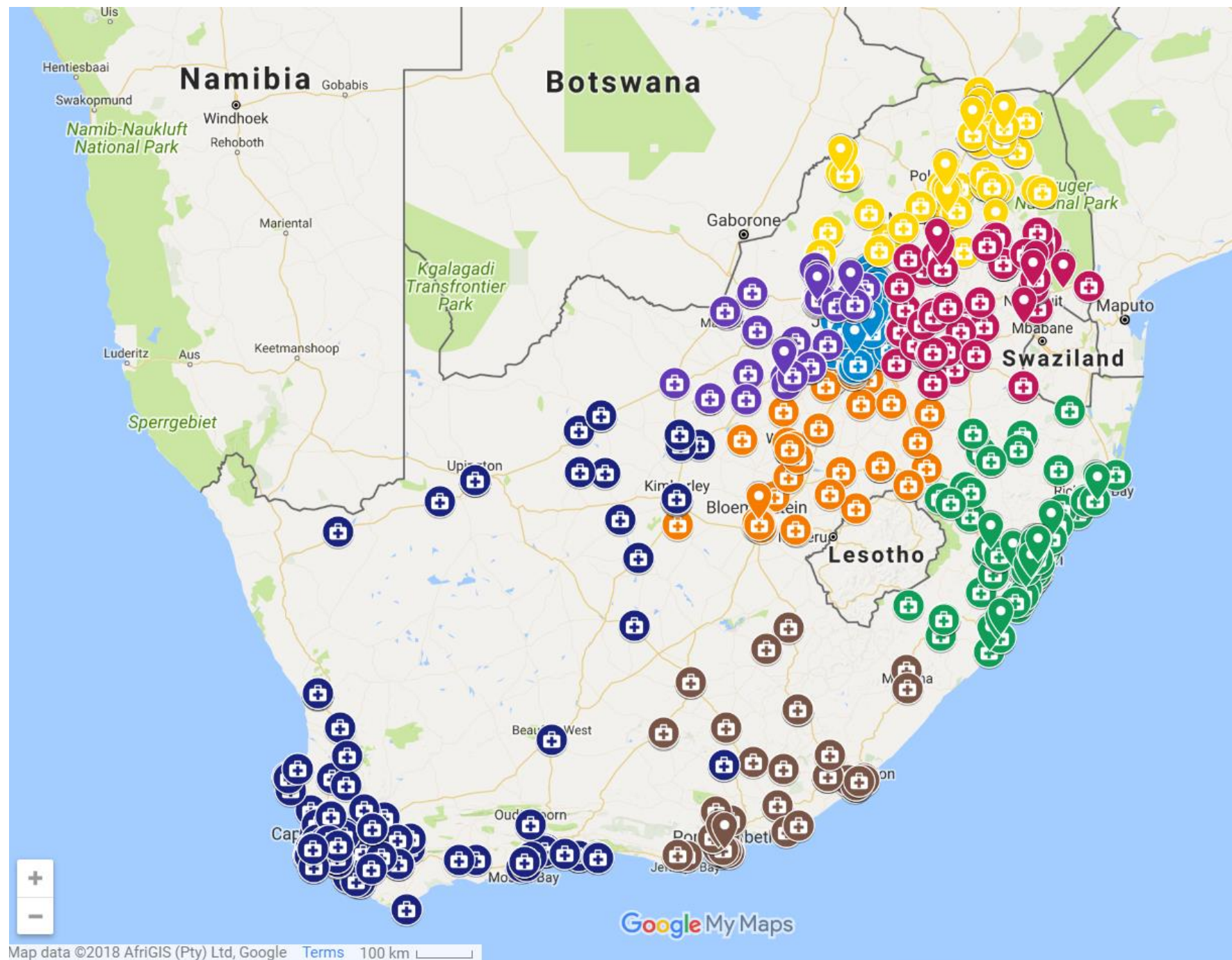
"the right to a quality health care service for every citizen"

ICPA Board of Directors



ICPA Geo-spread

- All major cities and towns
- Suburbs, peri-urban and deep rural
- Long operating hours, often 7 days a week
- Home delivery services
- Pharmacist invested in the communities they serve
- Often the first port of call for PHC services



ICPA Objective

To assist and support its members in securing a sustainable and successful future as independent, owner-managed pharmacies. In addition to this, the ICPA strives to foster an understanding of the role that independent pharmacies can (and do) play in delivering important healthcare services to the communities that they serve.

ICPA members are committed to high-quality pharmaceutical care and the restoration and maintenance of the health and well-being of the consumer.

Non-compliant patient behaviour (NCB)

Discussions on NCB generally fall into two groups

- Medication non-compliance
- Disease specific non-compliance e.g. asthma and diabetes

and can usually be attributed to a failure of communication and/or lack of comprehension on behalf of the patient.

Despite the abundance of clinically effective prescription medicines for the treatment of chronic diseases, achieving optimal clinical goals remains elusive. There are clinical and associated economic consequences of NCB, in addition to the increased burden of care that is placed on the health system, family members and other support structures.

Need for forensic audits

- The scourge of fraud, waste and abuse amongst healthcare professionals is noted and condemned in the strongest possible terms and ICPA maintains a zero-tolerance towards it.
- Forensic audits are needed however they need to be
 - FAIR
 - TRANSPARENT
 - UNBIASED

Need for forensic audits

The relationship between pharmacists and funders, however, is not an equal one and it seems common cause that pharmacists and other healthcare professionals have been at the receiving end of some unacceptable conduct and abuse by certain medical schemes and their administrators.

Unacceptable reporting...



Getty

Independent pharmacies, where there is no corporate oversight of the books or auditing of stocks, is the source of a great deal of fraud, Midlane says. They also tend to be under pressure as the big chains steal away their customers, and so more likely to dabble in fraud.

To quote Paul Midlane, Head of Forensics at Medscheme 'Independent pharmacies, where there is no corporate oversight of the books or auditing of stocks, is the source of a great deal of fraud, (own emphasis) Midlane says. They also tend to be under pressure as the big chains steal away their customers, and so more likely to dabble in fraud.' (Business Insider, March 23, 2018).

Blatant profiling of independent pharmacies by Paul Midlane – General Manager Healthcare Forensics Medscheme

Identification of pharmacies for audits

Forensic auditors identify pharmacies that flag as outliers when pharmacies are profiled using their sophisticated analytics tools. Whilst it is acknowledged that this not an unreasonable starting point for an investigation, outlier pharmacies payments are withheld even before an investigation has begun purely on suspicion of alleged fraud or irregular claims.

Need for forensic audits

What the auditors failed to conduct is a preliminary investigation by:

- Engaging with the pharmacist to understand the prevalent business model utilised by that pharmacy
- Visiting the pharmacy to understand the geo-spatial positioning of the pharmacy and the impact of this on the practice profile
- Understanding the demographics of the population and LSM diversity of the clientele that patronise the pharmacy

Racial bias in the selection of pharmacies for forensics audits

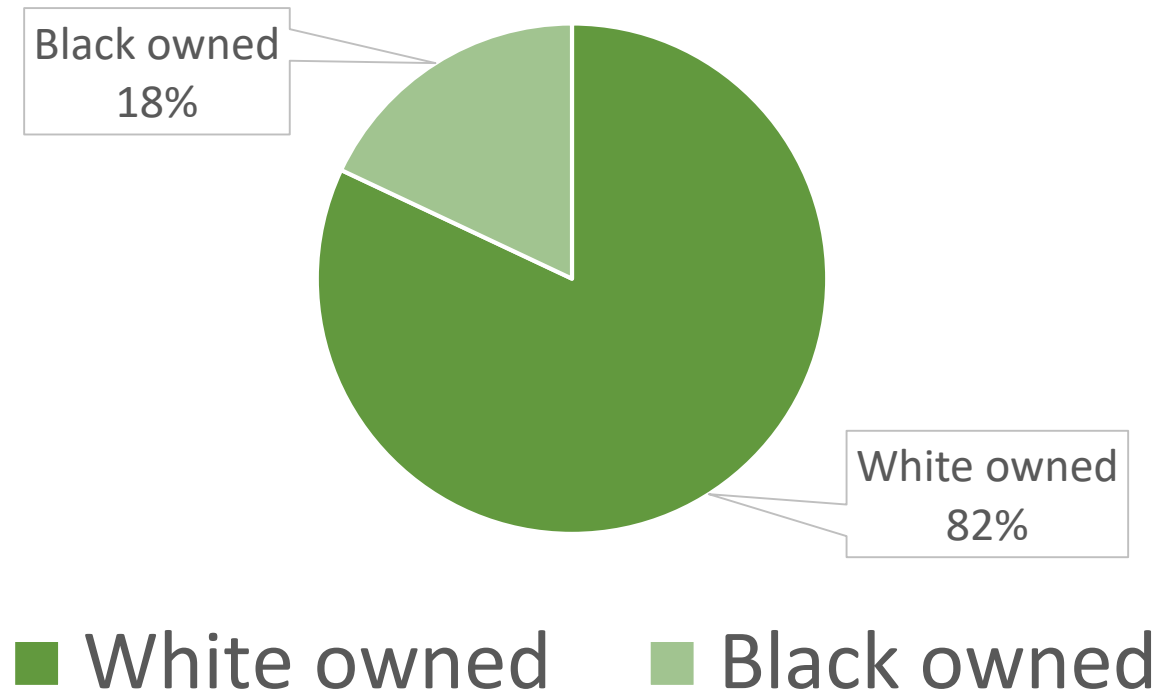
ICPA snap survey

In the light of the allegations of racial bias, ICPA conducted a snap survey in June 2019. Pharmacists that are listed on the ICPA WhatsApp group were asked to respond to the following question:

‘Has your pharmacy undergone a forensic audit in the last 18 months or is currently undergoing a forensic audit by a medical scheme or administrator?’

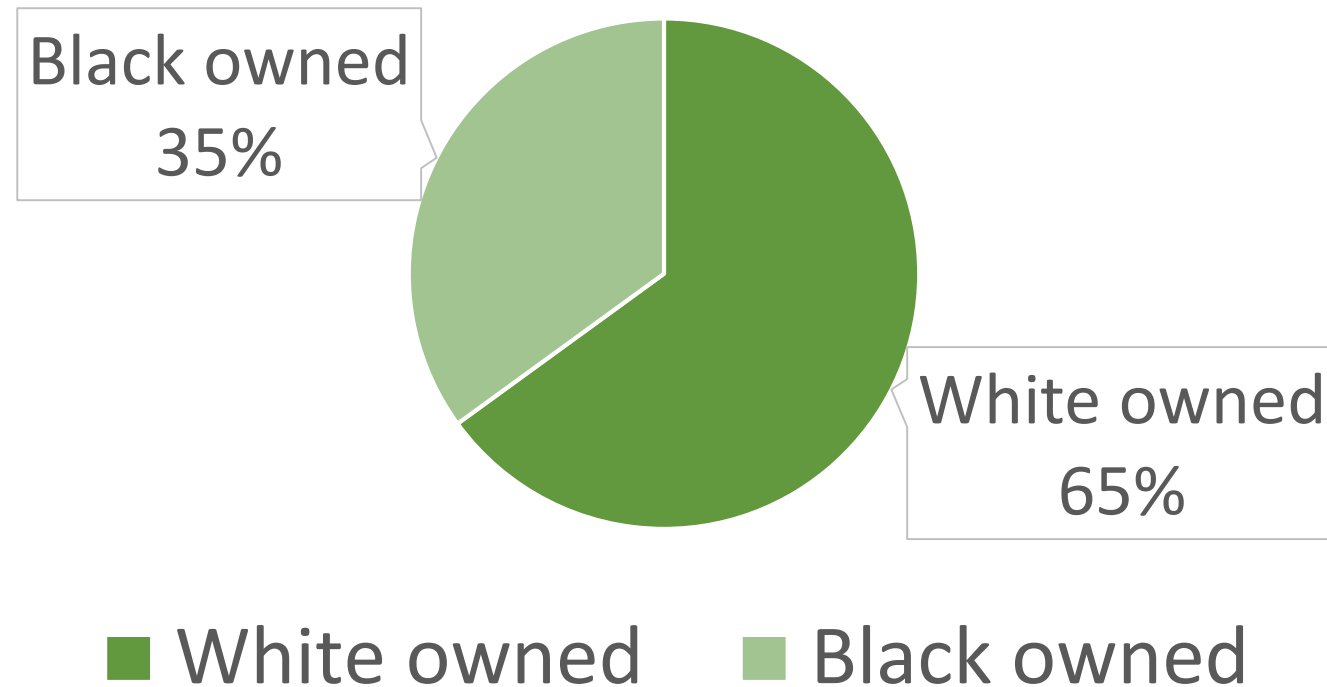
Racial bias in the selection of pharmacies for forensics audits

% of pharmacies audited by Medscheme



Racial bias in the selection of pharmacies for forensics audits

% pharmacy ownership by race



Survey Results

- Ownership of independent pharmacies in South Africa split by race (based on a sample of 1100 independent pharmacies). 65% of the independent pharmacies sampled are owned by White pharmacists yet only 18% have been or are being audited, as opposed to 35% Black pharmacy ownership attracting 82% of the audits.
- The numbers clearly point to a bias against Black-owned pharmacies, particularly by Medscheme. ICPA has not extended the survey to other administrators / medical schemes but anecdotal experience related by independent pharmacies reflect similar trends.

Pharmacies with African names

- The Medicare Group of Pharmacies is a White-owned group comprised of 47 independent pharmacies located in various provinces in South Africa. Each pharmacy trades under a unique name and it is not always apparent from the pharmacy name that it belongs to the Medicare Group, or that the pharmacy is not White-owned.
- Eight of the 12 audits that were/are being conducted on pharmacies have African names, Tsusanang Pharmacy and Bophelomed Pharmacy being audited more than once in the same year albeit by different administrators. Most of the pharmacies from this group that are targeted are in Limpopo. It is also noteworthy that the ownership of pharmacies in Limpopo between Blacks and Whites is roughly 50-50.

Medicare Group of pharmacies

	Pharmacy Name	Province	Audited		Pharmacy Name	Province	Audited
1	Bophelomed	Limp	✓	24	Medicare Palm Court	GP	
2	Durbell Cape Gate	WC	✓	25	Medicare Parklands	GP	
3	Durbell	WC		26	Medicare Steps to Health	WC	
4	Durbell	WC		27	Medicare Weltevreden	GP	
5	Durbell	WC		28	Medicare Highveld	GP	
6	Durbell	WC		29	Mediplus	Limp	X
7	Durbell	WC		30	Modajii	Limp	✓
8	Durbell Bloemtuin	WC		31	Mutakalo	Limp	✓
9	Groblersdal	Limp	X	32	Paarl Noord	WC	
10	Horison (Lydenberg)	MP		33	Riverside	GP	
11	Lombards	Limp	X	34	Sun Valley	WC	
12	Medicare Amberfield	GP		35	Tsusanang	Limp	✓
13	Medicare Boskruin	GP		36	Tzaneen	Limp	X
14	Medicare Percilia	GP		37	U-Pharmacy Emalahleni	MP	
15	Medicare Savoy	GP		38	U-Pharmacy Exelsior	MP	
16	Medicare 14 th Avenue	GP		39	U-Pharmacy Hazyview	MP	
17	Medicare Douglasdale	GP		40	U-Pharmacy Kriel	MP	
18	Medicare Fontainebleu	GP		41	U-Pharmacy Middleburg	MP	
19	Medicare Husteds	GP		42	U-Pharmacy Nevada	GP	
20	Medicare Linden	GP		43	U-Pharmacy Randburg	GP	

Fraud Hotspots

- Forensics units have stated that there are what they term ‘fraud hotspots’ in the country, naming Limpopo and KwaZulu-Natal as prime. Interestingly, the Medicare Group has 7 pharmacies in Limpopo, 4 bearing African names and 3 non-African names. All of the pharmacies trading on African names were audited and only 1 non-African named pharmacy audited.

Mutakalo Pharmacy

- The fine imposed on Mutakalo Pharmacy for entering the incorrect doctor's name on the claim is a rather weak finding. Such instances are often the result of data capturing errors and not a deliberate attempt to defraud the scheme as is alleged.

Groblersdal Pharmacy

- The pharmacist found that the audit finding was far too resource intense to challenge and resigned to accept the fine imposed on the pharmacy, simply to get this unpleasant saga behind them so that they can get on with the business of caring for their patients.

Horison Pharmacy

- This pharmacy was found guilty of pre-dispensing. This is not an uncommon practice in pharmacies when dispensing high-cost items such as biological medicines that cost thousands of Rands to acquire. Pharmacies do not normally keep these items in stock but order them based on need.
- How this practice is deemed irregular or fraudulent boggles the mind!
- Pharmacy Direct, Medscheme sister company and the sole Designated Service Provider for many Medscheme administered schemes, pre-dispenses and yet Medscheme Forensics find no fault with this practice ??

Durbell Cape Gate Pharmacy

- The selection of this pharmacy for an investigation and audit is an interesting case. The pharmacy was in the Cape Gate Shopping Mall when it was audited. It was at about the same time that DisChem had applied for a pharmacy licence to establish a pharmacy in the same mall.
- DisChem is the preferred partner of Discovery Health.
- Discovery audited Durbell Cape Gate sending in probes to entrap the pharmacist. Durbell's lease was terminated by the Mall owners.
- Was there collusion between the landlord, DisChem and the NDoH?



Brookdale Pharmacy

- New pharmacy owner
- Black Female Pharmacist
- KZN

MEDSCHEME AUDIT EXPERIENCE

Brookdale Pharmacy-KZN

- Purchased the pharmacy in Jan 2019
- Received notice of audit in March 2019 from Medscheme, payments withheld. Request for invoices for a list of items going back 3 years
- Supplied purchase invoices from Jan to Feb 2019 which are in the new owners possession
- New owner is not in possession of invoices prior to purchase date
- The pharmacist requested that payments be released as she had complied with the audit request and Medscheme has not made any findings

Brookdale Pharmacy-KZN

- Email sent to Forensics Unit on 12 March stating that the pharmacy is under new ownership and the invoices that the new owner is accountable for have been supplied
- No reply or acknowledgement of the email from Medscheme until 04 July 2019 when the pharmacist received a call to advise that *'payments had been suspended as I had not sent through requested VOS documents'*
- 12 July 2019 the pharmacist received an email stating that *'after consideration of my email 12/03/2019 I will be still liable for documents prior to Jan 2019.'*
- *'I also requested that as there was no communication between 12/03/2019 to 04/07/2019 that payment please be resumed until we could find a resolution.'*
- On the 17/07/2019 Pride Mokoena replied that *I must comply but ignored my requests to resume outstanding payments from June 2019.*
- I proceeded to provide all invoices in my possession.

Brookdale Pharmacy-KZN

- *‘Please may I request that your audit be conducted with the invoices that I have forwarded, and I am happy to address any shortcomings on them, as I firmly believe that I have been honest and transparent in disclosing my VOS.’*
- *‘May I also humbly request that payments outstanding from June 2019 please be released in the interim as this is adding a heavy financial burden in payments to my Suppliers and staffing.’*
- Reply from Paul Midlane
‘Good morning Shuhan. Please confirm if you have asked the seller (Mr Naidoo) to provide you with all the invoices we require?’

Brookdale Pharmacy-KZN

- Pharmacists response *'Yes, initial email 12/03/2019 was forwarded to Mr Chris Naidoo.*
- *He contacted me to advise that the documents were removed from the premises by the previous staff & RP and he is unable to provide much assistance as he is not able to contact them.*
- *I alerted him to emails and communication as of July 2019 with Medscheme and he again offered same response.*
- *I have opened new accounts with Suppliers so am also not privy to previous history of purchases.*
- *Please be assured that should you wish any further review of services provided as of 01/01/2019 I am in fully capacity to assist.*

Reply from Paul Midlane

Thanks Shuhana

So how do you suggest we proceed with the audit of 2018 claims?

The law requires proper records be kept. For example, how are you going to declare the tax for the business?

Mr Naidoo should be made aware that he could be contractually liable to you if he sold the business under misrepresentation.

Please engage with him again and insist on his full cooperation. Alternatively, please provide solutions as to how we can proceed with our audit. If there were historic false claims, the practice would remain liable so it remains imperative that we receive proof that the medicine claimed for was indeed purchased.

Brookdale Pharmacy-KZN

- Why is it the new owners responsibility to track the previous owner and request purchase invoices?
- Why are payments withheld when there are no adverse findings with the new owners practice audit?
- This is blatant bullying and abuse of power by Medscheme

Penalties imposed on pharmacies

- Medical schemes and Administrators impose AODs on pharmacists, the values range from over 1 million Rands to R15 000
- When pharmacists challenge the audit findings the forensics unit reassess the audit and invariably the figure reduces
- The forensics agents badger the pharmacists into submission
- Pharmacists are subjected to extremely onerous audits with unreasonable time demands
- Pharmacists eventually submit to the administrators just so that they can get funds released and so that they can on with their work and lives
- The audits put tremendous strain on pharmacists, impacting on their health and wellbeing

Audit process shortcomings

- Pharmacy audits by schemes and administrators are onerous and labour intensive procedures.
- Forensic audit units demand 3-4 years of invoices to prove purchases of a list of medicines that have been claimed for, within 10 working days.
- Auditors list the names of medicines but do not state what strength, pack size or NAPPI code is required.

Medicine	Pack Sizes	Number of strengths and dosage forms	Number of lines
Ecotrin	50 & 100	1	2
Crestor	28	4	4
Panamor	17	22	22

Reasonable request?

Pharmacies purchase stock via several channels

- From several wholesalers, every day at least twice a day
- Pharmacy buying groups / other pharmacies
- Several manufacturers

A typical small to medium-sized pharmacy will handle thousands of invoices each month. At a very conservative estimate of 2000 invoices per month, a pharmacy would have amassed 70 000 invoices in a 3-year period

key points of contention

- Racial profiling of pharmacies and the targeting of Black-owned pharmacies and pharmacies operating in predominantly Black locations.
- Pharmacies payment withheld for several months while the audit is in progress purely on suspicion of alleged fraud or irregular claims.
- Unreasonable and non-transparent audit processes and practices aimed at frustrating independent pharmacies
- Flawed audit processes and findings that allude to poorly trained forensics agents who have a poor understanding of retail pharmacy and business in general

key points of contention

- Bullying and intimidation by forensics agents
- Section 35(3)(h) of the Bill of Rights guarantees for everyone the right to a fair trial, which includes the right to be presumed innocent at that trial. Schemes and administrators play judge and jury with pharmacists by finding them 'guilty' and bully them into submission
- The audits add additional costs to pharmacies which many can ill afford. The additional costs that are incurred include additional staff, time, travel, logistics and diluted staffing levels in the pharmacy to continue to provide services to their clients.
- Invitation to the Forensics Unit to visit the pharmacy and conduct an on-site audit is declined by the auditors

Convicted cases

- ICPA calls on the Investigative Panel to determine how many pharmacies have been found guilty of “fraudulent” behaviour and how many of these have been followed up by the NPA and successfully prosecuted in our courts.
- Forensic Units are legally compelled to report fraud to the authorities but in our experience they prefer to bully small practitioners and extract money from them to justify their existence and then allow the “alleged offender” to continue to service their members
- THIS CANNOT BE RIGHT



Thank you