



SECTION 59 INVESTIGATION
Day 10
Minutes of the inquiry

Date	Wednesday, 25 September 2019
Time	11:15
Location	420 Witch-Hazel, Block A, Eco Glades
Chairman	Adv. T. Ngcukaitobi

Agenda Subject	Discussion
I. Call to order	Chair Adv. Ngcukaitobi called the meeting to order at 11:15 a.m.
II. Presenters announced	Chair called on Mr. Rajendra Hariparsad and Rajendrakumar Phenkoo to present their complaints based on their personal experience.
III. Presentation by Clinpath Laboratory	<p>Background</p> <p>Adv. Williams requested Mr. Hariparsad to explain how pathology laboratories work and how pathologists work with medical technologists.</p> <p>In response to this Mr. Hariparsad expounded saying that there are two ways in which pathology labs are run, with the first one would be where a pathologist employs a medical technologist, and the other way would be when a medical technologist employs other medical technologists.</p> <p>Adv. Hassim interjected and reiterated Adv. Williams' question which was how pathologists and medical technologists work.</p> <p>Mr. Hariparsad then responded by saying that a medical technologist is an individual who holds a qualification of a Bachelor of Laboratory Science obtained from a university of technology and a pathologist is an individual who holds a medical degree known as an MBCHP and then specializes in any field of interest or preference which has about seven options to choose from.</p> <p>Adv. Williams asked Mr. Hariparsad to explain the two models of operation that he mentioned earlier. She made reference to the second model where a medical technologist employs other medical technologists and what was the reason for not referring to such labs as medical technology practice instead of pathology practice.</p>

In response to this, Mr. Hariparsad stated that it is of certainty a medical technology practice it is not different from a pathology practice because there is a shared scope of work or practice and the claims are the same with only a few exclusions.

Adv. Hassim interjected by asking if Mr. Hariparsad is able to interpret the laboratory results as a pathologist would.

Mr. Hariparsad affirmed that he too could interpret the results as this is within his scope of work.

Furthermore, Adv. Williams asked Mr. Hariparsad where a clear description of his scope of practice as a medical technologist could be found.

In response to this, Mr. Hariparsad unequivocally stated that the HPCSA together with the Society of Medical Technologists of South Africa has a clear description of the scope of practice.

Adv. Hassim asked Mr. Hariparsad to explain the ownership and employment structure of Clinpath.

Mr. Hariparsad stated that Clinpath functions under his practice number and that he has employed two other people to manage the practice for him, those being the financial and marketing directors.

Chair interjected and asked that with regards to the business side of things Mr. Hariparsad should explain the entire value chain because based on his presentation, the business model shows the evidence that there are interactions with medical specialists and medical schemes.

In response to this, Mr. Hariparsad stated that he has a practice number that allows him to practice independently. He would then go to clinicians to canvas for samples from them and then set up an infrastructure to do the laboratory testing and thereafter issue the results and then submit the patients' details that were obtained from the clinicians to the medical schemes for remuneration.

Adv. Williams requested that Mr. Hariparsad would clarify and confirm that the practice number written on his submission is the same as the one he had been making reference to as his.

Mr. Hariparsad confirmed that it was his practice number.

Adv. Ngcukaitobi/chair asked Mr. Hariparsad why he was using his individual practice number and if it was admissible to use it in respect to a closed corporation.

Mr. Hariparsad answered and said that it wasn't permissible but the management of the closed corporation makes claims using his practice.

Chair stated that he wanted clarity on where the risk lies because the board of medical funders issues a number to one individual and when that number is abused, the risk lies with the individual who the number has been issued to. Furthermore,

	<p>chair wanted to know why Mr. Hariparsad would insist on using his individual practice number in respect of the closed corporation as this may be the source of confusion about who the liability lies with.</p> <p>Mr. Hariparsad stated that the liability lies with him seeing that the practice number is his, which makes it his responsibility to ensure that he isn't involved in any unbecoming practices.</p>
<p>The Closing Down of Clinpath</p>	<p><u>Unfair Treatment from MedScheme</u></p> <p>Mr. Hariparsad narrated that while Clinpath was practicing under Dr. Valerie Manda's practice who is a pathologist went through an audit conducted by MedScheme and had to pay up to R300 000.</p> <p>Chair interjected and requested that Mr. Hariparsad would start from the very beginning of what led to the R300 000 payment. Adv. Williams suggested that an appropriate place for Mr. Hariparsad to start would be in explaining how Clinpath partnered with Dr. Manda and how they got to use her practice number.</p> <p>In response to this, Mr. Hariparsad started with noting that Dr. Manda joined them 4 years ago because it would enable them to earn more money as she would be able to run certain tests for them as a pathologist. Furthermore, he stated that partnering with a pathologist would give them more credibility in the marketplace.</p> <p>Adv. Williams asked how Dr. Manda joined Clinpath, she wanted to find out whether Clinpath employed her or if it was the other way around.</p> <p>Mr. Hariparsad stated that Dr. Manda joined as a partner.</p> <p>Adv. Williams asked what he meant by Dr. Manda joining as a partner.</p> <p>In response to this, Mr. Hariparsad stated that Dr. Manda joined as a partner in the closed corporation and then employed him as a medical technologist and for running the laboratory.</p> <p>Chair asked Mr. Hariparsad to explain how Dr. Manda's practice number got to be used.</p> <p>Mr. Hariparsad stated that the claims to the medical schemes were made under her practice number.</p> <p>Adv. Williams asked Mr. Hariparsad to explain that while Dr. Manda's practice number was used whose name were the claims made.</p> <p>Mr. Hariparsad stated that the claims were made under her name.</p> <p>Furthermore, Adv. Williams asked who it was that got paid after the claims had been made.</p> <p>Mr. Hariparsad responded to this by stating that Clinpath Laboratories got paid and Dr. Manda gave them the authority to collect the money on her behalf and she would later take her share.</p>

Adv. Hassim then asked what Dr. Manda's clinical role in the practice was.

In response to this, Mr. Hariparsad stated that she was the consulting pathologist.

Adv. Williams asked if the arrangement of having Dr. Manda take her from the claims that were made using her name was recorded in writing and if MedScheme was aware of that arrangement.

Mr. Hariparsad stated the arrangement was recorded in writing but he is not certain that MedScheme was aware of the arrangement.

Mr. Hariparsad then continued narrating how MedScheme contacted them letting them know that they wanted to conduct an audit on the practice on the 14th of May 2018 up until the end of August 2018. The audit was initially done on Dr. Manda's practice. This resulted in payments being withheld. MedScheme then met up with Clinpath's financial director and a fine of R300 000 was paid to MedScheme.

Mr. Phenkoo added that the penalty fee of R300 000 was a result of an audit that was done which showed that the amount of the claims made didn't correspond with the actual records. The R284 000 was the difference between claims made and the those that appeared on record.

Adv. Hassim asked what the actual complaint from the MedScheme investigators was and how they calculated the R284 000.

Mr. Phenkoo explained that Medscheme sent a matrix of medical aid numbers. Mr. Hariparsad stated that after verifying their records and comparing them to those recorded by four different systems, they then submitted these to MedScheme as per request. Medscheme then accused Clinpath for fraud, stating that they had failed to provide proof of the 20 claims that they made as they submitted proof for only 19 claims. Clinpath disputed this because they only have record of 19 claims and no trace or record of the alleged 20th claim. They then requested MedScheme to furnish them with their proof so to compare their records against MedScheme's records so to acknowledge their error. In addition, Clinpath requested for more time to gather their records so to make the necessary submissions. To Clinpath, this was unfair.

Chair asked what the justification for unfairness by Medscheme towards Clinpath was. He asked if it was that they were not given ample time to provide them with the records that they requested or could it have been the process of how the audit was conducted or that the allegations against them had no rationale.

Unjustified/ unproven allegations of discrepancy

Mr. Hariparsad stated that the main problem was that Medscheme alleged that Clinpath had made some claims on a certain patient which they had no record of, but when Clinpath requested that Medscheme would show them the proof of that claim they were not able to provide the proof. Instead of being provided with the data as proof, Medscheme responded to Clinpath by saying that the data was theirs and had no obligation to share it with them.

Mr. Phenkoo explained that Medscheme would take a code and alleged that Clinpath has over serviced a patient but fail to tie that code to any particular patient.

Chair asked if they know how Clinpath got identified for an investigation.

Mr. Hariparsad responded that he didn't know but suspects that whenever there is a doctor that MedScheme is targeting, they first go after those the doctor is associated with. In this case, MedScheme might have gone after them because they were working with a doctor who was their target.

Chair asked Mr. Hariparsad who the doctor that MedScheme could be targeting according to his suspicions.

Mr. Hariparsad stated that it probably would be Dr. Magan who would be coming to present on Friday.

Adv. Williams noted that MedScheme in their response pointed out to the fact that Dr. Manda left the practice. She then asked for an explanation for why she left and how long it had been since she left.

Mr. Hariparsad explained that it was in October 2018 that Dr. Manda left and was because they could no longer pay her and that she had made claims but those claims never came through.

Furthermore, Mr. Hariparsad stated that it was the first time that he was seeing MedScheme's response which also contains the allegations of fraud against them.

Adv. Hassim asked Mr. Hariparsad if he was aware of the whistleblower reports that MedScheme had filed. Four whistleblowers to be exact.

Mr. Hariparsad responded to this stating that he was not aware of this.

Mr. Hariparsad articulated his frustration of how he founds himself in so much debt and unable to pay any of the companies that he is owing due to the fact that he had to close the laboratory down.

Unknown Allegations against Clinpath

Adv. Williams made reference to pages 59 and 60 of MedScheme's response which contradicted the evidence provided by Clinpath and then stated that it was impossible to resolve the matter because they did not have the proof from either sides to compare. She then requested Clinpath to make this information available to them.

Adv. Hassim interjected and asked why Mr. Phenkoo disagreed with Medscheme's statement that Adv. Williams made reference to.

Mr. Phenkoo stated that this was because he had given MedScheme all the records and information that they requested upon meeting with the investigators (Devon Fleming and Anita Potgieter).

Chair referred to page 53 of MedScheme's response which contained the sum total of the charges against Clinpath and then asked if they could go through it and give

	<p>their response.</p> <p>Mr. Hariparsad requested that they would be given more time before they could respond to those charges seeing that they only got to know about during this inquiry.</p> <p>Chair stated that they would be granted ample time to give their response.</p> <p>Adv. Hassim reiterated to the request to Clinpath give their written response.</p> <p>Mr. Phenkoo agreed that they would provide a written response to the said allegations.</p> <p>Adv. Hassim asked if Mr. Hariparsad logged a complaint with CMS.</p> <p>Mr. Hariparsad stated that he only sent a blanket-email to the HPCSA and CMS.</p>
VI.	<p><u>Conclusion</u></p> <p>Chair stated that Clinpath would be given time to give a written response to the allegations against them. The secretariat would be in touch with them.</p>
Other business	<p><u>None</u></p>

Adjournment: Adjourned at 12:54 pm

Next session to resume at 13:00