



SECTION 59 INVESTIGATION

Day 12

Minutes of the Inquiry

Date	Friday, 27 September 2019
Time	11:17
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 11:17 am.
II. Witness swore under oath	Chair called the motion to have Dr. Avesh Jugadish Magan take an oath
III. Noting of submissions by Dr. Magan	Dr. Magan had provided the Secretariat, Advocates Ngcukaitobe, Williams and Hassim his written submission of which Chair acknowledged.
IV. Background of Dr. Magan's practice	<p>Dr. Magan began with inquiring from the commission if MedScheme had submitted their response like Discovery had already done. Chair advised that time would be used to focus on the presentation of his submission.</p> <p>Adv. Williams asked Dr. Magan to introduce himself and give some background information about his practice.</p> <p>Dr. Magan then begin by stating that he is a specialist orthopedic surgeon who at the time of the audit had two branches of his practice in Umtata and Queens Town. Historically, he was the first South African who started practicing as a specialist surgeon in the former Transkei and Ciskei. Furthermore, Dr. Magan stated that he began his practice in 2012. The practice has a very large catchment area that starts from Kokstad KZN border up to East London in the Eastern Cape which is about 400-500 km radius.</p> <p>Chair then asked Dr. Magan to give them a description of the genesis of his complaint against Discovery.</p>
V. Dr. Magan's complaint against Discovery	<p>Dr. Magan noted that it was on the 17th of April 2018 that he received a letter from Discovery requesting that he submits patients' clinical notes and details. He then sought legal advice and was accompanied by Advocate Altus Janse van Vuuren to meet representatives from Discovery on the 10th of May 2018.</p> <p>Adv. Williams pointed out to Dr. Magan that the only records of the correspondence that they have before them were that of the 14th of February 2019, 4th of September 2019 and then a response from Discovery. Chair then also requested that Dr. Magan</p>

starts from the very beginning of what transpired and what the impact of his response to Discovery was.

Dr. Magan then stated that his issues with Discovery began when they suspended his account upon the beginning of the audit and was told that he needed to produce the patient files. His legal advisor Adv. Janse van Vuuren arranged a meeting with Discovery and on the panel, he liaised with Dr. Nash Pillay.

Adv. Williams asked Dr. Magan to confirm the year in which all this took place and on which dates. Dr. Magan confirmed that it was the year 2018 and the meeting took place on the 10th of May.

He then went on to say that both him and Discovery didn't agree on the interpretation of the patients' privacy and confidentiality with regards to providing their clinical records without their consent. Furthermore, he was not pleased with having to produce 30 files and only 2 out of 30 were viewed. Dr. Magan also explained that what was discussed in that meeting was the concept of being an outlier of which he was told that he was one. He noted that he tried to explain the nature of his practice and that it was the reason for this. He also felt that Discovery was not clear about who exactly they were comparing him to in order to establish that his coding patterns were inconsistent.

Another area of concern for Dr. Magan was that Discovery had a former nurse who was said to be a Coding Specialist. He felt that it made no sense to have such an under-qualified individual to be interpreting very complex pathologies. Furthermore, what Dr. Magan also found as unfair was that there was no peer review that took place in that meeting. He said that the only peer that was a GP who knew nothing about the complexity of the procedures that were performed.

He also noted that he felt that it was unfair to have been subjected to an audit on coding that dates back to five years ago just because they didn't have the necessary resources to trace any errors in coding within thirty days. He conveyed to the panel that he felt that it was unfair to have no guidance in coding.

Adv. Williams drew Dr. Magan's attention to Discovery's response where he signed in agreement with the decisions taken regarding him having to submit his clinical records to a peer for a review. Dr. Magan disputed this, saying that he had never seen such a document and that even his legal representative didn't know this. Although he confirmed that the signature was his but he didn't recall seeing the communication. Adv. Ngcukaitobi then said that this only has two possible insinuations: it's either Discovery forged this document or that Dr. Magan was lying to the commission. Dr. Magan then said that he was not saying that Discovery forged these documents but that he had not seen them before.

Furthermore, he stated that MedScheme moreover treated him unfairly and unreasonably by only viewing 5 patients' files and then concluded that he was fraudulent in his billing or coding. Adv. Hassim asked Dr. Magan if he thought R841 000 seemed reasonable for a claim for just 5 patients. He said that he does see that it is relatively too much but he still maintains that he used the correct codes for the pathology performed. Furthermore, he stated that he has never known what the rand value for each code was.

	<p>Dr. Magan asserted that MedScheme was nothing but inconsiderate and harsh and unwilling to listen to him, unlike Gems that was willing to listen to him and had no issues with him. Adv. Williams drew his attention to the correspondence that states that Gems had issues with his billing or coding. He then explained that that was before he explained to them and gave them strong enough reasons for his billing.</p> <p>Dr. Magan requested that if MedScheme refuses to pay him, let them then pay his patients. He moreover noted that something needs to be done about coding as there is no guidance on how to code. He requested that there ought to be an open platform for correcting any coding errors if there be any instead of harsh criticism from MedScheme or termed to be guilty of fraud, waste, and abuse.</p> <p>Furthermore, he requested that he would be given a platform to be fairly assisted.</p> <p>Adv. Ngcukaitobi then requested that he should send the correspondence between himself and Gems to the Secretariat.</p>
Other business	<p><u>Dr. Kalanda's submission</u></p> <p>Chair called the motion to continue to listen to Dr. Kalanda's submission as he was initially the first presenter but could not continue due to the fact his submission was not numbered in the same way as the council's. He was then given the chance to sort that out.</p> <p>Chair called the motion to have the Dr. Ntumba Kalanda (Radiologist) to continue with his presentation</p> <p>Dr. Kalanda was asked to give an introduction of himself and his work as a Radiologist. He explained that he is a specialist radiologist based in Polokwane who works on a referral basis from Physicians. He also noted that his practice is the first black-owned radiology practice in SA. Patients come to him with request forms from their Physicians.</p>
Dr. Kalanda's complaint against Medscheme and Bonitas.	<p>Dr. Kalanda explained that on the 25th of Aug 2016 Medscheme sent him communication demanding the verification of services, and requested him to provide radiography report & letters from Doctors that referred patients to him because they had identified irregularities in his practice.</p> <p>He then provided the documents and the scheme did not communicate to him again. Two years later on the 8th of May 2018 he received a letter from Qhubeka Forensic Services inviting him to the Bonita's offices in Sandton to account for irregularities in his account. Dr. Kalanda wanted to know which account they were referring to, so that he could also prepare. Since the scheme could not provide details, he then declined the invite.</p> <p>Then on the 4th of June Polmed made allegations that he was claiming more than his peers.</p> <p>They also falsely accused him of charging for MRI, according to Dr. Kalanda he does not even provide such services.</p> <p>On the 10 of June MedScheme brought unidentified people without an appointment to his practice demanding to see his equipment. He then asked them to provide their</p>

	<p>request in writing and he asked them if they had also asked this from white radiologists.</p> <p>After this, direct payments were suspended on the 14th June.</p> <p>He was told by the scheme that he had owed them R169 000.</p> <p>His response to this was expressed in an email that they should not unlawfully suspend payments, bullying him by sending unidentified people to his practice, and that they should unbundle the amount they are saying he is owing them and should clarify which irregularity he had performed, and they should not forge or falsify information and should stop to try and extort money from his practice, Dr. Kalanda further had his contact details for them to communicate with his practice and get information on any irregularities they picked up.</p> <p>However, this was then followed by a threat to blacklist him and to take the amount they said he owed the scheme from future claims and the claims that were suspended.</p> <p>Dr. Kalanda's response was that he would sue the scheme for loss and damage.</p> <p>Dr. Kalanda said that the scheme wanted him to use bundled codes for claims on a selection of clients that were referred by oncology department, His suspicion on this is that because these are cases of cancer, that the scheme would want to save costs. He was adamant of the opinion that time and skill had to be applied on examining this group of patients and examine the abdomen and pelvis as requested by the oncologist separately and hence he billed them on different codes.</p> <p>Adv. Ngcukaitobi wondered if there was anything clinically wrong with bundling codes and providing that claim according to the request of the medical scheme.</p> <p>Dr. Kalanda could not substantiate that there was any clinical issue with bundling the codes, his argument was that medical Schemes should not dictate to him which codes to use for procedures performed and whether to bundle or unbundle codes when claiming for different procedures on the same patient as these were complex examinations due to cancer and needed to be done separately with care and attention exercised.</p>
Other business	None

Adjournment: inquiry was adjourned at 13:22