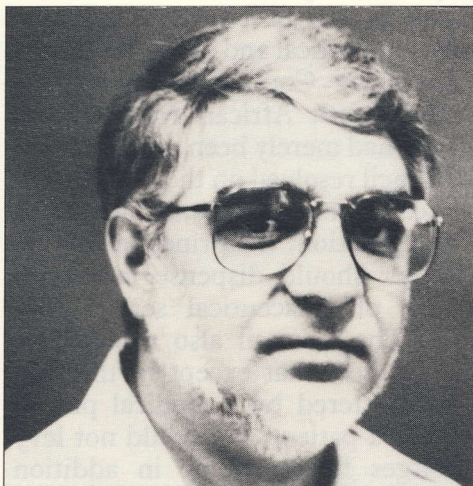


Update on Dispensing

Part IV: Responses of Relevant Organizations

— M H Cassimjee



Dr M H Cassimjee, LLM RCP, LLM RCS (Ireland)
MPrax Med(Natal) MFGP(SA)
106 Retief Street
Pietermaritzburg
3201

Curriculum vitae

Dr Cassimjee has been in active family practice for the last 18 years. He has been part time Senior Lecturer in Family Medicine at the University of Natal since 1988. Presently he is working toward an Honours degree in medical science in Pharmacology at the University of Durban, Westville. As an executive member of the Natal Inland Branch of the Academy of Family Practice/Primary Care he is convenor of the committee for continuing medical education. His personal interest are in the economics of general practice and the legal issues relating to dispensing by doctors in South Africa.

Many organizations are either directly or indirectly affected and concerned with medical dispensing. For convenience these organizations will be divided into three categories:-

Statutory Bodies

- South African Medical and Dental Council
- Department of National Health and Population Development
- SA Pharmacy Council
- Competitions Board.

Summary

In Part 4 the author discusses the different responses and their implications of various organizations to whom he sent a questionnaire on medical dispensing.

S Afr Fam Pract 1989; 10: 282-90

KEYWORDS: Organizations; Drug therapy; Dispensing fees; Physicians, family; Pharmacy.

Professional Associations

- Medical Association of South Africa
- Pharmaceutical Association of South Africa
- National Medical and Dental Association
- The South African Academy of Family Practice
- Society of Dispensing Family Practitioners
- National General Practitioners Group

Service/Consumer Groups

- Representative Association of Medical Schemes (RAMS)
- Sick Benefit Funds eg National Union of leather workers

An open ended questionnaire was sent to Rams and to the sick Benefit Fund of the National Union of Leather workers in Pietermaritzburg.

The two questions asked were:-

1. Do you prefer the doctor to consult and dispense medicines to his patients?
2. Do you prefer the doctor to consult only and to issue a separate prescription for medicines to be purchased from the Chemist?

Update on Dispensing

The views of those organizations who already have a policy statement on medical dispensing, will be discussed first.

Let us examine the policy statements of the organizations mentioned.

Statutory Bodies

(a) *The South African Medical and Dental Council*

Their policy and opinions have already been discussed in detail in Part 2. The implications of guidelines on dispensing as set out in the joint statement by the President of the South African Medical and Dental Council and the Pharmacy Board, will be discussed later in this chapter.

(b) *Department of National Health and Population Development*

Certain aspects of the legal requirement, and the conditions for the dispensing of medicines by Doctors and Pharmacists in terms of the Medicine Control Act (Act 101 of 1965) have already been discussed in detail in Part 2. The Minister of

National Health and Population Development's Department's involvement in the dispensing issue will be discussed under the Pharmaceutical Society of South Africa's opinions and policies.

(c) *The Pharmacy Council (Previously: Pharmacies Board)*

The Council regretted that the joint statement on dispensing by medical practitioners which had been agreed upon by the executive committees of the South African Medical and Dental Council, and the SA Pharmacy Council had not been confirmed by the South African Medical and Dental Council but had merely been noted. Hence the Pharmacy Council resolved on the recommendation of its executive committees, to adopt for incorporation in legislation, the principle that no medical practitioner should dispense medicines for gain where a pharmaceutical service was readily available. The Council also resolved to adopt the point of view that except in the case of medicines administered by a medical practitioner personally to a patient, he should not levy any fees or charges for medicine in addition



Uit-

Het u vinnigwerkende Solphyllin[®]

Update on Dispensing

to his consultation fee, and that if exceptions to this restriction should become necessary in the public interest, the Pharmacy Council should be consulted in the consideration of such cases. The Council resolved that legal opinion be obtained as to the exact manner in which the above mentioned principles could be incorporated in legislation, and that the Minister of National Health and Population Development be approached as soon as possible with a request that the relevant legislation be amended as contemplated above in the interest "of the continuing existence of a strong pharmacy profession which was ultimately in the best interest of the public." The Council resolved to state publicly its policy that the Pharmacist, due to his specialised training and knowledge of medicines, was the specialist in the supply of medicines and that he should continue to fulfill this role.

(d) Competitions Board

The finding of the Competitions Board will be discussed in detail in Part V

Professional Associations

(a) Medical Associations of South Africa

In the joint declaration by the Medical Association of South Africa and the Pharmaceutical Society of South Africa published in April 1981, specific guidelines had been set out for medical dispensing.

The joint declaration was made by Prof JN de Klerk, chairman of the Federal Council Medical Association of South Africa and Gordon Dowsett the President of the Pharmaceutical Society of South Africa.

However, in September 1985 the chairman of the Federal Council of Medical Association of South Africa Dr RD le Roux welcomed the fact that the South African Medical and Dental Council and the Pharmacy Council had now issued clear guidelines on the question of the dispensing of medicines. Dr le Roux stated that these guidelines as set out in the joint statement by the presidents of the South African Medical and Dental Council and the Pharmacy Council, "to a large extent



Asem? troop oorweeg?

Teofilien 80 mg, Etofillien* 10 mg, Alkohol 20% v/v. *Hydroxyllin® is 'n geregistreerde handelsmerk vir Etofillien (hidroksi-etielteofilien).

Update on Dispensing

reaffirms the Medical Association of South Africa's policy on dispensing". According to Dr le Roux the Adhoc committee's standpoint on dispensing does not differ much from the joint statements issued by Medical Association of South Africa and the Pharmaceutical Society of 1981.

These guidelines have as yet not been ratified or accepted by the full council of the South African Medical and Dental Council. The guidelines have been merely noted.

The implications of these guidelines will be dealt with subsequently in this chapter.

(b) Pharmaceutical Association of South Africa

In order to understand the Pharmaceutical Society's response it is imperative to follow events from 5 March 1983.

Early in March 1983 a Pharmaceutical Society of South Africa delegation comprising the President and Executive Director met with the

Minister of Health (Dr Nak van der Merwe) and a 10 page memorandum on the "Trading Doctor" was handed to him. The Minister was sympathetic towards the delegation and asked for specific examples of trading doctor malpractice to be sent to him.

The Pharmaceutical Society's memorandum proposed a radius limitation to be imposed on dispensing doctors as well as a suggestion that a dispensing doctor be registered as such and be licensed on an annual basis. A memorandum with specific examples of trading doctors activities was immediately supplied to the Minister.

This was followed later in that month by a meeting with Professor Geldenhuys, President of the South African Medical and Dental Council and another meeting with Professor Guy de Klerk and Professor N Louw representing the Medical Association of South Africa. Further negotiations took place with both Medical Association of South Africa and South African Medical and Dental Council with their first accepting the proposal



CALS



Vinnigwerkende
Solphyllin[®] Stroop
Gee u pasiënte met akute brongoo

Update on Dispensing

to register dispensing doctors and later rejecting it.

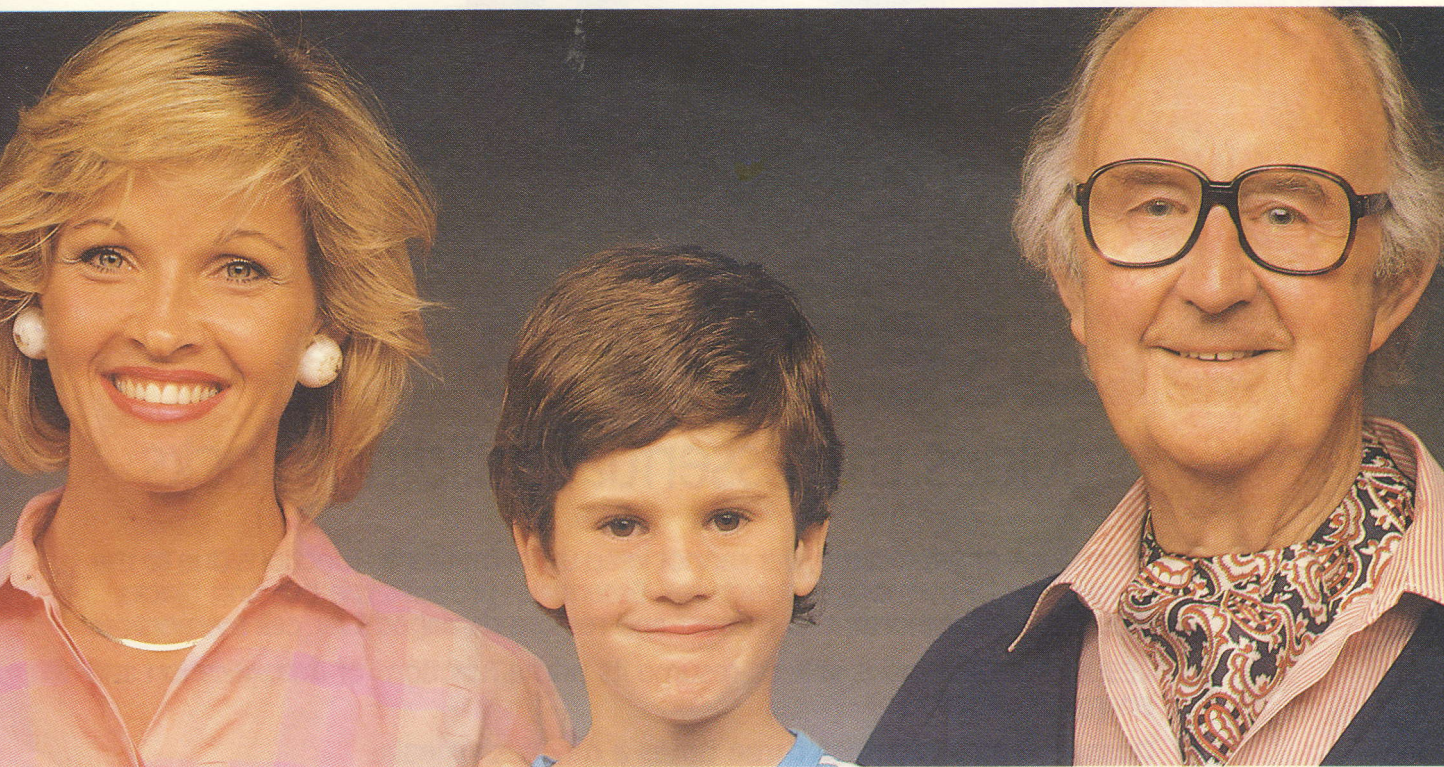
The joint liaison committee of the Pharmaceutical Society and Medical Association of South Africa finally met in June 1983 after pressure had been brought to bear on the Medical Association of South Africa by the Minister. A strong case was presented by the Society. This was followed by a memorandum detailing the pharmacists' situation as a result of the trading doctor activities. The memorandum was also sent to the Minister. An additional memorandum on the practical and financial implications of dispensing by doctors and purporting to demonstrate the excessive profits being made was also submitted to Medical Association of South Africa.

In response to the memoranda, a letter from the Medical Association of South Africa rejecting the Pharmaceutical Society of South Africa's contentions was sent to the Society in September 1983.

The Society responded by sending a list of 1209 names and addresses of doctors or medical practices to Medical Association of South Africa which was rejected out of hand by Guy de Klerk and the Federal Ethical Committee of Medical Association of South Africa.

The proposal of a radius limitation was also subsequently rejected by Medical Association of South Africa. In November 1983 a letter was sent to the South African Medical and Dental Council requesting an interpretation of their ethical rule 28 and what was meant by a "doctor should not place himself in economic competition with a Pharmacist". The South African Medical and Dental Council did not reply. However, the Minister of Health and the Legislators were sympathetic to the cause of pharmacy and during March 1984 amending legislation to the Medical Dental and Supplementary Health service Professions Act was passed by parliament.

The contention was that the following problems



oasma die nodige ruimte om asem te haal.

LPHYLLIN STROOP Verw.nr. G701 (Wet 101/1965). Elke 15 ml bevat Teofilien 80 mg, Etofyllien* 10 mg, Alkohol 20% v/v. *Hydroxyllin* is 'n geregistreerde handelsmerk vir Etofyllien (hidroksi-etielteofilien).

would be addressed:-

- Conditions under which doctors could dispense.
- Financial record keeping
- Registration
- An inspectorate with certain enabling powers was created.

The subsequent letter which was sent out to practitioners by the South African Medical and Dental Council in December 1984 governing the conditions for dispensing medicines has been rejected by the Pharmaceutical Society of South Africa. Both the South African Medical and Dental Council and the Minister was informed. The Pharmaceutical Society believes that the passing of the legislation has achieved exactly the opposite of what was intended. In the first few weeks some 2263 doctors had registered. The Pharmaceutical Society is becoming frustrated and cannot afford to wait any longer. The question being asked is "why is their future in the hands of the South African

Dispensing is part of a doctor's responsibility and professional duty, and he should be free to do it without restriction

Medical and Dental Council"? The doctor is increasingly involved in medicine distribution — a role which the Pharmaceutical Society believes is in the confines of the pharmacist. With the legislation now in force, a doctor who wishes to dispense, must register with the South African Medical and Dental Council. The question asked is why not with the Pharmacy Council? The Pharmaceutical Society is now dismayed that with a stroke of legislative pen, Statutory Bodies now control medicine distribution. It would be pertinent to conclude this section by quoting Donald Sutherland:

"The Pharmaceutical Society is not against the true dispensing medical practitioner, provided there is no pharmaceutical service readily available. We object to the fact that 1800 doctors are within five kilometres of a Pharmacy and are in fact competing with the pharmacist on economic terms. We have proof that many of these doctors are breaking the law as they are using unqualified, unregistered people to do their dispensing."

(c) National Medical and Dental Association
Fundamental to National Medical and Dental

Associations policy is the basic acceptance that in South Africa we have communities with different socio economic profiles and different access to the decision making process. The majority of the people fall in the lower income bracket and consequently their ability to pay for medical care is greatly limited. Hence the general practitioner plays the major role in providing medical care primarily because he is able to provide services. National Medical and Dental Association fears that restriction of dispensing by the general practitioner will have negative effects upon the provision of an essential service and upon the health of the people.

(d) The South African Academy of Family Practice

According to the chairman of the South African Academy of Family Practice: "The Academy does support existing legislation which enshrines the general practitioner's inalienable right to dispense. It does not have any policy on the registration of doctors. However, it has reflected concern on the proposed restriction/curtailment of dispensing by doctors as it believes that this might result in the lowering of standards of Primary Care/general practice in South Africa since many South Africans might be deprived of their medications especially where there was an all inclusive fee.

"The Academy believes research should be done to ascertain the extent of dispensing in South Africa and to what extent this subsidised health care in the form of medicines being dispensed where these might not have been. The Academy is still strongly supportive of this position. As an Academic Body the whole issue of dispensing should be researched with the objective, as mentioned, in mind."

(e) Society of Dispensing Family Practitioners

This Society would like the South African Medical and Dental Council to rescind its ruling that doctors dispensing medicines must register with the council.

The Society finds it surprising that the Council goes about restricting doctors from rendering an essential service, particularly to the lower income group communities who benefit the most from dispensing. The Society has reacted violently to the restraints laid down by the South African Medical and Dental Council on the dispensing of medicines. It has also requested the Competitions Board to look into certain restrictive practices.

The Society has totally rejected the guidelines recommended by the Adhoc committee of the South African Medical and Dental Council and South

African Pharmacy Council on the dispensing of medicines by doctors.

(f) National General Practitioners Group of the Medical Association of South Africa

The sub-committee for dispensing doctors of the National General Practitioners Group was established in October 1985. This sub-committee is now the official voice of the various dispensing doctors' committees throughout South Africa. Prior to October 1985 the case for the dispensing doctor had been handled by a number of un-coordinated organizations. At a meeting at the Carlton Hotel in August 1985, followed by a second meeting in Port Elizabeth in September 1985, it was decided that differences of opinion between various groups should be ignored and that nothing could really be achieved without a co-ordinated approach by a recognized body. This resulted in the birth of the sub-committee for dispensing doctors of the National General Practitioners Group. The memorandum dated 3/12/85 of the sub-committee for dispensing doctors of the National General Practitioners Group clearly state their policies and opinions. "The spirit and intention of existing legislation should be respected despite certain shortcomings and impracticalities and some endeavour must be made to effect some change to the benefit of the dispensing doctor and his patient."

Dispensing should only be incidental to a doctor's practice

The memorandum further states that there is no purpose in a consultation, if a doctor is unable to ensure whether his patient receives medication, once having made a diagnosis and the decision to treat. It is further stated that dispensing is part of a doctor's responsibility and professional duty and that he should be free to dispense without any restriction.

According to the South African Medical and Dental Council guidelines on dispensing, one of the conditions stipulated is that "Dispensing should be incidental to a doctor's practice and to his other professional duties." The National General Practitioners Group have motivated to the Parliamentary Committee of Medical Association of South Africa, that in order to avoid confusion the word "incidental" be replaced by the phrase "only a part of."

The memorandum strongly stresses that doctors must desist from commercializing dispensing and using terminology such as "profit" on medicines. Instead "compensation" received for services rendered would be more appropriate in keeping with the spirit and tradition of the dispensing doctor. For this reason Medical Association of South Africa's recommendation of charging 50% to the purchase price of drugs is an acceptable fee to the National General Practitioners Group, for this dispensing service rendered.

The National General Practitioners Group has made recommendations to the South African Medical and Dental Council to accept Medical Association of South Africa's formula for the costing of medicines.

The restriction on the prepackaging of medicines, and the voluminous clerical work involved, in record keeping, labelling etc is deemed to be totally impractical, considering the work load and the type of patient population most dispensing doctors serve.

The National General Practitioners Group fears that these impediments may discourage doctors from dispensing. This could have far reaching implications as there may be greater patient dependence on an already heavily over subscribed state medical service. Failure also to provide such a needed essential service could lead to uncalled for political unrest.

Service/Consumer Groups

(a) Representative Association of Medical Schemes

Did not respond to the open ended questionnaire sent to them.

(b) Sick Benefit Fund of the National Union of Leather Workers (Pietermaritzburg)

Responded to the open ended questionnaire sent to them.

They preferred the doctor to dispense medicines to his patients. Past experience had proven to them, that when prescriptions were issued, at most times the scripts found their way to the waste paper basket, the reason being that employees had no cash to pay the Chemist during mid-week, especially.

"Ever since the present consultation and dispensing started, our National Health Fund is in a reasonable healthy financial position. Prior to
to this

our "Sick Fund" was a very sick one and members were continuously restricted to the medicines they could get. Under no circumstances will the National Industrial Council of the Leather Industry which administers the sick fund revert to question 2." (ie. "Do you prefer the doctor to consult only and to issue a separate prescription for medicines to be purchased from the Chemist?")

Statement by the President of the SAMDC and the President of the SA Pharmacy Board - 28/6/1985

Dispensing of Medicines by Doctors

"The Executive Committee of the SAMDC on recommendation of a joint Ad Hoc Committee, consisting of members of the Council and the SA Pharmacy Board decided that the following statement in connection with legal conditions, regulations and policy with respect to dispensing undertaken by registered persons be made and brought to the attention of registered persons as follows:

1. That doctors may not keep an "open shop", that doctors "may not trade in medicines" and that they have to comply with all the legal requirements with respect to the personal handling of dispensing, labelling and the keeping of records of dispensed remedies, registration of the activity of dispensing and the keeping of records regarding the purchase and sale of remedies, also that the dispensing by a doctor should be "incidental" to his other professional duties.
2. That the following acts by a doctor will be interpreted by the Medical Council as "trading" in medicines or that it will be considered as falling outside the scope of "incidental" dispensing (supply of medicine).
 - 2.1. The purchasing of medicines for practice purposes outside of one's practice, ie in association with other persons or doctors.
 - 2.2 The prescribing or dispensing of medicine of a manufacturer or distributor in which the person himself or associated doctors or immediate family members have a direct financial interest.
 - 2.3 The joining of doctors in interest groups with the aim of purchasing medicine or who in spirit act as "trading doctors" or who advertise themselves as dispensing doctors.

2.4 The dispensing of remedies to patients at a price greater than the suggested retail price of the Pharmaceutical Society, minus 20%.

2.5 The generating of a nett income from the dispensing part of the practice of more than 10% of the total professional nett income (see no 4).

2.6 The rendering by the doctor of an account that does not specify separately the parts relating to professional services and to medicine dispensed.

3. Where the SAMDC receives information that doctors infringe the Act, regulations or policy with respect to dispensing, inspection of practices, if necessary, will be conducted and/or investigation will be conducted if indicated, with the strict implementation of disciplinary measures for which provision is presently provided for.

This includes the possibility of a caution, a reprimand, suspension or erasure, and the withdrawal or limitation of the right to dispense.

4. In deciding if a doctor "trades in" medicine in relation to abovementioned views, this will at present be judged in relation to point 2.5 above and in terms of the reasonable availability of a pharmacy. It is also envisaged for the future that doctors working under special circumstances may apply for exemption from some of the aforementioned provisions".

Implications of the Recommendations of the Ad Hoc Committee of the SAMDC and the SA Pharmacy Board

The joint statement made by the President of the South African Medical and Dental Council and the President of the SA Pharmacy Board supporting the recommendations of the joint Ad Hoc committee, somewhat reflects the South African Medical and Dental Council's bias towards the Pharmacy profession.

A massive amount of almost R20,000 was incurred by the Transvaal Committee for dispensing doctors, in seeking legal opinion and advice and in despatching a legally drawn memorandum to the South African Medical and Dental Council criticising and rejecting the recommendations of the Joint Ad Hoc Committee.

Furthermore, a threat of an interdict against the South African Medical and Dental Council was also imminent, had the South African Medical and Dental Council fully ratified and accepted these recommendations.

Over and above this, many professional associations already alluded to in this chapter intensely pressurised the South African Medical and Dental Council to totally reject the joint Ad Hoc Committee's recommendations.

As a result these recommendations were not ratified but merely noted, when the full council of the SAMDC met in October 1985. However these recommendations were once more to be tabled for discussion when the full Council of the SAMDC met again in October 1986. The sub committee for dispensing doctors of the National General Practitioners Group as well as various other professional associations have totally rejected these recommendations.

On carefully scrutinizing these recommendations as well as the dispensing legislation, it becomes evidently clear the the pharmacy profession has been afforded legal protection against the dispensing doctor at the expense of the patient, who has been given no consideration whatsoever.

Doctors should desist from commercializing dispensing – also from using terms like “profit” etc

At this stage it would be pertinent to review as to which members of the South African Medical and Dental Council served on the Ad Hoc Committee:

1. Dr JA van der Riet (Retired GP, attached to Universitas Hospital, Bloemfontein)

2. Prof GJ Pistorius (Department of Family Practice, OFS University.)
3. Dr AM le Roux (Superintendent, Nelspruit Hospital.)
4. Prof Frans Geldenhuys (President SAMDC Faculty of Medicine, University of Pretoria.)

From the description of the medical practitioners it would be relevant and important to know their background as regards competence to judge this issue. Was any scientific research undertaken which motivated their decision? Why were the country's dispensing doctors, numbering some 4000, not even consulted on this issue? On what information did they judge?

There appear to be no answers to these questions.

It is tragic that the South African Medical and Dental Council has failed to fulfill one of its major obligations. If ethical codes and rules are formulated to protect patients' interest, then the question asked is, why shackle the dispensing doctor with such stringent restrictions, if patients' interest is foremost?

Bibliography

1. Bamber G. Presidential address. S Afr Pharmaceut J 1985; 52 (7): 286-7.
2. Republic of South Africa Competitions Board. Fifth Annual Report, Pretoria, Aurora Printers, 1984.
3. Republic of South Africa Government Gazette No 1437 Act No 96 of 1979. Maintenance and Promotion of Competition Act, 1979.
4. MASA's Decision on Dispensing Doctors — Any Change. Medical News Tribune 1985; 3(2).
5. NAMDA. Memorandum on — the right of doctors to dispense medicines — submitted to the Minister of Health and Welfare. Unpublished reports — Namda Durban, 1984.
6. Niftrik JV. A meeting with the President of the South African Medical and Dental Council. Medical News Tribune 1985; 2(21): 16-7.
7. Dispensing doctors react violently — Council asked to rescind ruling. S Afr Prescriber 1985; VII(17): 1-2.
8. Sutherland Don. The cost of medicines and what we feel could be done about it. S Afr Pharmaceut J 1985; 52(7): 290.

**MAKE SURE YOU'RE HERE
IN JUNE NEXT YEAR.**

**7th General Practitioners Congress
Wild Coast Sun 11-14 June 1990**

