



Parties given 60 days to resolve pricing issues

The Constitutional Court ruled on September 30 that the medicine dispensing fee be reviewed by the department and the pharmacists within 60 days of the ruling (last week in November).

The court set aside a Supreme Court of Appeal judgement declaring the new medicine pricing regulations invalid. It added that there was no need to scrap the law but that changes within the law were needed.

The issue of the dispensing fee had to be revisited and oral submissions, it ruled, had to be made to the pricing committee.

The pricing committee reconvened in early October – without a chairperson as Prof Di McIntyre had resigned a chair but remained on the committee – to discuss the implications of the Constitutional Court ruling and map out a process for consulting industry on devising new fees for pharmacists and wholesalers.

Competition far more effective than price controls

Competition between manufacturers and suppliers is a far more effective way of protecting consumers than price controls, Eustace Davie, a director of the Free Market Foundation, wrote on the Foundation's website in early October.

"Economic policy is in the hands of the government and not the Constitutional Court," Davie added, explaining, therefore, that the full responsibility for the consequences of the institution of price controls on medicines – "such as putting pharmacists out of business and depriving poor and rural communities of access to medicines" – rests with government.

"After the dust of the court action and required new price committee hearings has settled, we will probably find that pharmacists will be allowed to charge more realistic and differentiated dispensing fees, depending on the nature of their businesses. "However," Davie added, "medicines will be subjected to price controls with predictable deleterious consequences."

He noted that there was evidence suggesting that drug price regulations increase the delay in registering new drugs. The registration process in South Africa already delays the registration of drugs, imposing considerable costs on drug companies: "The healthcare outcomes are likely to be severe, reducing patient welfare as well as the ability of physicians to care for their patients."

Apart from the delays in registering drugs and the reduced overall availability of innovative new medicines, the drug price regulations will still force many pharmacies out of business unless their dispensing incomes are re-instated at the pre-price control levels.

"If profit margins for pharmacies, wholesalers and distributors are unduly reduced," Davie added, "it will be impossible for them to carry a wide range of medicines."

Dispensing doctors look forward to renewed focus

The National Convention on Dispensing (NCD) has issued a statement expressing the belief that the Constitutional Court's ruling to revise the Medicines Act's pricing regulation will also address the dispensing fee that doctors are allowed to charge.

The NCD also welcomed the comments from the presiding judge that "particular attention needs to be paid to the circumstances at least of rural and courier pharmacies".

"Legislative restrictions on health care professionals in the private sector could affect the sustainability of health service delivery in rural areas in particular, which might compromise or jeopardise the intentions of legislation aimed at broadening access to medicines," said NCD chair, Dr Norman Mabasa, in the statement.

As an interested stakeholder, the NCD, which represents dispensing doctors, will submit new information to the Pricing Committee for consideration prior to the publication of the revised regulations by the end of November.

"Doctors are still encouraged to continue charging equitable dispensing fees to complement the spirit and intention of making medicines more accessible and affordable to patients," Mabasa added.

Pharmacists rest their case

Initial reaction from pharmacists after the Constitutional Court ruling was satisfaction that the court agreed in that the controversial limited dispensing 26% or R26 cap dispensing fee was inappropriate.

"We're very happy with the judgment," Pharmaceutical Society of SA (PSSA) executive director, Ivan Kotze, was reported to have said on hearing the news.

"The good news for us is that they agreed the fee is not appropriate and should be corrected."

Despite claiming victory, the judgment also set aside a Supreme Court of Appeal judgment the pharmacists won which declared the whole of the Medicines and Related Substances Act invalid.

Netpartner increases share in Netcare

Netpartner Investments increased its shareholding in Network Healthcare Holdings (Netcare) following its acquisition of an additional R570 million stake in Netcare towards the end of September.

"As part of the deal we will now hold 339 204 743 shares in Netcare amounting to 23.47% of the voting rights," Netpartner CEO Dr Elbert Steyn explained in the share deal announcement.

"Direct BEE shareholding in Netpartner will be 27%, thus achieving a more substantial black equity ownership in the company in support of transformation."

In terms of an agreement between Netpartner and Dr Jack Shevel, Netpartner has acquired 38 million Netcare shares at a purchase price of 650 cents per share amounting in aggregate to R247 million. A total of R214 500 000 is payable in cash while the balance of R32 500 000 will be funded by a vendor loan, procured by Shevel. The loan bears interest at a fixed rate of 6.75% per annum and is repayable on or before 1 October 2007.

Council dismisses practitioners for fraud

A Durban medical practitioner, Dr Ebrahim Osman Latib, and Ms Lindiwe Jacqueline Maseko, a psychologist from Johannesburg, have both struck off the Health Professions Council of SA (HPCSA) roll of practitioners following their involvement in fraud.

Dr Latib, who consulted in Durban's KwaMashu Township, was charged with 56 counts of fraud and was convicted on 46 of them.

"For selling fake sick notes for R50 or more, the KwaMashu based doctor would connive with his 'patients' and book them off work," the HPCSA explains in its media statement on the dismissals.

Following his conviction, the doctor was removed from the register and was also ordered to pay the total cost of the inquiry.

Psychologist, Lindiwe Jacqueline Maseko was charged with nine counts of fraud and was convicted on eight of them.

"Maseko," the HPCSA statement notes, "would get details of people she never saw at her practice and bill them for services not rendered before claiming from a medical aid company."