

# Facing the music – SAPC disciplinary action

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It isn't a topic we want to discuss. Who *wants* to speak about being punished because we've done something wrong? It is however something of which we need to be aware and, hopefully, prevent.

As people registered with the South African Pharmacy Council (SAPC), it's important for pharmacist's assistants to realise that Council holds them accountable for their behaviour and actions.

Among other requirements, the Pharmacy Act, Act 53 of 1974, instructs the SAPC to uphold and safeguard the rights of the public to high quality pharmacy services. It must also act when complaints and accusations are received about the conduct of registered people.

That sounds grim, and it can be, but there are ways that we can protect ourselves.

## Protecting ourselves

The first thing to do is to make the Good Pharmacy Practice rules your best friend – check which rules apply to your area of practice. Get to know them so well that they become second nature to you.

The same applies to the Code of Conduct for registered persons. Yes, each principle begins with the words “The pharmacist must ...” but you know that in this case “the pharmacist” is just a generic term referring to everyone who is registered with the SAPC.

Never, ever work outside your scope of practice – even if you feel that you have the knowledge and experience to do so. It just isn't worth it. If a complaint is received, both you and your pharmacist may have to face a disciplinary inquiry by the SAPC.

If you are involved in dispensing, make sure that your pharmacist is also involved. It is the pharmacist's responsibility to evaluate the prescription, to check your work and to decide on whether you or the pharmacist should explain the medicines to the patient. Even if you're frantically busy, make sure that your pharmacist does check and sign off your work – if a mistake happens, you need to be able to prove that you did the right thing.

Develop your interpersonal skills when dealing with patients. Patients can be difficult. They can and do complain when they're not happy with the service, whether it's related to medicine or if they don't like the way you spoke to them. And the worst thing is when they sometimes complain because you *don't* break the law, like when you know that you can't give them a medicine without a prescription.

If you are asked to fill in an incident report at work, don't complain. It's another way of protecting yourself. Everyone makes mistakes. It's how they handle them that is important. An incident report will not merely record the problem, it will show how you took responsibility for it and took corrective action. It will also make you more aware of the duty you have to check, and check again.

It isn't always a patient who complains. When the pharmacy is inspected, the monitoring officer may identify problems, like working outside your scope of practice or without a pharmacist present. He or she may notice that there is insufficient control over access to medicines. There are many common problems, many of which can be corrected relatively painlessly.

## What happens when the SAPC receives a complaint?

Remember the first thing will be that the complaint will be scrutinised to see if there is any reason to send it to one of the SAPC committees for investigation. If there is, you will receive a letter from the Registrar, asking you for your version of events. Never ever ignore these letters. Get help from your pharmacist if you need to, but answer the letter, telling them your side of the story. If you have evidence that you were right, and the person who complained was wrong, send that to the Registrar. First prize is when the Registrar's team decides that no further action is needed from Council.

## Disciplinary committees

There are three committees, each of which handles the complaint at a different stage. Each committee consists of practising pharmacists, so its conclusions are based on what is professionally correct in each instance. Obviously there

are legally trained people on the committees as well, but their role is to make sure that everyone is treated fairly.

The first is the Committee of Preliminary Inquiry, which evaluates the evidence presented to it. This includes the original complaint and your response to the Registrar. Sometimes it's straightforward – there was a contravention, but little or no harm was done. You are then given the opportunity to pay a fine. If you pay it, that's the end of the story.

If you feel that it's more complicated than the Committee realised, you may choose not to pay the fine, but to let the complaint be evaluated by the second committee, i.e. the Committee of Informal Inquiry. You then have the opportunity to meet with them in person, or to send them more information. It is an Informal Inquiry because it is still a discussion between you and a group of professionals. Neither of you need legal representation to discuss pharmacy professional issues, although there is still legal oversight to make sure that everything is done fairly and correctly.

The Committee that you want to avoid at all costs is the Committee of Formal Inquiry. This is usually reserved for serious complaints, either about serious contraventions of pharmacy rules and regulations or about harm that was done to a patient. You are required to appear at the meeting, and you may take a lawyer with you to represent you.

### Penalties that may be imposed

If you are found to be guilty of improper, unprofessional or disgraceful conduct, the SAPC has a number of choices. Its decision will be based on just how bad the incident was and what the consequences were.

The possibilities are:

1. A reprimand or a caution or a reprimand and a caution. A reprimand is defined as a formal expression of disapproval, while a caution is a warning to take more care in future.
2. Suspension for a specified period from practising or performing any acts forming part of your scope of practice. If you are not allowed to perform any professional functions for a period of time, it seriously affects your ability to earn a living during that time. For example, as a pharmacist's assistant, you would not be permitted to work in the dispensary or to sell Schedule 1 or 2 medicines. You would still be allowed to work in the front shop of the pharmacy, but it is unlikely that your employer would be prepared to pay you the same salary.
3. Removal of your name from the register. This is serious because your career as a pharmacy professional comes to an end.
4. A fine not exceeding R25 000 per wrongdoing. Ouch.

### Recent examples of formal inquiry and penalties

Some of these examples deal with pharmacists, but there are implications for pharmacist's assistants as well. For example, if you are allowed to work outside of your scope of practice, the pharmacist will be punished. You are also at fault and at risk if a mistake happens.

#### Pharmacist A

- Found guilty of failing to supervise a pharmacist's assistant, which resulted in a dispensing error.
- Sentenced to pay a fine of R 15 000, but it was suspended for a period of 12 months, on condition that she is not found guilty of a similar offence during that time. In addition, she had to pay R 12 897.26 for the costs of the inquiry.

Note: When they say it is suspended, it means that she did not have to pay the fine immediately and will not be required to pay it if it does not happen again in the next year. If, however, it does happen again within the 12 months and she is again found guilty of the same offence, she will have to pay the R 15 000, and will have a stricter penalty imposed for the second offence. The cost order of nearly R 13 000 would need to be paid as soon as possible.

#### Pharmacist's assistant B

- Found guilty of fraudulently presenting a forged certificate of registration as a pharmacist's assistant (post basic) even though he wasn't registered as such.
- Sentenced to from practising as a pharmacist's assistant (post basic) for a period of 5 years, but it was suspended for a period of 5 years on condition that he doesn't do something similar during the 5 years. He was required to pay a similar cost order to pharmacist A.

#### Pharmacist's assistant C

- Found guilty of a minor dispensing error
- She was cautioned.

### A final word of advice

Just in case a dispensing error causes harm to the patient, don't forget that the Good Pharmacy Practice rules require you to have professional indemnity insurance in your name. It's great if your employer provides indemnity insurance, but it must be in your name and not just in the name of your employer. For most people, this may feel like an unnecessary expense, but if you happen to be the unfortunate person who makes a serious dispensing error, it will protect you against possible financial ruin.

### References

- Pharmaciae*, vol 5 issue 2, December 2018  
*Pharmaciae*, vol 5 issue 1, August 2018  
*Pharmaciae*, vol 4 issue 1, August 2017