The following letter was recently sent by the Society of General/Family Practitioners to the HPCSA:

INVESTIGATION AND EXPOSURE OF DOCTORS FOR ALLEGED MISCONDUCT THROUGH NATIONAL MEDIA

Dear Advocate Mkhize:

It has come to our attention that various institutions (medical aids, employers and others) are conducting investigations against members of the medical profession for alleged fraud or unethical methods of practice.

I must state from the outset that the Society of General/Family Practitioners does not condone any fraudulent or unethical practice by its members or any member of the medical profession, per se. To that extent, we welcome any acceptable means of detection of the existence of such within the legal framework which can colloquially be summarised as ‘you are innocent until proven guilty’.

However, we wish to seek clarification from the Health Professions Council as to the legality of some of the methods adopted by, in this instance, medical aid schemes, in attempting to expose and eradicate corrupt practices. Of specific concern is the invasion of doctors’ rooms by a posed and briefed ‘patient’, but who in fact is an employee of a particular medical aid scheme armed with a hidden video camera and tape recorder, who consults with an alleged fraudulent doctor, using the video footage and recordings on national television. This would constitute ‘entrapment’ and is a violation of the constitutional rights of the medical practitioner concerned.

The two television programmes to which I refer, in particular, is Third Degree aired on e-TV on the writing of fraudulent medical certificates, for which the doctor was paid a fee and the more recent documentary aired on Special Assignment on 12 August 2003 on SABC 3, spearheaded by Discovery Health Medical Aid and which dealt with medical aid fraud.

Of particular concern to the Society of General/Family Practitioners is not so much the possibility of whether these doctors are innocent, or indeed culpable, but rather the ‘flood’ of these gadgets into consulting rooms with the resultant consequence of eroding the trust between doctor and patient, namely, when a patient arrives you ask yourself whether you are in a ‘recording studio’ or in a medical consulting room. The worst is when these unilaterally edited tapes, which are recorded undercover, are aired on national television or through some other source of media as entertainment or as a documentary, depending on the individual’s point of view. If the recording was used solely between the investigating institution and the doctor to assist with an investigation, our concern would carry a different emphasis.

The fact that a unilaterally edited tape, playing what the holder wants the public to hear, can be aired on television seems to lend itself to a question of moral and legal admissibility. The other question is whether doctors in return would be allowed to record all proceedings in their consulting rooms and, if ‘well-connected’, air such proceedings on national television when they wish to? Alternatively, would they be allowed to use such material if they think a version of broadcast has omitted essential information which may be used in their defence?

The intention of this communication is to seek your clarification on the following:

- Legal and ethical admissibility of the broadcasts
- Whether doctors are allowed to record and broadcast for entertainment and/or defence
- Whether permission needs to be sought from a doctor before such a broadcast is aired
- Any recourse arising therefrom.

I would like to emphasise that these questions have nothing to do with condoning unethical conduct, but are being raised due to serious doubts which we have as to the approach and the motive thereof, as it not only implicates individuals, but tarnishes the entire profession. As a profession we feel vulnerable.

I would appreciate your guidance in this regard.

Thanking you in advance

Yours sincerely

DR MN MABASA
Chairman
Society of General/Family Practitioners