Health minister to assume more powers if new bills are passed

Two bills recently tabled in Parliament are set to shake up the private hospital industry and centralise decision-making over hospital tariffs as well as the regulation of new medicines and scientific trials within the health minister’s office. The National Health Amendment Bill (health bill) and the Medicines and Related Substances Amendment Bill (medicines bill) were both published in April and there is widespread agreement that they are the most important pieces of health legislation to be proposed in recent years.

However, the health department has been accused of hasty drafting and being hell bent on rushing both bills through parliament before the general elections early next year. Some groups in the African National Congress and the Congress of South African Trade Unions are lobbying for the bills to be withdrawn to attend to other priority issues, according to well-placed sources. “There is a strong feeling that National Health Insurance is a more urgent priority at this stage and that would have a greater impact on the lives of especially poor South Africans. But there just seems to be a lack of enthusiasm on the side of the minister to tackle such issues, rather going for easy targets which are important, but not a priority at this stage,” said an ANC source.

Doctor groups have also warned that the laws would see an exodus of specialists and the destruction of private health care. The medicines bill seeks to replace the inefficient and overburdened Medicines Control Council with a new regulatory authority, and it gives the health minister the power to turn down an application to register a medicine on the grounds that it is not in the public interest.

This is in contrast to international regulatory bodies, which operate on the premise that medicine registration is a technical process overseen by a specialist body that considers safety, quality and efficacy and are independent of political structures. In a joint submission to Parliament, the Aids Law Project (ALP) and Treatment Action Campaign (TAC), called for the medicines bill to be withdrawn, warning that if it became law it would signal the death knell of the scientific governance of medicines and clinical trials in South Africa.

“In our view, this [bill] is the latest attack on evidence based regulation of medicines and clinical trials,” the organisations said. “This latest development, made in the name of improving effectiveness and efficiency, seeks to destroy what to date has only been weakened. It does so by proposing an amendment to the Act that will effectively allow the health minister to block the registration of medicines of proven quality, safety and efficacy, as well as to allow the sale and provision of untested ‘treatments’ and ‘cures’,” said ALP lawyer Jonathan Berger. The ALP and TAC also accused the health department of developing the bill in an unaccountable and non-transparent manner that makes a mockery of public consultation.

However, Dr Anban Pillay, Chief Director Health Economics in the health department said efficacy, safety and quality would not be compromised. He said a body similar to the MCC would investigate the efficacy, safety and quality of a drug. A “declaration” would then be made and a certificate issued. The company would then be able to export the medicine to a market outside of South Africa. However, if its intention was to sell it locally, then it would be scrutinised by committees in accordance with its benefit to the population, the burden of disease and its appropriateness for the local market. The pricing committee would rule on the value for money of the drug in question.

“These committees have to report to someone to make the final say and it has to be the minister,” said Pillay. He denied that the process would be slowed down significantly stating that many of the applications could run in parallel. According to Pillay, international evidence showed that government would also have more bargaining power in terms of pricing if the drug was not registered until an agreement was reached on the price.

He confirmed that every new drug application would have to go via the minister for final approval, based on the recommendations from the various committees.

Meanwhile, the publication of the National Health Amendment Bill has seen a forceful response from various stakeholders including threats of legal action.

The health bill aims to make private health care more affordable by regulating the annual price negotiations between the private healthcare providers and medical schemes. A facilitator would be appointed by the minister to facilitate negotiations between the private healthcare industry and medical schemes. By combating rising private healthcare costs, the department believes medical scheme membership would become more affordable to more people.

It is also not an unprecedented type of health reform. Japan, Germany, Belgium and Switzerland, among others, negotiate tariffs with the private sector. However, there is concern that the
The facilitator would be a political appointment, working under the direction of the health minister.

Medical aid companies are complaining that rising costs have made medical aid cover unaffordable for low income earners. The private sector is primarily funded through contributions to medical schemes, which provide health insurance coverage to some seven million beneficiaries (of a total South African population of approximately 47 million).

Interim results from the Council for Medical Schemes has revealed that the closed medical aids serving mostly blue collar workers have had to dip into reserves as medical costs rise. As this is unsustainable, there is a fear that these medical aids will have to close and that their members will be dumped on the public sector.

The 2007 South African Health Review (SAHR) reported that just over R100 billion was spent on health care in South Africa in 2005, equivalent to some 7.7% of the country’s Gross Domestic Product (GDP). However, only about 40% of total health care funds in South Africa are spent in the public sector, while 60% flow through private intermediaries.

Another complaint is that the expanding private health system disproportionately absorbs health resources in the country. Historically, the distribution of health personnel in the country has been highly inequitable, skewed in favour of the private sector, the richest provinces and urban areas.

Hospital and doctor groups as well as opposition political parties have warned that the bill would see the collapse of the private health sector and exodus of doctors, particularly specialists who usually charge higher rates than medical schemes’ recommended tariffs.

A snap survey conducted by a South African Medical Association committee revealed that 66% of doctors surveyed, the vast majority specialists, would consider emigration if the health bills become law. Only eight of the 1 000 doctors said they would consider joining the public sector. However, Pillay said that the bill created an opportunity for medical schemes to negotiate with private healthcare providers. “I do not see the problem with this,” he said.

Professor Di McIntyre, health economist at the University of Cape Town said there had been a massive outflow of doctors from the public sector to the private sector since the eighties and only a slight increase in private patients. “So the number of patients per doctor in the private sector has dropped. Doctors in turn have to push up their fees and make sure people see them more often. Also, the current power imbalance, where three hospital groups own 85% of beds and 120 or more schemes have to negotiate individually with these large provider groups, is not healthy,” she said.

Private hospital groups told Parliament’s health portfolio committee this week that it had been impossible to consult with the health department. “We have often felt like an orphan … tugging at the skirts of a mother who will not listen,” Nkaki Matlala, chairman-designate of the Hospital Association of SA, said. Medi-Clinic CEO Koert Pretorius maintained that private hospital tariffs were reasonable and that annual increases had been reasonable. Mark Bishop, head of funder relations at Netcare, expressed concern that the proposed facilitator was not independent and that neither the facilitator nor the health department accepted any liability should the results of the regulations cause damage to any organisation or individual.

“This leaves one with the impression that they themselves have a lack of faith in the proposed legislations,” said Bishop.

Dr Richard Friedland, CEO of Netcare acknowledged the substantial inequities in the delivery of health care, but said he believed the private sector could play a meaningful role in the provision of services to those people who are unable to currently access private healthcare services. – Health-e News Service.