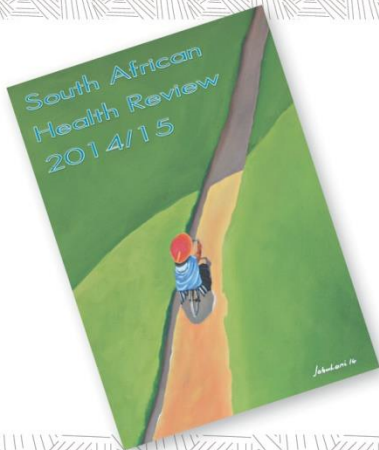




# HEALTH SYSTEMS TRUST



## HEALTH POLICY AND LEGISLATION SAHR KWIK SKWIZ SERIES

### This KWIK SKWIZ:



summarises Chapter 1 of the 2014/15 South African Health Review.

- The pace of health legislation in Parliament again decelerated in 2014/15, with only a single Act being passed – the Mental Health Care Amendment Act (12 of 2014). This is a brief piece of legislation, enabling the Director-General of Health to delegate some, but not all, powers conferred by the principal Act. The Amendment Act has yet to be promulgated.
- The Medicines and Related Substances Amendment Bill (6 of 2014) is still being debated, and will require each provincial legislature to develop a clear mandate in line with its section 76 status. No progress has yet been made with the Medical Innovation Bill, one of the few Private Members' Bills to be considered by Parliament.
- Despite the International Health Regulations Bill having been published for comment in 2013, this Bill has yet to be tabled in Parliament. The draft Bill provides for the repeal of the International Health Regulations Act (28 of 1974), and the incorporation of the International Health Regulations (IHR) of 2005 into domestic law. The IHR are a “framework for the co-ordination of the management of events that may constitute a public health emergency of international concern”. The need for effective implementation of such Regulations was underscored by the Ebola outbreak in West Africa in 2014/15. There has, nonetheless, been some progress in relation to shifting Port Health Services from provincial to national control, with the promulgation of sections 2 and 3 of the National Health Amendment Act (12 of 2013).
- As indicated in the National Department of Health's Strategic Plan, the establishment of the Office of Health Standards Compliance (OHSC) as an independent structure outside of the Department of Health is receiving high priority. The appointment of members of the Board of the OHSC was gazetted in January 2014. The OHSC has been created to monitor compliance with norms and standards for the provision of health services in both the public and private sectors. The creation of such norms and standards is therefore crucial to its functioning.
- A draft set of Norms and Standards Regulations was published for comment in February 2015. These draft Regulations are intended to apply to all public sector hospitals, clinics and community health centres, as well as all private sector acute hospitals and

- primary health clinics. The drafts have been criticised for being vague and poorly drafted, and for potentially duplicating or conflicting with provincial legislation.
- The most controversial aspect related to the implementation of the National Health Act was the issuing of a Promulgation Notice, bringing sections 36 to 40 of the Act into effect, which was issued by the President on 31 March 2014. These sections deal with the certificate of need for health establishments. Read together, the sections criminalised the provision of health services without a properly issued certificate of need. In the absence of Regulations, it was unclear how these provisions would be implemented. By July 2014, the Director-General of Health was indicating that the Department would delay implementation in order to craft such Regulations.
  - The lack of a listing of medicines to be prescribed by various categories of specialist nurses, as envisaged by section 56(1) of the Nursing Act, continues to prevent, according to some interpretations, the dispensing of prescriptions written by nurses holding either section 38A or 56(6) permits by pharmacists or pharmacist's assistants. Progress in this regard has been glacial. In May 2014, the Minister issued a Notice creating the categories of nurse specialist and midwife specialist, as required by section 31(2) of the Nursing Act (33 of 2005). The South African Nursing Council has also placed a generic competency framework and a number of 'competency statements' for advanced nurse practitioners on their website. However, while there is some mention of prescribing, the process of engagement with the Medicines Control Council to enable scheduling for this purpose has not yet commenced.
  - There has been an inexplicable delay in the finalisation of Regulations relating to continuing professional development (CPD) for persons registered in terms of the Pharmacy Act. Without these Regulations, the mandatory recording of CPD activities by registered persons cannot be enforced. No reasons for the delay have been advanced by either the Ministry or the Department of Health.
  - The implementation of amendments to the Births and Deaths Registration Act (51 of 1992), which prevent the sharing of cause of death notification data between Statistics SA and local health authorities, has been blamed for blocking effective public health interventions in the Western Cape. A review of the entire vital registration process is underway, which may lead to improved data-sharing in the interests of public health.
  - As in 2013, the much-anticipated White Paper on National Health Insurance has not been issued. Although there has been significant progress in some important areas of health legislation and policy, there are still steps to be taken before the independent Office of Health Standards Compliance is fully operational. Progress in relation to the planned South African Health Products Regulatory Authority has been desultory, and the ability of the current Medicines Control Council to regulate medical devices has been significantly hampered by a wide-ranging court decision.

**SOURCE:**

Gray A, Vawda Y. Health Policy and Legislation. In: Padarath A, King J, English R, editors. South African Health Review 2014/15. Durban: Health Systems Trust; 2015.

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