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Ensuring public safety and professional integrity: The vital role of healthcare regulators in South Africa

S Sobuwa,[1] PhD; **N Sipeka,**[2] BJuris, LLB, MA

[1] *Department of Emergency Medical Sciences, Faculty of Health & Wellness Sciences, Cape Peninsula University of Technology, Cape Town, South Africa*
[2] *Division of Executive Company Secretary, Health Professions Council of South Africa, Pretoria, South Africa*

Corresponding author: *S Sobuwa (sobuwas@cput.ac.za)*

Healthcare regulation is often misunderstood as burdensome, yet it serves a critical function in safeguarding public health and maintaining professional integrity. The first objective of the present article is to explore the essential role of healthcare regulators in South Africa, with a focus on the Health Professions Council of South Africa (HPCSA). Established under the Health Professions Act 56 of 1974, the HPCSA oversees a broad mandate encompassing the registration, licensing and regulation of healthcare practitioners to ensure ethical and competent service delivery. The Council also establishes practice standards, evaluates educational programmes, promotes continuous professional development, and investigates complaints to ensure upholding public trust and safety.

The second objective of the article is to clarify common misconceptions about healthcare regulation, including concerns about fee structures and registration suspension policies. It also aims to highlight the benefits that regulation offers healthcare professionals, such as enhanced credibility, legal compliance, and improved employment opportunities. The HPCSA's dual mandate to protect the public and guide professions is examined through its legislative framework and relevant case law such as HPCSA v Grieve. As healthcare evolves, regulators such as the HPCSA must adapt to emerging challenges, ensuring the sector remains safe, ethical and effective. The third objective is to underscore the indispensable value of regulation in preserving both public safety and the integrity of the healthcare profession.

Keywords. Regulator, integrity, standards, compliance, protection.

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Healthcare professionals often regard regulation as a bureaucratic obligation, an administrative burden with unclear benefits.[1] Criticisms commonly focus on aspects such as registration fees and suspension policies, contributing to a broader scepticism about the value of professional oversight. However, healthcare regulation plays an essential role in safeguarding the public, ensuring ethical practice, and upholding the integrity of health systems.[2]

Regulation refers to the processes carried out by governmental or quasi-governmental bodies to establish, monitor and enforce laws within specific areas.[2] These regulatory bodies possess a combination of legislative, executive and judicial powers as defined by their legislative framework and jurisdiction. Their primary aim is to mitigate the risks associated with limited knowledge and to build public trust by ensuring that regulated entities adhere to established minimum standards.

In South Africa, the Health Professions Council of South Africa (HPCSA), established under the Health Professions Act 56 of 1974 (as amended), is the statutory body responsible for regulating numerous health professions.[3] Its mandate includes protecting the public, setting and enforcing ethical standards, and guiding practitioners through professional registration and continued competency requirements.

Despite this, there is limited scholarly exploration of how practitioners perceive regulation and how misconceptions may undermine its legitimacy and effectiveness. This article seeks to address this gap by critically examining the role of the HPCSA in the broader context of healthcare regulation. It aims to clarify common misunderstandings about the regulatory process, particularly around contentious issues such as fee structures and registration suspensions, while highlighting the benefits of regulation for both practitioners and the public.

The article adopts a qualitative, normative approach, drawing on statutory and policy documents, as well as existing literature on health law and professional ethics. By offering an accessible account of the HPCSA's purpose and responsibilities, it seeks to foster a more constructive dialogue between regulators and the regulated, and to reaffirm the ethical and legal importance of professional regulation in a democratic health system.

Regulatory landscape in South Africa

A comprehensive understanding of health regulation in South Africa requires recognising the network of statutory bodies established through distinct enabling legislation, each tasked with overseeing specific aspects of healthcare delivery. Together, they play complementary roles in ensuring safety, quality and accountability, thereby demonstrating that regulation is not a mere administrative formality but foundational to a functional, ethical and rights-based health system. The HPCSA, established under the Health Professions Act 56 of 1974 (as amended), regulates a wide range of healthcare practitioners, setting standards for education, registration and ethical conduct.[3] The South African Nursing Council (SANC), created under the Nursing Act 33 of 2005, plays a similar role for the nursing

profession, ensuring competence and accountability in one of the largest sectors of the health workforce.[4] The South African Pharmacy Council (SAPC), governed by the Pharmacy Act 53 of 1974, regulates pharmacists and promotes safe, ethical pharmaceutical practices.[5] The Council for Medical Schemes (CMS), established under the Medical Schemes Act 131 of 1998, protects the rights of medical scheme members and oversees the financial soundness and governance of private medical schemes.[6] The Office of Health Standards Compliance (OHSC), formed under the National Health Act 61 of 2003, is responsible for monitoring compliance with health system standards across both public and private institutions, thereby ensuring a baseline of quality and safety.[7] The South African Health Products Regulatory Authority (SAHPRA), created under the Medicines and Related Substances Act 101 of 1965, ensures the safety, efficacy and quality of health products, including medicines and medical devices, highlighting the importance of regulating not just professionals but also the tools they employ.[8] Lastly, the South African Veterinary Council (SAVC), established by the Veterinary and Para-Veterinary Professions Act 19 of 1982, regulates veterinary and para-veterinary professions.[9] While focused on animal health, its inclusion underscores the universality of regulatory principles and the relevance of One Health perspectives in an increasingly interconnected healthcare landscape.

Mentioning these bodies is crucial to the argument advanced in this article: that regulation is not a singular or isolated function, but a coordinated system of oversight essential to upholding professional standards, protecting the public, and ensuring the ethical delivery of care. These councils illustrate that healthcare regulation in South Africa is rooted in law, guided by public interest, and indispensable to the legitimacy and functionality of the health system as a whole.

Health Professions Council of South Africa

The Health Professions Council of South Africa (HPCSA), established under Section 2 of the Health Professions Act 56 of 1974, is the statutory regulator for a wide range of health professions, such as medicine, paramedicine and optometry. Beyond its basic regulatory role, Section 3 of the Act entrusts the Council with far-reaching public law responsibilities.

Section 3 of the Health Professions Act 56 of 1974 articulates the broad and complex mandate of the HPCSA, positioning it as both a regulatory authority and a strategic actor in the national health system. Far from being limited to administrative registration functions, the Council's objectives reflect an expansive public law responsibility. These include coordinating the work of professional boards, promoting interdisciplinary collaboration, and aligning professional regulation with national health policy goals.

Importantly, the HPCSA's role extends into active engagement with stakeholders and the Minister of Health, serving both as an advisory body and a custodian of democratic health governance principles, such as transparency, equity and accountability. Its oversight of education and training ensures that professional development is not left to market forces, but is shaped by the needs of the population and grounded in constitutional values.

The Council's statutory duty to uphold ethical practice, investigate misconduct, and protect the public interest, positions it squarely within the realm of rights enforcement. It is thus not merely a facilitator of professional self-regulation, but a body with quasi-judicial powers aimed at safeguarding the constitutional rights of health users, including dignity and bodily integrity.

Furthermore, its reporting and budgeting obligations reinforce the requirement for operational accountability, binding the Council to measurable outcomes and transparent governance. This comprehensive mandate underscores that health regulation in South Africa is not passive or reactive but designed to be a proactive, principled and people-centred mechanism to ensure safe, competent and ethical healthcare. This comprehensive mandate is not only normative but also operational, with registration and licensing as one of its most tangible expressions.

Core functions of the HPCSA

Registration and licensing

Registration is not merely an administrative formality; it is the legal threshold that separates ethical, accountable practice from unlawful care. The HPCSA's authority under Section 17 of the Health Professions Act ensures that only individuals who are properly vetted, trained and qualified may offer healthcare services in South Africa. This provision restricts core healthcare functions – such as diagnosis, treatment and prescribing medication – to registered practitioners, thereby protecting the public from unsafe and unregulated interventions. In this way, registration serves a constitutional function by securing the right to access safe, competent healthcare.

Setting practice standards

Beyond licensing, the HPCSA plays a critical role in setting and maintaining the professional and ethical standards expected of practitioners.[10] These uniform rules provide a normative framework against which practitioners' conduct can be assessed. Standards are not only technical – they encapsulate the ethical obligations of care, informed consent, and respect for dignity. Through this function, the Council translates constitutional and ethical imperatives into concrete professional expectations, shaping the moral fabric of healthcare delivery in South Africa.

Programme evaluation

The quality of care begins with the quality of education.[11] While the Council for Higher Education is the statutory authority for programme accreditation,[12] Section 16 of the Health Professions Act underscores the HPCSA's pivotal role in approving and monitoring professional training. The Act empowers professional boards to evaluate and conditionally approve educational programmes before they commence, ensuring that training aligns with the demands of ethical and competent practice.

This reflects a collaborative regulatory model, wherein professional bodies, universities and the state must co-operate to uphold public interest. Programme evaluation, in this context, becomes a regulatory safeguard ensuring that the production of health professionals is not only academically sound but also socially and ethically responsive.

Continuous professional development

Ethical practice is not static. The rapid evolution of medical knowledge demands continuous learning.[13] Sections 19 and 26 of the Act empower the Council to enforce continuing professional development (CPD) as a condition for maintaining registration. Failure

to meet CPD requirements may result in suspension, a regulatory tool that prioritises public safety over professional convenience.

This authority underscores the Council's proactive role in ensuring that health professionals remain competent throughout their careers. CPD thus becomes not just an educational requirement but an ethical obligation, reinforcing the profession's accountability to society.

Accountability and discipline

At the heart of the HPCSA's mandate lies the duty to hold practitioners accountable for breaches of ethical and professional conduct. Sections 3(m), 3(n) and 3(o) of the Act assign the Council a quasi-judicial function – that is, to investigate complaints, conduct inquiries, and enforce disciplinary measures where necessary. These provisions affirm the Council's role as a rights-enforcing institution, particularly in protecting the dignity, equality and bodily and psychological integrity of healthcare users.

Section 19A further allows the Council to suspend practitioners in cases of serious misconduct or when public safety is at immediate risk. The broad statutory definition of 'unprofessional conduct' enables responsiveness to a range of unethical behaviours but has also led to legal contestation, requiring the Council to exercise its powers within the bounds of legality and fairness.

These enforcement mechanisms reflect the Council's dual responsibility: to rehabilitate practitioners when appropriate and to act decisively in the public interest when ethical standards are breached. Regulation in this context functions as a moral and legal check on professional autonomy. This dual function is well illustrated by case law, such as the disciplinary proceedings in the matter of the *Health Professions Council of South Africa v Grieve*. The case underscores the Council's mandate to hold professionals accountable for conduct that undermines the public trust.

Relevant case law: HPCSA v Grieve

The case of *Health Professions Council of South Africa v Grieve* provides a critical lens through which to understand the scope and limitations of professional accountability within South Africa's healthcare regulatory framework.[14] On 25 November 2014, Dr David Grieve appeared before the HPCSA's Professional Conduct Committee, charged with unprofessional conduct. The charges, spanning from 2004 to 2009, alleged that Dr Grieve improperly persuaded several patients to invest in a financially distressed company where he was a director. Additionally, it was alleged that he transferred funds invested in the company into his personal bank account.

Raising a point *in limine* – a procedural objection raised before the hearing, Dr Grieve argued that the HPCSA lacked jurisdiction over the charges as they did not relate to the provision of health services. The Professional Conduct Committee dismissed this objection, and his subsequent internal appeal to the Council's Appeal Committee was also unsuccessful. Dr Grieve petitioned the Gauteng High Court in Pretoria, asserting that the factual allegations underpinning the charges did not constitute 'unprofessional conduct' as defined in the Act.[15]

The High Court rejected this argument and affirmed the HPCSA's jurisdiction. The court emphasised the broad definition of unprofessional conduct under Section 1 of the Act, which does not restrict the Council's oversight to matters strictly involving health services. It held that the HPCSA's jurisdiction extends to maintaining ethical standards and investigating complaints to protect the public. The court also clarified that the HPCSA's role was not limited to medical malpractice oversight but encompasses serving as the *custos morum* (guardian of morals) of the health professions.[16] It reinforced the Council's extensive supervisory duties, including safeguarding the public from misconduct and ensuring that complaints are addressed and disciplinary action is taken, irrespective of whether the conduct occurred while providing health services.

Broader implications and critical reflections

The preceding case underscores the HPCSA's vital role in preserving the integrity of the health professions by reinforcing the ethical obligations of practitioners in both professional and quasi-personal spheres. However, the outcome also raises important policy and legal questions about the limits of professional oversight. On the one hand, the decision rightly affirms that unethical conduct, particularly involving the exploitation of patients in financial or emotional distress, must be sanctioned, regardless of whether it occurs within the walls of a hospital or outside of it. On the other hand, the case illustrates the difficulty in clearly delineating the boundary between personal misconduct and professional accountability.

From a regulatory perspective, *Grieve* exemplifies the challenges regulators face in ensuring fairness and legal certainty while preserving a flexible and robust definition of unprofessional conduct. The breadth of the statutory definition, while empowering, can also result in ambiguity, potentially exposing practitioners to sanctions for conduct that might not have been reasonably foreseen as falling within the Council's jurisdiction. This has implications for legal certainty and the principles of administrative justice, as protected under the Constitution.

The judgment affirms a principled regulatory stance but leaves open the question of how far a regulator can and should go in policing the moral conduct of practitioners outside clinical practice. Future policy development must grapple with this tension, ensuring that regulatory reach is exercised with transparency, proportionality, and due process, particularly as societal expectations of professional behaviour continue to evolve.

Ultimately, *HPCSA v Grieve* is not only a case about individual misconduct but also a landmark in defining the ethical scope of professional regulation. It illustrates that protecting the public interest in healthcare requires more than technical competence; it requires trust, moral responsibility and a commitment to accountability in all spheres of professional life.

Common misconceptions and challenges in healthcare regulation

Despite their crucial role in safeguarding public health and ensuring the integrity of healthcare systems, healthcare regulators such as the HPCSA often face widespread misconceptions about their purpose and function. These misconceptions, ranging from misunderstandings about fee structures to the limits of their regulatory authority, can undermine both their effectiveness and the public trust they are tasked with maintaining. This discussion addresses key misconceptions surrounding medical regulation, specifically focusing on the HPCSA's fee structure, registration suspension policies, and its regulatory powers. It also highlights the benefits of regulation for healthcare professionals, emphasising how it contributes to maintaining high standards of practice, protecting public health, and fostering trust in the healthcare system. Through this exploration, the article

argues that regulation, while sometimes viewed as burdensome, is essential for ensuring safe, ethical and competent healthcare delivery, benefiting both professionals and the public.

Fee structure and purpose

One of the most common points of contention raised during HPCSA stakeholder engagements and roadshows is the annual fee structure imposed by healthcare regulators. Many practitioners express frustration over the costs associated with registration and other regulatory services. However, these concerns often overlook the fact that such fees are essential for sustaining the regulatory framework that ensures public protection and upholds the profession's integrity. These annual fees support the infrastructure that enables the HPCSA to monitor professional standards, enforce ethical conduct, and provide the services necessary for professional development. By comparison, many individuals willingly pay monthly television subscriptions, yet these payments offer no direct benefit to their qualifications, professional standing, or employment prospects. In contrast, regulatory fees help to maintain a system that ensures healthcare professionals are competent and accountable to the public they serve.

Registration suspension policies

Concerns around registration suspension for non-payment of fees, particularly where practitioners are unemployed or not actively practising, are also frequently raised during HPCSA roadshows. While this policy has drawn criticism, it is authorised under Section 19a (b) of the Health Professions Act and remains essential to maintain the integrity of the register. It ensures that only professionals who meet ongoing compliance requirements, including financial obligations, remain recognised as active practitioners. From a regulatory standpoint, this mechanism reinforces the accountability and legitimacy of the registration process.

Limitations of regulatory powers

Another recurring theme from professional engagements with the HPCSA is confusion regarding the scope of its authority. Some practitioners mistakenly believe the Council is responsible for establishing career pathways or creating employment opportunities. In reality, the HPCSA's primary legislative mandate is to protect public interests by regulating professional conduct, education and registration, and not to develop or manage career progression frameworks. These misconceptions, often voiced during roadshows and stakeholder sessions, highlight the importance of clearer communication around the Council's statutory functions and institutional boundaries. Despite these limitations and common misunderstandings, regulation remains a cornerstone of a stable and trustworthy healthcare system. Beyond protecting the public, it also offers tangible benefits to healthcare professionals themselves.

Benefits of regulation for healthcare professionals

While regulatory requirements are sometimes perceived as restrictive or administratively burdensome, they offer substantial and often underappreciated benefits to healthcare professionals themselves. Far from being punitive, regulation functions as a protective mechanism, safeguarding professional expertise, enhancing public and institutional trust, and ensuring access to lawful and meaningful employment opportunities. This section explores how regulation upholds the credibility of practitioners, ensures their qualifications are formally recognised, and plays a central role in advancing professional careers within a structured and trusted healthcare system.

Protection of expertise

Registration with a reputable body such as the HPCSA ensures that only qualified practitioners are authorised to practise. Registered professionals are afforded certain legal rights and protections under the Health Professions Act, including the exclusive right to perform specific clinical functions. This gatekeeping function helps protect the integrity of the profession by preventing unqualified individuals from diluting standards or undermining the credibility of legitimate practitioners.

Enhancing professional credibility

Being registered with a recognised regulator boosts a healthcare professional's credibility, fostering trust among patients and employers and colleagues. In an environment where patient safety and ethical standards are paramount, visible proof of regulatory oversight is often a prerequisite for confidence in a practitioner's competence.

Meeting employment requirements

Registration is often a legal and institutional prerequisite for securing employment in the healthcare sector. It facilitates career mobility both within and across borders, with many international employers requiring evidence of regulatory registration for licensure or recognition.

Access to professional development and governance participation

Being part of a regulated profession opens avenues for ongoing professional development, mentorship and involvement in governance processes. Practitioners may contribute to shaping policies, standards and ethics through participation in professional boards, committees or stakeholder consultations.

What works, what does not and how it can be corrected

As discussed throughout this article, regulation is a vital function of government, aimed at averting anarchy in professional fields and protecting the public interest. In the health sector, and particularly under the auspices of the HPCSA, regulation has undergone considerable development in response to social change, legal reform and technological advancement. These shifts have generated positive results while also exposing persistent weaknesses in the regulatory framework.

What works: Pockets of regulatory success

Ensuring professional integrity through barriers to entry

The HPCSA has effectively upheld professional standards by controlling entry into the healthcare professions. Section 18(5) of the Health Professions Act ensures that only those with verified

qualifications may be registered, while Section 17(5) criminalises unregistered practice. This gatekeeping function has preserved the dignity and credibility of the professions, protecting patients from unqualified or fraudulent individuals.

Strengthening disciplinary mechanisms and public participation

The disciplinary process has been enhanced through procedural automation and virtual hearings, increasing responsiveness and efficiency. More importantly, the inclusion of community representatives in professional conduct inquiries signals a shift towards participatory regulation. This helps bridge the trust gap between the public and the professions, reinforcing the HPCSA's constitutional obligation to uphold users' rights to dignity, transparency and accountability.

Stakeholder engagement and organisational learning

The HPCSA has made significant progress in stakeholder engagement – an area that historically led to litigation and reputational harm. Recent reforms reflect a shift towards responsive governance, where insights from roadshows and professional feedback are used to improve regulatory service delivery. This aligns with total quality management principles, underscoring the importance of continuous learning in public institutions.

Institutional governance structures

Governance literature affirms that the success of any organisation is inextricably linked to the strength of its governance.[17,18] For the HPCSA, governance is vested in its Council, a 32-member body established in terms of Section 5 of the Health Professions Act 56 of 1974. The establishment of a statutory Council and professional boards reflects a commitment to institutional governance. This structure, grounded in law, provides a platform for oversight, stakeholder representation and decision-making at different levels. The inclusion of representatives from universities, professional boards and the public theoretically ensures that regulatory decisions are shaped by diverse perspectives. However, serious governance concerns persist.

What does not work: Structural and legal limitations

Fragmentation of health sector regulation

A major challenge is the fragmented nature of healthcare regulation across different statutory bodies (e.g. SANC, SAPC, HPCSA). While professional autonomy is valuable, the lack of integration causes confusion, especially when complaints are lodged with the wrong entity. This delays justice, weakens oversight and burdens both regulators and the public. In the era of multidisciplinary care and the National Health Insurance (NHI), there is growing justification for a consolidated or harmonised regulatory model that streamlines oversight while respecting professional distinctiveness.

Outdated and inconsistent legislative frameworks

The Health Professions Act 56 of 1974, despite numerous amendments, is showing signs of legal fatigue. Piecemeal changes have led to internal contradictions and regulatory gaps, such as Section 16, which appears to exempt universities from HPCSA oversight, despite the Council's responsibility for recognising qualifications. This legislative incoherence complicates the accreditation of training programmes and weakens regulatory authority. Courts have already identified such inconsistencies, pointing to the urgent need for a comprehensive legislative overhaul.

Independence and conflicts of interest

Although the HPCSA is intended to operate as a self-regulating body, the appointment of Council and board members by the Minister of Health opens the door to political interference. Moreover, as many appointees are drawn from the practitioner pool or academia, this has led to persistent conflicts of interest. For example, Council members representing universities are often required to adjudicate on matters involving their own institutions, such as fee disputes or programme evaluations, raising questions about impartiality and split loyalties.

Competency and accountability gaps in leadership

Council and board members are currently appointed without undergoing a formal interview or competency-based assessment. This results in varying levels of understanding of governance principles, fiduciary duties and strategic oversight. Some members reportedly lack confidence in decision-making processes, which may contribute to weak leadership and ineffective deliberation.

Registrar appointment and accountability misalignment

Section 12 of the Health Professions Act stipulates that the registrar is appointed by the Minister in consultation with Council. In practice, however, the registrar reports to Council while remaining accountable to the Minister, who is often removed from the day-to-day operations and performance of the registrar. This misalignment creates ambiguity in oversight, undermines accountability and compromises the operational independence of the registrar. It also risks politicising the role, exposing it to undue external influence.

How it can be corrected: Practical and policy-oriented solutions

Promote regulatory consolidation

Government should explore a framework for integrating healthcare professional regulators under a single health regulatory council with distinct professional boards. This would improve coherence, eliminate administrative duplication and enhance user access to justice.

Undertake legislative reform

Instead of further piecemeal amendments, Parliament should commission a full review of the Health Professions Act to align it with constitutional norms, interprofessional practice models and contemporary regulatory needs.

Improve public-facing processes

Clear communication about regulatory jurisdiction, complaint procedures and practitioners' obligations must be prioritised. Simple, accessible pathways for the public will build trust and reduce confusion.

Introduce competency-based appointment processes

Council and professional board members should be appointed through a transparent, merit-based process that includes interviews and assessments to ensure appropriate expertise in governance, health policy and fiduciary responsibility. This is not prohibited by current legislation and can be adopted through internal policy reform.

Amend legislation on registrar appointment

The Health Professions Act should be revised to enable the Council, not the Minister, to appoint the registrar. This would align the authority for hiring and performance oversight with the actual reporting and accountability structures, ensuring institutional coherence and managerial autonomy.

Strengthen conflict-of-interest safeguards

Clear conflict-of-interest protocols must be established, including mandatory disclosures and recusal mechanisms for Council members when decisions involve institutions or entities with which they are affiliated. This would protect the integrity of regulatory decisions and reinforce public trust.

Conclusion

Healthcare regulators, particularly the HPCSA in South Africa, play a crucial role in upholding the quality and integrity of healthcare services. Although their functions are sometimes misunderstood or contested, their core mission remains clear: to protect the public by ensuring that healthcare is delivered competently and ethically.

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