



SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Presentation to the Portfolio Committee on Health

Re: Briefing on the “KZN Oncology” Report

23 August 2017





Overview of presentation

- Background
- Steps taken by the Commission
- Applicable Legal Framework
- Findings
- Recommendations
- Current Status



Background

- On 19 February 2016, the Commission received a written complaint from Dr. Imraan Keeka, a member of the KZN Provincial Legislature for the Democratic Alliance. The complaint related to a number of challenges regarding the provision of health care services to oncology patients in the KZN Province, viz.:
- There were insufficient radiotherapy treatment devices and/or facilities in the KZN Province which had a negative impact on the treatment of oncology patients who reside in the Province;
- The radiotherapy machines, known as the Varian Rapid Arc Linear Accelerator Machine (VRALA), used for radiotherapy treatment at Addington Hospital were not working;



Background

- There were delays in the treatment of oncology patients which the Complainant attributed to the shortage of functional health technology including the VRALA Machines CT scanners; and
- The Department of Health (DoH) was failing to provide oncology patients with adequate health care services.
- The Commission conducted a preliminary assessment of the complaint and determined that it related to the right to have access to health care services, which is enshrined in section 27 of the Constitution, as well as other interrelated rights that are implicated such as the rights to life and human dignity.



Steps taken by the Commission:

- On 4 May 2016, the Commission addressed a letter to DoH, in which it set out the allegations of the complaint and afforded DoH an opportunity to respond.

- On 8 June 2016, DoH provided a response to the Commission, advising that:
 - There are eighteen (18) CT scanners at various health establishments in the KZN Province, of which seventeen (17) were fully functional. One CT scanner, at Ngwelezane Hospital, was awaiting installation upon the finalisation of the preparation of its infrastructural site.



Steps taken by the Commission

- DoH had procured four (4) additional CT scanners, which had been allocated to Addington Hospital, Greys Hospital, King Edward VIII Hospital and Empangeni Hospital respectively. DOH stated that with the provision of these additional CT scanners, there would be a sufficient number of functional CT scanners to cater for oncology patients in the KZN Province.
- DoH also provided information reflecting the status of the existing CT scanners and advised that it has Service Maintenance Agreements (SMAs) in place with respect to fifty percent (50%) of the CT scanners and that it was in the process of finalising SMAs for those that did not have any.



Steps taken by the Commission

- In regard to the status of the VRALA Machines, DoH advised that there were two (2) VRALA Machines at Addington Hospital which are not functional. A service provider had been appointed to undertake repairs to the VRALA Machines. One of the VRALA Machines was working in March 2016 but had broken down in November 2016. DoH was conducting an investigation into certain matters relating to the SMAs applicable to VRALAs.
- On 04 August 2016 the Commission addressed a further letter to DoH and on 12 January 2017, DoH responded to the Commission advising that:
 - It had prioritized the expansion of its oncology services at the Ngwelezane, Madadeni and Port Shepstone Hospitals which would be finalised within the next five (5) years.



Steps taken by the Commission

- It had attempted to recruit specialist oncologists to mitigate the shortage of oncologists.
- The oncology services of Addington and Inkosi Albert Luthuli Central (IALC) Hospitals had been combined due to a shortage of staff and the loss of oncologists in both hospitals.
- DoH stated that, over the past six (6) months, it had lost four (4) oncologists at IALC Hospital and two (2) from Addington Hospital. DoH conceded that the shortage of oncologists has a direct impact on the time that patients have to wait in order to access treatment.



Steps taken by the Commission

- The Commission noted that despite the response from DoH (12 January 2017) being comprehensive in nature, it did not fully address the specific issues or concerns initially raised by the Commission viz:
 - The current status of the two VRALA machines;
 - The interim measures implemented by DoH to ensure that the VRALA machines were being adequately maintained / repaired without compromising the patients right to access the necessary healthcare treatment;
 - Steps to address the increased backlog of patients awaiting treatment;
 - Information regarding the average waiting period for a patient to be seen by an oncologist / for a patient to receive radiotherapy.



Steps taken by the Commission

- On 09 March 2017 DoH advised the Commission that:
 - The VRALA machines at the Addington Hospital were not functional and that it was finalizing an addendum to the main SMA contract. It further advised that the issue pertaining to the maintenance contract for the VRALA machines was still under investigation.
 - DOH advised that the average waiting period for a patient to be seen by an oncologist is five (5) months, whereas those waiting to receive radiotherapy usually wait eight (8) months. A process was underway to re-instate the functionality of the VRALA machines.



Steps taken by the Commission

- DoH denied that these delays and the backlog of patients was caused due to the referral of patients from Addington Hospital. Instead, DOH stated that the backlog in the treatment of oncology patients was caused by staffing constraints, including the shortage of specialist oncologists, medical officers and radiotherapists and had devised an integrated approach to dealing with the backlog.



Steps taken by the Commission

Inspection *in loco*:

- The Commission conducted inspections *in loco* at both Addington and IALC Hospitals on the 15 and 16 February 2017 respectively.
- During the inspections, the Commission interviewed staff and patients.
- The Commission established that the two (2) VRALA machines were not functional and that all oncology patients were referred to IALC Hospital for treatment.
- The Commission further established that there is a backlog and delay in the provision of treatment of oncology patients.



Applicable Legal Framework

- The Constitution: Sections 7(2); 10; 11 & 27
- The National Health Act
- Norms and Standard Regulations Section 90 (1) (b) and (c) of the NHA, Applicable to Certain Categories of Health Establishments
- National Policy on Quality in Healthcare (2007) (National Policy)
- National Core Standards for Health Establishments in South Africa (2011) (National Core Standards)



Findings

- The Respondents violated the rights of patients with cancer at the Addington and IALC Hospitals, to have access to health care services as a result of their failure to comply with applicable norms and standards as set out in legislation and policies, by failing to:
 - Evaluate and identify the need for functional equipment such as CT scanners and VRALA machines within a reasonable time;
 - Failing to procure, maintain and / or, put in place adequate functional equipment such as CT scanners within a reasonable time

Findings

- Failing to recruit and retain suitably qualified staff including oncologists, radiotherapists, medical officers and oncology nursing staff in the province, and;
- Failing to monitor and evaluate the health needs of oncology patients in the province in time to implement appropriate interim models, such as sufficient private-public partnerships to meet needs.
- The Respondents failure to provide access to adequate oncology services also violate interconnected, inter-dependent rights to human dignity and life of affected patients.



Recommendations

The Commission made the following recommendations:

- That the Respondents are required to immediately take steps to:
 - Repair and monitor all the health technology machines including CT scanners and VRALA Machines, regardless of contractual disputes yet to be finalised through the courts;
 - Adopt a management plan to deal with the backlog through, amongst others, entering into interim Public-Private Partnership arrangements with private oncologists, medical officers, radiotherapists and oncology nurses; and



Recommendations

- Adopt an interim referral management plan to facilitate the referral of patients to private service providers for screening, diagnostic and treatment of cancer.
- The Respondents are required to report to the Commission, within ten (10) days of this report, in relation to:
 - Progress in recruiting the Head Clinical Unit for Oncology, Specialist Oncologists, Medical Officers and Radiotherapists at Addington Hospital and IALC Hospital.



Recommendations

- The status of immediate interim measures and action plan to be implemented to reduce the backlog in the provision of oncology services, including steps to be taken to acquire the services of the private sector to support the remedial action.
- The detailed plans that have been, or will be, implemented to efficiently and effectively manage the current crisis in oncology services at the Addington and IALC Hospitals and throughout the KZN Province; including plans to communicate with known affected patients.

Recommendations

- The process initiated by the Department to engage the private sector to take on priority cases for both radiotherapy and chemotherapy.
- The details relating to the Public-Private Partnership between the Department and the Impilo Consortium. In particular, the National Department is required to report to the Commission on the success of the Public-Private Partnership and the viability of rolling it out to other hospitals in the KZN Province.
- The specific types of health care treatment that is provided to the oncology patients who are currently awaiting radiotherapy and/or chemotherapy in the province, including transfers; and



Recommendations

- Addington and IALC Hospitals are required to furnish the Commission with:
 - a) A detailed list of the patients awaiting radiotherapy treatment at Addington Hospital and IALC Hospital, including the duration of waiting periods for treatments respectively.
 - b) A list of cancer patients who have passed away whilst waiting for treatment or undergoing treatment at Addington Hospital and IALC Hospital. This must also include the cause of death in respect of each and every deceased patient.



Recommendations

- DoH, in collaboration with the National Department of Health, is required to develop a strategy and/or programme to meet the current medical staffing challenges in the KZN Province. DOH must also provide the Commission with:
 - Its human resources retention plan and immediate actions to attract and retain the relevant oncologists, radiotherapists and other skills and specialties in the area of oncology.
 - Details of service agreements for the maintenance of health technological machines at Addington Hospital and IALC Hospital.

Recommendations

- DoH is required to evaluate and prioritize the expansion of oncology services at the Ngwelezana Hospital, Madadeni Hospital and Port Shepstone Hospital.
- DoH is required to prioritise capacity building at the administrative level and retention of professional health care workers, including specialists, registrars, medical officers and nurses.
- DoH, in collaboration with the National Department of Health, is required to prioritise the procurement of essential health technology machines for screening, diagnosing and treating cancer.



Recommendations

- The Respondents are required to provide the Commission with a detailed time bound plan of action, for the implementation of the recommendations within thirty (30) days of receipt of this report.
- The Commission shall in addition to the parties, furnish this report to the Speakers of both National and Provincial Parliaments, the KZN Provincial Health Council, the Office of the Ombud for Health and the Premier of the KZN.



Current Status

- DoH furnished the Commission with three responses dated as follows:
 - Response 1: 30 June 2017
 - The service provider responsible for the VRALA machines was instructed to assess the two VRALA machines at Addington Hospital and report to DoH regarding the repairs required.
 - DoH held a meeting with the private sector in order to seek their assistance in the provision of oncology services.
 - Agreements were made with the Hopelands Oncology Group as well as the Rainbow Oncology Group to assist with seeing patients.



Current Status

- Vacant posts had been advertised, however no applications were received for the post of the Head Clinical Unit: Oncology, IALC Hospital.
- The backlog of patients from Addington Hospital who were currently awaiting radiotherapy treatment was approximately 6-7 months.
- The backlog of patients from IALC Hospital who were awaiting radiotherapy treatment was approximately 7-8 months.
- The KZN Provincial Treasury will be taking over the Supply Chain Management (SCM) Functions of DoH and all SCM Backlogs will be addressed by January 2018.



Current Status

- Response 2: 20 July 2017
 - DoH met with Varian Medical Systems International (Varian) regarding the repairs of the VRALA machines and it was agreed that Varian would be responsible for keeping the machines operational.
 - The SMAs for all health technology equipment would only be finalized once an assessment of machines had been completed.
 - The vacant posts were re-advertised.

Current Status

- Response 3: 28 July 2017
 - DoH received preliminary feedback from Varian indicating that one of the VRALA machines would be easier and faster to repair than the other machine.
 - On 01 July 2017, Joint Medical Holdings (JMH), a group of private oncologists started consulting with patients at Ngwelazane Hospital and Lower Umfolozi War Memorial Hospital *pro bona*. DoH accepted a proposal from JMH to extend their assistance to patients in Northern KZN at a cost, in their private rooms and DOH has requested KZN Provincial Treasury to approve a deviation for a period of three months.



Current Status

- DoH is working with the KZN Provincial Treasury to fast track the procurement of medical equipment and the process is ongoing.

Ongoing Monitoring by the Commission at Addington Hospital and IALC Hospital:

- The VRALA machines are currently non-functional;
- There are no oncologists at IALC Hospital;
- There is currently a waiting period of approximately 9 months for new appointments of oncology patients;



Current Status

- DoH had secured the services of consultants from Rainbow Oncology Services to assist, however the consultants only attend to patients twice a week (Tuesdays and Thursdays) for a maximum period of two (2) hours.
- Monitoring has been constrained due to full access being denied at the aforesaid hospitals.



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THANK YOU

