

THE SOUTH AFRICAN MEDICAL ASSOCIATION

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FROM THE OFFICE OF THE SECRETARY GENERAL

2 December 2010

Ms Cindy Balie
Committee Secretary: Portfolio Committee on Correctional Services
3rd Floor
90 Plein Street
Cape Town 8000

Att: Ms Cindy Balie
Email: cbalie@parliament.gov.za

SAMA SUBMISSION ON THE CORRECTIONAL SERVICES AMENDMENT BILL [B41-20010]

Dear Sir

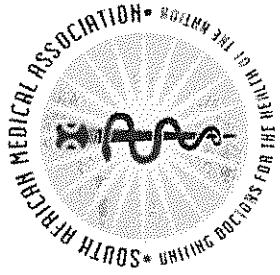
The South African Medical Association (SAMA) as the representative body for the medical profession in South Africa wishes to submit herewith the SAMA submission on the abovementioned Bill for your attention.

We thank you for considering our submission herein.

Yours faithfully

Dr Norman Mabasa
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South African Medical Association
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Dr. Norman Mabasa (Secretary General), Dr. MM Sontrop (Vice-Chairman), Dr. FR. Verhulst (Secretary General), Association Incorporated as Section 21 Entity under the Companies Act, 1993 no. 1927/0007/3808



Comments By

**THE SOUTH AFRICAN MEDICAL ASSOCIATION
(SAMA)**

ON

**THE CORRECTIONAL SERVICES AMENDMENT BILL
(B41-2010)**

**SUBMISSION TO THE
PORTFOLIO COMMITTEE ON CORRECTIONAL SERVICES
BY THE SOUTH AFRICAN MEDICAL ASSOCIATION ("SAMA")**

THE CORRECTIONAL MATTERS AMENDMENT BILL

INTRODUCTION

The South African Medical Association ("SAMA") is the professional association for doctors in South Africa and welcomes the opportunity to comment on the Correctional Matters Amendment Bill.

We invited comment from our standing committees as well as from other interested parties in our membership.

SAMA supports all legislative measures aimed at accentuating the protection and promotion of public interest and public health. Further SAMA supports all measures designed at promoting access to healthcare.

EXECUTIVE SUMMARY

The proposed amendments contained in the Bill are, on the whole, welcomed by the South African Medical Association. We respectfully submit that certain amendments could be supplemented and expanded upon. In this submission we will draw attention to those matters which require further attention.

EXPANDED CONTENT**GENERAL COMMENTS**

While it is not specifically addressed in the Bill, SAMA expresses concern with the issues of inexperienced medical doctors being placed in the awkward position of having to initiate recommendations in respect of applications for medical parole. In order to address this, provision should be made that where such a doctor is not in a position to make recommendations regarding medical parole, a more senior and experienced doctor, or perhaps a panel of senior doctors, be consulted in order to provide such recommendation.

A matter of particular importance to SAMA membership is the issue of dual loyalty. The clinical independence of medical practitioners is a core principle and they are obliged, in terms of various pieces of health legislation (including the Health Professions Act and Regulations and the National Health Act) to adhere to legal and ethical principles (including the maintenance of patient confidentiality and clinical autonomy). Although it does not appear in the Bill, we submit that specific reference should be made in the Bill to preserve the duties of doctor in this regard. Affirmation should be given that doctors can and must refuse any inappropriate involvement in the processes relating to medical parole applications, and that any coercion by any official to compromise their professional integrity should be expressly prohibited.

AD SECTION 1

We support the amendments to the definitions proposed in the Bill.

AD SECTION 14 (SUBSTITUTION OF SECTION 79 OF THE ACT – MEDICAL PAROLE)**Proposed section 79(3)(a)**

While this section is supported, we propose that the Bill should not provide the Minister of Correctional Services a discretion to establish a medical advisory board for each province. As mentioned in the General Comments above, it is practically necessary to have such an advisory board, particularly in the instances when a junior or

inexperienced doctor is required to make recommendations in respect of a medical parole application. As such, we submit that the Minister **must** establish a medical advisory board for each province.

Proposed section 79(3)(b)

While a definition does appear for a "medical practitioner", this Bill has no definition for "specialist medical practitioner". It is recommended that this lacunae be addressed and that a clear definition of same be inserted in the Bill. This will ensure that appropriately qualified specialist practitioners are consulted. Potential challenges to the specialist's recommendations on the basis that the practitioner concerned is not appropriately qualified or experienced would thereby be avoided.

Proposed section 79(9)

The regulation of the consideration and administration of medical parole is welcomed. The Bill places a duty on the Minister to make regulations in this regard. We respectfully submit that a time period be inserted within which these regulations must be made by the Minister. It is further recommended that these regulations be as comprehensive and detailed as possible.

CONCLUSION

We trust that the above comments will be of value and would urge that they should be given the necessary attention. We wish, once again, to express our gratitude for the opportunity to present our submission in this regard.

Compiled by: -

The South African Medical Association

Date: 1 December 2010

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