REPUBLIC OF NAMIBIA

MINISTRY OF HEALTH AND SOCIAL SERVICES

RESPONSE BY DR KALUMBI SHANGULA (MP) IN THE NATIONAL ASSEMBLY TO QUESTIONS RAISED BY HON JENNIFER VAN DEN HEEVER (PDM) ON MEDICAL NEGLIGENCE.

14 SEPTEMBER 2023

NATIONAL ASSEMBLY

**Check Against Delivery*

Honorable Speaker
Honorable Members

1. I rise to provide information in light of the questions posed by Hon Jennifer Van den Heever of PDM with respect to alleged medical negligence in Namibia. I thank the Hon Member for raising this matter which is important and which needs to be understood and appreciated properly.

2. In general, with respect to most claims for personal injury arising from medical interventions, negligence is defined as a failure of a health care professional to behave with the same level of caution or care that a reasonably prudent person would have exhibited. In a sense, medical care providers are expected to provide care that is on par with what a similarly trained professional would have offered under the same circumstances. If a caregiver's actions deviate from the accepted medical standard, this is considered medical negligence. When alleged, negligence has to be proven following the necessary investigations, both internally and externally as the case may be.

   I shall now proceed to respond to the questions in the order in which they were posed.

3. The first enquiry focuses on *the factors that contribute to medical negligence in Namibia*. The problem of adverse events following medical interventions are as old as the medical profession itself. Adverse events happen in all settings and in all jurisdictions around the world. Medical care is provided in an environment characterised by complex interaction of a multitude of factors. These include diseases, practitioners, policies, procedures, technology and resources, and when these complex factors interact, adverse events may occur. That means, adverse events can be caused by human error occuring in a complex mixture of actions and interaction processes; team relationships; communication; human behaviour; technology; organisational culture; rules and policies; as well as the nature of the environment where all these actions are taking place. Each adverse event is assessed with reference to the particular factual circumstances as no two adverse events are ever identical.

4. The second enquiry focusses on *measures that are in place to ensure that medical personnel are held accountable for cases of negligence in Namibian hospitals*. Here, I assure Hon Members that when an adverse event is suspected, a patient or his or her relatives may take the following actions:
   3.1. He or she may opt to institute a civil claim against a healthcare practitioner or his or her employer, as the case may be, to recover damages; or
   3.2. He or she may file a criminal charge against a healthcare practitioner; or
   3.3. He or she may lodge a complaint with the relevant health professions council for unprofessional conduct.
   3.4. Additionally, the employer may institute disciplinary steps against the healthcare practitioner in accordance with the Public Service Act 13 of 1995 and the Public Service Staff Rules (PSSR).

4. The third enquiry is about *steps that the Ministry is taking to prevent future cases of medical negligence.* The regulation of the conduct of health care professionals is regarded as one of the avenues through which the Namibian Government can improve patient safety. In this context, the five (5) Health Professions Councils of Namibia, as statutory bodies, are charged with this function.

4.1. Currently, there are five Health Professions Councils in Namibia, responsible for the regulation of the conduct of different health sector professions. These are: Medical and Dental Council, Pharmacists Council, Nursing Council, Social Work and Psychology Council and the Allied Health Professions Council. These professions councils are established under their respective enabling legislation and collectively comprise the Health Professions Councils of Namibia (HPCNA), which coordinates the work of the Councils. The Presidents of the five Council sit as a joint Presidency for purposes of decision making. Each respective professional council is responsible for determining and enforcing the minimum requirements of study for registration for each profession as well as the ethical standards by which healthcare practitioners in that profession shall conduct themselves and practice their professions.

4.2. Entry or acceptance into a healthcare profession is strictly controlled and only achieved through professional registration and certification after demonstration and proof of knowledge, skills, and competence in a healthcare profession.

4.3. All healthcare practitioners are expected to comply with the compulsory continuous professional development system administered by the respective Health Professions Councils, which empowers them to act with reasonable skills, care, experience and diligence at all times.

5. The fourth enquiry is about what *the Ministry is doing to ensure that health facilities have adequate resources to prevent cases of medical negligence.* I confirm that the Ministry has taken steps to ensure that healthcare facilities have requisite resources to reduces occurrences of undesirable health outcomes that may be construed as or result in claims of medical negligence. The following is a summary of the measures and initiatives undertaken:

5.1. **National Quality Policy and Strategy (NQPS)**: In 2022, the Ministry developed and launched the National Quality Policy and Strategy, which is aimed at enforcing practices and conduct that promote high-quality healthcare services as a foundational principle in Namibia's healthcare delivery system.

5.2. **Quality Standards**: Quality Standards for Hospitals and Primary Healthcare Facilities were introduced along with the National Quality Policy and Strategy. These standards define the fundamental functions, activities, processes, and structures necessary for healthcare organizations to deliver quality services.

They were developed in collaboration with the Council for Health Services Accreditation of Southern Africa, making them internationally recognized.

5.3. **Phased Implementation**: The Ministry is implementing these quality standards in a phased manner. In the initial phase in 2022, four hospitals, namely Grootfontein District Hospital; Katutura Intermediate Hospital; Onandjokwe Intermediate Hospital; and Swakopmund District Hospital, were selected for the initial implementation. This involved introducing the hospitals to the standards, conducting baseline assessments, providing feedback, and offering Quality Improvement training to healthcare workers.

5.4. **Accreditation**: The four hospitals I have just mentioned are working towards achieving accreditation by the end of 2024, demonstrating a commitment to meeting and maintaining high-quality healthcare standards.

5.5. **Expansion of Standards**: In the current Financial Year, the Quality Standards are being extended to six additional hospitals, including Oshakati Intermediate Hospital; Rundu Intermediate Hospital; Windhoek Central Hospital; Gobabis District Hospital; Mariental District Hospital; and Opuwo District Hospital. Four out of the six health facilities have already received the standards.

5.6. **Continuous Audits and Improvement**: The Standards emphasize the importance of continuous audits and improvement interventions to ensure that healthcare services adhere to the set standards. This proactive approach helps in identifying and addressing any potential issues that could lead to medical negligence.

5.7. **Resource Allocation**: Implementing these Standards requires significant resources, including improvements in infrastructure; human resources; equipment; clinical supplies; pharmaceuticals; and strengthening of primary health care services. The Ministry has recognized this need and is working to allocate resources effectively to meet these requirements. On this score, the Ministry prepared and submitted to Cabinet, which approved, a detailed and costed plan for additional funding for critical activities and interventions for health systems strengthening over the period 2023/2024 to 2027/2028 Financial Years. The total cost of the Plan amounts to N$16 131 500 351.00.

5.8. **Guideline Updates**: The Ministry has updated Standard Treatment Guidelines, developed the National Infection Prevention and Control (IPC) Action Plan for 2023-2027, and the National Surgical Obstetric and Anaesthesia Plan (NSOAP) for 2023-2027, aligning them with WHO recommendations. Additionally, guidelines for IPC, Operating Theatre, and Sterile Services have been updated to ensure they are in line with current evidence-based international recommendations.

5.9. In-Service Training: The Ministry provides continuous in-service training to staff members on various aspects of service delivery. This includes health professionals and other cadres.

5.10. Integrity Committees: The Ministry has established Integrity Committees as another intervention of promoting a culture of ethical conduct and excellence in service delivery at all levels.

5.11. Training on Medico-Legal Awareness: The Ministry is in the process of establishing mechanism to create awareness on medico-legal aspects of medical practice.

6. The Ministry of Health and Social Services is pursuing the implementation of comprehensive measures to ensure that healthcare facilities have the necessary resources and adhere to high-quality standards to prevent cases of medical negligence. These initiatives aim to improve the overall level of healthcare provision throughout the country and prioritize patient safety and quality of care.

Honourable Speaker
Honourable Members

7. The negligence of a medical practitioner must be proved in view of the particular circumstance prevailing at the time. The onus is on plaintiff to prove negligence on a preponderance of probabilities. Frivolous litigations are counterproductive and must be frown upon.

8. A judge, after hearing evidence of alleged medical negligence by a medical practitioner, dismissed the case with the following words: *"We should be doing a disservice to the community at large if we were to impose liabilities on hospitals and doctors for everything that happens to go wrong. Doctors would be led to think more of their own safety than of the good of their patients. Initiative would be stifled and confidence shaken. This is counterproductive and undesirable. A proper sense of proportion requires us to have regard to the conditions in which hospitals and doctors have to work. We must insist on due care for the patients at every point, but we must not condemn as negligence that which is only a misadventure".*

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