

# ***ENFORCEMENT POLICY***

***OHSC SUMMIT 14 APRIL 2016  
BY: MAKHWEDI MAKGOPA-MADISA***



**OHSC**

Office of Health Standards Compliance  
Ensuring quality and safety in health care

# Outline

- *Aim of the enforcement policy*
- *Principles for enforcement*
- *Monitoring compliance*
- *Inspections*
- *Advice to ensure compliance*
- *Enforcement: Why enforcement?*
- *Criteria for enforcement*
- *Enforcement actions*
- *Formal hearing*
- *Appeal*
- *Publication of sanctions and decisions*
- *Roles and responsibilities*

# ***Aim of the Enforcement Policy***

---

- ***To set out the approach to be followed by the Office in the exercise of its enforcement powers.***
- ***Enforcement approach is progressive.***

# *Principles followed by the Office*

<b>Accountability</b>	<ul style="list-style-type: none"><li>• The Office shall be accountable for its decisions.</li><li>• Health establishments / persons in charge shall be held accountable for breaches of norms and standards.</li></ul>
<b>Targeting</b>	<ul style="list-style-type: none"><li>• <i>Enforcement shall target HEs that poses a high risk to users as well as persistent non-compliance.</i></li></ul>
<b>Proportionality</b>	<ul style="list-style-type: none"><li>• <i>The enforcement action taken against a HE shall be proportionate to the risk. (e.g. revocation of a certificate of compliance for a minor breach)</i></li></ul>
<b>Transparency</b>	<ul style="list-style-type: none"><li>• <i>The Office shall be transparent in executing legislative mandate (i.e. Publication of decisions)</i></li><li>• <i>Allow the public to attend in hearings / appeals.</i></li></ul>
<b>Consistency</b>	<ul style="list-style-type: none"><li>• <i>Enforcement process shall be consistent with reliable and fair decisions.</i></li><li>• <i>Similar action for similar breaches.</i></li></ul>

# ***Monitoring Compliance***

---

- ***The Office shall monitor compliance with the Norms and Standards through inspections and investigations;***
- ***The Office shall also receive incident notifications and complaints.***

# ***Inspections***

- ***The Office has appointed inspectors to conduct inspections;***
- ***The inspections shall be done in accordance with the powers outlined in the Act (e.g. questioning, requesting documents)***

# ***Inspections Cont.....***

- *Where there is identified breach on norms and standards, inspector shall immediately issue a Notice of Compliance to the person in charge of a health establishment;*
- *Inspection results will determine the status of a health establishment (whether to issue a certificate of compliance or enforce compliance)*

# *Types of Inspections*

## Routine Inspections and Re-Inspection

- conducted every four (4) years for certification purposes.
- Re-inspections where there was identified breaches.

## Risk based Inspections

- They are triggered by early warning systems (e.g. Media Reports / regression)
- There is always a re-inspection to ensure that the breach has been remedied.



# ***Advice to ensure Compliance***

- *The Office may, where necessary, advise the person in charge of a health establishment on how to comply with the norms and standards as well as other legislation;*
- *No further action may be taken against a health establishment where the person in charge has complied with the advice given on how to ensure compliance with and the norms and standards.*

# ***ENFORCEMENT***

---

# ***Why do we enforce?***

- ***To protect health care users from harm and risk of harm;***
- ***To ensure that health care users receive health care services of a suitable standard;***
- ***To hold a health establishment / person in charge accountable for any breach of the prescribed norms and standards.***

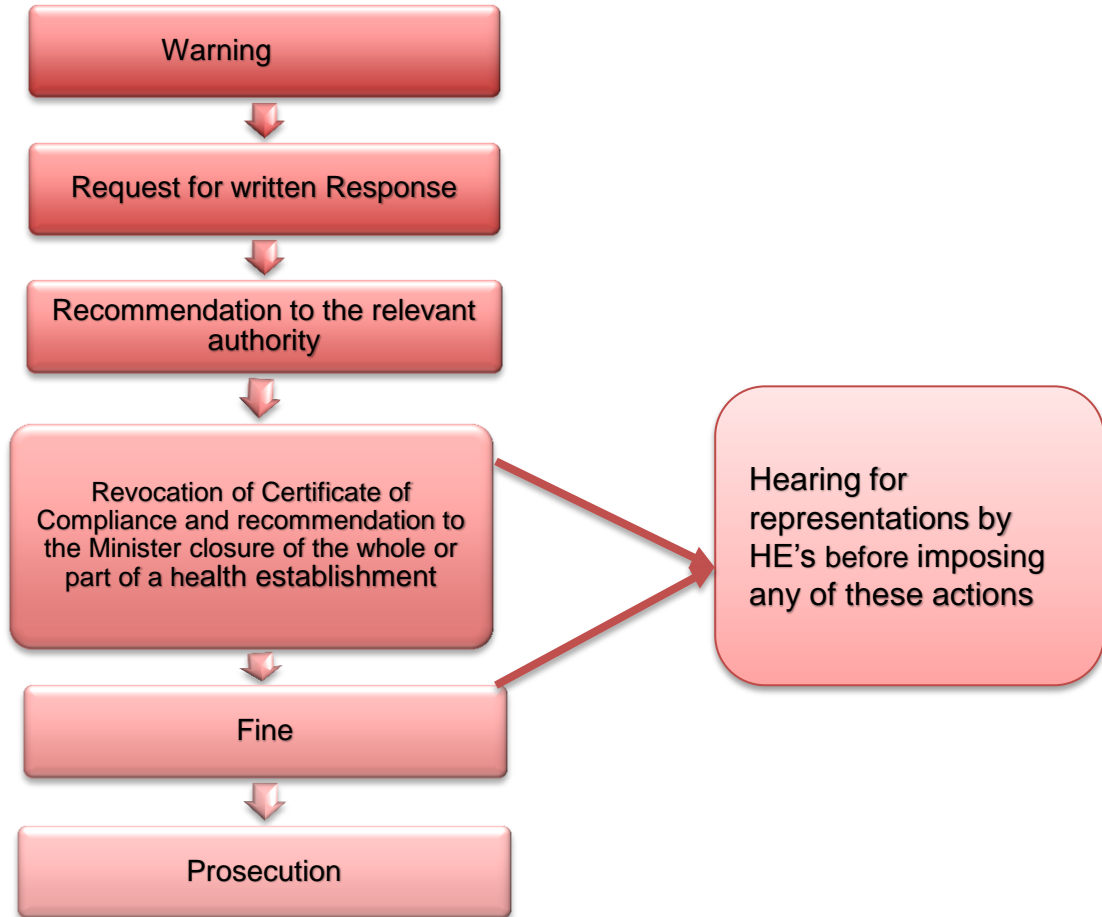
# ***Criteria for Enforcement***

***The following criteria shall be used in deciding the appropriate action to be taken:***

- ***The adverse effect / the extent of the risk, the seriousness of the breach and the actual or potential consequences;***
- ***The extent to which the person in charge / employees of a HE contributed to the breach;***
- ***Compliance history of a HE;***
- ***Any mitigating / aggravating factors;***
- ***Whether the breach is imminent / immediate.***

# Enforcement Actions

- The following enforcement actions are prescribed by the Act:*



# ***Formal Hearing***

- *A health establishment may be given an opportunity to be heard before a certificate of compliance can be revoked;*
- *The CEO shall appoint a suitable person to preside over the hearing;*
- *The presiding officer shall appoint not more than 2 persons with the technical expertise on the relevant subject as his / her assistants;*

# ***Formal hearing cont...***

- ***Written and oral representations may be allowed in the hearings, however the procedure shall be determined by the presiding officer;***
- ***The tribunal shall recommend to the Office to revoke the certificate of compliance / impose a fine;***
- ***The CEO shall submit the recommendations of the Committee to the Board for noting and subsequent approval.***

# ***Formal hearing cont...***

- *The presiding officer shall issue a notice to the Office and the health establishment to enable preparation for the hearing;*
- *The notice shall contain all the information relating to the hearing (i.e. Date, time and place of the hearing; subject matter for the hearing; legal rights of the parties and how to exercise them; required documents and consequences of failure to attend)*



# ***Appeal***

- ***Any person aggrieved by the decision of the Office has the right to appeal the decision within 30 days from the date of gaining knowledge of the decision;***
- ***The appeal must be lodged to the Minister in the prescribed format;***
- ***The Minister shall appoint an ad hoc tribunal to hear the appeal;***
- ***Proceedings shall be open to the public;***
- ***Legal representation shall be allowed during the appeal proceedings;***
- ***There is no right of appeal to the Minister against a conviction for an offence if prosecuted.***

# ***Publication of decisions and sanctions***

- ***Office shall publish the decisions of the ad hoc tribunal in the Gazette within 25 days from the date of the decision;***
- ***All other decisions / sanctions shall be published on the Office's website for the public as well as interested stakeholders***

# ***Roles and Responsibilities***

<b>HEALTH ESTABLISHMENTS / EMPLOYEES</b>	<ul style="list-style-type: none"><li>• Accept and understand the prescribed norms and standards.</li><li>• Comply with the prescribed norms and standards.</li><li>• Cooperate with the Office and its employees.</li></ul>
<b>RELEVANT AUTHORITIES</b>	<ul style="list-style-type: none"><li>• the most senior employee in rank, to deal with all matters relating to prescribed norms and standards.</li><li>• Ensure that the health establishment / person in charge respond to requests from the Office.</li></ul>
<b>COMMUNITY/ HEALTH CARE USERS</b>	<ul style="list-style-type: none"><li>• Learn and understand the Norms and Standards and Functioning of the Office.</li><li>• Report breaches of compliance by way of complaints / whistle blowing.</li></ul>
<b>THE OFFICE</b>	<ul style="list-style-type: none"><li>• Inspect compliance with the norms and standards.</li><li>• Encourage compliance with the norms and standards.</li><li>• Enforce compliance with the norms and standards.</li></ul>

---

***THANK YOU***