

OHSC CERTIFICATION AND ENFORCEMENT

**OHSC WEBINAR / STAKEHOLDER
ENGAGEMENTS**

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

Outline

- Legislative Mandate
- Health Establishment Defined
- Monitoring compliance
- Role of Inspections
- Certificate of Compliance (Renewal and Suspension)
- OHSC Enforcement Approach
- Principles for enforcement
- Criteria for enforcement
- Enforcement actions
- Offences and Penalties
- Appeals
- Publication of sanctions and decisions



LEGISLATIVE MANDATE



S 78 of the National Health Act, 2003 describes one of the objects of the OHSC as “to protect and promote the health and safety of users of health services by:

- Monitoring and **enforcing** compliance by health establishments with norms and standards prescribed by the Minister in relation to the national health system.

LEGISLATIVE MANDATE CONTD..



Section 79 (1)(b) of the Act prescribes one of the mandatory functions of the Office is to:

Inspect and **certify** health establishments as compliant or non-compliant with the prescribed norms and standards, or where necessary, withdraw such certification.

What is a Health Establishment?

- Health establishment means -
 - “the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services”



CERTIFICATION OF HEALTH ESTABLISHMENT S



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Monitoring Compliance

- The Office monitor compliance with the norms and standards through: -
 - inspections and investigations;
 - incident notifications; and
 - Early Warning System indicators.



Role of Inspections

- Inspections are vital for certification and enforcement purposes;
- Inspection results will determine the status of a health establishment (whether to issue a certificate of compliance or enforce compliance)



OHSC Certification

- All health establishments found to be compliant with the prescribed norms and standards will be issued with a certificate of compliance (CoC);
- The certificate of compliance issued by the Office shall be valid for a period of **four years** and is subject to renewal;
- Certificate of Compliance can be revoked or suspended by the OHSC.



Suspension of a COC

- A Certificate of Compliance can be suspended by the OHSC if:
 - ✓ A Compliance Notice is issued against a certified health establishment;
 - ✓ Conditions set out in the compliance notice are not fulfilled;
 - ✓ There is a recommendation by the Ombud following an investigation;
 - ✓ For enforcement purposes.



Renewal of a Certificate of Compliance

- Health establishments shall apply for renewal of the certificate of compliance **six months** before the expiry date;
- Certification/Compliance status for a health establishment which has applied for renewal may be **extended for a period not more than one year**;



Requirements for application for renewal

Regulation 19 (2) states the following requirements:

- OHSC Form 5 of the Regulations;
- Annual self assessments; and
- Most recent quality plans.





COMPLIANCE ENFORCEMENT



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WHY ENFORCED COMPLIANCE?



“Norms & Standards”

To enforce compliance by health establishments with the prescribed norms and standards;



“Protect”

To protect health care users from harm and risk of harm;



“Suitable health care services”

To ensure that health care users receive health care services of a suitable standard

OHSC ENFORCEMENT APPROACH



The OHSCs enforcement approach is progressive.

- Health establishments are given an opportunity to remedy breaches to the norms and standards.



Enforcement Policy

- Principles adopted for Enforcement.
- Criteria to guide enforcement decisions.

ENFORCEMENT PRINCIPLES

Accountability

The OHSC shall be accountable for its decisions.
Health establishments are objectively inspected and held accountable for non-compliance.

Targeting

Enforcement shall target a health establishments /part of a Health Establishments posing a high risk to users and areas of persistent non-compliance.

Proportionality

Enforcement powers must be assessed by the OHSC to be proportionate to the circumstances of an individual case.

Transparency

Clear, specific and explicit obligations placed on health establishments;
Findings and decisions are published as required by Regulations.

Consistency

Similar approach, in similar cases, to achieve similar outcomes.

CRITERIA FOR ENFORCEMENT

- 1) The adverse effect / the extent of the risk, the seriousness of the breach and the actual or potential consequences;
- 2) The extent to which the person in charge / employees of a health establishment contributed to the breach;
- 3) Compliance history of a health establishment;
- 4) Any mitigating / aggravating factors;
- 5) Whether the breach is imminent or immediate.

Compliance Notice



Compliance Notice
may be issued: -



Immediately during
an Inspection; or



With the final
inspection report.



Compliance Notice (S82 A)

- The purpose of the Compliance Notice is to inform the health establishment of transgressions of norms and standards and to give HEs an opportunity to comply;
- A Compliance Notice, when issued, must set out the following -
 - ✓ The particulars of the health establishment;
 - ✓ Prescribed norms and standards that have not been complied with;
 - ✓ Details of the nature and extent of non-compliance;
 - ✓ Any steps that are required to be taken and the period over which such steps must be taken;
 - ✓ Penalties that may be imposed in the event of non-compliance.

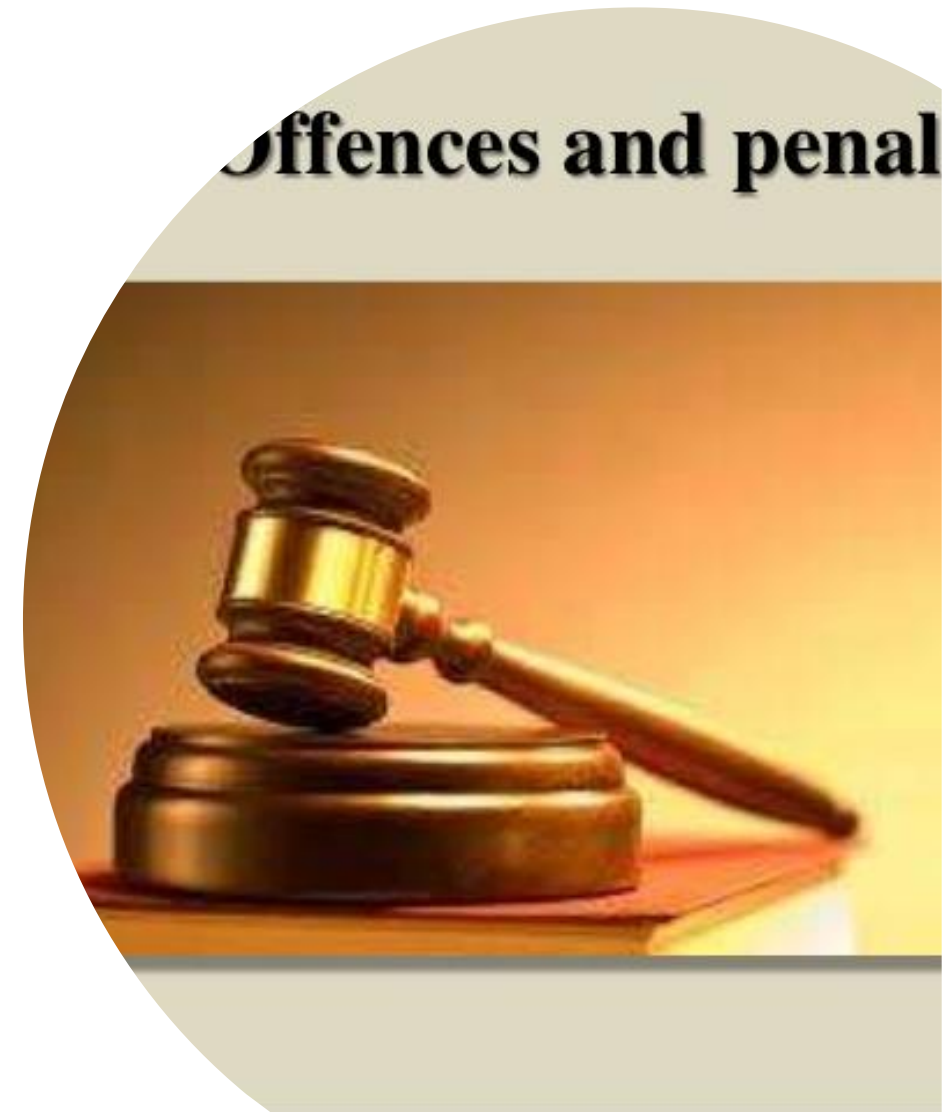


**ENFORCEMENT
ACTIONS**
(S 82A (4))





Offences and penal



OFFENCES AND PENALTIES

Offences and Penalties Contd...

- Section 89 (1) states that person is guilty of an offence if they, among others:
 - Obstruct and hinder an inspector in performing their function;
 - Refuse to provide an inspector with such information they are required to provide under the Act;
 - Knowingly give false or misleading information to an inspector or health officer;



Offences and Penalties Contd...

- Fail to comply with a compliance notice;
- Disclose any information acquired in the performance of any function in terms of the Act which relates to the financial or business affairs of any person.
- A person convicted of an offence in terms of the Act is liable on conviction, to a fine or imprisonment for a period **not exceeding 10 years or to both imprisonment and a fine.**



APPEALS



Right to Appeal (S 88A (1))

- 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 with the Minister in the prescribed format (form OHSC 9 in the Regulations).



Publication of Decisions and Sanctions

- **decisions of the ad hoc tribunal: -**

- within **25 days** from the date of the decision in the Gazette (Regulation 31 (1) (a));

- **Every six months**

A report which covers the following:

- Inspections conducted;
- certificates of compliance issued,
- hearings conducted; and
- recommendations made to the relevant authorities.



***TED FITZGERALD "THE KEY ... IS
ATTEMPTING TO ENSURE FUTURE
COMPLIANCE"!!!!***

**Thank You!!
Kea Leboga!!**



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