

An analysis of complaints against dentists made to the HPCSA: 2009-2023

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ABSTRACT

Aims and objectives

The study aims to provide an updated description of HPCSA complaints against dentists. The objectives were to analyse the incidence, types and consequences of professional misconduct and unprofessional behaviour complaints against South African dentists from 2009-2023.

Design

A descriptive study design was employed, focusing on a retrospective analysis of publicly accessible complaint records.

Methods

Publicly available online Health Professions Council of South Africa (HPCSA) records from 2009-2023 were analysed (www.hpcsa.co.za), categorising complaints based on ethical violations. Categories included clinical misconduct, fraud, record-keeping lapses, unprofessional conduct, unethical advertising, employing unregistered personnel or laboratories, poor infection control and practicing while suspended. Complaint nature, outcomes and penalties were quantitatively assessed, with qualitative descriptions of complaint types.

Results

From 83 dentists included in HPCSA records, 82 were found guilty. Primary complaints were fraud 33/82 (40%), clinical negligence 32/82 (39%) and employing unregistered personnel or laboratories 8/82 (10%). Forty-four dentists received fines (53%) for clinical and 20/82 (24%) for fraud-related issues, while 15/82 (18%) were suspended and 13/82 (16%) were cautioned.

Conclusion

The findings offer crucial insights into the misconduct in public and private dental practices in South Africa, highlighting areas for improvement.

INTRODUCTION

Recently, there has been an increasing trend of complaints made against health professionals in South Africa. Reasons cited for the rise in complaints include increasing awareness of patient rights and the proliferation of legal firms specialising in medical claims. The Health Professions Council of South Africa (HPCSA) was established through the Health Professions Act 56 of 1974 and serves as a regulatory body for health professions in the country, including dentists.¹ The HPCSA has developed the Ethical Rules of Conduct for health professionals in addition to the General Guidelines for Good Practice. The HPCSA consists of boards established by the Minister of Health that are specific to the various health professions in the country.² These boards are mandated to protect the public from unsafe practices and ensure a high quality of services from health professionals while having the authority to regulate training, register and de-register health professionals or as stipulated by the Minister of Health.^{2,3} Practitioners registered with the HPCSA must adhere to the Ethical Rules of Conduct which stipulate that the practitioner must act in the best interests of patients as part of their primary duty; they must respond appropriately to protect patients from risk or harm due to any reason; and they must report violations in circumstances where there is good reason to believe that the rights of a patient are being violated.⁴ Part of the mandate of the organisation is to regulate and guide healthcare professionals and ensure their professional conduct, while the mission of the Medical and Dental Professionals Board is to ensure appropriate education and training standards. Dentists are obligated to adhere to the core ethical guidelines described by the HPCSA (Table I).

These guidelines are vital for maintaining the integrity, professionalism and ethical standards of healthcare services.⁵ The HPCSA regularly publishes a list of complaints on its websites which contains details of the number, nature and frequency of complaints registered against health professionals. The Complaints Handling and Investigation division of the Legal and Regulatory Affairs Department receives complaints of unprofessional conduct.¹ The function of the division is to receive, peruse, analyse, register and allocate complaints according to how serious the nature of the complaint is.¹ Complaints are received and categorised by the HPCSA, which then undergo an analysis process, including minor transgressions which might be mediated.⁶ Minor complaints are transferred to the Ombudsman for mediation while more serious complaints are transferred for preliminary investigation.¹ Under the Medical and Dental Board, there is a Dental Committee of Preliminary Enquiry which conducts investigations.² The Ombudsman aims to arrive at a resolution while a Charge Office implements penalties stipulated by the preliminary investigation and preliminary committees of inquiry.¹

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1. TA Vedan, principal researcher – writing article (70%), data analysis (30%)
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Declaration

The authors declare there are no conflicts of interest.

According to the 2022 annual report, the HPCSA performed 2,727 compliance inspections with 25 operations carried out in conjunction with the South African Police Service (SAPS) and the South African Health Products Regulatory Authority (SAHPRA).¹ The Medical and Dental Board had 58,840 practitioners in the board and recorded 1,276 (82.1%) complaints during the 2021/22 financial year.¹ It is also important to note that of the 1,554 complaints that were registered in the 2021/22 financial year, 95.1% were levelled against private sector practitioners and only 4.89% were levelled against public sector practitioners. Complaints against health professionals range from clinical malpractice, accounts and fraudulent claims, unprofessional behaviour and employing the services of an unregistered health professional or laboratory. The penalties awarded range from fines imposed, acquittals, suspensions, caution and reprimand and admission of guilt fines.

Ethical advertising	Professional registration of health professional employees
Correct practice names	Professional registration of health laboratories
Patient care	No sharing of consulting rooms
Confidentiality	Performance or professional acts
Signing of official documents	Medicines
Certificates and reports	Financial interests
Issuance of prescriptions for medication	Reporting impairment

Table I: Summary of the ethical rules of the HPCSA

Any natural or juristic person, group or professional body can lodge a complaint against a health professional with the HPCSA. However, only members of the public or healthcare practitioners can lodge complaints for unprofessional conduct by a person registered under the Health Professions Act.

Alternatively, for issues specifically related to dental services, the South African Dental Association (SADA) offers an ombudsman service. Complaints can be sent in writing to a designated email address, and complaints are handled via a free complaint resolution process.⁷ The complaints listed with SADA follow a mediation process to identify a

solution that is acceptable for both parties. To streamline the complaints, investigation and mediation processes and lead to a quicker turnaround time for resolution, both the HPCSA and SADA have opted to digitise the process.^{1,7} According to the HPCSA, this has resulted in cost savings generated for the organisation.¹

Aims and objectives

The study aims to provide an updated description of HPCSA complaints against dentists. The objectives were to analyse the incidence, types and consequences of professional misconduct and unprofessional behaviour complaints against South African dentists from 2009-2023.

Methods

Publicly available records of the Health Professions Council of South Africa from the official website (www.hpcsa.co.za) were analysed and classified according to the ethical rules. The search was limited to dentists who received complaints against their names during a period of 14 years.

During the review process, two independent reviewers, experienced in dental public health, assessed the online of complaints published by the HPCSA. Both the nature and outcome of the complaints and penalties were quantified using simple, descriptive statistics. Complaints were categorised into six categories: Clinically Related Fraud, Poor Record Keeping, Rude Behaviour, Unethical Advertising, Employment of Unregistered Persons/Labs, and Practicing While Suspended. This classification was achieved through examination and consensus-building between the reviewers.

The reviewers carefully analysed each case, considering the nature and specifics of the complaints, and mapped them to the most appropriate category. This systematic approach ensured that each complaint was assessed fairly and accurately. Poor record keeping, for instance, was identified based on its impact on professional conduct and patient care, while rude behaviour was evaluated based on its deviation from expected professional and interpersonal standards.

Results

The time period under review was 2009-2023 (14 years). This is the maximum time that judgments are kept online by

Complaint category	Penalty						
	Guilty	Suspended suspension	Removed from Register	Fined	Restitution	Further training	Cautioned/reprimanded
	n	N	n	n	N	n	n
Clinically related	34	5		22			5
Fraud	33	8		20		3	3
Poor record keeping	1	1					
Rude behaviour	2			1			1
Unethical advertising	3			3			
Employed unregistered person/lab	8	1		2			3
Practice while suspended	1						1
Total (N)	82	15	0	48	0	3	13

Table III categorises various fraudulent activities, offering insight into the types of unethical billing practices prevalent in the dental profession.

the HPCSA. There were 82 guilty charges against dentists, 2009-2023. Of the charges 34/82 (41%) were clinically related, 33/82 (40%) were related to fraud and 8/82 (10%) were related to employing an unregistered professional or laboratory. Other charges fell into categories of unethical advertising, rude behaviour, poor record keeping and practicing while under suspension. The penalties were 48/82 (58%) fines, 15/82 (18%) suspensions and 13/82 (16%) cautions or reprimands issued to the dentists found guilty. Table II categorises the nature of the complaints and delineates the disciplinary actions taken.

Overcharging
Claiming for services not rendered
Discrepancies between clinical records and submissions for billing
Submitted claims while under suspension
Claims for procedures that were not performed
Split billing with other parties

Table III: HPCSA dentist claims related to fraud, 2009-2023

Table IV presents a list of clinically-related complaints handled by the HPCSA, 2009-2023. This table categorises various forms of clinical negligence and malpractice, offering a critical insight into common areas of concern in patient treatment and care.

Negligence
Failure to diagnose, manage, treat and refer patient
Inappropriate treatment
Caused further complications during a procedure
Damaging the lingual nerve during dental treatment
Failure to refer to a specialist
Left broken instrument in root canal space
Failure to completely remove the root canal

Table IV: HPCSA clinically-related complaints, 2009-2023

DISCUSSION

The prevalence of professional body claims against dentists varies significantly across the globe, with distinct patterns observed in high-income countries compared to low- and middle-income countries. Globally, dental malpractice is notably prevalent in the private sector, reflecting perhaps the varied standards of care and regulatory oversight across different countries.⁸ In a Taiwanese study, penalties consisted of days of criminal detention to months of imprisonment.⁹ The highest number of dental malpractice cases occurred in implant and oral surgery cases followed by other specialities.⁹ International studies on complaints to dental or health professional bodies about the conduct of dentists reveal some noteworthy statistics. In Australia, dental practitioners had the highest rate of complaints among 14 health professions, with a rate of 42.7 complaints per 1,000 practitioners per year. The study, covering six years, underscores the significant number of concerns raised regarding dental professionals in comparison to other health sectors.¹⁰

Another study in the Netherlands highlighted the personal and professional impact of complaints on dentists.¹¹ It found that 29% of dentists were affected to a large extent or strongly in their personal professional practicing due to facing complaints. These statistics collectively present a global perspective on the challenges and ethical issues in the dental profession.

In South Africa, a more detailed picture emerges. A 2011 paper found that charges were laid against 102/ approximately 4,153 (2%) dentists before 2009. The majority of complaints were also clinically-related followed by complaints of fraud. The penalties incurred include suspended suspensions, reprimands, further training and 1 removal from the health professions register.⁵ Excluding the removal of 1 professional from the register, our findings concurred with the findings of this study.

An analysis of HPCSA rulings, 2006-2017 found that South African dentists predominantly face clinical complaints, constituting 59% of the total malpractice cases. Additionally, a significant proportion of claims in South Africa, specifically 29% of dental cases and 46% of dental therapist cases, are related to fraud.¹² These figures indicate a unique professional climate in South African dental practice, characterised by a high incidence of clinical and fraud-related complaints, which may be reflective of the country's specific healthcare dynamics and regulatory environment.

In the 2009-2023 HPCSA data, fraud-related complaints constitute a substantial 40% of the total cases. This high incidence aligns with global trends,¹³ which suggest that healthcare sector fraud is not uncommon. However, the specific nature of dental fraud in South Africa, involving activities such as overcharging and false billing, might exhibit unique regional characteristics when compared to international data.

When conducting a study on the analysis of complaints, using the HPCSA's publicly available complaints register, several limitations are noteworthy. The HPCSA register may not capture all complaints, especially those resolved informally or not officially reported. This can result in an underestimation of the actual number of complaints.⁵ Complaints may be omitted for privacy concerns, due to the nature of the complaint, or if the case is deemed frivolous or without merit.¹⁴ Therefore, while some information might be accessible, there is no guarantee that all HPCSA complaints and judgments are published online.

There might be a reporting bias, as not all patients or peers are equally likely to file complaints. This can skew the data towards certain types of complaints or demographic groups.¹² The public register may not provide detailed information about the context of each complaint, limiting the depth of analysis regarding the underlying causes of the complaints.¹⁵ This meant that the reviewers had to categorise the nature of complaints and charges based on the summaries provided. The findings might not also be generalisable to other regions or countries due to cultural, regulatory and systemic differences in dental practice and complaint management. These findings underscore the need for continual monitoring and enforcement of ethical practices in dentistry to maintain high standards of care and professionalism.

To decrease HPCSA complaints against dentists in South Africa, several recommendations can be considered. First, enhancing ethical training and continuing professional

development is crucial. A study suggested the need for the HPCSA to re-evaluate the effectiveness of its ethical training programmes, implying that better training could lead to fewer complaints.¹⁶ Additionally, there's a need for increased awareness and understanding among dental professionals regarding the nature and consequences of complaints, as studies have shown that many complaints arise from misunderstandings or lack of communication.⁵ Providing dentists with guidance on managing patient expectations and improving communication skills could help in this regard.

Moreover, the mental health and wellbeing of dental professionals under investigation by the HPCSA should be given attention. The South African Dental Association (SADA) recognises the significant impact that HPCSA investigations can have on dental practitioners' mental health which can, in turn, affect their professional performance.¹⁷ In some cases, complaint resolutions have become protracted processes which results in distress to the health professional and a waste of legal resources.¹⁸ To mitigate complaints, health professionals are advised to communicate with patients transparently, especially when complications arise.¹⁸ Maintaining adequate documentation, signed consent forms, consultation and clinical records is also important for investigating complaints and it is recommended that digital record keeping is maintained to avoid challenges with illegible handwriting.¹⁸ Offering further support systems and counselling services to these professionals could help mitigate the impact of distress.

Finally, the process of lodging and handling complaints itself should be made more transparent and efficient. This includes ensuring that the perusal, analysis and categorisation of complaints are done fairly and in a timely manner, which can prevent the escalation of minor transgressions.⁶ In instances where the complaints are escalated for further investigation and where health practitioners appeal, it is recommended that the HPCSA treat all complaints with consistency and fairness when hearing the health professional's side of the incident.¹⁹ The digitalised process of fielding and investigating complaints at the HPCSA as well as SADA is promising but the gains in efficiency must be established over time. Those laying complaints with the various professional bodies must be given guidance on how to lay complaints and, to prevent abuse of the system, there should be declarations accompanying complaints that declare the nature of the relationship between the complainant and the health provider.² By addressing these key areas, it's possible to create a more conducive environment for both dental professionals and their patients, potentially leading to a decrease in the number of complaints lodged against dentists in South Africa.

CONCLUSION

The analysis of complaints against oral health professionals at the HPCSA between 2009 and 2023 reveals significant insights into professional conduct and accountability within the dental profession. The findings underscore the importance of regulatory bodies such as the HPCSA in safeguarding public health and maintaining professional standards.

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CPD questionnaire on page 346

The Continuing Professional Development (CPD) section provides for twenty general questions and five ethics questions. The section provides members with a valuable source of CPD points whilst also achieving the objective of CPD, to assure continuing education. The importance of continuing professional development should not be underestimated, it is a career-long obligation for practicing professionals.

