

SPEAKER/PANEL MEMBER BIOGRAPHIES

Ms TA Kaseke

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Ms. Trudy Kaseke is a Director for Community Services in the Local Government sphere. She started her career as a student nurse at the then Kangwane College of Nursing, currently called Mpumalanga Nursing College. She went on to work as a professional Nurse in the Mpumalanga, North-West, Limpopo and Gauteng Provinces.

She is an Operating Theatre Nurse specialist who has worked as an Operational Manager in different theatres and has also spent time as a Team leader Midwifery while working in the Limpopo Province.

Ms Kaseke is also an admitted Attorney of the High Court of South Africa. She served her articles and worked at Legal Aid South Africa.

Ms. Kaseke is a member of the 16th Council of the SANC and also serves in a Special and Advisory Panel, tasked by the Minister of Justice and Correctional Services, to advise on suitable legislation that can be adopted by the Country, in handling the high rate of litigations in Medical-negligence cases that are a challenge in the healthcare system.

SOUTH AFRICAN NURSING COUNCIL

THE LEGAL CONSEQUENCES OF AN UNPROFESSIONAL CONDUCT

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SANC INDABA

Presented by: Ms. T. Kaseke

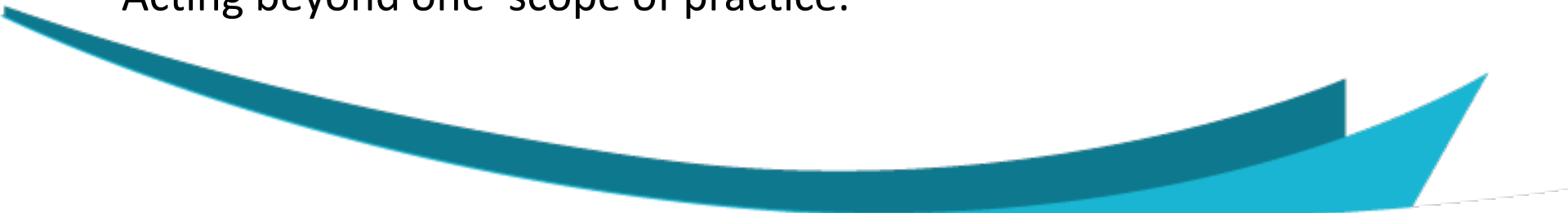


South African Nursing Council
regulating nursing, advocating for the public

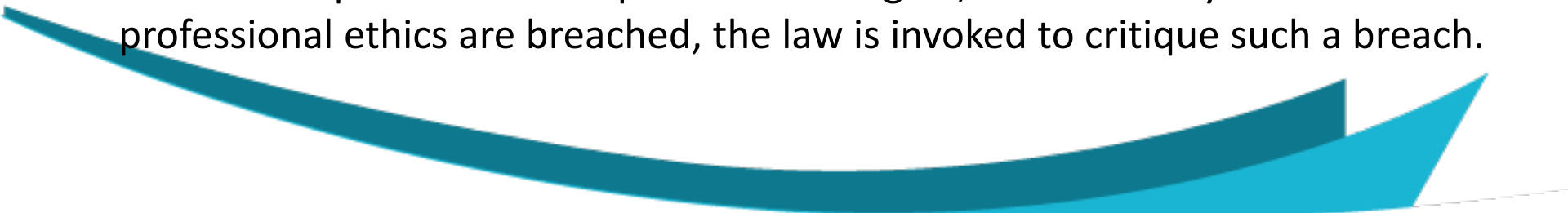
UNPROFESSIONAL CONDUCT

“Unprofessional Conduct” is defined as a conduct which, with regards to the profession of a practitioner, is improper, disgraceful, dishonourable or unworthy (Nursing Act No. 33 of 2005).

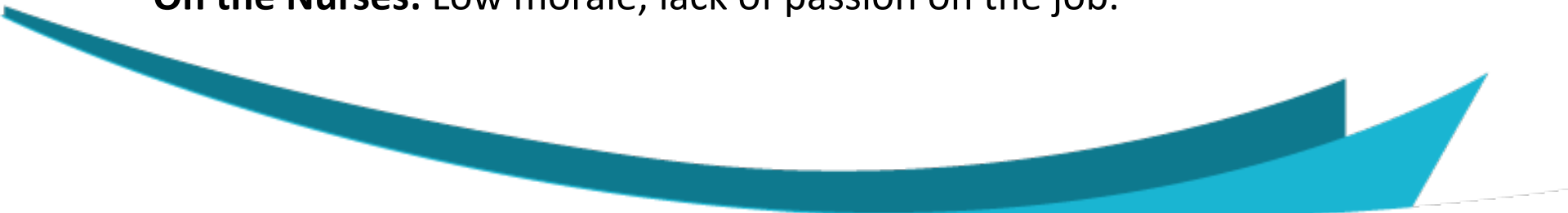
A few examples of an unprofessional conduct:

- Engaging in any activity that has a potential of bringing the Nursing profession into disrepute;
 - Failing to advocate for patients/users;
 - Failing to keep a clear, concise, legible and accurate record of the patient/user; and
 - Acting beyond one’ scope of practice.
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ETHICS VS LAW IN NURSING

- **Ethics** of care put emphasis on certain traits, which are valued in the Nursing profession: Empathy, compassion, emotional commitment to, and willingness to act on behalf of others,
 - Professional ethics in Nursing or health care, describes the virtue of caring as fundamental and integral in care giving, thus requiring a Nurse to be trustworthy, sensitive when dealing with patients' needs and vulnerabilities, respectful, as well as being able to maintain confidentiality, amongst other qualities,
 - Ethics teaches the moral principles of respect for autonomy, nonmaleficence, beneficence and justice. These cannot be separated from the ethics of care, they are taught to Nurses during training and if frequently referred to during rendering of care the outcomes can improve significantly,
 - **The Law** emphasizes on the protection of rights, unfortunately where professional ethics are breached, the law is invoked to critique such a breach.
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THE CONSEQUENCIES OF AN UNPROFESSIONAL CONDUCT

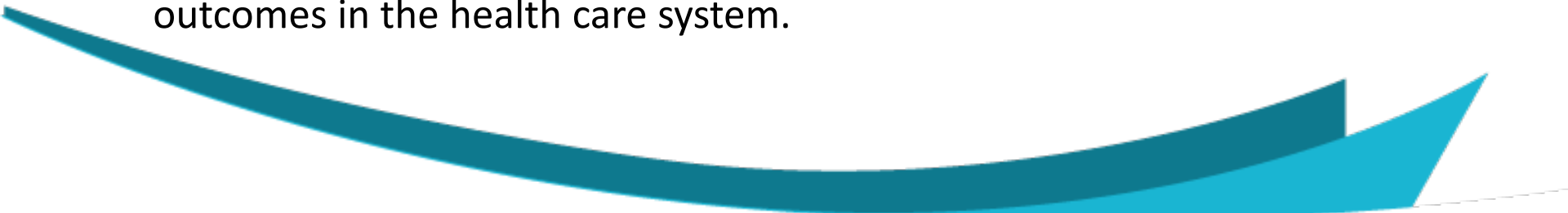
- **On the Nursing Profession:** The profession loses its shine, the Nursing brand becomes eroded.
 - **Relationship and Trust:** Builds animosity between the profession and users/public.
 - Animosity between the multi-disciplinary health team.
 - **Patient recovery ratios decline:** Continuity of care become compromised.
 - An increase of adverse outcomes in health care.
 - An increase in medical negligence litigations.
 - **On the health system:** Poor health care service delivery as funds get diverted to law suits.
 - **On the Nurses:** Low morale, lack of passion on the job.
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LEGAL RECOURSE


The Constitution, Section 27 “**Health care, food, water and social security.**”

- (1) **Everyone** has the right to have access to-
- (a) health care services, including reproductive health care.....
- (2) **The state must** take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of each of these rights.
- (3) **No one** may be refused emergency medical treatment”.
- Section 32 “**Access to information.**”
- (1) **Everyone** has the right of access to-
- (a) **any information** held by the state; and
- (b) **any information** that is held by **another** person and that is required for the exercise or protection of **any rights**.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state”.


LEGAL RECOURSE

- Section 34. **Access to courts.**
 - *“Everyone has the right to have any dispute that can be resolved by the application of law, decided in a fair public hearing, before a court or, where appropriate, another independent and impartial tribunal or forum”*
 - Health care users rely on the above pieces of legislation, amongst others, to enforce their Constitutional rights, where they are disgruntled.
 - There may be other reasons why health care users litigate to enforce their rights, unfortunately blaming them does not take away such rights.
 - Improving the ethics of care by the multi-disciplinary health team that includes nurses, proper administration of the health care system which includes proper planning, monitoring and evaluation of health care services rendered, can go a long way in reducing the number of adverse outcomes in the health care system.
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LEGAL CONSEQUENCE OF UNPROFESSIONAL CONDUCT

- Patients' rights violation.
 - Increase in preventable adverse outcomes, (common in midwifery from poor monitoring of pregnancy and labour).
 - High number of medico-legal litigations.
 - Nurses get subpoenaed to testify in Court, when there are litigations, leaving them very traumatised in most cases, over and above the peer review process conducted by the South African Nursing Council.
 - Payment of medico-legal law suits, a vicious cycle towards poor service delivery.
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POSSIBLE RECOMMENDATIONS

- Accept that we have a serious problem affecting the outcomes of our Nursing care, then work together to find a lasting solution.
 - Improvement on Recruitment and Selection of those entering the Nursing profession.
 - Put more emphasis on Nursing ethics during training of each nursing programme, highlighting the consequences of unprofessional conduct and the legal consequences.
 - Building role modelling teams in clinical care, mentorship.
 - Monitoring and strengthening the positive use of technology in the clinical area.
 - Strengthening the handling of adverse outcomes as they occur in health care institutions.
 - Create Forums to deal with adverse outcomes at the institutions before those affected resort to courts.
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A close-up photograph of Nelson Mandela, an elderly man with grey hair, wearing a grey suit jacket, white shirt, and red tie. He is smiling broadly, showing his teeth, and raising his right fist in a gesture of triumph or solidarity. The background is dark.

"It always seems impossible
until it's done."

-Nelson Mandela



Thank you