## The Legal Union of Same-Gender Couples Act

**Dear JP:** Thank you for letting me see your very sound and acceptable viewpoint [p. 131], and for asking me to comment before publication.

Having been in a same-gender partnership for 39 years myself, I have been mulling over this issue for some time now and have come to the conclusion that 'gay marriage' is not the right term to use for a same-sex union. In South Africa traditional and Muslim 'marriages' as defined in the Bible of Christian and Jewish religions were not legally acknowledged until the promulgation of the Recognition of Customary Marriages Act No. 20 of 1998, which in fact still allows more than one wife according to tribal and traditional custom.

In a radio interview Cardinal Napier of Durban re-emphasised the Roman Catholic Church's position that condoms are not allowed for contraception, and not even to prevent HIV transmission. When challenged about the fact that this country has a Deputy President who has at least three wives, he replied that it was acceptable according to the Deputy President's traditional customs. Even here 'marriage' though named as such does not conform to the biblical definition of marriage. Although legally correct in the above examples, it is therefore in my opinion the wrong term to use by persons who wish to apply strict biblical criteria.

It is my opinion that a new Act, which could be termed 'The Legal Union of Same-Gender Couples Act', would resolve much of the emotional response to the idea of 'gay marriages'. Nothing, however, would prevent such couples from celebrating their union in a 'gay wedding ceremony'. It is however imperative that some firm legal pathway be created to ensure the position of these couples of same gender (including where one of the couple has undergone a sex change operation), to prevent the sort of tragic situations that have occurred so frequently in the past after the death of a long-term partner; in a recent case in Cape Town, for example, the relatives of the deceased challenged the existence of a committed long-term same-gender partnership in the Supreme Court and claimed to be the sole heirs of the estate.

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## Miracles in the land of non-accountability

**To the Editor:** I read the recent report by Chris Bateman[1] with interest, having done my community service in the Eastern Cape. In terms of patients, colleagues and social life I had a wonderful year. However, I would caution anyone thinking of the Eastern Cape to seriously reconsider. You don't get paid! Bisho is truly unaccountable.

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1. Bateman C. Miracles in the land of non-accountability (Izindaba). *S Afr Med J* 2004; **94:** 940-943.

## Doctors — new migrant workers?

**To the Editor:** 2004 represents a watershed year for the medical profession. We have been forced to take a long hard look at our profession, our method of practice, our lifestyles and indeed, ourselves.

We see a profession that is more battered and marginalised than ever before and that appears to be haemorrhaging badly. One only has to note the 2 200-odd medical professionals who have been removed from the HPCSA lists for non-payment of their 2004 fees. I deduce that these people did not bother to renew their licences because they are no longer here and do not intend returning. Why have our medical leaders not come to the same conclusion? What is of even more concern is that this represents doctors who left in 2003 or earlier, that is before the tide of negative changed in 2004.

After looking at the 16-odd pages of foreign medical adverts in a recent *SAMJ* I am of the opinion that we will lose 1 in 5 doctors in the next 6 months. It saddens me to see how 'normal' it has become to pop over to the UK for a short period to earn some extra money — we have become the new generation of migrant workers!

This is only one of many changes impacting negatively on our great profession. We face the openly antagonistic and clearly incompetent health department, which has made its opinion of our profession very clear. We are thought of as 'rich thieving fat cats' who simply need a scolding — their actions in dealing with the dispensing debacle and the 'certificate of need' are obvious to see.

They see a profession that has no unity and no pride, and these views are often enhanced by the medical funders to suit their own ends. It is advantageous to the funders to perpetuate the idea among the public that all doctors are rich, greedy, dishonest and self-interested. Without fail all articles put out by the industry include (in paragraph 3) a short description of the massive fraud perpetuated by doctors. We never hear about the more widespread abuse and bullying of patients (and doctors) by these funders who, incidentally, recorded exceptional profits in the past financial year.

Yes, we already know all of this, you may say. Why am I writing this article?

Well, my fellow doctor, my esteemed colleague, my trusted friend, please read further. I have never been a pessimist and the purpose of this article will become abundantly clear.

We are *not* all crooks!

We are *not* all recipients of perverse incentives (a law introduced by people who have never been in the realm of private practice).

We are *not* all profiteering dispensers.

We are *not* all massagers of medical funds.

Yes, there are a few bad apples (as there are in any profession or trade) and we as a body must root them out and cleanse our tarnished image. It is incorrect simply to punish the profession as a whole. The comments of the new HPCSA head in his introductory speech, about punishing the profession, did little to enhance pride in our profession or the role of the doctor in the eyes of the public. Furthermore, it did not inspire trust between doctors and the HPCSA.

Before you get bored and start daydreaming of life in the NHS, please read further.

Our profession needs to regain its sense of pride, achievement, and integrity. We saw a glimpse of this when 2 000 of us came together to march on parliament — we were proud to be there. Let us stand together and present a united front to stop the bullying by outsiders. We are good and competent (hence the flight of doctors to new pastures); let us portray this much more strongly to the public. (A round of applause to our hard-working colleague Dr Letlape, I am proud to have him represent our noble profession.)

It is important, however, that we do a little 'housework' before extolling this new sense of pride to the public. We need to bring some hidden and unpleasant issues into the open and solve them once and for all. I list some of them here and offer a new code of conduct for us to live by and cherish!

1. Treat your colleague with respect. If s/he sends you a patient, have the courtesy to send a written reply. The converse is also true; never send a patient to a colleague without a decent referral letter. Be proud of your diagnosis.

2. Treat your colleague's family as you would have him or her treat yours. Obey the (previously) unwritten rules of pro deo care or only accept whatever the funder reimburses. Remember, the ultimate compliment that you as a doctor can receive is to be entrusted to take care of a colleague or his/her family. Be proud of this accolade!

3. Never, never cheat your colleague. A good example of this is the issue of assistance at operations. The following (and previously unwritten) rules should apply. The referring doctor should always be offered the first choice in assisting (except in the few highly specialised areas of laparoscopic or neurosurgery). If the referring doctor assists at his own patient's operation, it is not unreasonable to allow the surgeon to collect payment from the patient before paying the assistant. Should the surgeon ask the assistant to help with a case or cases who are not his patients, then this represents a contract between the surgeon and the assistant and the assistant should be reimbursed within 30 days. Let us for once and for all stop the common practice of billing the patient for a high assisting fee and reimbursing a lower fee to the assistant. Also stop the practice of 'forgetting' to pay the assistant until he queries this. Do not cheat your colleagues as you are ultimately cheating yourselves. This is nothing short of fraud. Have pride in yourself and your expertise and never cheapen yourself in this manner.

4. We as a profession must enhance our (well-earned) image, one of the cost-conscious caring doctor, and we must stand together to prevent bullying and interference in clinical management. It is ridiculous to see a competent surgeon being overruled on a clinical management issue by an off-site case manager who has never seen the patient or assessed the problem. It is time to be proud of your clinical skills; do not be forced into taking chances on behalf of third-party funders.

5. Never run a colleague down in front of a patient**.** If you have a problem, discuss it with him/her directly. Be proud to belong to the noblest of professions and always act in an appropriate manner. Wear that 'Dr' label openly and proudly.

It is imperative that each and every one of us make these few guidelines part of our daily lives. By exuding dignity, competence and unwavering integrity, we will be rightfully respected within the community again.

Do we have any other choice? No. It really is up to us as a profession to be proactive, forceful, forthright and to promote our profession confidently in 2005. We can only do so from a position of integrity and honesty.

**Laurence Cohen** (on behalf of many colleagues who suffer in silence)

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