



affordable. He denied that the bank had demanded or asked for any security from the referring doctors, saying this would be 'highly unusual'.

The HPCSA also led evidence that Weinberg failed to disclose additional income (totalling R265 339 in alleged kickbacks) to the Receiver of Revenue, which his lawyers argued was not taxable. The other referring doctors admitted to not having disclosed the additional income to the taxman.

Forensic auditor and an associate director of KPMG Services, Duncan Henry, told the enquiry that he was unable to find any reflection of this income when he combed Weinberg's financial statements and tax returns.

Pietersma told the hearing under cross-examination that she was unaware of 'the content of discussions' the parties had had over what the basis of payment through her account was.

She was not challenged on her earlier evidence that the doctors were offered 5% of the value of requests for specialist MRI scans and CAT scans and, later, 4.5% of the value of requests for all types of radiological examinations. In her evidence in chief, she said she would add up the amount earned from each doctor's referrals and subtract the VAT to work out each payment. She then made the cheques out to herself, adding her banking costs, before writing out cheques from her account.

The cheques were placed in envelopes with nothing explaining what they were for, and hand-delivered by one of the radiology practice partners.

*Miller explained that he saw the cheques as the 'paper trail' – and had sincerely believed they were 'a kind of a company profit, for want of a better word'.*

An application lodged with the Pretoria High Court by the referring doctors asking for a review of the HPCSA preliminary committee decision to hold the professional conduct enquiry, pending their appeal against the decision by the professional conduct committee, was dismissed with costs on 20 February this year. They claimed that the HPCSA reneged on a deal offering them indemnity 'for full and frank disclosure'. The HPCSA denied this, saying the referring doctors failed to meet the indemnity conditions it set.

A concurrent Medical and Professions Board enquiry against Illes and Partners is being held into alleged overbilling and overservicing and improper and inaccurate billing systems for patients and medical aids.

The radiology practice partners, Drs Jozsef Illes, Jeffrey Swartzberg, Leon le Roux and Herman Uys, have pleaded

not guilty to fraud, constituting disgraceful and improper conduct. All but Uys were also charged with and pleaded not guilty to obstructing the HPCSA hearing by threatening and intimidating their own employees and presenting falsified, fabricated documents.

This enquiry resumed on 5 May. The enquiry against the referring doctors was due to resume on 27 May.

In papers before the panel, Freddy allegedly received kickback payments totalling R127 125.44 through Pietersma's account and subsequently R31 667.52 through Solardale, Levy R886 968.47 and subsequently R131 750.90, while Nainkin was paid R121 576.36 and then R16 649.53.

Messrs Grant Kaplan and Friedgut instructed Peter Pauw SC and Steven Farell on behalf of the respondents while Tebogo Malatji instructed Mike Maritz, SC and Kgomoiso Moroka for the HPCSA.

Eugene Sklar instructed Errol Price on behalf of Dr Weinberg.

Professor PJT de Villiers chaired the MDPB panel and was assisted by Drs AAMOosa and PR Makhambeni.

The panel is being advised by the former Judge President, Mr Justice CS Eloff.

Chris Bateman

## MPUMALANGA'S 'DRUG DEALING' DOCS

The Organised Crime Unit in Mpumalanga has arrested and charged 40 doctors and seven State pharmacists and nurses with theft and Medicines Control Act violations after a lengthy undercover operation involving scores of 'sting' operations.

Described by seasoned detectives as the biggest criminal scam involving medicines in living memory in the province, the case involves government-employed clerks, nurses, assistant

pharmacists and pharmacists 'fencing' stolen medicines to doctors.

The detectives said it was 'not so much one huge crime syndicate as a whole bunch of smaller operators taking advantage of a systemic breakdown in State drug distribution'. The losses to the province are believed to run into tens of millions of rands.

The Mpumalanga Health Department was last month placed under curatorship, effectively removing

decision-making powers from its controversial MEC Sibongile Manana.

Mpumalanga Premier Ndaweni Mahalangu said this was because of a 'damning report from the auditor general, the province's standing committee on public accounts and persistent complaints from communities throughout the province'.

Manana faces possible contempt of court charges for allegedly failing to provide Nevirapine.



Provincial health department spokesman, John Mlangeni, said Mpumalanga officials first became suspicious when public complaints about non-availability of drugs at rural clinics persisted in spite of R11 million being spent every month. He said Manana ordered a probe by a private investigator whose report was handed over to the police around April last year. The first arrests came a month later and had reached 47 by April this year, with detectives expecting 'one or two more' at the time of going to press. In one 'sting' operation, undercover police purchased drugs worth about R250 000 for R5 000.

***The detectives said it was 'not so much one huge crime syndicate as a whole bunch of smaller operators taking advantage of a systemic breakdown in State drug distribution'.***

Police have so far confiscated drugs worth a total of R500 000 – bought in 'sting' operations for just R40 000 – but the actual losses run far higher.

Most of the doctors and State officials have pleaded not guilty and are out on bail ranging from R1 000 to R3 000 after appearing before magistrates in towns like Balfour, Volksrust, Delmas, Standerton, Leandra and Evander, Tonga, KwaNyamazane, Kabokweni, Middelburg, Witbank and Vosman.

Raids took place on doctors' surgeries in most of these towns and at the time of going to press, detectives were planning a raid on the 'surgeries' of two 'bogus' doctors allegedly not registered with the HPCSA.

Some of the accused doctors did session work at State clinics and hospitals.

It was reliably learnt that some of the nurses and nurses assistants involved in the thefts might seek indemnity from

prosecution in return for 'blowing the whistle'.

The drugs were being allegedly sold from private homes, delivery vehicles, State clinics and pharmacies and doctors' consulting rooms.

Mlangeni said: 'Right now we're tying up loose ends with (drug) distribution systems to ensure that we make it difficult to penetrate so that at end of the day people with long fingers cannot take advantage'. He said the Mpumalanga administration was 'waiting to see if the situation improves'.

'We're not saying it has stopped completely but our people are watching closely – perhaps some of the thieves have stopped now that they know there is an investigation. I must say the complaints from the public (about not getting drugs) have decreased'. The situation was 'very difficult to audit', he said.

Mlangeni explained that companies which held pharmaceutical tenders delivered consignments of drugs to a central depot where 'everything is recorded' before various hospital orders were met. Hospitals in turn dispensed the drugs to various outlying clinics.

'Between the depot and the patient, someone has penetrated,' Mlangeni said.

At least one of the suspects, a Nigerian doctor, fled to Johannesburg where police tracked down a deserted address.

One of the first doctors to go on trial at the Kabokweni Magistrates Court near White River is Thabo Mamoepa, the brother of Department of Foreign Affairs spokesman Ronnie Mamoepa.

Dr Mamoepa pleaded not guilty and the case was postponed to 26 May this year.

He was granted bail.

Prosecutors said the rest of the trials were due to begin in May and June this year. District Courts can impose a maximum jail sentence of up to three years but it believed unlikely this will



*Dr Thabo Mamoepa, brother of Department of Foreign Affairs spokesman Ronnie Mamoepa, emerges from the Kabokweni Magistrates Court after pleading not guilty to theft and Medicines Control Act violations.*

*Picture: Mpumalanga News.*

happen as most accused are believed to be first offenders.

The cases will be referred to the HPCSA as trials conclude. Sources at the Department of Health said the several foreign doctors involved would face deportation if convicted.

Dr Kgosi Letlape, chairman of the South African Medical Association, said the doctors involved should be 'prosecuted to the full extent of the law' and if found guilty 'taken out of society'. 'There are no extenuating circumstances. This is not acceptable and must be dealt with as ruthlessly as possible,' he added.

Boyce Mkhize, chief executive officer of the Health Professions Council of South Africa (HPCSA) said, 'obviously we were outraged by the revelations and immediately started a process of trying to establish the veracity of the allegations'.

Police detectives told his staff that they would prefer the HPCSA to 'hold off' until their own investigations were concluded.

Mkhize said waiting for the trials to conclude was a 'pragmatic and cost-saving step' in terms of any formal professional enquiry.

**Chris Bateman**