

# KOPANONG IN A SPIN OVER TOP



*A first-trimester abortion in progress before any potential 'clean up' in theatre.*

*Picture: Chris Bateman*

A Vereeniging theatre sister has resigned rather than meet Kopanong Hospital's insistence that she scrub for all theatre evacuations, including those involving 'clean ups' after messy abortions.

Sister Wilhelmein Charles is the sole remaining objector among more than two dozen theatre colleagues who signed a petition in 2000 refusing to conduct or be associated with terminations of pregnancy (TOP).

Her fellow objectors have not protested since and have fallen silent.

Kopanong Hospital management feared that granting her 'exceptional' working rights in theatre would lead to a resurgence of conscientious objectors and exacerbate existing staffing problems.

Instead they assigned her to a general ward in an attempt to defuse the situation.

The dispute is being taken to the Equality Court and may even end up in the Constitutional Court after Doctors

For Life heard about it and chose to fight Charles' case.

Charles told the *SAMJ* that although she had offered to scrub for other theatre lists, her seniors insisted that she fall in line with her colleagues. A letter to management outlining her position very early on proved fruitless.

Not wanting to 'create conflict', she scrubbed twice for the post-TOP theatre procedure in 2001 when the monthly average in theatre was 15.

She told the *SAMJ* that she felt 'deeply uncomfortable' both as a mother and on religious grounds.

'We wouldn't know whether the fetus was still inside or not, although it was supposed to be expelled in ward 12,' she said.

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With the patient due to arrive, she called a senior nursing colleague who had previously offered to help should such a seemingly unlikely dilemma arise.

However, the colleague, who had since moved into management, declined and referred Charles up the chain of command.

Charles said she called an area-nursing manager, who told her that because she was the only one available and the doctor was in a hurry, she would have to scrub.

'I did the job but I knew I had the right to refuse,' Charles said.

She subsequently presented to management a Doctors For Life pamphlet outlining health care workers' rights and was told that the patient and the institution also had rights.

'They said they have to be productive,' she told the *SAMJ*.

Charles said she found a reasonably sympathetic ear in the then CEO of Kapanong, a Mr Madonsela, who told her that 'they couldn't force me to do it at night'.

She said that several days after the night duty incident, management called a theatre staff meeting where it was decided that 'everyone must scrub for all evacuations, regardless'.

'They were all against me, so Sister Smit, my senior, said I must scrub and there would be no further discussion.'

Charles lost her second-born child, a 3-month-old, to Edwards' syndrome (47 chromosomes) in March 2002 and chose sterilisation.

However, she then successfully underwent a reversal operation in November 2002 and the following year fell pregnant.

'I didn't want to lose another baby, so I asked to work in another ward. The stress of looking for another sister every time there was a post-TOP procedure was just too high. I thought it was in everybody's best interests that I do move,' she said.

When she returned from maternity leave in May this year she asked to return to theatre (now doing on average less than one TOP-related procedure per month), but was referred to the previous (ward duty) arrangement.

'They said according to our last discussions I was out of theatre and that was it,' she said.

On 23 June this year, nearly a month after her written request to once again do theatre work, Dr B Mbule, the acting CEO, wrote to her asking her to elaborate.

'You state that you are more than willing to work in all the theatre disciplines. Does this statement include scrubbing for all emergencies, coming into theatre for example, any evacuation for retained products of conception? We await your answer in writing.'

The Doctors For Life's voluntary legal advisor, John Smyth, QC, responded by asking what conditions, if any, the hospital wished to impose if she were to return to theatre.

No reply was forthcoming and all

subsequent queries were referred to the Gauteng Health Ministry.

Smyth said that by early September the Ministry had yet to reply to 3 subsequent letters.

Charles told the SAMJ that she took sick leave to undergo psychotherapy 'because I was starting to believe that I was the only one, the real troublemaker'.

She subsequently 'decided there is no way out of this and it's not fair, so I resigned'.

She began a new surgery job with the Vereeniging Medi-Clinic in September – after being assured that they have no TOP ward.

Doctors For Life are demanding Charles be allowed to return to theatre work, R50 000 in damages and an unconditional apology.

Smyth told the SAMJ that he expected a preliminary Equality Court hearing by October.

He filed papers in late August under the Promotion of Equality and Prevention of Unfair Discrimination Act.

'We may be referred to the High Court if the Equity Court deems it a constitutional issue, and it could then leap-frog to the Constitutional Court,' he added.

The State Attorney dealing with the matter, Mr M Lakabe, confirmed having taken instructions from senior managers at Kopanong Hospital but said he had yet to receive anything on paper from lawyers for Charles.

'At this stage it remains just a threat,' he said.

Chris Bateman

## TIME WILL JUDGE 'SCARY' DISPENSING REGULATIONS



Pinelands pharmacists Denis Landau and Dinesh Dalla comb the dissenting minority judgment of Judge Jeanette Traverso for any potentially profit-saving pearls after being hit by the seemingly landmark judgment last month. Picture: Chris Bateman

Just days after the Cape High Court dismissed with costs the New Clicks and Pharmaceutical Society of South

Africa's (PSSA's) attempt to suspend the new national law on dispensing fees, pharmacists in Cape Town closed their

doors in protest and fear of prosecution. Across the Cape Peninsula pharmacists put up notices objecting to 'untenable' dispensing fee ceilings and advising customers to go to public hospitals for their drugs.

The closures were sparked, some said, by a complaint lodged with the Fish Hoek police that one of their number had flouted the new dispensing rules by charging more than the maximum professional fee of R26 (or 26% of any drug below R100) for scheduled medicines.

For Schedule 1 and 2 medicines, licensed dispensers may charge a maximum professional fee of 16% of the single exit price, up to a maximum fee of R16.

In what has been a united, determined, and some say clumsy effort by government agencies to make medicines more widely affordable, the national health department's head of legal services, Debbie Paermain, told customers they could help keep