



## RURAL DOCTORS CONSIDER LEGAL ACTION



UCT graduate, Dr Joanne Stevens, whose MPhil thesis on giving voice to public service doctors was presented at the Rudasa conference.

Hard-pressed rural doctors in South Africa should consider using the courts to advocate for the rights of their patients, 'taking on a few cases' of poor quality of care or the unfair distribution of resources to ensure existing Constitutional health care imperatives are met.

This was suggested by Professor Steve Reid, of the University of KwaZulu-Natal's Centre for Rural Health, in his address to the opening plenary of the annual conference of the Rural Doctors of Southern Africa (Rudasa) at Badplaas, Mpumalanga, on 24 August.

Using the definition of insanity as 'doing the same thing over and over, and expecting something different to happen' to illustrate how new stratagems were needed to improve rural health care delivery, he said maldistribution of resources could be tackled legally.

'We recruit other (doctors) from overseas, advocate for better conditions of service, encourage young matriculants into the profession, find sponsorships for those who need them

and shepherd them through medical school, hoping that one or two of them will return to take our places when we are worn out and have moved on,' he began.

However, beyond all Rudasa's well-intentioned efforts to 'stem the tide' there were powerful forces in operation that turned doctors into 'mere pawns in the global market place'.

While doctors could continue to lobby for better rural allowances and conditions of service (like accommodation) that could reverse the flow of resources from public to private, rural to urban and from South Africa to overseas, 'this might not be economically sustainable for the State'. This begged several new perspectives.

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Viewing the maldistribution of resources through 'a legal lens', Reid cited the AIDS Law Project and the Treatment Access Campaign successes in creating patient access to antiretroviral drugs. 'But what about access to other health services by rural people?' he asked.

### 'Cherry pick' deserving cases

If Rudasa raised the funds to hire 4 or 5 lawyers to take on a few cases of litigation over poor quality of care or the unfair distribution of resources, 'we might make a lot of progress on recruitment and retention of professional staff in rural areas'.

Reid said that, using the Constitution as a guide, 'it may well be possible

to make a case for a human rights approach to rural health, and force the actual implementation of many of the nice policies and grand rhetoric of the politicians and senior managers in government, so that real changes are seen in our hospitals and clinics'.

If recruitment and retention of staff was the major limiting factor in the ARV rollout, then the availability of staff accommodation was just as much a constitutional issue as the availability of drugs, which the TAC had taken to court.

Section 27 of the Constitution stated that everyone had the right to have access to health care services, including reproductive health care, and that the State must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.

The government could argue that there were not enough resources to guarantee access for everyone, but would find this constitutional loophole less negotiable when it came to the rights of children.

'So we could conceivably assist a team of lawyers to take up a few key cases in the courts, to push the boundaries of access to health care in rural areas, particularly on behalf of children.' The need for children to have birth certificates before they could access ARVs was a concrete example of an issue that could be used in a legal challenge.

However, the lack of health professionals in rural areas, and the consequent denial of access by rural people to a reasonable quality of health care, was 'a more general issue' that could also be taken up in the courts.

Reid lauded the SA Human Rights Commission for having recently begun a public inquiry into the right to have access to health care services and said Rudasa was 'looking forward to their report'.



Professor Steve Reid, former chairperson and co-founder of the Rural Doctors Association of South Africa (Rudasa).

With the new 2-year internship programme next year reducing community service (Comserve) conscripts by 74%, health care delivery in some rural hospitals is expected to collapse while pressures on existing rural doctors could reach unprecedented levels.

## Doctor/DoH communication 'vital'

An in-depth Oxford University MPhil study entitled 'Exit, voice and loyalty in the South African public health sector: young doctors' responses to government human resource policies', by UCT medical graduate, Joanne Stevens, analyses the relationship between medical personnel and the DoH, and mechanisms by which junior doctors can articulate grievances.

Her poster, presented at the Rudasa conference, highlights a pressing need for more direct communication between departments of health (national and provincial) and junior doctors, who become demotivated when their professional needs are not met. Her paper suggests ways of retaining doctors in the public sector once they have completed community service and/or specialisation. While she discovered new-found loyalty to patient communities and invaluable empathy

once doctors had moved from rural Comserve placements back into more privileged referral environments, loyalty to the DoH was notably absent.

Stevens said provincial orientation sessions for Comserve doctors (currently taking place mainly in the Eastern Cape and KwaZulu-Natal), should be advertised in sufficient time for Comserve doctors to attend. These sessions initiated relationships with provincial health department officials that could prove vital in enabling channels for 'Voice' and increasing loyalty for frustrated and under-supported doctors.

'Whistleblowers' needed more protection with, at the very least, the Chief Medical Officer of their hospital not being the only person who had the power to sign Comserve officers off at the end of their conscription year. Young doctors needed to be informed that their provincial Comserve co-ordinator was responsible for their ongoing welfare and not just the allocation of posts. They were legitimately allowed to take unresolved concerns to their provincial head of health and even the national DoH, 'despite what they may be told at the local level' (incidents of official threats and warnings to 'use the (hierarchical) ladder', are cited in the paper).

An official at the national department needed to be designated for this improved communication function. Stevens warned that unless coal-face feedback resulted in 'observable changes', any newly created channels would 'serve little purpose'.

## Helping Judasa helps SA – UK researcher

She urged SAMA and the DoH to give far more support and acknowledgement to the Junior Doctors' Association of South Africa (Judasa), 'because the junior years play a critical role in shaping doctors' perceptions of the public sector'.

She cited the hugely supportive networking model of Rudasa's Rural

Health Initiative (RHI), which recruits foreign doctors, builds relationship with DoH human resource officials and rural hospitals and provides formal orientation for new appointees.

While the RHI did not have the capacity to offer a similar service to Comserve doctors, its model could be emulated to provide short-term relief while IT and administrative systems were being improved under the national Human Resources for Health (HRH) Plan.

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She had discovered that the DoH intended creating an online database of information on Comserve hospitals (location, nearby facilities, photographs, contact information for existing staff etc.), but the process was 'slow'. She urged civil society organisations to assist with this and emphasised the need for the DoH to release guidelines on the level of supervision that could be expected by a Comserve, plus their 'primary objectives' for the year.

Stevens warned that even encouraging developments such as the HRH plan would have reduced impact if they were not 'communicated in such a way as to reinforce the idea that health professionals and the DoH are working together toward achieving health for all rather than at cross purposes'. She interviewed 25 Comserve doctors 6 months after they completed their 2005 conscription, DoH officials, academics and Judasa and civil society representatives, and spent 2 weeks last year in a deep rural Eastern Cape hospital.

Chris Bateman