

Presentation on
Proposed Code of Marketing
Practice
for
the South African Pharmaceutical
Industry

Two Parallel Processes

1. Code of Marketing Practice

- Has legal roots in section 18C – Medicines and Related Substances Act
- Code to be published in GG in terms of section 18C

2. Perversities, kickbacks, bonuses, etc

- Have legal roots in section 18A and 18B
- Also relate to provisions in National Health Act, pricing regulations, professional codes of HPCSA and Pharmacy Act

1. Code of Marketing Practice

Code of Marketing Practice

Application:

- Pharma industry in marketing and promotion of medicines
- Wholesalers covered only to extend that influence (potential) sale of a particular medicine
- Does NOT cover pricing, trade practices, vet meds, complementary meds, etc

Code of Marketing Practice

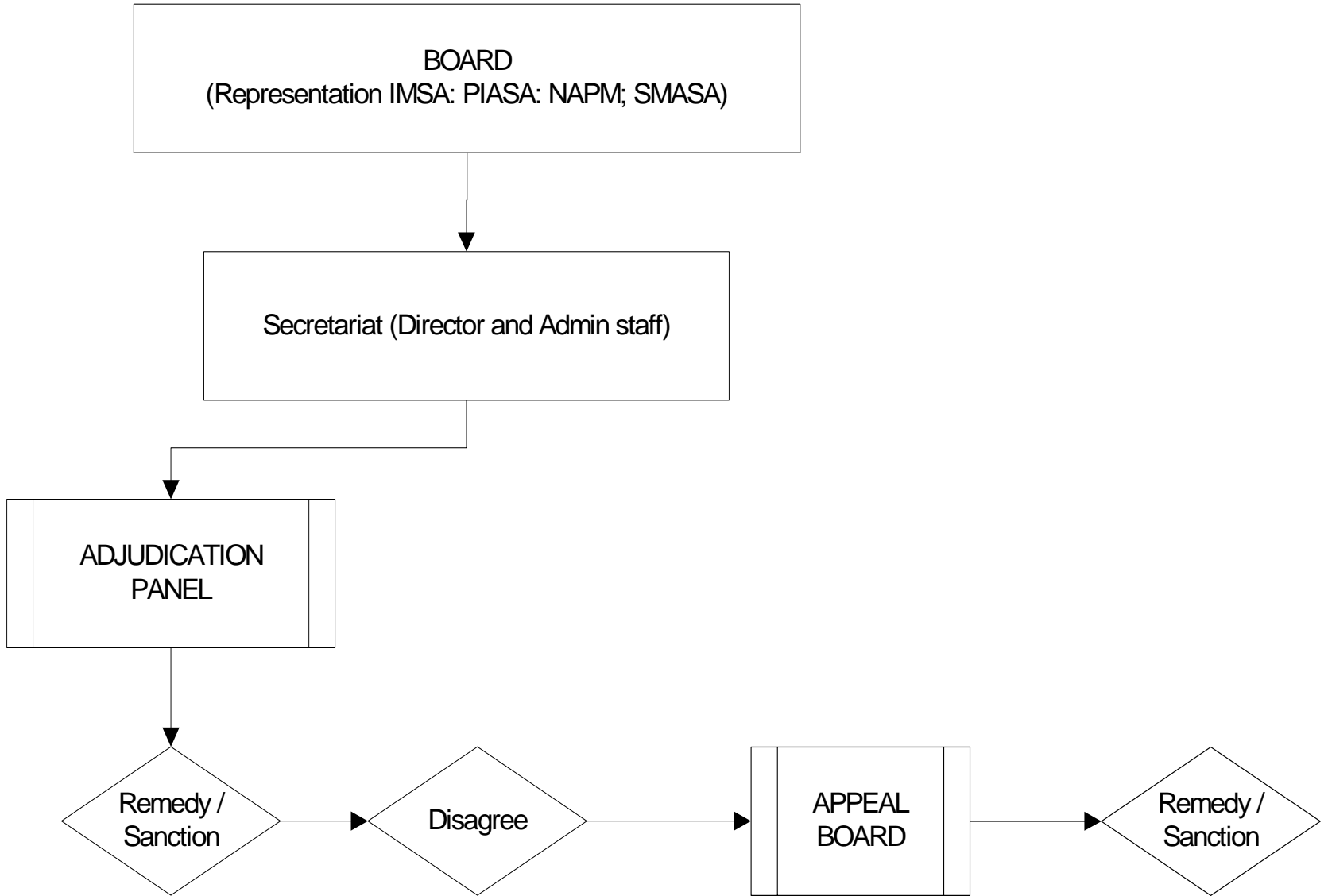
Guidelines:

- The Guidelines are important in explaining the application and intention of various provisions of the Code
- Will be updated from time to time by the Code Authority
- Will contain critical information on how the Code jurisprudence develops

Code of Marketing Practice

Enforcement:

- Self-regulation via an independent Code Authority
- CA also responsible to ensure education / information on the Code
- Adjudication Panel and Appeal Board
- Recourse thereafter: MRA/MCC, courts, ASA (if applicable)



Code of Marketing Practice:

Part 1A

Provisions:

1. Registration
2. Advertising and promotional material
3. Info, claims and comparisons
4. Disparaging references
5. Standards, suitability and endorsements
6. Disguised promotion
7. Re-prints and quotations
8. Distribution of promotional material
9. Scientific information service

Code of Marketing Practice

Provisions: (continued)

10. Certification of material, meetings, etc
11. Sales reps
12. Training
13. Hospitality, meetings, etc (HCP)
14. Inducements, gifts, competitions
15. Relations - general public
16. Samples
17. Internet
18. Compliance with undertakings

Code of Marketing Practice: Part 1B

- Similar sequence in provisions
- Provisions differ due to nature of products covered by Part 1B and due to the fact that promotion to the public is permitted for S1 and below medicines

2. Legislative Gaps on Perversities, etc.

Legislation Gaps

- Defines range of transactions which could constitute bonuses, rebates, etc (already in Pricing regs, but only applied to setting of SEP)
- Provides definitions for practices “in fraudem legis” (i.e. used to avoid the prohibitions contained in s18A)
- Need to bring all codes, laws, etc in line, so that all covered by same prohibitions

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