Publication: MEDICAL CHRONICLE
Date: 2015-07-01
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FIGHTING FOR AFFORDABLE MEDS

A number of patient groups and other leading health organisations have thrown their weight behind the 'Fix the Patent Laws' campaign initiated by Doctors Without Borders (MSF) and the Treatment Action Campaign in 2011.

Pharmaceutical companies, Pfizer and Pharma Dynamics indicated that they support the main objective of the campaign and have been in talks with the organisers as well as making submissions to the Department of Trade and Industry (DTI).

The main objective of the campaign is to push for reform of SA's current patent laws that severely restrict access to affordable medicines for all people living in the country, said spokesperson for the organisers, Julia Hill, MSF South Africa Access Officer.

The organisers are calling on the government to urgently finalise a National Policy on Intellectual Property (IP) that champions measures to reduce prices and increase access to a wide range of medicines for people in need across SA. The DTI declined to comment on when the policy will be finalised.

EXPANDED COALITION

Twelve organisations have joined the Fix the Patent Laws campaign in calling for progressive patent law reforms. These organisations include People Living With Cancer (PLWC), the South African Depression and Anxiety Group (SADAG), DiabetesSA, CanSurvive, the SA Federation for Mental Health (SAFMH), Stop Stock Outs, the Cancer Association of Southern Africa (CANSA), the Schizophrenia and Bipolar Disorder Alliance (SABDA), the South African Non-Communicable Diseases Alliance (SANCD Alliance), Marie Stopes, Epilepsy SA, and Cape Mental Health.

The expanded coalition represents public and private sector patients seeking treatment and care for a range of cancers, mental illnesses, diabetes, and other noncommunicable diseases - as well as TB, HIV and sexual and reproductive health.

CURRENT POLICY

SA currently grants patents on almost every patent application it receives, allowing companies to maintain lengthy monopoly periods on medicines. This keeps prices of many medicines higher in SA than in many other countries.

"Some cancer patients would rather go to other countries, like India, for treatment - the combined cost of the flight, medical services and drugs is cheaper than buying the drugs alone in SA," said Bernice Lass, co-founder of CanSurvive.

"For patients, caregivers and their loved ones, going through cancer can be a devastating experience," explained Magdalene Seguin, Acting Head of Advocacy at CANSA.

"CANSA is contacted on a regular basis by patients who don't have access to medication due to the high cost. CANSA supports that patent legislation in SA be amended urgently to ensure access to new affordable and life-saving cancer medications."

People Living with Cancer put its full weight behind the Fix the Patent

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VITAMIN B12

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Laws campaign because, said Director of the organisation, Linda Greeff, they want to ensure that there is proper scrutiny of patent applications before patents are granted.

"We want a patent granting process that is ethical and transparent, so that more people can access the medicines that they need," she stressed.

Charlene Sunkel, Program Manager: Advocacy and Development at the SAFMH, stressed that 'high medicine prices prevent mental health patients from accessing the medicines that they need - especially the new generation of medications which often have fewer side effects and cover a broader spectrum of symptoms'.Cassey Chambers, Operations Director of SADAG, said her organisation deals with patients every day that cannot afford medication or treatment, and as a result become more depressed, helpless, hopeless and even suicidal in some cases.

Marketing Coordinator of DiabetesSA, Keegan Hall, stressed that as health organisations, they have an obligation to take steps to improve affordability and access to medicines. The cost of insulin and other diabetes management tools are far too expensive for many patients, Hall added.

PHARMA COMPANIES' VIEWS

Paul Anley, CEO of Pharma Dynamics explained that SA doesn't have a search and examination facility, which effectively means that a patent will be granted if the application is submitted administratively correct and the administration fees are paid in full.

"When comparing outcomes of identical twin pharmaceutical patent applications filed in between 2000 and 2002 in SA to other jurisdictions that have implemented search and examination offices like the European Union and the US, SA granted 100% of applications. Both the US and European Patent Offices rejected about 40%."

Companies are granted patent protection based on the value of the innovation they bring to market, said spokesperson for Pfizer, Leigh Gunkel-Keuler.

"Without significant company investment in research and development (often running into millions of US dollars), which leads to the discovery of new medicine entities, there would be little and/or no advancement in bringing innovative medicine to patients of the world. In order to successfully bring such innovative medicine to market, companies require adequate patent protection so that additional investments in research and development can be made."

In addition, said Gunkel-Keuler, strong IP protection afforded by effective patent systems, in particular, provides incentives for biopharmaceutical companies to discover and develop lifesaving new medicines and helps ensure treatments are developed for unmet medical needs. As a result, healthcare professionals and patients continue to have access to a wide range of safe and effective healthcare options.

An effective IP system does not jeopardise access to medicines. The first step in access is the availability and existence of the medicine; price is only one element of 'access', she stressed.

"On the contrary, an effective IP system gives companies the confidence that their technology will not be unfairly used and thus facilitates the early introduction of new medicines in different markets."

MONOPOLIES

Anley conceded that SA's current system allows some companies to maintain lengthy monopoly periods on medicines, denying South Africans access to more affordable products. Monopolies are extended by patenting, for example, manufacturing processes, uses, commonly used combinations and dissolution profiles.

"These patents are typically applied for well after the original molecule patent was granted, thus extending monopolies for many years in some cases. The multiple patents of drospirenone extended one of the world's leading pharmaceutical companies' monopoly in this market to 2024 after the original patent expired in 2010."

The same patents, added Anley, were overturned in the US and Europe, and generics are freely available in these markets. Revocation attempts in SA were rejected at the Supreme Court in Bloemfontein, which means that no generics will be available in SA until patent expiry in 2024 - limiting access to more affordable products until such time.

SA MEDICINE PRICES

There is no question that access to medicines challenges exist, said Gunkel-Keuler, adding that the situation is not unique to SA.

"Pharmaceutical companies are working with governments to address this problem in a holistic manner. However, it is important that countries follow treaties on intellectual property laws and respect the legal principles that allow for fair competition of pharmaceutical products."

PROCESS

The DTI has already embarked on the process of legislative reform, releasing a Draft National Policy on Intellectual Property for public comment in 2013. The draft policy contained important commitments to reform the laws in order to restore the balance between public and private interest, in favour of people's health. Following the adoption of a finalised policy by Cabinet, bills to amend IP legislation in SA will be brought before Parliament.

The expanded Fix the Patent Laws coalition calls for urgent approval of a finalised National Policy on IP, as a critical first step toward reform of problematic patent laws and practices that deprive people living in SA of more affordable treatments for all conditions. MC

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