

**SAITHPA GRIEVANCES/DISPUTES:**

**LIST AS PER THE REQUEST OF THE MINISTRY FOR HEALTH**

**Date Submitted: 12/01/2020**

**Listing of matters that need resolution.**

**Priority: Immediate**

	ITEM	LEGISLATION/ REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	ACTIONS
1.	<b>'Category E' Dispute</b>			
<p>The HPCSA had informed medical graduates from certain universities that their application for registration to practice medicine in South Africa is refused on the ground that the curriculum of the affected university needs to be reviewed by the HPCSA.</p>	<p>a) HPCSA key requirements:</p> <ul style="list-style-type: none"> <li>• ECFMG registration and verification of qualifications</li> <li>• Listing in the World Directory of Medical Schools</li> </ul>	<ul style="list-style-type: none"> <li>• Whether the declaration of non-compliance is both arbitrary and discriminatory?</li> <li>• Whether the action to review the curriculum of another institution based internationally and outside of South African jurisdiction is <i>ultra vires</i>?</li> </ul>	<p>The court action against the HPCSA and MOH is revived and will be instituted by the 16<sup>th</sup> January 2019.</p>	
		<p><b>Intervention</b></p> <p>Parties met on the 16<sup>th</sup> August and the two categories identified were cleared to write in March 2020 and May 2020.</p> <p>See minutes of meeting attached, marked 'A 1', as ratified by the HPCSA.</p> <p><b>Decision reached and ratified under 2.1 of the minutes as attached.</b></p>	<p><b>Resolution:</b></p> <p>As per judgement of the high court</p>	

		HPCSA has reneged on the decision by interpreting the decision differently, when members affected attempted to register for the next board exam.	
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**Priority: Immediate**

	ITEM	LEGISLATION/ REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	ACTIONS
2.	<b>September 2019 board Examination</b>			
The September 2019 board examination was deemed a 'pilot examination' testing the implementation of USMLE/ SPEXI style examinations format in South Africa, based on the scope and content of the practice of medicine in the USA	There is no provision in the legal framework that authorises a foreign country/ agency to be mandated by the HPCSA to conduct its board examinations	a) Should an examination which is deemed a 'pilot format' be counted as an attempt as per the rules of the HPCSA board examinations. b) Does the South African legal framework authorise the HPCSA to conduct its board examinations based on the practice of medicine in the USA so as to enable candidates to practice medicine in South Africa.	a) Candidates who failed examination make application under Form C- PAIA. b) Should access be refused proceed to court action citing the HPCSA and the MOH as respondents	
		<b>Intervention</b> Call on the MOH to carry out an investigation on the following terms: <ul style="list-style-type: none"><li>• Reasons why the HPCSA engaged an outside examinations authority to conduct its board examinations.</li></ul>	<b>Resolution</b> <ul style="list-style-type: none"><li>• Candidates should be granted a minimum of 4 attempts (written and Osce independently) and should only repeat the examination that they have failed. This is necessary to factor in the adjustment</li></ul>	

		<ul style="list-style-type: none"><li>• The cost of such examination in total.</li><li>• What is the benefit for the outside agency?</li><li>• Who benefited from engaging such agency in South Africa?</li><li>• What is the benefit for the HPCSA in engaging such authority?</li><li>• Why is the practice of medicine in the USA being used to test the level of competency to practice medicine in South Africa?.</li><li>• Why no empirical substantiation or reasons has been presented to show that the current exam format is appropriate to the SA context.</li><li>• The HPCSA must verify the appropriateness of the content tested in the current exam and present substantive and cogent reasons why such content is relevant to South African health conditions.</li><li>• The HPCSA must provide proof of <u>validation</u> and endorsement of standards</li></ul>	<p>that is required in terms of the current exam.</p> <ul style="list-style-type: none"><li>• The scope and content of the examination must be compatible with the current final year medical curriculum offered at South African Universities and be in accordance with the South African Medical Guidelines, Essential Drug Lists [EDL] and protocols.</li></ul>
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		<p>as applied in the current exams format against local standards for final year medical student assessments.</p> <ul style="list-style-type: none"><li>• The HPCSA must provide a comprehensive diagnostic analysis of the examinations. This will be consistent This will be consistent practice in the promotion of fairness to students</li></ul>	
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**Priority: short term**

	ITEM	LEGISLATION/ REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	ACTIONS
3.	<b>Section 25 of the Health Professions Act 56 of 1974</b>			
<p>No Minister of Health has neither deemed it necessary nor sought to regulate registration as envisaged under section 25(1) of the HPA, post-apartheid. The current practice employed by the HPCSA grants exemption from the board exam only to candidates who have qualified from institutions recognised by the HPCSA from the so-called 'colonial countries' and related territories.</p>	<ul style="list-style-type: none"> <li>• section 25 of the HPA</li> <li>• regulation 2 of the Regulations Relating to the Registration of Persons who hold Qualification not Prescribed for Registration</li> </ul>	<p>Does Section 25 of the HPA and regulation 2 makes provision for the creation and/or extension of a seamless process of integration into the practice of medicine in South Africa as evidenced thus far with the non-exam track universities.</p> <p>If so, why is such exemption being denied to global institutions from whence a steady supply of doctors are making application to serve their country and from whence a cohort of doctors and specialists are already practising in the country?</p>	<p>a) SAITHPA will lobby for declaration of non-exam track universities of such institutions.</p>	
		<p><b>Intervention</b></p> <p>The MOH is called upon to review such legislation as custodian and initiator of the legal framework pertaining to the health sector.</p>	<p><b>Resolution</b></p>	

**Priority: short term**

	ITEM	LEGISLATION/ REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	ACTIONS
4.	<b>List of international medical institutions recognised by the HPCSA.</b>			
The HPCSA does not have a list of international medical institutions it recognises.	a) Item 6 of the Policy Guideline on the requirements for practice of medical professionals in South Africa, June 2018	The office of the MOH/ Registrar of the HPCSA provide coherent and cogent reasons for the non release of such list.	The lobby for such list and representations from the side of SAITHPA will be intensified.	
		b) Section 25 of the HPA	<b>Intervention</b>  The MOH/ HPCSA needs to identify and make available a list of: <ul style="list-style-type: none"><li>• non-examination track International medical schools within 3 months after submission of this letter</li><li>• International Institutions that are recognised but fall into the exam category</li></ul>	<b>Resolution</b>



<b>Priority: short term</b>				
	<b>ITEM</b>	<b>LEGISLATION/ REQUIREMENTS</b>	<b>LEGAL QUESTION/S TO BE ANSWERED</b>	<b>ACTIONS</b>
<b>5.</b>	<b>List of medical undergraduates studying abroad</b>			
	The HPCSA does not have a register of South African medical undergraduates studying abroad.	Item 6 of the Policy Guideline on the requirements for practice of medical professionals in South Africa, June 2018	The office of the Registrar of the HPCSA provide coherent and cogent reasons for the non release of such list.	The lobby for such list and representations from the side of SAITHPA will be intensified, since the absence of such list will continue to prejudice members.
			<b>Intervention</b>  The HPCSA needs to compile a register of undergraduates studying abroad in terms of the provisioning legislation as listed.	<b>Resolution</b>

**Priority: short term**

	ITEM	LEGISLATION/ REGULATORY REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	SAITHPA ACTIONS
6.	<b>Clinical Rotation</b>			
a) SAITHPA is deeply concerned that SA Medical Institutions offer clinical rotations to foreign graduates but not South Africans who obtain their qualifications abroad. Such graduates are registered with the HPCSA for the duration of such rotation programme.  b) <b>“The Dean’s Committee”</b> : SAITHPA notes that this Committee is not a legally constituted body although it may serve the HPCSA in an advisory capacity. .		We request reasons for preference shown to such foreign nationals who are placed in state hospitals, essentially funded by the South African tax payer, at the expense of our own citizens who make application to register and practice in South Africa	The lobby for undergraduates to be placed in the clinical rotation programme will continue. We request reasons for preference shown to such graduates who are placed in state hospitals, essentially funded by the South African tax payer, at the expense of our own citizens	
		<b>Intervention</b>  We request reasons for preference shown to such foreign nationals who are placed in state hospitals, essentially funded by the South African tax payer..	<b>Resolution</b>  c) That whilst SAITHPA respectively acknowledges and appreciates the role of such a committee in doing its work, it submits that when decisions affect the health and welfare of the country’s people needs to be made , it must be made in	

			conjunction with the health departments, civil society , health advocacy groups , legal bodies and social responsibility role-players as well.
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**Priority: short term**

	ITEM	LEGISLATION/ REGULATORY REQUIREMENTS	LEGAL QUESTION/S TO BE ANSWERED	ACTIONS
7.	<b>Employment of foreign nationals into the internship programme/ public sector</b>			
SAITHPA is deeply concerned that an ever increasing number of foreign medical practitioners are employed in the public sector whereas the gate keeping role of the HPCSA consistently creates challenges to keep out South Africans who obtained their qualification abroad.	Employment of Equity Act of 1998	Is the employment of foreign nationals over South Africa citizens discriminatory and if so is the discrimination fair, if such citizens are recipients of employment equity .	To lobby for South African graduates who obtained international qualifications to be treated fairly and equally.	
		<b>Intervention</b>  The MOH must provide a statistical record representing the employment of foreign nationals in the public sector.	<b>Resolution</b>	