

Media Statement

JUDGMENT OF THE GAUTENG DIVISION, PRETORIA BY JUDGE POTERILL IN THE MATTER OF DR WOUTER BASSON AND THE HPCSA

30 April 2019
For immediate release

Pretoria – On 27 March 2019, Judge Poterill delivered a judgment in relation to the professional conduct inquiry into the conduct of Dr Wouter Basson.

On 18 December 2013, Dr Wouter Basson was found guilty of unprofessional conduct relating to his involvement in the chemical and biological warfare programme of the previous government of the Republic of South Africa. His sentencing proceedings commenced on 19 January 2015. The proceedings were interrupted by an application for the recusal of Professors JFM Hugo and RE Mhlanga.

The Potterill judgment reviewed and set aside the refusal by Professors JFM Hugo and RE Mhlanga to recuse themselves from the professional conduct inquiry proceedings against Dr Basson. Their decision was based on the late Judge President Eloff's advice as legal assessor in the proceedings. The basis for the application for recusal is that Professor Hugo was a member of the South African Medical Association ("SAMA") and the Rural Doctors Association of South Africa ("RUDASA"), both of whom had petitioned the Professional Conduct Committee to have Dr Wouter Basson's name removed from the roll of registered practitioners arising from the guilty finding.

If Judge Potterill's judgment is to be applied, it will impact extensively on the ability of practitioners who are members of various professional associations to make themselves available as members of committees of preliminary inquiry alternatively professional conduct committees. The implications of the judgment are therefore serious for the HPCSA, especially on its ability to discharge one of 15 core legislative mandates of holding professionals accountable to ethical standards.

In the light of the serious implications of the judgment, the HPCSA has instructed its attorney Tebogo Malatji of Malatji Kanyane Incorporated to file an application for leave to appeal to ensure that the functioning of the HPCSA is not hampered by the unintended consequences of the judgment.

The HPCSA is also advised that the judgment ought to be appealed on its merits as there is no evidence that Professor Hugo, as a member of SAMA and RUDASA, supported the petition and most importantly, Professor Mhlanga is a not member of either associations and therefore both should not have been recused.

The HPCSA urges registered professionals to continue to make themselves available to be members of preliminary committees of inquiry as well as professional conduct committees pending the outcome of the appeal notwithstanding any membership to professional associations.

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About the Health Professions Council of South Africa (HPCSA)

The Health Professions Council of South Africa (HPCSA) also known as Council is a statutory body established under the Health Professions Act 56 of 1974. The HPCSA is committed to protecting the public and guiding the professions. The mission of the HPCSA is quality and equitable healthcare for all.

The HPCSA is mandated to regulate the health professions in the country in aspects pertaining to education, training and registration, professional conduct and ethical behaviour, ensuring Continuing Professional Development (CPD), and fostering compliance with healthcare standards.

In order to safeguard the public and guiding the professions, registration in terms of the Act is a prerequisite for practising any of the health professions registrable with Council.

**Issued on behalf of the President of the Health Professions Council of South Africa
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