

## STATEMENT FROM SAMLA REGARDING MEDICO-LEGAL ASSESSMENTS DURING ALERT LEVEL 4

12 May 2020

SAMLA is acutely aware of the uncertain circumstances that its members find themselves in with regard to working during the national lockdown due to the lack of clarity and specificity in the Regulations. SAMLA is not an authoritative body and does not provide advice to its members on the interpretation of Regulations.

Regulations issued in terms of section 27 (2) of the Disaster Management Act, 2002, dated 29 April 2020 have been published. We draw your attention to item 15 in annexure D which consider as essential, “services related to the essential functioning of the courts”, and to the “permitted services” as determined in the Regulations and listed in the Annexure to these Directions. Whether or not medico-legal services are considered contributory to the essential functioning of the courts is not clear. SAMLA is in the process of attempting to obtain clarity from the HPCSA as well as the Legal Practice Council.

In the meantime, SAMLA suggests to its members that the **particular circumstances** surrounding each individual case must be considered carefully with the primary focus being the protection of all participants from exposure to Covid-19. The circumstances are multifactorial including but not limited to the reasons for the case being considered essential; the readiness of both attorneys and experts to manage the assessment in terms of the Regulations such as the provision of personal protection equipment, travelling permits and the like; professional body regulations; the individual circumstances of each expert; the urgency of the assessments for the management of the case so as to contribute to the functioning of the courts; whether legal work is

essential to be brought or enrolled for hearing during Alert Level 4; and whether not conducting medico-legal assessments is likely to result in substantial injustice or severe prejudice to an affected party. In many medico-legal cases, the loss of earnings or capacity to work leads to significant consequences.

SAMLA recommends that attorneys in consultation with individual medico-legal practitioners consider a joint determination of whether the assessment of the individual case is essential, and draw up a signed statement in this regard, including the protective steps that have been taken under the circumstances, which should be attached to each report in an annexure. SAMLA recommends that where at all possible, face to face assessments and consultations, unless essential, are avoided.

Some medico-legal practices might fulfill the requirements of those appearing under permitted services. If that is the case SAMLA suggests that all steps required to formalise such permission is taken and required protection steps are fulfilled.

SAMLA will revise its recommendations if and when further updates are received.