

Statement from the National Executive Committee of the South African Medico-Legal Association regarding conducting medico-legal assessments during Alert level 4 of the National lockdown .

SAMLA is aware of the impact lockdown Level 4 will have on our members who depend on an income from their businesses as medico-legal experts, and on the impact of the lockdown on the access of the public to justice. The question arises whether a medico-legal business is an essential service and/or a permitted service. SAMLA recommends that the assessment of clients for medico-legal purposes is neither an essential service nor a permitted service, but recommends that each case is considered on its individual merits.

Government is encouraging sectors to adopt a work-from-home strategy in all cases where that is possible because Level 4 requires specific levels of restrictions given that the risk remains a moderate to high virus spread with low to moderate readiness.

The HPCSA telehealth guidelines make some follow-up, routine or even new patient interaction possible. However, SAMLA recommends that assessments for medico-legal purposes should not be conducted via telehealth platforms because it will be extremely difficult to defend the findings of such examinations in court given the multiple barriers to effectiveness, reliability and validity. However, because there may indeed be cases for which medico-legal assessments during this lockdown at Level 4 are essential, such as if not seeing a particular client for a medico-legal assessment will cause harm to the client, his or her family, or the case itself, each case should be evaluated on its particular merits. Furthermore, some medico-legal assessments or evaluations do not explicitly demand direct client contact and these practitioners will need to use their discretion to evaluate the effectiveness and reliability of telepractice in such matters.

With particular reference to cases involving the RAF, in order for a medical practitioner to validly complete the RAF4 and do the narrative test, the medical practitioner must be registered as such in terms of the Health Professions Act 56 of 1974 and personally examine the claimant.

SAMLA recommends that medico-legal practitioners follow closely the recommendations of Government as well as the HPCSA regarding client/patient contact, and consider carefully the ethical implications of assessing clients in person.

SAMLA recommends that medico-legal practitioners consider seriously that medico-legal work is not considered an *economic priority* at this time.

We refer you to the Risk-Adjusted Strategy Regulations that we have posted on our website under “news”

<https://medicolegal.org.za/news.php>

On behalf of SAMLA

01 May 2020