

Submission to the Public Health and Social Development Sectoral Bargaining Council (PHSDSBC) regarding HPCSA Roadshows on the Registration and Regulation of Forensic Pathology Officers (FPOs)

Date: 24 August 2026

1. Purpose

The purpose of this submission is to provide the PHSDSBC with a legal and policy perspective regarding the proposed HPCSA roadshows on the registration and regulation of Forensic Pathology Officers (FPOs), and to clarify the implications for employees and employers within the public health sector.

2. Legislative Framework

2.1 National Health Act 61 of 2003

The National Health Act requires that human tissue be handled by a registered medical practitioner. It further states that no person, except a competent person, may handle human tissue, wherein a competent person is defined as registered in terms of regulation, including the Health Professions Act, 1974.

2.2 Health Professions Act, 1974 (Act No. 56 of 1974)

The Health Professions Act establishes the Health Professions Council of South Africa (HPCSA) and empowers it to regulate health professions through registration, education and training standards, professional conduct, ethical rules, and professional practice. The Act specifically provides for control over the education, training, registration, and practice of health professions regulated under the Act.

The objects and functions of the HPCSA include:

- Regulating health professions in the public interest (Protecting the public)
- Determining policy relating to registration, education, training, ethics, and professional conduct.
- Promoting and maintaining professional competence.
- Establishing and supporting professional boards responsible for the regulation of specific professions.

2.3 Regulations Relating to the Registration of Forensic Pathology Officers

The Minister of Health promulgated the Regulations Relating to the Registration of Forensic Pathology Officers (FPOs) on 25 March 2022 (Government Gazette No. 46088). These regulations provide for the registration of FPOs with the HPCSA.

Importantly, the regulations provide a mechanism whereby individuals who are already employed and working as Forensic Pathology Officers may apply for registration with the HPCSA. The application must be accompanied by:

- A letter confirming service from the employer.
- Proof of identity.
- Payment of the prescribed registration fee and pro-rata annual fees.

This provision effectively creates a **grandfather clause**, recognizing existing practitioners based on their employment and experience rather than requiring a prescribed formal qualification.

2.4 Section 33 of the Health Professions Act - Definition of scope of other health professions registrable in terms of this Act and registration of certain persons

- (1) The Minister **may**, on the recommendation of the council and the relevant professional board, by regulation define the scope of any health profession registrable in terms of this Act by specifying the acts which shall for the purposes of the application of this Act be deemed to be acts pertaining to that profession: Provided that such regulations shall not be made unless any professional board established in terms of section 15 in respect of any profession which may in the opinion of the Minister be affected by such regulation, has been given an opportunity of submitting, through the council, representations as to the definition of the scope of the profession in question: Provided further that if there is a difference of opinion between the council and such professional board as to the definition of the scope of the profession concerned, the council shall mention this fact in its recommendation
- (2) (a) (i-iii) When a professional board has been established under section 15 in respect of any health profession, the professional board shall, subject to such restrictions in respect of his or her professional activities as it may determine, register in respect of such profession, the name of any person who -
 - (i) was engaged in the practice of such profession in the Republic or in a territory which formerly formed part of the Republic

Purpose of Section 33

The section serves two important functions, that is scope definition and Grandfathering of Existing Practitioners

- Scope Definition
 - Ensures that health professions have a legally recognized and clearly defined scope of profession.
 - Helps distinguish one profession from another and determine what activities practitioners may perform.
- Grandfathering of Existing Practitioners
 - Protects individuals who were already practicing a profession before it became formally regulated.
 - Allow them to be registered without having to start their careers anew, provided they meet the statutory requirements.

A notable feature of section 33 is that:

- The Minister may define the scope of profession (a discretionary power).
- Once the conditions in subsection (2) are met, the Professional Board shall register the qualifying person (a mandatory duty, subject to any restrictions the Board may impose on professional activities).

Subsection (1) creates discretionary regulatory power, while subsection (2) creates a mandatory registration obligation for eligible practitioners.

Accordingly, while finalization of the Scope of Profession and Scope of Practice remains important to the broader professionalization of FPOs, their finalization is not expressly prescribed as a prerequisite for the registration of existing FPOs under the transitional registration provisions. These processes may therefore continue in parallel with registration.

3. Purpose of the HPCSA Roadshows

The registration of FPOs serves the public protection mandate of the HPCSA by bringing practitioners who perform functions within the forensic pathology environment into a formal professional regulatory and accountability framework. Registration enables professional conduct and ethical obligations to be regulated and provides a mechanism through which concerns regarding professional conduct may be addressed.

The PHSDSBC should note that the roadshows are not intended to seek approval for the professionalisation of FPOs, as the regulatory framework has already been established through promulgated regulations.

The primary purpose of the roadshows is understood to be:

- Informing FPOs about the registration process.
- Explaining rights and responsibilities arising from registration.
- Clarifying ethical and professional obligations.
- Providing guidance regarding fees and maintenance of registration.
- Explaining the role of the HPCSA and the relevant Professional Board.
- Outlining expectations regarding professional conduct and accountability.
- Providing information regarding future professional development and qualification pathways.

The roadshows are therefore implementation and awareness initiatives aimed at facilitating a smooth transition into a regulated professional environment.

4. Implications for Current Employees

4.1 Current Registration Arrangements

Current FPOs employed within the public health sector will not be disadvantaged by the absence of a prescribed qualification.

The regulations recognise existing practitioners through transitional registration arrangements. Consequently, the current workforce will be registered based on experience and employment status rather than academic qualifications.

4.2 Statutory Fees

Registered practitioners may become liable for prescribed registration and annual fees in accordance with the Health Professions Act and HPCSA requirements.

This necessitates an engagement between the employer and the HPCSA regarding:

- The financial implications for employees.
- Administrative arrangements for registration.
- Potential support measures by employers.

4.3 Professional Recognition

Registration under the HPCSA provides formal recognition of FPOs as regulated healthcare practitioners. This may:

- Enhance the professional status of FPOs.
- Promote consistency in practice across provinces.
- Strengthen public confidence in forensic pathology services.
- Support future professional career development.

4.4 Professional Accountability

Upon registration, FPOs become subject to HPCSA's regulatory and ethical framework.

Registered practitioners are required to:

- Comply with professional standards.
- Observe ethical rules.
- Cooperate with investigations into professional misconduct.
- Maintain good standing with the Council.

5. Implications for Future Entrants

The Professional Board is currently developing minimum education and training standards for future registration. Accordingly:

- Future entrants may be required to possess prescribed qualifications before registration.
- Nationally recognized training programmes may be developed.
- Entry into the profession may become standardized.
- Professional competency standards may be strengthened.

However, such future requirements should not negatively affect practitioners lawfully registered through the grandfather dispensation registration arrangements.

6. Labour Relations Considerations

While the HPCSA regulates professional practice, it does not determine:

- Salaries.
- Benefits.
- Conditions of service.
- Occupational Specific Dispensation provisions.
- Collective bargaining outcomes.

These remain matters for employers and the Bargaining Council structures. Accordingly, the role of the PHSDSBC is to ensure that implementation of the regulatory framework occurs in a manner that protects employees' interests while supporting legislative compliance.

7. Recommendations

The PHSDSBC should:

- Welcome the HPCSA roadshows as an important stakeholder engagement initiative.
- Participate in the roadshows to ensure alignment between regulatory and labour relations processes.
- Engage the National Department of Health regarding administrative and financial support for affected employees.
- Ensure that employees receive clear communication regarding the distinction between:
 - Professional regulation by the HPCSA; and
 - Employment matters governed through collective bargaining arrangements.

Conclusion

The registration of Forensic Pathology Officers under the HPCSA represents a significant milestone in the professional recognition and regulation of the profession. The promulgated regulations provide for the registration of existing practitioners through transitional arrangements based on employment and experience, thereby protecting the current workforce while the Professional Board develops future qualification standards. The planned HPCSA roadshows should therefore be viewed as a mechanism to educate and prepare Forensic Pathology Officers for their new professional status and regulatory obligations, rather than as consultation on whether professionalisation should occur.