

HEALTHCARE & PHARMACEUTICALS ALERT

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Nurses: A matter of life and death

Today, on International Nurses Day, we honour the invaluable resource that our nurses are. We also reflect on the challenges faced by the South African nursing sector, as highlighted in a recent judgment of the *KwaZulu-Natal Division of the High Court ((9148/2021P) [2022] ZAKZPHC 7)*.



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The opening paragraph of the judgment aptly sets the scene:

"By virtue of their training and sense of caring, nurses occupy the single most important component in any healthcare system in the world. It goes without saying that they are the frontline workers, the everyday heroes who stand between life and death. Apart from caring for patients and helping them to cope with their illnesses, nurses have always been at the forefront of change in healthcare and public health. But as this application shows, their importance seems to be lost on the authorities in charge of public health in this province."

BACKGROUND

This case involved an application brought by the Hospital Association of South Africa (HASA) against the Head of Department of the KwaZulu-Natal Department of Health (Department) and others.

The issuing of "letters of support" is a pre-requisite for accreditation as a nursing education institution. Put differently, the South African Nursing Council cannot consider an application for accreditation without a signed letter of support.

The Department had informed HASA that no letters of support would be issued to any private nursing education institution for three years. The verbally communicated reason for the decision was that there was a surfeit of existing qualified nurses available who should be employed instead of training new nurses.

HASA brought the application to review and set aside the alleged failure or refusal to issue the pre-requisite letters of support to HASA members that had registered private nursing institutions in terms of the relevant regulatory regime.

NURSE SHORTAGES

The context within which HASA sought accreditation for its members to train new nurses was detailed in its application as follows:

- KwaZulu-Natal and South Africa has an aging nursing population, pointing to a looming healthcare crisis. We require urgent steps to train and retain nurses.
- No undergraduate or specialised nurses have been trained in KwaZulu-Natal since 2019.
- The pandemic highlighted the dire need for more nurses to be trained and placed. On the frontline of the national response to COVID-19, many nurses lost their lives, and many are experiencing work-related stress and burnout.

The court found that no evidence was provided by the Department to support an alleged nursing surplus.

Ultimately, the court found that the

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Department had failed to address critical issues raised by HASA regarding the looming crisis of the shortage of nurses in KwaZulu-Natal and the strain of an aging nursing population, exacerbated by COVID-19. Whilst the Department had complained about financial constraints and a lack of resources to train and place nurses, the court confirmed that these issues had no bearing on the matter as HASA had confirmed that its members would train the nurses at its expense and absorb them into its structures.

The court emphasised that, without the letters of support, HASA members will never be able to train nurses in various disciplines, which may impact the ability to provide access to healthcare services. The court found such action to be unreasonable and a limitation on the public's right to access healthcare services in the province, in direct contravention of the constitutional right to healthcare.

The court's order reviewed and set

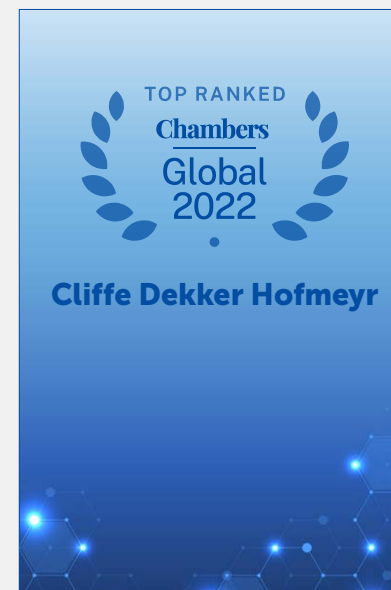
aside the failure and/or refusal to issue letters of support to HASA's members and substituted it with an order directing the Department to issue the letters.

CONCLUSION

According to the 2030 Human Resources for Healthy Strategy, conservatively, over 16,000 additional professional nurses are needed across South Africa's provinces by 2025. To avert a shortage crisis, systemic investment is needed in the education and training of nurses.

Given the critical role played by nurses in the delivery of healthcare, fixing our country's shortage of nurses is literally a matter of life and death.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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