



# The South African Medico-Legal Association

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Professor B.J. Pillay  
Chairperson  
Professional Board for Psychology  
Health Professions Council of South Africa  
P.O. Box 205  
Pretoria  
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Dear Prof Pillay

## **ENQUIRY REGARDING PREPARATION OF JOINT MINUTES IN THE MEDICOLEGAL PSYCHOLOGY DOMAIN**

The South African Medicolegal Association (SAMLA) is a voluntary association of like-minded professionals working within the medicolegal domain. The association is chaired by retired High Court Judge The Honourable C.J. Claassen. Current membership, spread nationally in 5 regional branches, of the association is in excess of 800 members, representing practising professionals from, amongst others, the legal, health- and actuarial professions. SAMLA has as its *raison d'être* activities which foster interchange of knowledge and sharing of wisdom and experience, all outside of the usual adversarial environment of litigation. To this end, SAMLA has presented numerous training and education activities, including very successful mock trials and theme-specific seminars. SAMLA is currently presenting, in association with Law@Work of the University of Cape Town and a technology partner, an 83 hour-long certificate course entitled "Foundations of Medicolegal Practice", with this course presented simultaneously via live bi-directional video-conferencing in 5

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**Directors :** Claassen, Judge CJ - Neels (National Chairperson); Becker, Prof Jan (Gauteng Branch Chairperson); Claassen, Dr Brand; Dutton, Adv Ian (Coalition Task team Convenor - KZN Branch Chairperson); Edeling, Dr Hanneljje (Administration- and Communications); Edeling, Dr Herman (Clinical Negligence and Mediation; Faculty Course Leader); Enslin, Dr Hans (RAF); Fredericks, Dr Gavin (National Treasurer); Jordaan, Mr Johan (FS Chairperson); Kellerman, Prof Rita; Khan, Adv Jenine (Membership); Lamey, Adv Albert; Lautenbach, Prof Charles; Lawrenson, Adv Natalie; Lerm, Dr Henry (National Deputy Chairperson - Legal; EC Chairperson); Munyaka, Dr Sharon; Ncongwane SC, Adv Thami (Transformation); Pienaar, Dr Hennie; Reynolds, Mr Trevor (National Deputy Chairperson - Health Sciences); Saayman, Prof Gert; Satyapal, Prof Kapil; Singh, Ms Irana; Snyckers, Dr Frank; Sutherland, Ms Romany (WC Chairperson); Tiry, Adv Ayesha; Van Den Bout, Dr & Adv Anton; Wasserman, Dr Marlene.



centres, namely Johannesburg, Durban, Bloemfontein, Port Elizabeth and Cape Town. In excess of 300 delegates are registered for this course.

Against the backdrop of this brief introduction, SAMLA is occasionally requested by a member to advise regarding experiences or circumstances which may detract from ethical and professional medicolegal practice. Any such advice is predicated on the patent understanding that SAMLA is not a regulatory or disciplinary body, and will not usurp the roles of the existing statutory regulatory bodies.

A member of SAMLA recently directed one such enquiry. The member is an educational psychologist, in good standing with the Professional Board for Psychology and with extensive experience in both educational- and neuropsychology. Her expertise in neuropsychology is acknowledged by her being awarded Full Membership of the South African Clinical Neuropsychology Association (SACNA). In the medicolegal practice, however, she has over the recent past been confronted by a clinical psychologist who states categorically, as part of the medicolegal report prepared by him, that he refuses to meet with a psychologist not registered as a clinical psychologist. His refusal is motivated by his argument that the registration categories of psychology clearly define different professions, with different training and expertise, and were he to meet with someone registered as anything other than a clinical psychologist he would effectively be condoning transgressions of the scope of practice of the particular category, while at the same time entertaining argument from a colleague who practices in a different profession and consequently has a different area of expertise. His argument, as attached to his reports, is appended to this letter.

The impact of his refusal is that psychologists who are not registered as clinical psychologists are then placed in the invidious position of having to explain to instructing attorneys that they are unable to carry out an instruction to meet with colleagues, the purpose of such meeting being to resolve those areas of dispute that could be resolved prior to the matter being heard before a presiding official.

In our personal communications in the context of the Task Team for Neuropsychology deliberations it appeared that the prevailing sentiment was that psychology, regardless of the various registration categories, represented a single profession, hence the single register of psychologists, which is then subdivided into the existing and promulgated categories.

This sentiment, if understanding is correct, would suggest that the reasoning followed by the clinical psychologist above is not consistent with the position of the Professional Board for Psychology, and consequently his refusal to meet with psychologists registered in categories other than clinical psychology would be unfounded.

In the light of the above, and in order for SAMLA to assist its membership in a manner that is consistent with guidance of the statutory regulatory body, we request guidance as to whether the



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argument advanced in the attached appendix, with regard to pre-trial meetings and preparation of joint minutes thereof being conducted between psychologists from different registration categories, reflects the current position of the Professional Board for Psychology. In a nutshell, does the current regulatory framework prohibit, in the medicolegal environment, pre-trial meetings and preparation of joint minutes between psychologists of different registration categories?

We foresee that clarity in this regard would not only make pragmatic the relationship between different registration categories of practising psychologists, but would also serve to enhance the efficiency of medicolegal expertise in litigation.

Thank you for your considered and authoritative response.

Yours faithfully

Trevor Reynolds  
Registered Clinical Psychologist  
National Deputy Chairperson: Health Sciences  
South African Medicolegal Association

## APPENDIX A

### CLARIFICATION ON THE ISSUE OF NEUROPSYCHOLOGY JOINT MINUTES

1. I have come to realize that many attorneys are not aware that officially, there are no registered neuropsychologists in South Africa. The Health Professions Council of South Africa (HPCSA) keeps registers for only 5 categories of psychologists, viz. clinical, educational, counselling, industrial, and research.
2. The current crop of psychologists that are often referred to as "neuropsychologists" are actually clinical, educational, counselling, and industrial, with special interest in neuropsychologists who may, or may not, have acquired additional skills and knowledge in this field. My understanding is that it is actually illegal for anyone to refer to him or herself as a neuropsychologist at this time.
3. In my opinion, it is rational to participate in the writing of joint minutes with a colleagues registered under the same category at the HPCSA for the following reasons:
  - My understanding is that joint minutes are for colleagues in the same profession, instructed by opposing sides, to come up with the required minutes.
  - Even though clinical, educational, counselling and industrial psychologists belong to the same broad profession of psychology, they are separate professions, and hence the HPCSA creates separate registers for them.
  - On many, if not most, of the points on which the psychologists from different registers should agree or disagree for the joint minutes, one or both of the psychologists will be commenting on issues outside their scope of practice.
4. For this reason, and other reasons I could set out, I will only do joint minutes with a colleague registered in the category that I am registered in, clinical psychology.
5. If, and when, the HPCSA opens a register for neuropsychology, and they decide to admit psychologists currently registered in any of the 5 registration categories above, I will still only participate with colleagues who were originally registered as clinical psychologists. The reason for doing this is that psychologists who will be registered as neuropsychologists on a grandfathering clause will still be essentially clinical, educational, counselling, and industrial psychologists. They will not be the same type of neuropsychologists as the ones who will qualify as neuropsychologists under the training programs to be mandated by the HPCSA.