

MEDIA RELEASE	PSA welcomes Essential Services Commission ruling on SAHPRA as non-essential service
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The Public Servants Association (PSA) welcomes the Essential Services Committee (ESC) ruling on 31 January 2025 that the South African Health Products Regulatory Authority (SAHPRA) and its services are not designated as essential.

During salary negotiations in 2024, the PSA and SAHPRA reached a deadlock. The Commission for Conciliation, Mediation, and Arbitration at conciliation stated that SAHPRA or its services might be designated as essential and directed the PSA to the ESC for a determination without furnishing the Union with such designation. PSA members were ready to go on strike but could not do so without a Non-Resolution Outcome Certificate and the Notice to strike.

The PSA took a decision, with members' mandate, on 7 November 2024 and filed a Section-73 referral to the ESC, seeking a determination on whether the services rendered by SAHPRA fall within the designation of the manufacturing, supply and distribution of certain vaccines and/or biologicals, anaesthetics, antiretrovirals to treat HIV, immunosuppressants, Covid-19 related products and chronic medicines, which are already designated as essential.

The PSA argued that SAHPRA has been providing health-products regulatory services to its clients since its inception and that the disruption of the provision of regulatory services by SAHPRA to any client has never resulted in endangering life, personal safety, or health of the whole or any part of the population. The PSA further argued that SAHPRA only plays a regulatory oversight role by ensuring compliance with applicable national and international statutory requirements. SAHPRA issues one registration certificate for specific medicine. Non-approval of one product does not affect the supply of medicines by the entire pharmaceutical industry. Therefore, the registration certificate of one product does not affect the supply of other products. SAHPRA issues licences to individual pharmaceutical companies for manufacturing and distribution of medicines. Non-approval of one licence does not impact the distribution and manufacturing of medicines by the whole pharmaceutical sector.

SAHPRA argued that it is integral to the manufacturing, distribution, and supply of health products, including medicines, medical devices, and in-vitro diagnostics. Therefore, the service that SAHPRA is engaged in, is deemed as an essential service. It regulates the manufacturing, supply, distribution, and provision of health products for public health benefit. These functions enable SAHPRA to prevent the manufacturing, supply, and distribution of sub-standard and falsified health products from entering the supply chain and causing harm to humans and animals.

The ESC panel ruled that in its view services rendered by SAHPRA do not fall within the services of the manufacturing, supply, and distribution of vaccines, and/or biologicals; anaesthetics, antiretrovirals to treat HIV, immunosuppressants, Covid-19 related products, and chronic medicines, but relate to research.

The PSA welcomes this ruling by the ESC as it serves as an important reminder that the SAHPRA and its services are not designated as essential, ensuring that employees' rights remain protected and upholds the right of SAHPRA employees to participate in industrial action in line with section 64(1) of the *Labour Relations Act*, should wage negotiations with the employer deadlock.

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