



Health Law Alert

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Weekly Health Law Alert: 9 March 2022

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ABORTION

Journal Article

Van der Westhuizen, Carina. Late termination of pregnancy in terms of the Choice on Termination of Pregnancy Act: Lessons for South Africa from the Netherlands.

2022 85(1) Feb Tydskrif vir Hedendaagse Romeins-Hollandse Reg p108

“The article will focus mainly on [late termination of pregnancy] in terms of the Choice Act — the termination of pregnancy after the 20th gestational week. It attempts to offer a possible solution that offers greater protection to the foetus when a termination of pregnancy is performed after the 20th gestational week. Since the Netherlands has over the years dealt extensively with LTOP, the position in this country is discussed in detail. This will be followed by a discussion of the current South African law on LTOP. The article concludes that South Africa may learn from the Netherlands since it has a more effective system of dealing with LTOP.”

Opinion

Mapipa, Khanyisa [et.al]. Dear Dr Dhlomo, it takes more than a march to remove obstacles preventing access to safe abortions.

2022 Mar 7 Daily Maverick

“On 17 February, Deputy Health Minister Dr Sibongiseni Dhlomo led a march in Rustenberg against unsafe abortions, but a march alone cannot eliminate barriers that prevent women and girls from accessing safe abortions in the public health system. Much more needs to be done.”

<https://www.dailymaverick.co.za/article/2022-03-07-dear-dr-dhlomo-it-takes-more-than-a-march-to-remove-obstacles-preventing-access-to-safe-abortions/>

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BABY ABANDONMENT

Media Comments

Mitchley, Alex. Newborn baby abandoned in bushes; Mpumalanga woman arrested.

2022 Mar 8 News24

<https://www.news24.com/news24/southafrica/news/newborn-baby-abandoned-in-bushes-mpumalanga-woman-arrested-20220308>

Thebus, Shakirah. Call for eligible temporary safety parents after recent 'baby dumping' incidents.

2022 Mar 3 IOL News

“The Department of Social Development (DSD) is calling on residents meeting the criteria, to sign up as temporary safety parents, following recent incidents of “baby dumping”. Social Development MEC Sharna Fernandez condemned the incidents of abandoned babies. “We understand that, often, the circumstances which lead to mothers dumping their babies can be complex, however, it is illegal. “We appeal to all expectant mothers, who are unable to take care of their babies, to seek assistance either at any clinic, or to approach their nearest DSD local office or a Child Designated Non-Profit Organisation (NPO).”

<https://www.iol.co.za/capeargus/news/call-for-eligible-temporary-safety-parents-after-recent-baby-dumping-incidents-41bc53f0-f878-4871-8088-cdea96f06897>

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CANNABIS

Internet Article

Investors in medicinal-cannabis sector reap big rewards.

2022 Mar 7 BizCommunity

“With a strong expertise in farming and a trained agricultural workforce, South Africa has the potential to supply competitively priced medicinal cannabis products to the rest of the world. In Germany cannabis, with the active ingredient THC, has been legalised and prescribed by doctors for pain reduction and depression for the last five years. While growth metrics are in place securing the necessary funding for small and medium-sized farmers managing the transition from traditional farming to medicinal cannabis remains a challenge.”

<https://www.bizcommunity.com/Article/196/878/225704.html>



Media Comments

Bulbulia, Tasneem. Labat acquires Sweetwater to further cannabis offtake.

2022 Mar 2 Engineering News

“JSE-listed Labat has concluded an agreement for the acquisition of 80% of shares and claims in Lima Romeo Air, known as Sweetwater, which is a fully operational South African Health Products Regulatory Authority-approved medicinal cannabis cultivation facility in Kenton-on-Sea in the Eastern Cape of South Africa. The R10-million purchase price will be funded through the company’s cash resources.”

<https://www.engineeringnews.co.za/article/labacquires-sweetwater-to-further-cannabis-offtake-2022-03-02>

Silaule, Yvonne. Committee to oversee the development of a cannabis industry in KwaZulu-Natal.

2022 Mar 3 Engineering News

“The KwaZulu-Natal executive council has approved the Provincial Cannabis Committee to oversee the development of the industry in the province. Premier Sihle Zikalala made the announcement on March 1. This follows shortly after President Cyril Ramaphosa announced during the State of the Nation Address that KwaZulu-Natal will lead in this new frontier of economic development. In his speech, Ramaphosa highlighted that the hemp and cannabis sector had the potential to create more than 130 000 new jobs and said that South Africans already had experience farming cannabis.”

<https://www.engineeringnews.co.za/article/committee-to-oversee-the-development-of-a-cannabis-industry-in-kwazulu-natal-2022-03-03>

Venter, Zelda. Concourt to hear arguments for decriminalisation, use of cannabis by children.

2022 Mar 3 IOL News

“The Constitutional Court will hear arguments on Thursday, for the decriminalisation of the possession and use of cannabis by children. In 2020, the Johannesburg High Court declared provisions of the Drugs and Drug Trafficking Act unconstitutional in so far as they criminalise the possession and use of cannabis by children.”

<https://www.iol.co.za/pretoria-news/news/concourt-to-hear-arguments-for-decriminalisation-use-of-cannabis-by-children-49138c36-9b59-4e2f-9ebe-ca4553dea446>

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COVID-19

Corruption

Internet Article

SIU, Digital Vibes to go before tribunal.

2022 Mar 8 ENCA

“The Special Investigating Unit, Digital Vibes, and others are set to go before the Special Tribunal on Tuesday. This after evidence showing the respondents benefited from transactions between Digital Vibes and the Health Department. The SIU found that an R150-million tender was awarded to Digital Vibes unlawfully.”

<https://www.enca.com/news/covid-19-corruption-siu-digital-vibes-go-tribunal>

Hospitals

Internet Article

Evans, Jenni. These are the new Covid-19 hospital visiting rules for Western Cape govt hospitals.

2022 Mar 1 News24

“Hospital visitation rules have been relaxed at Western Cape government hospitals. The health department feels that the end of the fourth wave of Covid-19 allows visits from loved ones again.

There are still rules regarding masks, washing hands and touching.”

<https://www.news24.com/news24/southafrica/news/these-are-the-new-covid-19-hospital-visiting-rules-for-western-cape-govt-hospitals-20220301>

Lockdown Restrictions

Internet Articles

Austria lifts all domestic COVID-19 restrictions on March 5.

2022 March 2 Schengen Visa Info News



“Starting from this Sunday, March 5, travellers, as well as citizens of Austria, will no longer be required to follow COVID-19 protective measures. It has been explained that the only measure that will remain in place is wearing FFP2 masks when accessing public transport and essential shops.”

<https://www.schengenvisa.info.com/news/austria-lifts-all-domestic-covid-19-restrictions-on-march-5/>

Covid-19 mandates lifted even as cases climb.

2022 March 2 GlobalData Healthcare

“Numerous states and countries have begun lifting Covid-19 mandates despite an increase in the number of deaths due to the virus.”

<https://www.pharmaceutical-technology.com/comment/covid-19-mandates-lifted-cases-climb/>

Media Comments

Rall, Se-Anne. 4 Reasons why the DA thinks it's 'high time' to scrap Covid-19 restrictions.

2022 Mar 7 IOL

“The DA's John Steenhuisen is calling for an end to all Covid-19 restrictions. This following reports that the country could be in for one more 'My fellow South Africans' family meeting in the coming days.”

<https://www.iol.co.za/news/covid19/4-reasons-why-the-da-thinks-its-high-time-to-scrap-covid-19-restrictions-e860a667-9b5f-488a-a1e7-a2774292fe40>

Qukula, Qama. Karim: SA ready to remove most Covid-19 measures, including outdoor mask-wearing.

2022 Mar 6 Cape Talk

“Public health expert Prof Salim Abdool Karim says South Africa has reached a point where a new Covid-19 strategy is needed. Prof Karim believes that SA is ready to drop outdoor mask-wearing and other public health measures.”

<https://www.capetalk.co.za/articles/440310/karim-sa-ready-to-remove-most-covid-19-measures-including-outdoor-mask-wearing>

Mask Mandates

Media Comment

Turkey scraps mask requirement as COVID-19 pandemic eases.

2022 Mar 2 Daily Sabah With Agencies

“Health Minister Fahrettin Koca revealed late Wednesday that Turkey is scrapping the outdoor mask requirement as the COVID-19 pandemic eases thanks to the country's vaccination efforts.”

<https://www.dailysabah.com/turkey/turkey-scraps-mask-requirement-as-covid-19-pandemic-eases/news>

Media Release

Mask rules to be re-examined.

2022 Mar 4 ENCA

“The Department of Health is looking into whether South Africans can stop wearing masks in public. Health Minister Joe Phaahla says that his department has been listening to various experts and will present options to the president within the next two weeks.”

<https://www.enca.com/news/covid-19-watch-mask-rules-be-re-examined>

State of Disaster

Media Comments

Maeko, Thando. Health department to suggest that new regulations replace state of disaster.

2022 Mar 4 Business Live

“The health department intends to propose new regulations that will replace the Covid-19 regulations as set out in the national state of disaster when the national coronavirus command council meets within the coming week. Health minister Joe Phaahla says the proposed amendments include changing travel requirements that could make it easier and cheaper to travel safely...”

<https://www.businesslive.co.za/bd/national/health/2022-03-04-health-department-to-suggest-that-new-regulations-replace-state-of-disaster/>
(Subscription Required)

No reason why stadiums shouldn't open tomorrow – Prof Madhi.

2022 Mar 5 The Citizen

“Only a limited number of vaccinated spectators are allowed into stadiums, according to level 1 lockdown regulations. Wits University professor of vaccinology Shabir Madhi has urged government to speed up its efforts to reopen sport activities across the country.”

<https://www.citizen.co.za/news/covid-19/3041470/state-of-disaster-stadium-protest-5-march-2022/>



Media Release

Mulder, Connie. ANC govt to oppose application to lift state of disaster – Solidarity.

2022 Mar 7 Politics Web

“Movement says govt wants to keep the state of disaster in place due to their own inability to get regulations in place”.

<https://www.politicsweb.co.za/politics/government-to-oppose-application-to-lift-state-of->

Strategy for Future Outbreaks

Media Comment

Reuters. White House readies roadmap for future Covid-19 outbreaks, seeks funding. (USA)

2022 Mar 3 Daily Maverick

“Top U.S. health officials on Wednesday laid out a national blueprint to manage COVID-19 going forward, vowing to prepare for any new variant outbreaks without shutting down schools and businesses and calling for additional funding from Congress.”

<https://www.dailymaverick.co.za/article/2022-03-03-white-house-readies-roadmap-for-future-covid-19-outbreaks-seeks-funding/>

Tobacco Ban

Internet Article

Rabkin, Franny. Lockdown tobacco ban was justified, government tells Supreme Court.

2022 March 3 Times Live

“Tobacco ban in court: The government argues that ‘in a situation of evolving scientific knowledge, and with infection numbers rising and likely to continue to do so, it had to take a cautious approach’ and ban smoking.”

<https://www.timeslive.co.za/news/south-africa/2022-03-03-lockdown-tobacco-ban-was-justified-government-tells-supreme-court/>

Travel

Internet article

Parks, Peter. US warns against Hong Kong travel over COVID rules, child separations.

2022 Mar 3 ENCA

“The United States warns citizens against travelling to Hong Kong, citing the risk of children being separated from parents as the Chinese city imposes controversial Covid isolation policies. The State Department upgraded Hong Kong to its highest “Do Not Travel” warning “due to COVID-19 related restrictions, including the risk of parents and children being separated”.”

<https://www.enca.com/news/us-warns-against-hong-kong-travel-over-covid-rules-child-separations>

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COVID-19 VACCINE

Intellectual Property

Internet Article

Squazzin, Antony. Moderna on collision course with SA and WHO on vaccine patents.

2022 Mar 4 Business Live

“The pharmaceutical company is set to clash with the government over patent claims that could threaten the continent’s access to Covid-19 jabs.”

<https://www.businesslive.co.za/bloomberg/news/2022-03-04-moderna-on-collision-course-with-sa-and-who-on-vaccine-patents/>

Mandatory Vaccinations

Internet Article

Khumalo, Zandile. High court dismisses application for interim interdict against vaccine mandate at Rhodes University.

2022 Mar 2 News24



“The high court dismissed the suit against the vaccine mandate at Rhodes University. This decision came to light on Wednesday. This means that staff, students and visitors must be vaccinated as part of the varsity's safe return to campus protocol.”

<https://www.news24.com/news24/southafrica/news/high-court-dismisses-application-for-interim-interdict-against-vaccine-mandate-at-rhodes-university-20220302>

Retief, Chanel. Virus. Vaccines. And vacillations: vaccine mandates... and why everyone is talking about it.

2022 Mar 2 Forbes Africa

“As Covid-19 variants surge across the world, so does the contentious concomitant conversation: should countries and companies make vaccines mandatory? Politicians are faced with both increasing pressure and protests against the impending policy around the world. South Africa too has had its share of raging debates around this issue. In a nationwide address in November last year, just as Omicron was making a grand appearance, President Cyril Ramaphosa announced that “the government has set up a task team to undertake broad consultations on making vaccination mandatory for specific activities and locations”.”

<https://www.forbesafrica.com/focus/2022/03/02/virus-vaccines-and-vacillations-vaccine-mandates-and-why-everyone-is-talking-about-it/>

Stohr, Greg. Fail for US school workers seeking Covid vaccine exemption on religious grounds.

2022 Mar 7 Business Live

“In February, New York City fired more than 1,400 unvaccinated workers, most of them department of education employees.”

<https://www.businesslive.co.za/bloomberg/news/2022-03-07-fail-for-us-school-workers-seeking-covid-vaccine-exemption-on-religious-grounds/>

Media Comment

Mokhoali, Veronica. UASA issues Universities with ultimatum over COVID vaccine policies.

2022 Mar 7 EWN

“The organisation, which represents students and staff in universities across the country, is preparing a class-action lawsuit against several institutions over what it called the 'irrational, medically unjustified, and unlawful COVID19 vaccination policy'.”

<https://ewn.co.za/2022/03/07/uasa-issues-universities-with-ultimatum-over-covid-vaccine-policies>

Internet Article

Ngema, Thobeka. SA has spent R6 billion on Covid-19 vaccine procurement to date, says health minister.

2022 Mar 1 IOL

“In addition, Phaahla had to explain the legal provisions the department relied on to enjoy the exclusive rights to procure vaccines from approved suppliers.”

<https://www.iol.co.za/dailynews/news/sa-has-spent-r6-billion-on-covid-19-vaccine-procurement-to-date-says-health-minister-916d4ce5-265f-4d84-a16f-3417cdf3a48>

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DEATH CERTIFICATES

Media Comment

Dlamini, Palesa. Home affairs graft: student's life in limbo, three years after fraudulent death certificate was issued to cash a funeral policy.

2022 Mar 8 News24

<https://www.news24.com/citypress/news/home-affairs-graft-students-life-in-limbo-three-years-after-fraudulent-death-certificate-was-issued-to-cash-a-funeral-policy-20220308> (Subscription Needed)

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EMPLOYMENT

Journal Article

Naidoo, Moksha. Employment law update – An employee is handed a red card for his actions: *Woolworths (Pty) Ltd v Commission for Conciliation, Mediation and Arbitration and Others (PA12/2020) [2021] ZALAC 49; [2022] 3 BLLR 296 (LAC) (10 December 2021).*

2022 Mar De Rebus p33



“On the morning of 9 June 2018, the employee called his manager informing him that he had taken ill and would not be attending work that day. However, later the very same day, the employee travelled an hour to watch a rugby match... The employee was charged and dismissed for gross misconduct in that he abused the employer’s sick leave policy, which conduct if left undetected, could have resulted in the employee claiming his wages when he was not entitled to sick leave.”

<https://www.derebus.org.za/employment-law-update-an-employee-is-handed-a-red-card-for-his-actions/>

Law Firm Article

Van Wyk, Hassan. ConCourt rules on 2018 public service wage deal: No clear way forward to unscramble the proverbial “egg”.

2022 Mar 1 ENSafrica

“On 28 February 2022, the Constitutional Court handed down judgment in [National Education Health and Allied Workers Union v Minister of Public Service and Administration and Others](#) – a matter that dealt with the State’s refusal to honour a wage agreement it concluded with a number of trade unions for employees in the public service.”

<https://www.ensafrica.com/news/detail/5322/concourt-rules-on-2018-public-service-wage-de>

Media Comments

Pheto, Belinda. 'This has stripped us of our dignity': Gauteng intern doctors in payment snafu.

2022 Mar 4 Times Live

“The SA Medical Association (Sama) has condemned the nonpayment of medical interns working at state hospitals in Gauteng. Senior doctors at Chris Hani Baragwanath Hospital in Soweto are digging into their own pockets to assist the interns who have not been paid. Sama spokesperson Dr Mzukwa Mvuyisi applauded the senior doctors for their good deeds but said the interns are employed and should be paid their salaries.”

<https://www.timeslive.co.za/news/south-africa/2022-03-04-this-has-stripped-us-of-our-dignity-gauteng-intern-doctors-in-payment-snafu/>

See also:

- **Seloho, Matshepo. Human Rights, Law and Ethics committee Gauteng branch chairperson Dr Mark Human reflects on interns not getting their pay. – In:** 2022 Mar 7 702 News.
“Human Rights, Law and Ethics committee Gauteng branch chairperson Dr Mark Human says it is shocking that for the second month in a row at least nine interns have not received their salaries. This speaks to a total lack of capacity at the Gauteng Department of Health, and the department has had years to plan as medical student numbers are fixed from second or third year, he says.”
<https://www.702.co.za/articles/440334/gauteng-medical-interns-not-being-paid-due-to-lack-of-planning-by-department>

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FOOD

Media Comment

Qukula, Qama. South African food products should come with warnings, researchers argue.

2022 Mar 7 Cape Talk News

“Researchers and dieticians have called on SA to introduce mandatory nutrition warning labels on packaged foods. Proposed food warning labels could read: "high in sugar", "high in salt" or "high saturated fat" on the front of the packaging. Health journo Laura López González says most consumers aren't making informed food choices. Dietician Vhonani Mufamadi says consumers make healthier choices when they know about the nutritional composition of foods.”

<https://www.capetalk.co.za/articles/440355/south-african-food-products-should-come-with-warnings-researchers-argue>

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GENDER

Media Comment

Texas court temporarily halts investigation of transgender minor.

2022 Mar 3 IOL News

“A court in Texas on Wednesday ordered the suspension of a probe into the parents of a transgender 16-year-old girl under a legal opinion that deemed transitioning procedures as tantamount to child abuse. Last week, Governor Greg Abbott instructed the Texas Department of Family and Protective Services (DFPS) to investigate instances of minors receiving "sex change procedures," which he argued "constitute child abuse under existing Texas law.”



<https://www.iol.co.za/news/world/texas-court-temporarily-halts-investigation-of-transgender-minor-d05e2bcd-351d-4d5d-ba32-0e50be6dcb2f>

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HEALTH PROFESSIONALS

Government Gazette

Health Professions Act 56 of 1974

Regulations relating to the qualifications for the registration of Dental Assistants: Amendment.
GN1838 GG 46000 p192 4Mar2022

<https://bit.ly/3KkPMVr>

Media Comment

Kgosana, Rorisang. Doctors rally against registration fee increases.

2022 Mar 7 The Citizen

“Doctors have resorted to signing a petition to try and stop the Health Professions Council of South Africa (HPCSA) from yet again increasing registration fees, as they now have to fork out an additional 13%, but claim the council is never available to assist them. The HPCSA has again increased registration fees but unlike the 15% increase imposed on only the medical and dental board, the new fees for this year apply to all boards, including dietitians, psychologists, emergency care practitioners, occupational therapists and optometrists.”

<https://www.citizen.co.za/news/south-africa/health/3041913/doctors-rally-registration-fee-increase/>

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HEALTH SERVICES

Journal Article

Slabbert, M. and Labuschaigne, M. Doctors’ fees for private health care: A legal perspective.

2022 85(1) Feb Tydskrif vir Hedendaagse Romeins-Hollandse Reg p33

“The focus of this article is on private health care only. Legislation considered addresses, generally, how a doctor may, or should, charge for treatment — the Health Professions Act, the National Health Act, and the Consumer Protection Act. In this article we are concerned with the statutory position relevant to the fees charged by doctors, and not with the ethical duty on doctors to discuss their fees prior to treating a patient...”

Media Comments

Chabalala, Jeanette. Angelo Agrizzi wants corruption case struck from the roll.

2022 Mar 2 News24

“It is clear that I, as the applicant, am suffering severe prejudice in relation to the stress and anxiety of waiting for the State to determine as to whether or not, in view of my chronic medical condition... they will be proceeding with the charge. In his application, Agrizzi also stated that the matter had been adjourned on various occasions to give the State an opportunity to have him medically examined to ascertain whether he was fit to stand trial. He added that his legal representative had been requesting the medical examinations since last year.”

<https://www.news24.com/news24/southafrica/news/angelo-agrizzi-wants-corruption-case-struck-from-the-roll-20220302>

Khumalo, Sandile and Nqunjana, Alfonso. Urgently fix and reopen Charlotte Maxeke Academic Hospital - Defend Our Democracy.

2022 Mar 6 News24

<https://www.news24.com/news24/southafrica/news/urgently-fix-and-reopen-charlotte-maxeke-academic-hospital-defend-our-democracy-20220306>

Mtembu, Xolile. Directors of a Pretoria hospital have outstanding returns and tax debt of R52 million, says Sars.

2022 Mar 2 IOL News

“The directors of the Louis Pasteur Hospital in Pretoria have outstanding returns and a tax debt of R52 million, according to a statement from the South African Revenue Service (Sars). Sars said the assets owned by the hospital’s two directors, Dr Zulu Mkhabele and Dr Mevis Ponde, who are diagnostic radiologists, have been seized by the Sheriff of the High Court.”

<https://www.iol.co.za/business-report/entrepreneurs/directors-of-a-pretoria-hospital-have-outstanding-returns-and-tax-debt-of-r52-million-says-sars-45cdc81b-7a19-4098-a139-49f64f91f322>



Qoyo, Ntsikelelo. Health and education take biggest slice of Eastern Cape budget.

2022 Mar 8 Herald Live

"The Eastern Cape's health and education departments will receive the lion's share of the provincial government's R87.8bn 2022/2023 budget. This was revealed by finance MEC Mlungisi Mvoko on Tuesday when he delivered his budget speech at the Bhisho legislature. The education department is due to receive R38bn while the health department will get R27bn. "The 2022 medium-term main policy priorities are economic recovery and fiscal consolidation, as we tread these uncharted territories," he said."

<https://www.heraldlive.co.za/news/2022-03-08-health-and-education-take-biggest-slice-of-eastern-cape-budget/>

R2 billion plus of DoD fraud, corruption and irregular expenditure under the spotlight.

2022 Mar 3 Defence Web

"Ample proof the South African military is not exempt from the fraud and corruption permeating many government departments and entities comes from SA National Defence Force (SANDF) Provost Marshal General, Rear Admiral Mokgadi Maphoto...The "big fish", as it were, in Maphoto's presentation was that a report on the ongoing and seemingly disastrous 1 Military Hospital RAMP (repair and maintenance project) is now with the Hawks (Directorate for Priority Crime Investigation). The Military Police investigation continues alongside that of the independent directorate in the SA Police Service (SAPS). R10 million worth of irregular expenditure is being investigated in this instance."

<https://www.defenceweb.co.za/featured/r2-billion-plus-of-dod-fraud-corruption-and-irregular-expenditure-under-the-spotlight/>

Ukraine is Europe's 'fastest growing refugee' crisis since World War II.

2022 Mar 6 IOL News

"The director-general of the World Health Organization, Tedros Adhanom Ghebreyesus, also expressed grave concern at the worsening humanitarian situation. "@WHO has confirmed several attacks on health care in #Ukraine, causing multiple deaths and injuries. Additional reports are being investigated," Tedros tweeted. "Attacks on healthcare facilities or workers breach medical neutrality and are violations of international humanitarian law."

<https://www.iol.co.za/news/world/ukraine-is-europes-fastest-growing-refugee-crisis-since-world-war-ii-f470b69b-d99f-4a48-a9ee-c34266bda9c6>

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HIV / AIDS

Government Gazette

Division of Revenue Act 9 of 2021

Shifting of funds from HIV/AIDS component to the Human Papillomavirus (HPV) component for Limpopo for 2021/22 Financial Year.

GN1809 GG 45992 p3 2Mar2022

<https://bit.ly/3Mk8pKZ>

Media Comment

Mitchley, Alex. Soldier who allegedly infected his partner with HIV, pleads not guilty to attempted murder.

2022 Mar 7 News24

<https://www.news24.com/news24/southafrica/news/soldier-who-allegedly-infected-his-partner-with-hiv-pleads-not-guilty-to-attempted-murder-20220307>

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LIFE ESIDIMENI

Media Comment

Nxumalo, Darnell and Perlman, Harriet. Shivering and hungry – the last time Rev Maboe saw his son.

2022 Mar 4 Daily Maverick

<https://www.dailymaverick.co.za/article/2022-03-04-shivering-and-hungry-the-last-time-rev-maboe-saw-his-son/>

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MEDICAL AID / INSURANCE

Council for Medical Schemes

Circulars

Council for Medical Schemes

- Circular 17 of 2022: Notice to medical schemes regarding annual general members' meetings and trustee elections (4 March 2022).
<https://www.medicalschemes.co.za/download/3617/2022-circulars-current/25341/circular17of2022.pdf>
- Circular 18 of 2022: Statement of cash flows (7 March 2022).
<https://www.medicalschemes.co.za/download/3617/2022-circulars-current/25359/circular18of2022.pdf>

Denel

Media Comment

Denel confirms access to medical benefit trust funding.

2022 March 4 Defence Web

"Denel employees and pensioners need not fear benefits from a company medical trust are in jeopardy following a High Court ruling and a ministerial pronouncement to the effect that the beleaguered State-owned company (SOC) will receive just on a billion Rand... It reads, in part, "the High Court granted an order varying the trust deed of the Denel Medical Benefit Trust (DMBT). The court order was obtained on the application of Denel. The order is one requirement for implementation of the alternative offer in the form of individual annuities to beneficiaries"."

<https://www.defenceweb.co.za/featured/denel-confirms-access-to-medical-benefit-trust-funding/>

Discovery and Ping An Health Insurance

Media Comment

Visser, Jaco. Discovery's empire building doesn't come cheap.

2022 March 3 Business Live

"Discovery's Chinese foray has more than a few analysts worried. The sudden slowdown in new business growth at Ping An Health Insurance, in which Discovery holds a 25% stake, unsettled markets last week for the second time in six months..."

<https://www.businesslive.co.za/fm/money-and-investing/2022-03-03-discoverys-empire-building-doesnt-come-cheap/>

(Subscription Needed)

Long-Delayed Regulatory Framework

Media Comment

Kahn, Tamar. Medical schemes regulator dismays sector with another reprieve for health insurers.

2022 Mar 8 Business Live

"The medical schemes regulator has assured the industry it is intent on finalising a framework for cheap primary healthcare products and opening the market to new entrants, despite granting yet another grace period to rival health insurers. At issue is the creation of a long-delayed regulatory framework for low-cost benefit options, pared-down medical scheme packages that would be exempt from provisions in the Medical Schemes Act that require cover for a much broader basket of care, known as prescribed minimum benefits..."

<https://www.businesslive.co.za/bd/national/health/2022-03-08-medical-schemes-regulator-dismays-sector-with-another-reprieve-for-health-insurers/>

(Subscription Needed)

National Health Insurance

Media Comment

5 new laws planned for South Africa to look out for in the coming months.

2022 March 4 Business Tech

"South Africa's Parliament is expected to deal with several important pieces of legislation in the coming year, including issues around land expropriation and healthcare... National Health Insurance: Parliament concluded its public hearings on the planned National Health Insurance Bill in February, with consideration of the bill expected to enter the next



phase. This includes a study tour to the United Kingdom to examine how its national health insurance system works. The National Health Insurance (NHI) is a health financing system designed to pool funds to provide access to quality affordable personal health services for all South Africans based on their health needs, irrespective of their socio-economic status.”

<https://businesstech.co.za/news/government/565048/5-new-laws-planned-for-south-africa-to-look-out-for-in-the-coming-months/>

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MEDICAL EDUCATION

Media Comment

Naidoo, Mervyn. Foreign medical students fight for their licences.

2022 Mar 6 IOL News

“A group of foreign doctors who studied medicine in South Africa are contemplating legal action to secure slots on the Department of Health’s Internship and Community Service Programme (ICSP). Without the ICSP experience, doctors cannot be granted licences to practise medicine, regardless of their academic qualifications.”

<https://www.iol.co.za/sunday-tribune/news/foreign-medical-students-fight-for-their-licences-c0e9a4b2-efa7-4cbd-ad79-c613172e4b35>

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MEDICAL NEGLIGENCE

Claims

Media Comment

Fokazi, Siphokazi. It could soon become a lot harder to sue your doctor.

2022 March 2 Times Live

“Law reforms proposed to cap soaring payouts that are bankrupting provincial health departments. Suing medical professionals would be more difficult under proposals by the SA Law Reform Commission aimed at putting the brakes on spiralling negligence claims...”

<https://www.timeslive.co.za/sunday-times-daily/news/2022-03-02-it-could-soon-become-a-lot-harder-to-sue-your-doctor/> (Subscription Needed)

Hidden Twin

Media Comment

Spence, Lynn. Mom’s agony after ‘hidden’ twin dies.

2022 Mar 5 Herald Live

“When doctors terminated a Gqeberha woman’s pregnancy because it was high-risk, she thought the pain of losing her first child could not get any worse. That was until three weeks later when she started cramping and birthed her baby’s twin in her bathroom at home...”

<https://www.heraldlive.co.za/weekend-post/your-weekend/2022-03-05-moms-agony-after-hidden-twin-dies/>

(Subscription Needed)

Operation Waiting List

Media Comment

Kekana, Ezekiel. Godfrey Thulare was shot in the leg four times. He had to wait two weeks for surgery at a Tshwane hospital.

2022 Mar 4 GroundUp

“Following a gunshot wound, surgery should ideally be within six hours, but definitely within 24 hours maximum. Most especially if there is a fracture... at least a washout and stabilisation should be performed,” said Dr Mark Human, who is Chair of the Gauteng branch of the SA Medical Association (SAMA) and also chairs SAMA’s Human Rights, Law and Ethics Committee. “Our country sorely lacks an efficient or effective patient lobby group,” said Human. GroundUp’s questions to the Gauteng Department of Health, and to officials at the George Mukhari mostly went unanswered.”

<https://www.groundup.org.za/article/godfrey-thulare-was-shot-in-leg-four-times-he-had-to-wait-two-weeks-for-surgery-at-tshwane-hospital/>

Patient Safety and Clinician Wellbeing



Internet Article

MPS launches ambitious research initiative to improve patient safety and clinician wellbeing.

2022 Mar 2 Medical Protection

“Medical Protection Society (MPS) has today launched the MPS Foundation; a new, global, not-for-profit research initiative to help shape the future of patient safety through the funding of ambitious research. The Foundation will invest in research and analysis, with the key focus being on areas of patient safety and clinician wellbeing – both medical and dental.”

<https://www.medicalprotection.org/southafrica/casebook-and-resources/news/news-article/2022/03/02/mps-launches-ambitious-research-initiative-to-improve-patient-safety-and-clinician-wellbeing>

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MEDICAL PAROLE

Media Comment

Mafole, Karabo. Zuma acolytes rubbish state capture report findings as ‘not worth the paper they are written on’.

2022 Mar 2 Daily Maverick

“In these circumstances, such ‘findings’ are obviously not even worth the paper they are written on,” said the foundation. It added that in the meantime, Zuma will be consulting his legal team regarding the “appropriate course of action”. Zuma had refused to appear before the commission and was subsequently jailed for contempt of court and sentenced to a 15-month term. About two months later, Zuma was out on medical parole. In December 2021, the decision to grant Zuma medical parole was found to be an “unlawful intervention”. Zuma is appealing the ruling.”

<https://www.dailymaverick.co.za/article/2022-03-02-zuma-acolytes-rubbish-state-capture-report-findings-as-not-worth-the-paper-they-are-written-on/>

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MEDICINES AND MEDICAL DEVICES

Media Comments

Ngema, Thobeka. July unrest looter jailed for six years for stealing a Pharmed Pharmaceuticals vehicle.

2022 Mar 5 IOL News

<https://www.iol.co.za/dailynews/news/kwazulu-natal/july-unrest-looter-jailed-for-six-years-for-stealing-a-pharmed-pharmaceuticals-vehicle-3aa13ee2-9100-4aae-a796-5acf3e967227>

Sackler family members to contribute up to \$6 billion in latest agreement to resolve opioid claim.

2022 Mar 5 IOL News

“Members of the Sackler family, the billionaire owners of Purdue Pharma, reached an agreement to pay up to \$6 billion to resolve lawsuits alleging the OxyContin maker helped fuel the opioid epidemic...”

<https://www.iol.co.za/business-report/international/sackler-family-members-to-contribute-up-to-6-billion-in-latest-agreement-to-resolve-opioid-claim-b638b112-c757-44e9-aa44-d7e1c5e6c1e4>

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MENTAL HEALTH

Law Firm Article

Pienaar, Hugo; Cachalia, Asma and Erasmus, Jacques. Developing legal approach to mental health in the workplace: *Compensation Commissioner v Georgia Badenhorst* case.

2022 Feb 28 Cliffe Dekker Hofmeyr

“Mental health and its effect on an individual’s functionality has increased in prominence in the last few years. The case of *Compensation Commissioner v Georgia Badenhorst [2022] ZAECGHC 1* touches on the importance of mental health in the workplace and how it has become a significant factor in workplace safety.”

<https://www.cliffedekkerhofmeyr.com/en/news/publications/2022/Practice/Employment/employment-alert-28-february-Developing-legal-approach-to-mental-health-in-the-workplace-Compensation-Commissioner-vs-Georgia-Badenhorst-case.html>

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OCCUPATIONAL HEALTH

Government Gazette

Occupational Diseases in Mines and Works Act 78 of 1973

Increase of pension benefits.

GN1839 GG 46000 p194 4Mar2022

<https://bit.ly/3KkPMVr>

Media Comment

Mabuza, Ernest. Sandu lawyers demand urgent fix to broken air conditioning at defence HQ.

2022 Mar 4 Sowetan Live

“Lawyers for the SA National Defence Union (Sandu) have written a letter to defence minister Thandi Modise asking for immediate action to be taken to fix the broken air conditioning system at defence headquarters in Tshwane. Sandu said on Friday military staff in their hundreds were expected to work in office temperatures reaching the thirties for several weeks. “This is a direct threat to the occupational health and safety of military staff, especially given that the building is designed in a way that it has no opening windows.”

<https://www.sowetanlive.co.za/news/2022-03-04-sandu-lawyers-demand-urgent-fix-to-broken-air-conditioning-at-defence-hq/>

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PERSONAL INJURY

Case

Van Pletzen v Road Accident Fund (5610/2018) [2022] ZAFSHC 21 (10 February 2022)

Claim for damages arising from injuries sustained in motor vehicle accident – Determination of quantum of past and future loss of earnings – Discrepancies in plaintiff’s evidence casting doubt on contention that, in addition to pension, he had another stream of income generated through chauffeur business and has been unable to work – Claim for damages relating to past and future loss of earnings dismissed – Plaintiff awarded R360 000.00 in respect of general damages.

<http://www.saflii.org/za/cases/ZAFSHC/2022/21.pdf>

Journal Article

Van Staden, Marius. When is the obvious not so obvious? A discussion on regs 2(1)(b) and 2(2) of the Road Accident Fund Regulations.

2022 Mar De Rebus p17

“In *Legal Practitioners Indemnity Insurance Fund NPC v The Minister of Transport and The Road Accident Fund (GP) (unreported case no 26286/2020, 21-6-2021)*... the Gauteng Division of the High Court declared the provisions of regs 2(1)(b) and 2(2) of the Road Accident Fund Regulations, 2008... to be inconsistent with the Constitution and invalid, as well as, to the extent that the regulations relate to minors and persons under curatorship, be set aside. The court also declared that s 23(2) of the Act is to be read as ‘including minors and persons under curatorship who claim in terms of s 17(1)(b) of the Act’... In this article the fundamental reasoning contained in the judgment, will be discussed, and an answer to the question will be proposed.”

<https://www.derebus.org.za/when-is-the-obvious-not-so-obvious-a-discussion-on-regs-21b-and-22-of-the-road-accident-fund-regulations/>

Law Firm Articles

Bracher, Patrick. Insurance contamination exclusion upheld as unambiguous and properly located in policy (US).

2022 Mar 3 Financial Institutions Legal Snapshot

“Faced with an unambiguous lead contamination exclusion, a damages claimant, alleging personal injury to a child from ingesting lead from the paint in a rented property, unsuccessfully contended that the exclusion was unenforceable because it was allegedly hidden 30 pages into the policy.”

<https://www.financialinstitutionslegalsnapshot.com/2022/03/insurance-contamination-exclusion-upheld-as-unambiguous-and-properly-located-in-policy/>

Sing, Avyakta and Dias, Jordan. *SMS v City of Johannesburg Metropolitan Municipality (9165//2017) [2022] ZAGPJHC 55 (11 February 2022)*.

2022 Feb 27 Schindlers Attorneys



“In her capacity as the mother and natural guardian of the minor child (“B”), the Plaintiff instituted action against the Defendant... According to the Plaintiff, B was allegedly injured when he fell into an exposed manhole on a pavement... The Plaintiff claimed that the Defendant’s negligence caused the damage since it was responsible for maintaining the pavement and manhole and ensuring that it did not create a dangerous situation. The Defendant denied that it was negligent in the way claimed, or even that it was negligent at all.”

<https://www.schindlers.co.za/municipal-law/sms-v-city-of-johannesburg-metropolitan-municipality-9165-2017-2022-zagpjhc-55-11-february-2022/>

Media Comments

Broughton, Tania. High Court cautions curators against “cultural imperialism”.

2022 March 4 GroundUp

“The High Court has cautioned curators bonis not to act imperially and assume they know better when managing the affairs of people entrusted to them. The case involved a woman with a lack of formal education who had a R2.2-million payout after a road accident. She had been presumed incapable of managing such a large estate and her financial choices were disparaged. The judge criticised the curator for not understanding the social context of how she chose to spend her money.”

<https://www.groundup.org.za/article/high-court-cautions-curators-against-cultural-imperialism/>

Cokayne, Roy. RAF making great strides in its turnaround strategy, claims chair.

2022 March 7 Moneyweb

“The Road Accident Fund (RAF), which has been technically insolvent since 1981, has made great strides towards addressing its legacy challenges in the two financial years since the launch of its five-year turnaround strategy. This is the view of RAF chair Thembelihle Msibi, who said on Friday that this includes the significant reduction in administrative costs in the fund’s 2020/21 financial year, particularly the more than 40% reduction in legal costs to R3.9 billion from R7 billion in the 2018/2019 financial year.”

<https://www.moneyweb.co.za/news/south-africa/raf-making-great-strides-in-its-turnaround-strategy-claims-chair/>

Government developing new road accident rules in South Africa.

2022 March 4 Business Tech

“The government is developing new policies to restructure the existing Road Accident Fund (RAF) scheme and how money is paid out... The compensation is to provide relief to those whose livelihoods have been disrupted, or lives lost as a consequence of a crash on the country’s roads, said transport minister Fikile Mbalula in a media briefing on Friday (4 March). However, Mbalula noted that the fund has experienced significant fiscal problems in recent years due to costly litigation battles, steep administration costs, and the high number of accidents seen on the country’s roads.”

<https://businesstech.co.za/news/motoring/565144/government-developing-new-road-accident-rules-in-south-africa/>

Makhafola, Getrude. Law firms on warpath against RAF over new payment system.

2022 March 4 The Citizen

“The law firms that were used to rake in billions in Road Accident Fund claims are up in arms against the new payment mechanism implemented to improve finances and stop corruption, the entity said on Friday. The entity seeks to pay claimants directly through the Road Accident Benefit Scheme Bill (RABS) that is before Parliament’s portfolio committee on transport. The new processes haven’t been well received by the law firms that lodge claims on behalf of road accident victims.”

<https://www.citizen.co.za/news/3041007/law-firms-on-warpath-against-raf-over-new-payment-system/>

Nkosi, Ntombi. RAF names and shames law firms that milked it to the tune of billions but paid out little.

2022 March 7 IOL News

“The Road Accident Fund (RAF) has named law firms that have over the years made a fortune from the entity while poor people who had been injured in accidents get little or no compensation. CEO of the RAF Collins Letsoalo said they were serious about turning around the entity. saying the agency wanted to prioritise victims to be compensated on time.”

<https://www.iol.co.za/news/politics/raf-names-and-shames-law-firms-that-milked-it-to-the-tune-of-billions-but-paid-out-little-6a3bd3b7-da2b-4d6a-898f-23d4a991b5c1>

Watch | RAF denies hiding over R300bn debt.

2022 March 4 eNCA

“The Road Accident Fund (RAF) says it respects and will cooperate with the Auditor-General. This is despite a legal battle over its annual audit. It intends to ask the court to review the audit and set it aside. While the report has not been released, court proceedings show the RAF has liabilities of over R300bn. The fund denies this, saying it only amounts to about R30bn.”

<https://www.enca.com/news/raf-denies-hiding-r300bn-debt>

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PRESCRIPTION

Case

Mdlolose v Doctor Brendan Lyne Medical Practice and Others (18/24079) [2022] ZAGPJHC 54 (1 February 2022)

Claim for damages pursuant to defendants' alleged unlawful and negligent conduct – Defendant's raising special plea of prescription – Whether granting of order of joinder served to interrupt prescription – Special plea upheld.

<http://www.saflii.org/za/cases/ZAGPJHC/2022/54.pdf>

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PUBLIC HEALTH

Media Comments

Burger, Schalk. Enviro dept, organisations support the start of negotiations for a global plastics treaty.

2022 Mar 3 Engineering News

“South Africa's Department of Forestry, Fisheries and the Environment (DFFE) has welcomed the adoption by United Nations (UN) member States to start negotiations for a global treaty to end plastic pollution. The decision was taken at the UN Environment Assembly (UNEA), in Nairobi, Kenya, this week and the resolution outlines the development of a robust treaty that allows for global rules and obligations across the full life cycle of plastic. This will hold nations, businesses and society accountable for eliminating plastic pollution from the environment.”

<https://www.engineeringnews.co.za/article/enviro-dept-organisations-support-the-start-of-negotiations-for-a-global-plastics-treaty-2022-03-03>

Pillay, Sarvasan. Fury spills over dumping of illegal oil.

2022 Mar 8 Rising Sun Chatsworth

“The discovery of an illegal oil dump recently caused outrage in the Welbedacht community, with residents threatening to burn down the property after learning of the health horror next door. The filthy oil, which could be smelt from outside the suspect's property, was allegedly given to the man in exchange for R200 to 300 per load... Councillor for ward 77, Anoop Rampersad, was appalled at the businesses and the homeowner, who allowed for these heinous acts to start and continue, despite the serious health ramifications these may have.”

<https://risingsunchatsworth.co.za/192620/fury-spills-over-dumping-of-illegal-oil/>

Rogers, Guy. D-Day for dire Fish River pollution.

2022 Mar 5 Herald Live

“The Fish River sewage pollution saga could take a positive new turn — or not — after an order handed down by the high court in Makhanda. The Chris Hani district municipality was ordered by the court in November to deliver a report by March 4 detailing how it would fix the chronic sewage spills which have been negatively affecting the environment and communities in the area since they began in 2019...”

<https://www.heraldlive.co.za/weekend-post/your-weekend/2022-03-05-d-day-for-dire-fish-river-pollution/> (Subscription Needed)

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SPORT

Media Comment

Isaacson, David. SA stripped of world relay gold medal after Thando Dlodlo bust for doping.

2022 Mar 8 Times Live

<https://www.timeslive.co.za/sport/2022-03-08-sa-to-lose-world-relays-gold-after-doping-bust/>

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TAXATION

Media Comment

Mtembu, Xolile. Directors of a Pretoria hospital have outstanding returns and tax debt of R52 million, says Sars.



2022 Mar 2 IOL News

“The directors of the Louis Pasteur Hospital in Pretoria have outstanding returns and a tax debt of R52 million, according to a statement from the South African Revenue Service (Sars). Sars said the assets owned by the hospital’s two directors, Dr Zulu Mkhabele and Dr Mevis Ponde, who are diagnostic radiologists, have been seized by the Sheriff of the High Court.”

<https://www.iol.co.za/business-report/entrepreneurs/directors-of-a-pretoria-hospital-have-outstanding-returns-and-tax-debt-of-r52-million-says-sars-45cdc81b-7a19-4098-a139-49f64f91f322>

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TEENAGE PREGNANCIES

Media Comment

Roundtable discussions shine spotlight on teenage pregnancy.

2022 Mar 2 Sunday World

“The Department of Social Development is hosting roundtable discussions countrywide to strengthen the existing child protection system to prevent teenage pregnancy...The department’s acting chief director: child protection, Neliswa Cekiso, said as a department tasked with the responsibility to care for and protect children, the high number of teenage pregnancies should be a cause for concern. “Teenage pregnancy is a multi-faceted problem that requires a comprehensive intervention,” Cekiso said.”

<https://www.sundayworld.co.za/news/roundtable-discussions-shine-spotlight-on-teenage-pregnancy/>

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TOBACCO

Media Comment

Rabkin, Franny. Lockdown tobacco ban was justified, government tells Supreme Court.

2022 Mar 3 Times Live

“The tobacco ban during lockdown level three was justifiable under the constitution, the Supreme Court of Appeal (SCA) heard on Thursday. The court was hearing an appeal against the December 2020 judgment of the Western Cape High Court, which found that the tobacco ban had breached a number of human rights under the constitution and that the ban was unlawful because it was not “necessary” to prevent an escalation or to alleviate the effects of the disaster, as required by the Disaster Management Act... The regulation banning tobacco was made on May 28 2020 and lasted until August 17 2020, when SA moved to alert level 2. Breitenbach argued that the scientific evidence at the time was that smokers with Covid-19 had higher ICU admission rates and a higher need for ventilators.”

<https://www.timeslive.co.za/news/south-africa/2022-03-03-lockdown-tobacco-ban-was-justified-government-tells-supreme-court/>

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