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Office of the Health Ombud  
Kantoro ya Mosekaseki wa Maphelo



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## MEDIA STATEMENT

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### **PROFESSOR MAKGOBA REFLECTS ON HIS TERM OF OFFICE AS THE FIRST HEALTH OMBUD**

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**Pretoria.** Wednesday, 31 May 2023 marked the end of the term in the office of the Health Ombud, Professor Malegapuru William Makgoba after serving his full term of seven years. Professor Makgoba was appointed by the former Minister of Health, Dr Aaron Motsoaledi (MP) as the first Health Ombud in South Africa on 1 June 2016 for a non-renewable term of seven years.

The Office of the Health Ombud (OHO) is located within the Office of Health Standards Compliance (OHSC), an independent body established in terms of the National Health Amendment Act of 2013, mandated to promote, and protect the health and safety of health users by ensuring that health establishments meet the minimum health standards of care.

When Prof Makgoba was appointed by the Minister of Health, the emphasis was that his role would be that of a “public protector” within the healthcare sector – addressing complaints by health users relating to non-compliance of health establishments with prescribed norms and standards.

Over the seven years, Prof Makgoba achieved the most with fewer resources (human and financial), and his indelible contribution to the healthcare sector is well-decorated. He contributed greatly to the establishment of the Office of the Health Ombud to discharge its legal mandate, independently, without fear, favour or prejudice despite challenges.

Prof Makgoba’s achievements are countless, in 2016, he received the Titanium Award for service excellence in creating access to healthcare at the 19th Board of Healthcare Funders (BHF) Conference. He was nominated and commended by a panel of six judges for the coveted prestigious John Maddox Prize. He was further invited by the United States of America government to serve on the 12-member expert panel of the Data and Safety Monitoring Board for the first 5 COVID-19 vaccine trials in 2020.

Being a visionary, within the health fraternity; he successfully facilitated and ensured the registration of the Office of the Health Ombud as a member of the International Ombudsman Institute and the African Ombudsman and Mediators Association.

During his tenure, he provided much-needed leadership, carrying out major investigations following best practices. Most investigations under his leadership culminated in the publication of comprehensive reports which identified and highlighted issues of non-compliance with health regulations in the healthcare sector. As the regulator of health establishments, the Office of Health Standards Compliance continues to monitor the implementation of all the recommendations of these reports.

Taking the media through his journey during the briefing on Wednesday, 31 May 2023, Professor Makgoba, announced that his office completed and resolved **10 861** complaints in the past seven years, including the most talked about the 'Life Esidimeni' tragedy in Gauteng.

According to the outgoing Health Ombud, the Life Esidimeni tragedy which probed the circumstances surrounding the deaths of mentally ill patients has become the standard on how a Health Ombud conducts investigations as reflected by the UK's Parliamentary Health Ombudsman, Rob Behrens.

"I often said to my team, you must focus on the truth and quality. Our investigations sought the truth, had consequences for implicated staff, and had transformative impact on the national health service. These high-profile, high-impact and complex cases would take us at least six months to investigate, and we cannot say, because these [Life Esidimeni] senior officials aren't in jail, there have not been any consequences. Consequences come in many forms. "There have been many consequences from the report, with senior officials losing their jobs and reputations." Said Prof Makgoba

Currently, an inquest is underway at the Pretoria High Court that will determine whether anyone can be held criminally liable for the death of 144 vulnerable mental healthcare patients after being transferred to poorly capacitated, unlicensed non-governmental organisations (NGOs) from Life Esidimeni facilities.

After the Life Esidimeni investigation, the outgoing Health Ombud conducted another landmark investigation in the Eastern Cape. The investigation looked into allegations of patient mismanagement and patient rights violations at the Tower Psychiatric Hospital and Psychosocial Rehabilitation Centre.

Prof Makgoba also dealt with the Tembisa Tertiary Hospital after the office found that the facility was negligent, leading to the death of young and promising businessman, Shonisani Lethole.

Prof Makgoba also recently released a report on Rahima Moosa Mother and Child Hospital (RMMCH), which found that the paediatric and child health facility was unsafe, and that the CEO was unfit for the job.

Reflecting on his journey, Prof Makgoba recalled how he had to think on his feet about the task ahead. He recalled that he had to consider the legal framework (mandate), governance, budget, and staffing issues as part of his journey of establishing the office.

"I scanned the literature throughout the world and discovered a simple observation that these offices have always been independent and standalone, and sometimes governed by the President/Royalty or sometimes the Parliament of the country throughout history.

"I had to socialise that concept and now this principle is accepted that the Office of the Health Ombud should be a separate office, independent, and have a broader mandate. The OHO Bill has been prepared and is under consideration with the National Department of Health. So, I spent a significant part of my time trying to do that and laying this foundation" he recalled.

He stressed the importance of the office being independent. Makgoba also stressed the importance of the incumbent of the office, just like a judge not being beholden to a political party. A national office of such stature should be occupied by an impartial person free of any potential conflicts.

Makgoba said none of the Health Ministers, including Dr Aaron Motsoaledi, who appointed him or served under, has ever influenced his findings or recommendations, even when they were implicated.

I say this because political interference and manipulation are a common phenomenon in South Africa.”

### **Investigators**

The Professor also had to create an office of investigators from scratch. “We had to train them to become competent to make fair and just investigations and recommendations. For me, what was important is that we now have investigators who are in keeping with how medicine and health are evolving.”

The office now boasts a panel of experts who investigate any matter, from COVID-19 to psychiatry-related issues. Of over the 10 000 complaints handled, which Makgoba said could have been more than doubled, had he had more staff, 50% were from Gauteng.

“The smallest province, the densely populated and economic hub of our country, generated the greatest number of complaints,” he said.

The Health Ombud findings also had to undergo some scrutiny and face appeals, court and legal battles.

“But I’m happy to report that in the seven years that this office has been established, there have been appeals and court challenges of our findings and recommendations, but none of the appeals succeeded, none of our reports was set aside, or overturned by the courts or tribunals. I think that is the testament to the quality of the investigators and investigations that they conduct.”

### **Lack of leadership**

Makgoba named the Eastern Cape and Gauteng as the provinces with the most dysfunctional health departments, while Free State is not far from the two. The common thread in the Eastern Cape and Gauteng public health sector is the lack of quality leadership, poor governance and constant change of CEOs, and lack of harmony between stakeholders.

“I had investigated and prepared a report on the status of Livingston Hospital, Dora Ngiza and Uitenhage hospitals for the Health Portfolio Committee as a result of complaints of poor service delivery and poor cooperation between the various stakeholders in health delivery services in the three hospitals. Again, poor leadership, poor governance, low trust between these stakeholders was at the heart of this dysfunction.”

Meanwhile, Prof Makgoba found the Western Cape managed to get its house in order over the years.

“I couldn’t do everything I wanted to do and don’t regret it. This is a new office, and it is on a long journey to travel.

“I had a good time and enjoyed myself. I had the support of the Health Ministers I served and a great working relationship with the OHSC CEO, Dr Sipiwe Mndaweni. It was an honour and privilege to serve.

I had challenges, but if you dwell on challenges, you will end up in a mental hospital,” he concluded.

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