



The South African Medico-Legal Association

MEDICO-LEGAL CRISIS PRESENTATION TO THE PRESIDENT

Sunday 5 May 2019 – 09:00

**VENUE : The Focus Rooms - The Core Shopping Centre
Leeuwkop Rd – Sunninghill – Sandton**

AGENDA AND ATTENDANCE REGISTER

In the spirit of Thuma Mina we, a group of concerned South Africans and Professional Organizations, offer our collective expertise and goodwill to advise the President on the medico-legal crisis in our country. Being acutely aware of the human suffering, loss of economic productivity and multi-billion rand financial losses, which are inflated by constrained resources, maladministration, unprofessional conduct, negligence and corruption, we propose to address the following in a frank and constructive manner : -

1. OVERVIEW OF PRESSING MEDICO-LEGAL ISSUES

1.1. Road Accidents and Compensation for Personal Injuries

- 1.1.1. [Motor Vehicle Crashes and Deaths on South African Roads.](#)
- 1.1.2. [The RAF – Litigation Practices that overburden our Courts of Law.](#)
- 1.1.3. [RAF4 Determination of Serious Injuries, HPCSA Appeal Tribunals.](#)
- 1.1.4. [The RABS Bill – Cost Implications and Infringement of the Rights of Vulnerable Members of Society \(particularly children, impoverished-, illiterate- and brain injured adults\).](#)

Non-Profit Company. Registration Number: 2005/013822/08

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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 Hanneljie (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); Khan, Adv Jenine (Membership); Lamey, Adv Albert; 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; Sutherland, Ms Romany (WC Chairperson); Tiry, Adv Ayesha; Van Den Bout, Dr & Adv Anton; Wasserman, Dr Marlene.



1.2. Clinical Negligence and Compensation for Consequent Harm

- 1.2.1. [Clinical Negligence by Healthcare Practitioners.](#)
- 1.2.2. [The Scourge of Cerebral Palsy.](#)
- 1.2.3. [The South African Medico-Legal Coalition – focus on Constructive Upstream \(prevention\) and Downstream \(resolution\) Interventions.](#)

1.3. General and Recommendations

- 1.3.1. [The Substantial Body of Knowledge and Goodwill that has been Side-Lined by Government over the Years.](#)
- 1.3.2. [Access to Justice and Access to Courts.](#)
- 1.3.3. [Mediation of Clinical Negligence and Personal Injury Disputes.](#)
- 1.3.4. [Arbitration of Clinical Negligence and Personal Injury Disputes.](#)
- 1.3.5. [The State Liability Amendment Bill.](#)
- 1.3.6. [Establishment of Centres of Excellence for Care of Cerebral Palsy Children.](#)
- 1.3.7. [Case Management for Cerebral Palsy and Others with Disabilities.](#)
- 1.3.8. [Postgraduate Training of Medico-Legal Practitioners.](#)
- 1.3.9. [The Establishment of a South African Medico-Legal Data Institute.](#)
- 1.3.10. [The Establishment of Specialized Medical Courts.](#)
- 1.3.11. [The Establishment of an Independent Multidisciplinary Medico-Legal Regulatory Authority](#)

1.4. Golden threads

- 1.4.1. Ethics – Training – Governance – Implementation – Accountability.



2. AGENDA

2.1. Welcome, Opening and Key Statistics

2.1.1. Judge Neels Claassen. Retired Judge, Mediator and Chairperson of the South African Medico-Legal Association.

2.2. Distinguished Guest

2.2.1. Ms Malebona Precious Matsoso. Director-General of the South African National Department of Health.

2.3. Introduction and Overview of Programme

2.3.1. Dr Herman Edeling. Neurosurgeon, Expert Witness, Mediator, Director (Clinical Negligence, Mediation) and Faculty Leader of the South African Medico-Legal Association – Convener of Meeting.

2.4. Road Accidents and Compensation for Personal Injuries

2.4.1. Dr Lawrence Barit. Advocate at the Pretoria Bar, Traffic Criminologist and Chairperson of Stay Alert, Stay Alive. [Topic – Road Crashes – Deaths – Criminal Behaviour on Roads - Solutions.](#)

2.4.2. Mr Lusani Mulaudzi. Actuary, MD Director of Grassroots Impact Solutions and Imali Risk Management Solutions, and President Elect of the Actuarial Society of South Africa. [Topic – RABS – Affordability and Sustainability.](#)



2.4.3. Ms Leigh De Souza. Personal Injury Attorney with Particular Interest in RAF4 and Appeal Tribunal Procedures. [Topic – RAF4 and Appeal Tribunals – Constitutional Principles – Right to Fair Administrative Action – Right of Access to Courts – Need for Training.](#)

2.4.4. Dr Hans Enslin. Orthopaedic Surgeon, Expert Witness and Director (RAF matters) of the South African Medico-Legal Association. [Topic – RAF – RAF4 – Narrative Test – Common Law – Accountability.](#)

2.4.5. Mr Pieter De Bruin. Industrial Psychologist, Expert Witness and Chairperson of the Association for the Protection of Road Accident Victims. [Topic – RAF \(RABS\) Short-, Medium- and Long Term Solutions.](#)

2.4.6. Dr Herman Edeling. Neurosurgeon, Expert Witness, Mediator, Director (Clinical Negligence, Mediation) and Faculty Leader of the South African Medico-Legal Association. [Topic – A Novel South African Plan for Assessment, Treatment, Rehabilitation and Compensation of Road Accident Victims.](#)

2.5. Clinical Negligence and Compensation for Consequent Harm

2.5.1. Adv Gerhard Strydom SC. Advocate at the Johannesburg Bar. [Topic – Imperative of Prevention of Cerebral Palsy – Accountability – Record Keeping – Specialized CP Courts.](#)

2.5.2. Prof Ethelwynn Stellenberg. Department of Nursing and Midwifery at Stellenbosch University, Expert Witness, Board Member of the Office for Health Standards Compliance and Faculty Member of the South African Medico-Legal Association. [Topic – OHSC – Nursing Professionalism, Standards and Negligence.](#)



- 2.5.3. Dr Gian Marus. Neurosurgeon, Expert Witness and Medico-Legal Representative of the South African Society of Neurosurgeons and the South African Spine Society. [Topic – Accountability.](#)
- 2.5.4. Prof Leon Snyman. Acting Head of Department of Obstetrics and Gynaecology at Kalafong Hospital, President of the College of Medicine of South Africa, Council Member of SASOG and Head of SASOG Medico-Legal Sub-Committee. [Topic – Obstetrics – Solutions – Accountability.](#)
- 2.5.5. Dr Ismael Borat. Obstetrician and Gynaecologist, Head of Fetal Medicine at the University of Kwa-Zulu Natal, Expert Witness, Chairman of SASOG Expert Opinion Panel. [Topic – SASOG Better Obs Program and Expert Opinion Panel.](#)
- 2.5.6. Prof Gert Saayman. Head: Dept of Forensic Medicine, University of Pretoria and Director of the South African Medico-Legal Association. [Topic – Legal Processes Following Fatal Outcomes.](#)
- 2.5.7. Mr Trevor Reynolds. Clinical Neuropsychologist, Expert Witness, Mediator and Deputy Chairperson (Healthcare) of the South African Medico-Legal Association. [Topic – Context of the Crisis of Care.](#)
- 2.5.8. Prof Hennie Becker. Surgeon, Educator, Expert Witness, Mediator and Director of the South African Medico-Legal Association. [Topic –Curbing Negligent Harm – Training of Medical Doctors – Maintenance of Hospitals.](#)



2.6. General Recommendations

- 2.6.1. Judge Neels Claassen. Retired judge, Mediator and Chairperson of the South African Medico-Legal Association. [*Topic – Side-Lining of Available Expertise and Goodwill.*](#)
- 2.6.2. Dr Henry Lerm. Attorney, Legal Academic, Law Society of South Africa LEAD Lecturer, Mediator and Deputy Chairperson (Legal) of the South African Medico-Legal Association. [*Topic – SAMLA Submissions to Law Reform Commission. Code of Conduct for Medico-Legal Practice.*](#)
- 2.6.3. Ms Ronel Van Zyl. South African Law Reform Commission Researcher on Issue Paper 33 – Medico-Legal Claims. [*Topic – SALRC – The Imperative for Implementation of Plans.*](#)
- 2.6.4. Judge Neels Claassen. Retired judge, Mediator and Chairperson of the South African Medico-Legal Association. [*Topic – Mediation vs Litigation*](#)
- 2.6.5. Adv Reshma Athmaram. Advocate at the Durban Bar and Johannesburg Bar, KZN Chairperson and Director of the South African Medico-Legal Association. [*Topic – Mediation - High Court Rule 41 A.*](#)
- 2.6.6. Mr Tobie Van Niekerk. Personal Injury and Clinical Negligence Attorney. [*Topic – CP Care Centres of Excellence and Medical Aid.*](#)
- 2.6.7. Ms Alison Crosbie. Occupational Therapist, Case Manager and Expert Witness. [*Topic – CP Care Centres – Case Management.*](#)



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- 2.6.8. Dr Chris Archer. Obstetrician and Gynaecologist, Expert Witness, CEO of South African Private Practitioners Forum and Past Chairman of the Gynaecology Management Group. [**Topic – Care of CP Irrespective of Cause.**](#)
- 2.6.9. Dr Brad Beira. Managing Director of The Advisory Group. [**Topic – Continuum of Care after Settlement/Judgment – Centres of Excellence – Funding – Case Management.**](#)
- 2.6.10. [**Dr/Adv Anton Van Den Bout.**](#) Orthopaedic Surgeon, Advocate and Founder of the South African Medico-Legal (Society) Association. [**Topic – Specialized Medical Courts and Medical Assessors.**](#)
- 2.6.11. [**Ms Romany Sutherland.**](#) Attorney, Mediator, Western Cape Chairperson and Director of the South African Medico-Legal Association. [**Topic – A Model for Constructive Engagement Between Plaintiff and Defendant Representatives – Addressing Mental Health of Healthcare Practitioners.**](#)
- 2.6.12. [**Prof Alex Van Den Heever.**](#) Chair Social Security Systems, Administration and Management, Studies of the University of the Witwatersrand. [**Topic – Strategy to Address Medical Negligence Claims and Road Accident Claims.**](#)
- 2.6.13. [**Mr Gregory Whitaker.**](#) Actuary and Expert Witness in Civil Litigation Quantum Calculations. [**Topic – State Liability Amendment Bill – Structured Settlements vs Lump Sum – Discount Rates.**](#)
- 2.6.14. Patrick Wysoczanski. Case Management of State Experts. [**Topic – Problematic Management of Litigation.**](#)



2.7. Experts who have provided written submission, but who did not present at the meeting : -

- 2.7.1. Prof Hennie Klopper. Attorney, Legal Academic and Head of the Solutions Task Team of the Association for the Protection of Road Accident Victims. [*Topic – Heart-breaking Statistics.*](#)
- 2.7.2. Dr Willem Moore. DPhil in Ethics, Researcher, Professional Ethics Lecturer at University of Namibia School of Medicine and Faculty Member of the South African Medico-Legal Association. [*Topic – Ethics in Medicine, Law and Governance.*](#)
- 2.7.3. Ms Carina Van De Wall. Nursing Consultant, Expert Witness and Faculty Member of the South African Medico-Legal Association. [*Topic – Nursing Awareness and Discipline Campaign – Nursing Case Management.*](#)
- 2.7.4. Mr Dirk Van De Wall. CEO of BEST LLAW, Labour Consultant and Arbitrator. [*Topic – South African Labour Law iro Centres of Excellence.*](#)
- 2.7.5. Mr André Calitz. Chief Operating Officer South African Medical Malpractice Lawyers Association. [*Topic – Current Challenges in the Conduct of Medical Malpractice Claims against the State.*](#)
- 2.7.6. Adv Albert Lamey. Advocate of the Pretoria Bar and Past Chairperson of the South African Medico-Legal (Society) Association. [*Topic – Prevention of CP – Specialized Medical Courts – Specialization and Accreditation of Medico-Legal Practitioners.*](#)



2.8. Experts who attended the meeting to indicate their interest and willingness to contribute to solutions : -

- 2.8.1. Dr Peter Koll. Obstetrician and Gynaecologist, Expert Witness, Mediator and Faculty Member of the South African Medico-Legal Association.
- 2.8.2. Ms Anita Erens. Physiotherapist, Expert Witness and Acting Western Cape Chairperson of the South African Medico-Legal Association.
- 2.8.3. Ms Irana Singh. Attorney, Mediator and Director of the South African Medico-Legal Association.
- 2.8.4. Adv Jenine Louise Khan. Advocate at the Johannesburg Bar and Director of the South African Medico-Legal Association.
- 2.8.5. Ms Irana Singh. Attorney, Mediator and Director of the South African Medico-Legal Association.
- 2.8.6. Dr Gavin Fredericks. General Practitioner, Expert Witness, Mediator and Director of the South African Medico-Legal Association.
- 2.8.7. Dr Sharon Munyaka. Industrial Psychologist, Expert Witness and Director of the South African Medico-Legal Association.
- 2.8.8. Adv Kgorohlo Micro Moabelo. Director: Legal Services of the South African National Department of Health.



2.9. Expanded oral submissions : -

2.9.1. Prof Alex Van Den Heever. Chair Social Security Systems, Administration and Management, Studies of the University of the Witwatersrand. **Topic – Strategy to address medical negligence claims and road accident claims.**

2.9.2. Ms Leigh De Souza. Personal Injury Attorney with Particular Interest in RAF4 and Appeal Tribunal Procedures. [Topic – RAF4 and Appeal Tribunals – Constitutional Principles – Right to Fair Administrative Action – Right of Access to Courts – Need for Training.](#)

2.9.3. Prof Leon Snyman. Acting Head of Department of Obstetrics and Gynaecology at Kalafong Hospital, President of the College of Medicine of South Africa, Council Member of SASOG and Head of SASOG Medico-Legal Sub-Committee. [Topic – Obstetrics – Solutions – Accountability.](#)

2.9.4. Mr Michael Ansley. IT Executive Director – Innovation & Strategy and Mr Willem Edeling. IT Solutions Architect. **Topic – Digitizing the Value Chain, Improving Service Delivery and Reducing the Opportunity for Fraud.**



2.10. **DEBATE - Funding and Care for Cerebral Palsy and Others Living With Disabilities**

2.10.1. [Dr Brad Beira](#). Prof Alex Van Den Heever. Dr Chris Archer. Ms Alison Crosbie. [Mr Tobie Van Niekerk](#). Mr Gregory Whitaker.

2.11. **DEBATE - Establishment of an Independent Multidisciplinary Medico-Legal Regulatory Authority with Codes of Professional Conduct and Disciplinary Procedures**

2.11.1. Dr Herman Edeling. Prof Ethelwynn Stellenberg. Dr Henry Lerm. Adv Kgorohlo Micro Moabelo. Dr Gian Marus. Mr Lusani Mulaudzi. Ms Leigh De Souza. Dr Sharon Munyaka. Mr Trevor Reynolds. Ms Ronel Van Zyl.

2.12. **Summation**

2.12.1. [Dr Brad Beira](#).