

SOUTH AFRICAN MEDICO-LEGAL DATA INSTITUTE
CONCEPT DOCUMENT

1. INTRODUCTION

- 1.1. The South African Medico-Legal Association (SAMLA) is a voluntary association of individuals, allowing medical, legal and other interested persons to become members and participate in coordinated activities and related educational events.
- 1.2. The South African Medico-Legal Coalition is a voluntary association of organisations, associations, societies, companies and organs of state (hereinafter referred to collectively as “organisations”), convened to address serious issues and harm associated with clinical negligence and dispute resolution.
- 1.3. The purpose of an independent ‘institute’ (South African Medico-Legal Institute) is to facilitate the collection of information pertaining to the medical and legal (medico-legal) transactions resultant from failure of care or perceived failure of care and any resultant harm, and to maintain the requisite levels of confidentiality and security of such information.

2. STRUCTURE OF THE INSTITUTE

- 2.1. A new non-profit company should be formed with the Memorandum of Incorporation explicitly stating the purpose of the entity as one whose purpose is the collection, collation, and secure storage of relevant medico-legal information for analysis, research and knowledge dissemination, at all times ensuring confidentiality.
- 2.2. Such knowledge may be employed to promote improved clinical outcomes; promote improved confidence in the patient/practitioner trust relationship; and inform improved conflict and dispute resolution through all available methods, including negotiation, mediation, arbitration and litigation.

- 2.3. The South African Medico-Legal Coalition Partners should initiate this process, write the Memorandum of Incorporation; and appoint Directors through a dual process. In the first instance, the Coalition should call for nominations from within its membership base and in the second instance, calls for nominations should be to the broader public.
- 2.4. A Board can then be constituted with appropriate directors to provide appropriate governance and stewardship to the new entity. Directors should be appointed in accordance with pre-determined qualifications, experience and character, to ensure that the Institute is able to meet its intended objectives, which will include independence, integrity and confidentiality, providing proper standards of data security, data management and access control, so as to ensure that relevant organisations and individuals are willing to contribute their data to the Institute.
- 2.5. Once properly established, and before collecting data, the Institute will become independent of The Coalition and independent of any other organisation, being answerable only to its own Memorandum of Incorporation.

3. FUNDING MODEL

- 3.1. Interested parties should be approached to provide donations and endowments to the Institute. These financial contributions should be unconditional and should not allow the individual or corporate entity any Directorship or influence in the operations of the Institute.
- 3.2. The non-profit company should register with SARS and apply for a s18A dispensation to issue certificates to donors for donations received.
- 3.3. Organisations and individuals can be acknowledged for their financial contributions in manners consistent with existing NPC's and public disclosure requirements.

4. DATA MODEL

- 4.1. Requests for the sharing of data (in a unidirectional, confidential and restricted manner) should be extended to all proponents of the South African healthcare continuum.
- 4.2. The submission of this data needs to come from independent sources of information. Proponents include, but need not be limited to, patients, practitioners (representative associations), attorneys and advocates (plaintiff and defendant), providers of indemnity, medical care facilities, health professions council, nursing council, state departments of health and the courts.
- 4.3. Data from information sources should be provided in a considered and unequivocal manner. The supply of suitably pseudomised or anonymised data should be done in compliance with existing data protection legislation and regulations and in a manner consistent with the expectations of privilege and confidentiality of all parties involved in the related disputes.
- 4.4. Explicit to the provision of data from parties is that no party will have unfettered access to the data provided by other parties. All data flow is unidirectional into the Institute data warehouse.
- 4.5. Organisations and individuals can be acknowledged for their data contributions in manners consistent with existing NPC's and public disclosure requirements.

5. USE OF DATA

- 5.1. It is envisaged that the collation of data will allow for the correlation of previously inaccessible information which can be used for academic research, development of position papers and opinions. The way structured information might be released for consumption by interested parties is still to be determined.
- 5.2. The medical research council, universities, statistical bodies, associations, societies, corporate entities and organs of state may all purchase memberships, and subscription opportunities for access to reports can be explored.

6. COMMENTS

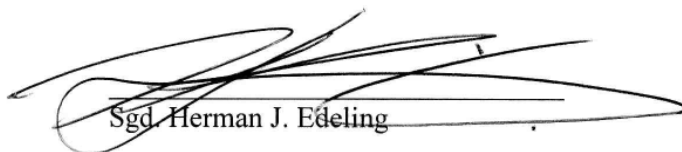
6.1. Certain inherent conflicts may arise in the promotion of the Institute:

6.1.1. Parties may perceive that there are conflicts of interest in the aggregation of data from various contributors – all data is to be aggregated, regardless of source in a manner that prohibits the 'reverse flow' of propriety data from the data warehouse back to individual contributors.

6.1.2. Parties may be concerned about potential anti-competitive behaviours of the Institute – assurance must be given by the Institute that it is a non-competing entity whose exclusive purpose is the collation and storage of data for research and interpretation.

6.1.3. Concern may be raised as to the influence of contributing parties to the strategic imperatives of the Institute – financial contributions and the unidirectional sharing of data does not afford any individual, entity or consortium the rights to representation on the Board of Directors.

6.1.4. It may be questioned what the purpose of the Institute is – the Institute is a public interest organisation, willing to engage with and support the efforts of other public interest organisations within the state, private and non-profit sectors of the South African economy.



Sgd. Herman J. Edeling

3 November 2018

obo Chairpersons of SA Medico-Legal Coalition Standing Committees
(Ian Dutton – Brad Beira – Herman Edeling)