



The SAMLRA Review

Newsletter of the South African Medico -Legal Association
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<https://medicolegal.org.za/index.php>

SOUTH AFRICAN DOCTORS CALL FOR LAW REFORM, FEARING A HARSH PENALTY IF PATIENTS DIE

At the AGM 2020 SAMLRA agreed to be part of the law reform process, this was demonstrated when the National Chairperson, Prof Stellenberg and the Non-Executive President of SAMLRA Prof Henry Lerm were tasked to write the above article which was published in February 2022 .



In addition In November 2021 the South African Medico-Legal Association joined with several leading healthcare organisations in South Africa in [urging the government](#) to review the culpable homicide law and its application in healthcare settings. They wrote a letter addressed to Ronald Lamola the Minister of Justice and Correctional Services, suggesting that the [South Africa Law Reform Commission](#) should review this complex area of law stressing the importance of achieving a long-term solution for healthcare professionals and patients alike. They highlighted the integral issues experienced in the medical fraternity in the public and private sectors. Several risks linked to the current interpretation and application of law was highlighted inclusive of doctors' risk losing their careers and liberty; practitioners may resort to defensive medicine and increased cost of treatment.

The South African Medico-Legal Association's collaboration on this important issue is anchored in its [mission statement](#), which encourages the inter-relationship between medicine and law, fostering dialogue between member professions and beyond, to promote justice, ethical practice and constitutional values. The article is available at <https://theconversation.com/south-african-doctors-call-for-law-reform-fearing-a-harsh-penalty-if-patients-die-175185>

REPORT ON THE RAF ROUND TABLE STAKEHOLDER DISCUSSION HELD ON 1 MARCH 2022

Several key stakeholders part in a discussion finding workable solutions for all parties working with the RAF. Aspects addressed included:

- The importance of internal mediation model as a dispute resolution mechanism for the RAF.
- High medical costs and the benefits of medical tariffs to the RAF.
- Pre-trial mediation as a dispute resolution on the RAF court matters.
- LPC and its members' role in the RAF value chain.
- RAF business in perspective.

Regular communication and collaboration between the stakeholders are required to enable better understanding the needs of all that form part of the process (claimants, RAF, lawyers, medical practitioners, supplementary services, mediators) to mention but a few.

Minister of transport Fikile Mbalula, the CEO of the Road Accident Fund (RAF) and non-executive members of the RAF board provided an update on 4 March 2022 on the RAF's financial position and interventions made to stabilise the entity. The RAF provided feedback on the progress made since the implementation of its turnaround strategy and new operating mode. Click on the link and listen to the full briefing <https://www.enca.com/news/livestream-minister-fikile-mbalula-briefs-media-rafs-financial-position>.

Mr Letsoalo in a letter dated 9 March 2022 responded to concerns of non-payment to medical experts.

https://www.raf.co.za/Media-Center/RAF%20Media%20Statements/Letter%20to%20various%20stakeholders%20-%2009032022.pdf?fbclid=IwAR2cdr0Ga8R7iEGzDzk80KM438H39nT3ZNIK863CwU05dsd_8Jc2d1Exllg

Experts are withdrawing medico-legal opinions over non-payment.

<https://www.medicalbrief.co.za/raf-revolt-experts-withdraw-medico-legal-opinions-over-non-payment/>

THE BOARD OF SAMLRA

Directors: Prof Ethelwynn Stellenberg (National Chairperson); Adv Johanni Barnardt SC (National Deputy Chairperson: Legal); Dr Sharon Munyaka (National Deputy Chairperson: Health Sciences & Transformation Director); Dr Willem Moore (Chairperson: Ethics and Legal Matters); Ms Desiree David (Chairperson: Eastern Cape Branch); Mr Johan Jordaan (National Treasurer); Mrs Anneke Greeff (Communications Director); Mr Renier Jacobs (Administration Director & Chairperson: Western Cape Branch); Ms Stacey Aires (Chairperson: Education and Training Committee & Chairperson: Gauteng Branch); Mrs Gugu Gopfert (Chairperson: KZN Branch); Dr Thabiso Rapapali (Chairperson: Free State Branch); Prof Ramodungoane Tabane (Chairperson: Credentialling Committee); Mr JP Venter; Dr Carlien Van Heerden; Mr Rowan Haarhoff (Business Development Director); Mr Danie Weideman; Mrs Gerbri Van Heerden; Mr Mark Eaton; Ms Refiloe Raganya; Mrs Naomi Williams; Dr Natalie Benjamin-Damons; Adv Charlene Labuschagne

Non-Executive President: Prof Henry Lerm



Final submission to SALRC: SAMLA RESPONSE TO DISCUSSION PAPER 154 PROJECT 141 MEDICO-LEGAL CLAIMS (OCTOBER 2021)

Special thanks to Prof Lerm, Prof Stellenberg, Mr Renier Jacobs, Adv Johanni Barnardt SC and Dr/Adv Anton van den Bout for all their hard work and many hours spent to prepare the submission. Please visit the SAMLA website (medicolegal.org.za) for full document and letter send to SALRC. As part of this process, Advocate Barnard, Prof Lerm and Prof Stellenberg also attended the SALRC's workshop on 8 March 2022 again emphasizing the need for reform in the high. incidence of litigation in South Africa. perspective.

SAMLA MEMBERS ARE URGED TO REGISTER AS MEDICO-LEGAL PRACTITIONERS.

SAMLA created a register of medico-legal practitioners to encourage the professionalisation of medico-legal practice, and to reflect an increasing standard of practice. SAMLA has three tiers of registration for medico-legal practitioners that aims to allow for the development of the career path in the profession of medico-legal practice, commensurate with and an acknowledgement of acquisition of further knowledge, skills, and experience.



This is a dynamic process of improving standards for the members of SAMLA. An annual fee of R1200-00 is due once a member of SAMLA is a registered Medico-legal practitioner.

These tiers enabling one to become a medico-legal practitioner are currently entitled:

- Tier 1, the entry level, entitled "Medico-Legal Practitioner"
- Tier 2, the intermediate level, entitled "Advanced Medico-Legal Practitioner"
- Tier 3, the highest level, entitled "Senior Medico-Legal Practitioner".

TIER 1: MEDICO-LEGAL PRACTITIONER

The registry for medicolegal practitioners has been established and medico-legal practitioners have already registered. At this time, the criteria for entry at this level are as follows:

1. A professional in good standing with his or her own professional body (e.g. LPC or HPCSA).
2. A SAMLA member in good standing.
3. A pledge to practice according to the SAMLA code of conduct and proof of reasonable knowledge of the field by having passed the SAMLA/UCT Foundations Course in Medico-Legal Practice except that this last requirement may be waived for applicants who qualify under the SAMLA RPL policy.

TIER 2: ADVANCED MEDICOLEGAL PRACTITIONER

Via the "knowledge route"

1. At least 5 years' experience in his or her primary profession.
2. At least 5 years' experience in medico-legal practice (the two may run concurrently).
3. An application for advancement to the level "Advanced Medico-Legal Practitioner", with that application supported by 2 referees, one being a reputable medico-legal legal practitioner and one being a reputable medico-legal healthcare practitioner, attesting to the applicant's medico-legal competence.

TIER 3: SENIOR MEDICO-LEGAL PRACTITIONER.

The only route for advancement to this tier is satisfaction of the following:

1. At least 15 years' experience in medico-legal practice.
2. The applicant must be a registered Advanced Medico-Legal Practitioner.
3. An application for advancement to Tier 3, with that application supported by 2 referees, one being a reputable medico-legal legal practitioner and one being a reputable medico-legal healthcare practitioner, attesting to the applicant's medico-legal competence.

The SAMLA Review

Tier 1: Recognition of prior learning policy.

Applicants who believe they do not need the SAMLA Foundations Course in Medico-Legal Practice will need to satisfy the Credentialing Committee that has been appointed by the SAMLA Board, by process of peer review, that they have sufficient experience and that they practice to an acceptable standard. At minimum this process requires:

1. 5 years experience in medico-legal practice.
2. 2 references, one each from a reputable medico-legal lawyer and a reputable medico-legal expert.
3. The Credentialing Committee may call for further proof of competence for example by way of
 - i. provision of a written opinion on a set of facts
 - ii. demonstration of the number of cases he or she has successfully managed
 - iii. a portfolio of reports, judgements et cetera in which he or she featured and/or
 - iv. a live interview.

4. Successful completion of at least 6 of the 10 SAMLA/UCT Workshops in Medico-Legal Practice (current workshops 1 to 10).
5. An appropriate portfolio of evidence, demonstrating competent medico-legal practice.
6. The Credentialing Committee may, at its discretion, call for further evidence of competence.

Tier 2: Recognition of prior learning policy

1. At least 10 years' experience in his or her primary profession.
2. At least 10 years' experience in medico-legal practice (the two may run concurrently).
3. An application for advancement to Tier 2, with that application supported by 2 referees, one being a reputable medico-legal legal practitioner and one being a reputable medico-legal healthcare practitioner, attesting to the applicant's medico-legal competence.
4. An appropriate portfolio of evidence, demonstrating competent medico-legal practice.
5. The Credentialing Committee may, at its discretion, call for further evidence of competence.

4. Ongoing teaching, mentoring and supervision of Medico-Legal Practitioners
5. Evidence of the following, as professionally pertinent:
 - i. Any other exceptional contribution the applicant is making to the field of medico-legal practice.
 - ii. Publications and/or citations
 - iii. Peer reviews undertaken
 - iv. Judgements
 - v. An indication of the number of reports; opinions; heads of argument; advice on evidence/merits/quantum relevant to medico-legal practice.

The Credentialing Committee may at its discretion propose and motivate, with supporting evidence, to the SAMLA Board the meritorious advancement of an Advanced Medico-legal Practitioner to the status of Senior Medico-Legal Practitioner.

FORTHCOMING EDUCATION & TRAINING

*****Please be on the lookout for information regarding upcoming training events on our Facebook page, Linked In, and SAMLA official Website*****

FIRESIDE TALK 22 March 2022.

The SAMLA Gauteng Branch invite you to our upcoming Fireside Talk, where we discuss a hypothetical case involving ethics around the medico-legal expert. We are proud to be hosting Dr Willem Moore and Prof Henry Lerm to give their input into this interesting discussion. A copy of the case will be provided in advance to all attendees.

To book your space, go to <https://medicolegal.org.za/regionalseminar.php?id=19>
Non-members: in order to register and pay for a SAMLA course, you need first to register as a non-member on the website.

The register as a new member/non-member, go to <https://medicolegal.org.za/membership-list.php>
 To book your space, go to <https://medicolegal.org.za/regionalseminar.php?id=19>
 The Gauteng Branch look forward to hosting you and joining us in constantly improving our medico-legal knowledge.

The South African Medico-Legal Association
 SAMLA Gauteng invites you to participate in medico-legal case discussions

TUESDAY 22ND MARCH @ 7PM

JOIN US AS WE DISCUSS A MEDICAL ETHICAL DILEMMA

APPROVED FOR 1 ETHICS CEU

Medical negligence / malpractice case discussions
 Multi-disciplinary input (medical, allied medical and legal)
 Members R80, non members R120
 Register via SAMLA website

CP Conference 7 of May 2022

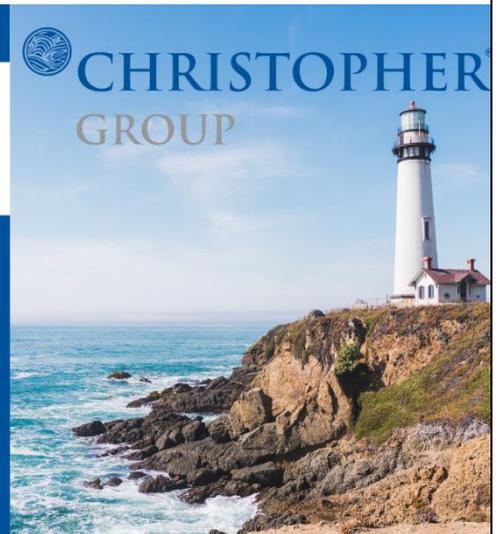
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Various speakers will be presenting on the day. More detail on the SAMLA website & Facebook site

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AUGUST 2022



Medico legal reporting and the leading of expert evidence in legal actions is a specialised area of practice.

Leigh de Souza and Danie Weideman collectively enjoy over 50 years in the personal injury field of law. While Leigh's focus has historically been on plaintiff work, Danie's focus has been on defendant representation. The synergy between the two of them makes for a supremely insightful webinar. Join them as they discuss in detail what they look for in a strong, solid medico legal report. They also navigate the court system with frank discussion of court protocols and the leading of expert evidence, from examination in chief through to re-examination and questions from the court.

SAMA Registered-

6 CPD / CEU Points approved.
Cost will be communicated soon.
Full programme available on request.

This course is aimed at medico legal experts rather than legal experts. It covers inter alia the following:

- What is a delict and what are the essential elements necessary to prove a delictual action;
- What makes a solid medico legal report and what do attorneys look for in a good report;
- Expert v factual evidence;
- Report writing in the context of claimable delictual damages;
- Formulation and completion of joint minutes and the requirements of the court;
- Court protocols and the leading of evidence in court from examination in chief through to questions from the court;
- The risks for expert and attorney of under-settlement;
- Curatorship;
- Various ethical considerations including attempted undue influence by attorneys.

UPCOMING TRAINING EVENTS

MONTH	COURSE / CONFERENCE	SPEAKERS	PROVINCES INVOLVED
26 April	Free event – Feedback on SALRC report	SAMLA's appointed directors led by ADV Johanni Barnardt	
May	Fireside Talk	Details to be confirmed	Gauteng
June	Youth Event	Details to be confirmed	Western Cape
June	Secondary Brain Injury	Dr M Huth	Gauteng
July	Fireside Talk	Details to be confirmed	Gauteng (or other)
September	Mediation half-day workshop	Details to be confirmed	Western Cape KZN Eastern Cape
October	Euthanasia, End-of-life and Medical Ethics	Details to be confirmed	Eastern Cape
October	Fireside Talk	Details to be confirmed	Gauteng (or other)
November	Informed Consent	Prof Lerm and Desiree Davids	Eastern Cape



Watch this space! Information regarding the planned in the second semester of 2023 SAMLA's FIRST INTERNATIONAL CONFERENCE "Malpractice Hurt" More information will follow in the coming months



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