

Summary of Health Issues in South Africa

Period 15/01/2016 – 21/01/2016

The rise of Medical Negligence Litigation has come under the spotlight as it now of concern that many doctors who previously, under different circumstances, would have progressed to specialise in different fields, are not going to do so because of the rise if medical negligence claims which lead to high insurance claims.

This is far from the truth, in fact it is that more medical negligence litigating is a direct result of more medical negligence litigation. What is also being noticed and criticised, is that the so-called reasonable doctor, is merely attempting to perform his functions to his best aptitude, however, invariably things can, and do go wrong. The result of this lead to such mentioned law suits instead of accepting that such irregularities can happen.

Of interest it seems that a vast number of medical negligence claims arise from pre-operative preparation and from post-surgery neglect. So, in essence the surgery itself does not appear to give rise to most cases, and this prep and post-operative surgery instances could very well be avoided.

A wide variety of negligence can be cited, from the wrong limb being amputated, incorrect administration of medication. These things not being accidental and should be classified as criminal negligence. The perception that lawyers grab any minor, overplayed negligence, is far from the truth. The onus on a medical negligence practitioner is that of a high risk nature.

The claims taking sometimes more than four years to settle, and most medical negligence carry the hefty financial burden of such, often facing an appeal upon success. This litigation needs expert medical doctors from the onset, Doctors notoriously do not want to give evidence another in his profession. Legally an advocate must be persuaded to lay his reputation on the line to drive such case. South African law, instead of speedy resolutions and preventing the same thing from happening again, chose to become aggressive, dismissive and defensive. There is even talk that such

lawyers do this type of thing to prolong the claim. Such thought is nonsense. The sooner the attorney settles the claim, the sooner all parties receive their settlement.

The lesson to be learnt from the doctors, is having a hard look at themselves instead of trying to blame everyone else.

Of interest is Health Minister Aaron Motsoaledi's idea of "universal healthcare", him, interpreting the Constitutional right to healthcare in this country that this would be construed to suggest such to be the suppression of private care.

The second issue I think to be of interest to the public, is the attitude of the Law Society of the Northern Provinces, to the planned introduction of the Road Accident Benefit Scheme (RABS). Such Law Society is very much opposed to the introduction of this legislation. They opinion that such would rob Road Accident victims of benefits they should be entitled to. In opposition to this, the Road Accident Fund says the Law Society is raising this fight in order for its members (the attorneys) to benefit.

Briefly RABS, wants to introduce a "no fault" system, meaning that any victim of a road accident will benefit regardless of fault. This new legislation will do away with General Damages and lump sum payments. Replacing this would be monthly payments, which would cease when the injured party is well again and returned to his pre accident state. The process involved is to send the Draft Bill to the National Economic Development and Labour Council for consideration. Then going to the Cabinet for approval to take it to Parliament.

The Law Society has reacted by launching a website called "Truth about RABS" in an attempt to educate the man on the street about the truth of RABS. The public can now vote in favour or against such suggested legislation. The public has warned that lawyers may no longer be hired, doing away with the 25% that lawyers can be paid under the current Act According to the Road Accident Fund. It would appear as if this opposition is merely based on those who currently are receiving direct substantial financial interest. The Road Accident Fund says it is no longer viable nor financially sustainable to keep the current system in place.

Other issues appear, some of them of an international basis. I am trying to look what is of interest to the South African Public.

The falling rand is definitely going to give rise to price increases in medication. The rand has already depreciated against the dollar by 31% in the past year.

Very topical is the Competition Commission inquiry into South African's private health care, perceived as the rationale to enable prices to be regulated and in such a manner force the proposed NHI (National Health Insurance). Criticism has been launched against the Health Minister saying he is creating a public "narrative" of unaffordable private health care, when compared to other countries, South African Health care was not considered extremely expensive. South Africa has a high medical tourism industry, confirming such. The Health Minister said this could not be a comparison, as foreigners were earning currencies far stronger than the rand.

The NHI White Paper was released late last year setting out the various plans to the private and public health systems in South Africa, with the goal of making affordable quality healthcare for all South Africans. The White Paper appears to indicate that the NHI will contract healthcare services from the private sector where the government lacks the necessary equipment and staff, leaving medical schemes to cease to exist. By 2015, such mentioned schemes would be only allowed to provide top up cover. Some opinion that should such be implemented, the quality of private healthcare will noticeably decrease due to the fact that it is funded by medical scheme payments. The vast majority of the population, that being in the region of 52-54 million versus the estimated 8 million, being the middle class, already battling to afford medical schemes in addition to NHI contributions, should be noted as those that have no choice in the matter.

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EDITIONS:

TUESDAY, 19TH JANUARY 2016,

WEDNESDAY, 20TH JANUARY 2016,

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