APRAV SOLUTIONS GROUP 1 -

SUBSTREAM 5

MEDICO-LEGAL EVALUATION & REPORTING

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ORTHOPAEDIC SURGEON
PRETORIA

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INDEX

EXECUTIVE SUMMARY

ITEM	*PROBLEM*	*SUGGESTED SOLUTION*
RAF Form 1	1. Poorly constructed document 2. Value of ICD 10 codes, questionable 3. RAF 1 often poorly completed / unreadable entries	Revise document, consider previous RAF / MMF 1 Form.
Medico-Legal reports	1. Experienced experts are required 2. No formal training by medical schools 3. Some experts are “biased”	SA Medico-Legal Association already has courses in place, which are recommended. Successful completion of a SA Medico-Legal course will lead to medico-legal expert being taken up in the SAMLA register.
“one expert” policy	1. United Kingdom, one expert policy 2. South Africa, confrontational system, experts from defendant as well as plaintiff	1. If only one expert is used, both plaintiff as well as defendant should agree to a specific expert. 2. Both parties should retain the right to distance themselves from a joint expert and appoint an opposing expert, if necessary.
RAF 4	1. CIME qualification needs to be renewed every five years. It is to be noted that this qualification is not necessary in order to complete an RAF 4. 2. Only General Practitioners or Medical Specialists are allowed to complete RAF 4 3. RAF Annexures only reflect orthopaedic injuries 4. RAF 4 sequence is not logical 5. Paragraph 5.4, “loss of foetus”, questionable	1. RAF 4 needs to be revised, a more user friendly type of document is needed. 2. It is to be emphasised that the nexus between accident as well as physical injury / loss of brain function needs to be established by a medical practitioner.

		However, further experts to support physical injury / loss of brain function, for example Occupational Therapist / Industrial Psychologist to support Orthopaedic Surgeon's report, Educational Psychologist, Neuro-Psychologist, Speech Therapist etc. to support recommendation from Neurosurgeon or Neurologist. 3. Substream 5 supports recommendations by Substream 6 in this regard.
Narrative test	1. Narrative test not always objectively applied and lends itself to subjective / biased opinions.	Guidelines as published in the South African Medical Journal, to be adhered to (Annexure 4)
Joint Minutes	1. Defendant's experts require instruction before Joint Minutes are entered into, time consuming. 2. Requests are received to compile Joint Minutes, not between peers, for example General Practitioner / Orthopaedic Surgeon, which is unacceptable. 3. Defendant's experts are in instances not available / not willing to enter into a discussion with plaintiff's experts.	1. Instruction should not be necessary to continue with Joint Minutes. 2. Specific format as indicated by Judge President, to be used 3. Also refer Judge Sutherland, Ntombela vs RAF. Case number 209709/2016, paragraphs 41 - 50 4. Factual evidence should form the basis of a Joint Minutes, Joint Minutes should be objective 5. Joint Minutes can only be compiled between Peers (Annexure 5) 6. If Joint Minutes are requested and an expert does not avail him / herself within a reasonable time frame, such an expert's report should be removed from the case line.

HPCSA Tribunals	1. There is a lack of consistency between Tribunals 2. It is difficult to source experienced Experts, as remuneration is poor 3. Cases are poorly presented, in instances only reports from plaintiff's experts 4. Illogical rejection by RAF of claims remain a problem	1. RAF claim handlers to better prepare cases. 2. A list of serious injuries, agreed upon by members of Tribunals, refer Annexure 6, to be compiled. 3. Substream 5 supports in this regard Substream 6, "intermediate recommendations"
Claims handlers	1. Quality of claim handlers, effectivity as well as improved communication remain a problem	1. RAF to specifically attend to claims handlers, quality of work done by claim handlers needs to improved. 2. It is recommended that a joint venture be established between South African Medico-Legal Association as well as RAF in order to develop a professional training course for RAF claims handlers.
Mediation	1. The present system of protracted legal action adds to costs and is time consuming.	Mediation to precede arbitration Mediation is a much more cost effective way of settling claims. Defendant as well as plaintiff can choose mediators, co-mediation is also possible. The pilot project run by South African Medico-Legal Association / RAF 4 needs to be supported.
Communication with RAF	1. Communication with RAF / claims handlers, of a poor standard. Access to information remains a problem.	Attorneys as well as claims handlers should have direct access to information, from both sides. The APRAV medical committee's report, 2016, is supported in this regard.

Complaints Department / Ombudsman – to report under performance of RAF	1. Problems experienced at RAF cannot be addressed / reported.	An ombudsman / ombudsman's office, which is independent, is necessary.
Direct claims	1. Late assessment of claims 2. Claims, under settled 3. Road Accident Victims have generally no knowledge of the claim process. 4. ? RAF in conflict with itself	Medico-Legal experts, for example attorneys as well as practitioners, should be accessible via an acceptable register, for example: 1. SAMLA list of Medico-Legal practitioners 2. List of Attorneys, as validated by Law Society
Conclusion	When the Regulations on 1st of August 2008 took effect it was hoped that costs would be saved, a more simplified claim process expected with an objective numerical value attached to injuries which would then lead to equitable compensation. Indications are that this system has failed, revision is required or even, alternatively, abandoned AMA Guides / Narrative test and consider reference guide as used by the Judiciary in the United Kingdom.	Compensation via a sliding scale is necessary, in this sense Substream 5 supports Substream 6, paragraph 3.2.

1. PRE-AMBLE

On request from APRAV and SAMLA, attention was directed to Medico-Legal Evaluation & Reporting with the aim of addressing improvement in this regard.

A number of volunteers came forward to assist in this regard:

Dr A Louw	– Occupational Medical Practitioner	
Clare Odongo	– Admin Support	
Louisa Breedt	– Attorney	
Mildred Shava	– Occupational Therapist	
Dr Piet Engelbrecht	– Orthopaedic Surgeon	***– Coordinator***
Rendani S Mathegu	– Occupational Therapist	
Rene Walker	– Occupational Therapist	
Ronel Brits	– Psychologist	
Rose Leshika	– Occupational Therapist	
Thandi Nape	– Occupational Therapist	
Vanessa Gaydon	– Educational & Neuro-psychologist	

In addition to the above, the following were also consulted:

1. Dr D.A (Tony) Birrell (Orthopaedic Surgeon)
2. Salome le Roux Attorneys
3. Ehlers Attorneys
4. Mr Ignatius Briel (Senior Manager, HPCSA Tribunals)

The consensus of participants is that the present system needs to be revisited and streamlined, taking into account experience gained not only after August of 2008 as well as experience already existing, pre-2008.

The intention of the Regulations that took effect 1st of August 2008 were to save costs and also to provide an equitable system of compensation for Road Accident Victims.

The consensus opinion from participants is that the new regulations did not meet it's intended outcome. The present system of whole person impairment rating to be 30% or more, alternatively Narrative test, equates to an "all or nothing" type of compensation.

Furthermore, AMA Guides lend itself towards "GUIDE GYMNASTICS" in order to achieve 30% of whole person impairment.

Participants also indicate that Regulations, which came into effect 1st of August 2008, added to costs and also made the process of compensation laborious.

It is further to be noted that the present system can be made more effective, alternatively, a new system needs to be put in place.

2. RAF Form 1 report

This report is one of the cornerstones of an RAF claim and the importance of the information gained from this document, needs to be reinforced.

The previous RAF 1 Form / MMF 1 Form, indicated by the participants to have been more comprehensive, more usable information, a much more structured type of document.

The ICD 10 codes requested by the present RAF 1 Form, not supported by description of the Victim's actual injuries, only ICD 10 codes are requested. Invariably, ICD 10 codes are either not documented or very poorly documented. Non-specific codes are frequently reflected. Furthermore, when the Road Accident Victim is evaluated by experts, later in the progress, in ICD 10 codes need to be "looked up", which translates into inefficient time management.

It has to be accepted that the RAF 1 in most instances are completed by a medical practitioner with no personal knowledge of patient, based on available documentation. RAF 1 in most instances completed by either medical practitioner at a state / provincial hospital or clinic, doctors employed by trauma units or general practitioners.

Participants indicate that the present RAF 1 is poorly completed and also, unfortunately, in quite a number of instances, either unclear entries or unreadable entries.

The RAF 1 at present does not document any psychological impact of accident.

The purpose of the RAF 1 Form, not only is to support the Road Accident Victim's case being registered but also to guide the process, going forward.

Participants indicate that the previous RAF Form 1 medical report paragraph 4 "Parts of body injured and degree of injuries", were of specific importance, as reflected below.

	Head	*Chest*	*Neck*	*Abdomen*	*Back*	*Upper limbs*	*Lower limbs*	*Pelvis*
Minor……..	☐	☐	☐	☐	☐	☐	☐	☐
Fairly severe……..	☐	☐	☐	☐	☐	☐	☐	☐
Severe ……..	☐	☐	☐	☐	☐	☐	☐	☐

Present RAF 1 will be attached, "Annexure 1" as well as the previous Form 1, "Annexure 2".

3. Medico-legal reports

There is a need for experienced experts, participants indicate that experts who enter the arena of medico-legal reporting, initially are inexperienced, have no training in this regard. Also, report by General Practitioner as well as Specialist carries the same remuneration, which participants indicate should be addressed.

Participants mention poor quality of reports. In instances, reports are exaggerated, biased with over-reporting lead to financial consequences down the line, with the RAF having to "over compensate".

Although the format of a Medico-Legal report should remain the prerogative of the expert who compiles such a report, the basic information required in a report should be standardised.

Participants indicate that poor reports or biased reports should be "red flagged" at RAF.

There is a need for a course, to be presented by an independent body (for example SA Medico-Legal Association), which would then lead to accreditation of healthcare practitioners who wish to take up Medico-Legal reporting.

It is further to be stressed that, if a practitioner were to compile a report, this is not to be seen as a "once off" action. Experts should realise that they will probably be asked to do updated / addendum Reports, Joint Minutes, be prepared to appear in Court.

4. "one expert" policy

It is noted that in the United Kingdom a "one expert" policy is in place.

Different opinions from participants:

1. One expert to be used only if plaintiff (victim) and RAF (defendant) both agree to a specific expert.

   If agreement is not reached, either the defendant or plaintiff should have the option of requesting a further Medico-Legal report (second opinion).

   Participants feel that we have always had a confrontational system which works, improves on quality and objectiveness of reports.

2. Continue with the present system of defendant's as well as plaintiff's experts.

It would be very difficult, if not impossible, for RAF to compile a list of experts who are acceptable to RAF. Probably the only proviso is for such an expert to be suitably qualified, is to be registered at the HPCSA.

5. RAF 4

The RAF 4 adds cost to a Medico-Legal report. Participants indicate that the CIME qualification, as supported by American Board of Independent Medical Examiners, has to be renewed every five years, which adds to costs. Also, participants indicate that, on occasion, when confirmation of a CIME qualification was sought from ABIME, apparently this was unsuccessful.

Only medical practitioners, General Practitioners or Specialists are allowed to complete RAF 4. It is felt that Neuro-Psychologists should also be allowed to complete RAF 4. Neuro-Psychologist is obviously qualified to indicate whole person impairment rating due to psychological sequelae of accident.

Some difference in opinion regarding multiple RAF 4 reports. On the one hand, it is felt that each expert should complete an RAF 4, for example Orthopaedic Surgeon, Neurosurgeon, Plastic Surgeon, etc. The reason for this is that in each instance the expert personally examined the patient and is in a position to express an opinion regarding Whole Person Impairment / Narrative test.

The second opinion is that experts only complete a Medico-Legal report. Based on these reports, at the end of the process, a medical practitioner (usually a General Practitioner) would then collate all the information and come to a conclusion regarding Narrative test / Whole Person Impairment. It is however to be kept in mind that such a practitioner would generally not have examined the patient and can only base completion of RAF 4 on documentation as provided by other experts.

The present RAF 4 Annexures reflect orthopaedic injuries. Participants indicate that Annexures should cover not only orthopaedic injuries but also non-orthopaedic injuries, for example, head injuries, psychological sequelae of accident, scarring, etc.

It is further to be noted that participants indicate that the present RAF 4 Form does not follow the logical sequence of a Medico-Legal report. In the Annexures, the same demographic information needs to be repeated on each page, which is time consuming.

“Loss of foetus”, paragraph 5.4 of Narrative test should be removed, as sequelae of loss of foetus, if serious, are covered by paragraphs 5.1 and 5.3.

Preferably, the position of the Annexures, Whole Person Impairment ratings, and item 5 (Serious Injury: The Narrative Test) should be in a position which can easily be find, for example, at the end of the RAF 4 form.

A copy of the RAF 4 will be attached as “Annexure 3”.

6. Narrative test

Specific guidelines in this regard has been published in the South African Medical Journal, which will be attached as “Annexure 4”.

The Narrative test in instances are not applied objectively by experts and in effect negates the initial intention of usage of the AMA Guides to come to an objective numerical value, reflecting patient’s injuries and sequelae thereof.

7. Joint Minutes

In the first instance, participants are all in agreement that Joint Minutes can only be done between peers. For example, between Orthopaedic Surgeons, between Neurosurgeons, Neuro-Psychologists, etc.

This process is hampered by the fact that experts from RAF / defendant invariably indicate that instruction from RAF / Attorney is needed before Joint Minutes can proceed. It is of the greatest importance that Joint Minutes should be compiled the moment request in this regard is received. Experts should not have to seek instruction in this regard.

A specific format has to be used, as indicated by the Judge President:

“7.4.1.4. A set of the expert reports, as contemplated in Uniform Rule36 (9)(b) which reports conform to the following:

7.4.1.4.1 Expert reports must be drafted in a format designed for lucidity, brevity, and convenient cross referencing, and to this end, must be in numbered paragraphs, and when referring to other expert reports, refer to the numbered paragraphs therein.

7.4.1.4.2 Where more than one expert has given a report on a given aspect, joint minutes of experts must identify exactly what is agreed and what is not agreed, with reasons stated why agreement cannot be achieved, especially as to whether the disagreement relates to a fact clinically observed or an interpretation of the facts.

7.4.1.4.3 The attorney responsible for the procurement of the reports shall be responsible for compliance in this regard, and failure to adhere hereto may imperil certification”.

The above also traces back to initial Medico-Legal report. It is to be noted that some General Practitioners indicate, on the first page of their report, “Orthopaedic Report”. Mention of the practitioner’s qualifications, only at the end of the report, which is confusing to Attorneys / Judges. It needs to be clearly stated, right at the beginning of a report, whether evaluator is a General Practitioner, a Specialist, Occupational Therapist, Neuro-Psychologist, Industrial Psychologist, Clinical Psychologist, etc.

South African Orthopaedic Association obtained a legal opinion regarding Joint Minutes, only to be compiled between peers.

This will be attached as “Annexure 5”.

8. HPCSA Tribunals

Participants feel that quality varies between Tribunals, there is not enough consistency. On the other hand, HPCSA are presented with poorly presented cases, in instances only reports available to Tribunal provided by plaintiff’s attorneys. When this happens, Tribunal has to take a decision based only on plaintiff’s expert’s findings. In fact, the Tribunal then has to do the work which should have been done by RAF / RAF Attorneys.

It is difficult to attract qualified / experienced experts to serve on Tribunals as remuneration is poor. For example, to evaluate 30 – 40 cases attracts remuneration for the whole process, less than the cost of one Medico-Legal report.

Participants indicate that claim handlers should better prepare cases, before presenting cases to HPCSA Tribunal.

RAF rejects RAF 4/5, without providing proper reasons for rejection. Illogical RAF 5 rejections are a problem.

Late assessment of claims by RAF contributes to costs and also to “incomplete” cases presented to HPCSA tribunal.

Already in 2014, when writer was member of the EXCO of the South African Orthopaedic Association a project was completed in order to simplify a list of serious injuries, driven by PWC, appointed by RAF. This list was not implemented by RAF. This list will probably need revision.

A copy of this document will be included, “Annexure 6”.

9. Claim handlers

Participants indicate that communication with claim handlers are to a large extent ineffective. Also, unprofessional conduct from claim handlers were mentioned, for example, consuming beverages while interacting with the public, personal calls on mobile phones, etc. It is felt that claims handlers should have access to data by internet, direct communication with attorneys as well as access to "case lines".

Emails are in instances not answered or even returned "not read". Participants however indicate that there are exceptions to the rule and some of the claims handlers seem to be effective and knowledgeable.

10. Mediation

A pilot project by SA Medico-Legal Association is in process, mediation will hopefully save on costs. Mediation is hoped to expedite finalisation of claims. However, the appointment of an arbitrator is of importance as this person should be acceptable both to plaintiff and defendant, a medically qualified arbitrator will for example be used regarding seriousness of injuries and a legal person regarding the non-medical issues of a case.

11. Communication with RAF

Participants indicate that communication with RAF is of a poor standard. This leads to an increase in costs, as claims are not settled within a logical time frame. Attorneys indicate that communication with claims handlers should be direct with access to information from both sides.

Participants indicate that internet will be of great value in this regard, for instance, usage of a "drop box" with reports / administrative information readily available in this manner.

12. Ombudsman

Participants indicate that nowhere they are able to address problems experienced at RAF. Obviously, RAF also cannot report problems, experienced from plaintiff's side. An Ombudsman's office should be established, this should NOT be a political appointment but a person and staff with knowledge of the system.

The amount of work done by an Ombudsman will indicate to Parliamentary Committee, in an objective way, the effectiveness of RAF.

13. Direct Claims

Claims handled by RAF itself, in instances prescribe or are under settled, according to the participants. Road Accident Victims have generally no knowledge of the system and it is to be questioned whether the RAF ("insurer") should also complete the process of settlement of a claim.

A solution would be for RAF, when approached directly by a claimant, to provide claimant with a list of attorneys as obtained from the Law Society; RAF not to favour specific attorneys which might well lead to corrupt behaviour. It is felt by participants that RAF will in first instance protect its own interests with settlement of a claim taking second place, when processing a "direct claim". The RAF is seen as to be in conflict with itself.

Late assessment of claims remains a problem.

14. Conclusion

In conclusion, participants are of the opinion that the process of Medico-Legal evaluation and reporting can be much improved by specific attention directed to the items, as mentioned.

If the Regulations, which took effect 1st of August 2008, were to continue, the process of settling a claim needs to be improved.

A second scenario would be to question the usage of AMA Guides, whole person impairment, RAF 4 as well as RAF 5. Although the intention was to save on costs, it would seem that the new Regulations as well as usage of AMA Guides have not had the desired effect. Settlement of claims, as it is now is, "all or nothing". Settlement of a claim is a lengthy process.

An alternative would be to explore the reference book as used by the Judiciary in the United Kingdom, where compensation is awarded over a spectrum.

An example would be a femur fracture, which heals well without any major sequelae, attracting very little compensation with, on the other end of the spectrum, femur fracture which resulted in an amputation will lead to settlement of a much larger claim.

Monetary value attached to this system can be adapted to the South African situation and based on previous court cases.

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Annexures attached 1-2-3-4-5-6

THIRD PARTY CLAIM FORM

Road Accident Fund

RAF 1

Annexure 1

1 PERSONAL DETAILS OF CLAIMANT:

Title

Surname

Name

Date of birth

YYYY/MM/DD

ID number / Passport number

Note: A certified legible copy of your identity document must be attached to this claim form

Residential address

Postal address

Home telephone number

Work telephone number

Cellular number

Email

How would you like us to contact you?

E-mail ☐ SMS ☐ Post ☐

Tel (H) ☐ Tel (W) ☐ Cell ☐

2 DETAILS OF PERSON CLAIMING IN REPRESENTATIVE CAPACITY:

Are you claiming compensation on behalf of someone else?

☐ YES ☐ NO

If you answered YES kindly furnish the following information

Your name & surname: address

Your ID / passport number:

In what capacity are you acting

3 BANK ACCOUNT DETAILS OF CLAIMANT:

If your claim is successful the RAF will pay you directly. Please provide bank account details for payment of compensation due to you.

Bank (Name)

Account number:

Branch number

Name of account holder

4 BANK ACCOUNT DETAILS OF THE CLAIMANT'S LEGAL REPRESENTATIVE:

If costs become due, please provide details of the account into which you want the costs to be paid.

Account number

Bank name

Branch code

Name of account holder

Kindly attach one of the following documents to the claim form to enable the RAF to verify the banking details: a cancelled cheque or a certified legible copy/original statement of account which clearly indicates the account holder's name, account and branch number, or an original letter from the bank (on an official letterhead) which confirms the account holder's name, account and branch number.

5 MOTOR VEHICLE ACCIDENT DETAILS:

Date of accident

YYYY/MM/DD

Time of accident

HH/MM

Place of accident (street number and name, suburb, town, province)

Address of SAPS station where the accident was reported

Accident report number

In the accident were you (or the injured / deceased)

Driver ☐ → complete paragraph 7

Motorcyclist ☐ → complete paragraph 7

Motorcycle passenger ☐ → complete paragraph 6

Passenger ☐ → complete paragraph 6

Cyclist ☐ → complete paragraph 6

Pedestrian ☐ → complete paragraph 6

In an affidavit, to be attached to this claim form, please describe how the accident occurred

6 PASSENGERS, PEDESTRIANS & CYCLISTS:

What is the registration number of the vehicle on or in which you / injured / deceased was a passenger?

What is the driver's name and surname?

If you were a cyclist or a pedestrian, what is the registration number(s) of the other vechicle(s) involved in the accident?

Driver's physical address:

Driver's contact number:

What is the driver's name and surname?

7 DRIVER / MOTOR CYCLIST:

What is the registration number of the motor vehicle / motorcycle driven by you (or the injured / deceased)?

If you (or the injured / deceased) are not the owner of the motor vehicle / motorcycle kindly furnish the following information in respect of the owner -

Name and surname

Telephone number:

Cell number:

Physical address:

8 DETAILS OF OTHER VEHICLES IN THE ACCIDENT:

Please provide details of any other vehicles involved in this accident. (Pedestrians and cyclists, must also answer this question by providing details of the vehicles involved.)

Registration number:

Driver's contact number:

Was this a "hit-and-run" accident?

☐ Yes ☐ No

Registration number:

Driver's contact number:

9 PARTICULARS OF DECEASED (IF APPLICABLE):

Name

Surname

ID number

Date of birth

YYYY/MM/DD

Date of death

What is your relationship to the deceased?

Kindly attach a copy of the death certificate, inquest report or charge sheet

10 SAFETY MEASURES:

Kindly indicate whether you (or the injured) were wearing a seatbelt at the time of the accident?

Yes ☐ No ☐

OR

Kindly indicate whether you (or the injured) were wearing a helmet at the time of the accident?

Yes ☐ No ☐

11 DETAILS OF WORKMAN'S COMPENSATION:

The Compensation for Occupational Injuries and Diseases Act gives workers the right to claim compensation if they are injured during work.

Did the motor vehicle accident give rise to a claim(s) under the Compensation for Occupational Injuries and Diseases Act

Yes ☐ No ☐

If you answered YES kindly furnish the following information. Did you lodge a claim with the Compensation Fund.

Yes ☐ No ☐

If YES furnish the Compensation Fund's reference number

State the amount of compensation received to date

Indicate whether the compensation received represents the final award

Yes ☐ No ☐

12 WITNESSES:

Were there any witness(es) to the accident?

Yes ☐ No ☐

If you answered YES kindly furnish the following information in respect of such witness(es):

Name and Surname

Address

Telephone no

Cell no

Name and Surname

Address

Telephone no

Cell no

(Should this claim form not provide enough space to list all the witnesses kindly list the remaining witnesses and their details on a separate page to be attached to this claim form)

13 EMPLOYMENT STATUS:

What was the injured's / deceased's employment status at the time of the accident?

Employed ☐

Self employed ☐

Unemployed ☐

14 EMPLOYED DETAILS:

Was the claimant or / the injured required to take time off work due to injuries sustained in the accident

Yes ☐ No ☐

If you answered YES, please furnish the the following details

Dates not at work

YYYY/MM/DD YYYY/MM/DD

Number of work days the injured was not at work

Did the injured receive payment from the employer while not at work

Yes ☐ No ☐

If you answered YES, please indicate the amount received

If you answered YES to the previous question, what was the nature of the payment received from the employer

☐ sick leave ☐ gratuitous ☐ or other

If you answered OTHER, please indicate the nature of the payment

15 EMPLOYER'S DETAILS:

Please provide the following details regarding the injured's / deceased's employment.

Name of employer

Postal address

Telephone number

Contact person

Employee number

Kindly indicate the basis of employment

☐ Permanent ☐ Temporary

☐ Casual ☐ Contract

If the employment is (or was) on a temporary/ casual or contractual basis please indicate:

Date of commencement YYYY/MM/DD

Date of expiry YYYY/MM/DD

16 PROOF OF INCOME:

To assist the RAF with the processing of the claim, for past and / or future loss of income, please indicate the documents you can provide to confirm the injured's / deceased's earnings.

☐ Payslips

☐ Most recent tax return

☐ Printout of payments from employer

☐ PayslipsBank Statements

☐ Other. Please specify:

☐ Printout of payments from employer

(Kindly attach copies of the documents identified by you to this claim form).

Tax reference Number

17 SELF EMPLOYED CLAIMANTS:

If the injured / deceased was self employed please complete the following details:

Business name

Nature of business

Business address

Identify the applicable legal entity in respect of the injured / deceased business-

☐ sole trader ☐ partnership ☐ trust ☐ close corporation ☐ company

☐ other - specify

If applicable, kindly furnish the Company / Close Corporation / Trust registration number of the business

Has the injured / deceased / business lodged tax returns during last 3 financial years

☐ Yes ☐ No

If you answered YES, please attach copies of those tax returns to this claim form

If you answered NO, please attach income and expenditure statements / bank statements for the business, for the past 3 years or for such shorter period that the injured / deceased has been in business.

18 CLAIMS FOR LOSS OF SUPPORT:

Please furnish the requested details of all the persons who, at the time of death, were dependent on the deceased for support

Dependant 1

Name	
Date of birth	YYYY/MM/DD
ID number	
Relationship	
Reason for dependence	

Dependant 2

Name	
Date of birth	YYYY/MM/DD
ID number	
Relationship	
Reason for dependence	

Dependant 3

Name	
Date of birth	YYYY/MM/DD
ID number	
Relationship	
Reason for dependence	

Dependant 4

Name	
Date of birth	YYYY/MM/DD
ID number	
Relationship	
Reason for dependence	

Dependant 5

Name	
Date of birth	YYYY/MM/DD
ID number	
Relationship	
Reason for dependence	

Note: As proof of the relationship between the deceased and the particular dependent please attach certified copies of the relevant documentation, i.e. marriage certificate, unabridged birth certificate, adoption court order, etc.

(Should this claim form not provide enough space to list all the dependants kindly list the remaining dependants on a separate page to be attached to this claim form)

19 COMPENSATION CLAIMED:

Kindly indicate with an "X", in the space provided, the type(s) of compensation claimed as well as the exact amount claimed in respect of each type

Type(s) of Compensation Claimed		
☐ Emergency medical treatment	R	
☐ Non-emergency medical treatment	R	
☐ Future medical expenses	R	
☐ Past loss of income	R	
☐ Future loss of income	R	
☐ Past loss of support	R	
☐ Future loss of support	R	
☐ Funeral expenses (attach specified invoices)		
☐ Non- pecuniary loss (general damages)*		
Total Amount claimed	R	

* If this claim includes a claim for non-pecuniary loss (general damages) please furnish the RAF with a serious injury assessment report as prescribed in the regulations.

20 SUBSTANTIAL COMPLIANCE:

Please complete the following information to validate your claim for substantial compliance with Section 24 of the RAF Act.

1. The identity (of the injured.) - (paragraph 1).
2. The date and place of accident (paragraph 5)
3. Identify the insured motor vehicles (paragraph 6 / 7 and 8).
4. A completed statutory medical report (paragraph 22);
5. Amount claimed as compensation (paragraph 19);
6. Attach accounts, vouchers, invoices etc. to support your claim for medical expenses;
7. Complete this form as prescribed in Section 24 of the RAF Act.
8. In the event that loss of support or funeral expenses are claimed provide documentary proof of the death of the deceased; and
9. Should the space provided in this claim form be insufficient to answer any question you are welcome to attach a further page to this claim form in which such further information can be provided to the RAF.
10. Should you require any assistance with the completion of this claim form please feel free to contact the RAF on ShareCall number 0860 2355 23.

21 DECLARATION AND CONSENT:

The Consent granted to the Road Accident Fund (RAF) in this paragraph authorises the RAF to obtain copies of any records and to access any information which relates to this claim for compensation and to contact any person or entity for purposes of obtaining or verifying such information and /or documentation.

I, _____ (name and surname of claimant), declare that, to the best of my knowledge, the information provided in this Third Party Claim Form is true and correct in every respect; and

I confirm that I am claiming compensation:

in my personal capacity as a result of injuries I sustained in the accident; alternatively

in my personal and / or representative capacity as _____

(state capacity) on behalf of _____ (name and surname of injured) who sustained injuries in the accident; alternatively

in my personal and / or representative capacity as _____ (state capacity)

of _____ (state name of the deceased) who died as a result of the injuries sustained in the accident.

(Indicate, and if applicable complete, the applicable statement above)

I hereby consent to the release, to the Road Accident Fund, of copies of all documentation and /or information, including, but not limited to, documentation and /or information of a medical or financial nature, in the possession of any person or entity, which documentation or information, in any way, relates to this claim for compensation arising from the motor vehicle accident detailed in the claim form

I further consent to, and authorise, the Road Accident Fund to contact any person or entity for purposes of obtaining or verifying such information and /or documentation.

Signature of the Claimant	Signature of the Witness

22 MEDICAL REPORT:

Section 24(2)(a) provides that this report shall be completed by the medical practitioner who treated the injured or deceased person for the bodily injuries sustained by him/her in the accident from which this claim arises

1. DETAILS OF PATIENT

Name

Surname

ID number

Date of birth

YYYY/MM/DD

2. PAST EMERGENCY MEDICAL TREATMENT

Note that, in terms of the regulations, emergency medical treatment is defined as "…the immediate, appropriate and justifiable medical evaluation, treatment and care required in an emergency situation in order to preserve the person's life or bodily functions, or both"

Did the patient receive emergency medical treatment, as defined

☐ Yes ☐ No

If you answered YES, please furnish the following information in respect of such treatment –

What was the nature of the treatment?

☐ Emergency transport

☐ Hospital care

☐ ICU

☐ Other, if other please indicate nature of the treatment

ICD 10 Code	Treatment plan

Kindly furnish the ICD 10 codes applicable to the emergency medical treatment provided to the patient and motivate why the treatment is viewed as emergency medical treatment. Should the space provided in this claim form be insufficient to answer any question attach a further page(es) to this claim form in which such further information can be provided to the RAF.

MEDICAL REPORT:

3. PAST NON-EMERGENCY MEDICAL TREATMENT

Note that all medical evaluations and treatment that fall outside the prescribed definition of emergency medical treatment, is non-emergency medical treatment.

Did the patient receive non-emergency medical treatment?

☐ Yes ☐ No

If you answered YES, please furnish the following information in respect of such treatment.
In the schedule below, kindly identify the specific ICD 10 code(s) applicable and describe the treatment administered

ICD 10 Code	Treatment plan

4. PRE-EXISTING MEDICAL CONDITIONS

Did the patient suffer from any pre-existing condition(s) (injury, illness, sickness, disease, or other physical, medical, mental or nervous condition, disorder or ailment).

☐ Yes ☐ No

If you answered YES, please identify the pre-existing condition(s), furnish the applicable ICD 10 code(s) (if such a code exists) and describe the impact of the injury(ies) sustained in the accident on such pre-existing condition(s)

Pre-existing condition	ICD 10 Code	Impact of accident

MEDICAL REPORT:

5. FUTURE MEDICAL TREATMENT

Is the patient currently receiving ongoing medical treatment for the injury(ies) sustained in the accident, or is it foreseen that the patient would require future medical treatment for such injury(ies)

☐ Yes ☐ No

If you answered YES, please furnish the name(s) and contact number(s) of the service provider(s) who will be rendering treatment, future treatment.

6. MEDICAL TREATMENT IN MEDICAL FACILITY/HOSPITAL

Was the patient admitted to a medical facility / hospital as a result of the injury(ies) sustained in the accident, or did he patient receive treatment at a medical facility / hospital for such injury(ies)

☐ Yes ☐ No

If you answered YES, please furnish the name(s) and contact number(s) of the hospital / facility, and if admitted, the date admitted and date discharged

Name of Hospital / Facility	Contact number	Date admitted	Date discharged
		YYYY/MM/DD	YYYY/MM/DD
		YYYY/MM/DD	YYYY/MM/DD
		YYYY/MM/DD	YYYY/MM/DD
		YYYY/MM/DD	YYYY/MM/DD

7. MEDICAL PRACTITIONERS DETAILS

Name

Surname

Qualifications

Practice Number (HPCSA and/or BHF)

Telephone number

Facsimile number

Cell number

Postal address

Physical address

DECLARATION:

DECLARATION

I hereby declare that to the best of my knowledge and belief the information set out in this medical report is true and correct in every respect.

Signature of medical practitioner	
	OFFICIAL STAMP
Signed at	
Date	YYYY/MM/DD

Annexure 2

FORM 1

CLAIM FOR COMPENSATION AND MEDICAL REPORT

(SECTIONS 17(1)(A) AND 24(1)(A) OF ACT NO. 56 OF 1996 AND REGULATION 3(1) OF THE REGULATIONS UNDER THE ACT.)

NOTES:

(i) A separate form must be completed and lodged with regard to each injured or deceased person in respect of whose bodily injury or death compensation is claimed.

(ii) In order for the Fund to be able to deal with this claim expeditiously it is essential that all the required supporting vouchers and statements should accompany this form and in the case of item 8 of this form it is desirable also to-

(a) attach all medico-legal reports in the possession of the claimant; and

(b) indicate, with regard to a claim for future loss of earnings, on a separate statement how such loss is calculated.

(iii) Written authority for inspection by or on behalf of the Fund of all records regarding the injured or deceased person which may be in the possession of any hospital or medical practitioner must accompany this form.

(iv) Items 1 to 5 of this form must be completed before this form is submitted to the medical practitioner for completion of the medical report.

(v) Where blocks are provided for the purpose of replying to a question, place a cross in the appropriate block.

---

1. **CLAIMANT:**

(a) (i) Full name and residential address of claimant. . . . . .

. . . . . .

(ii) Citizenship . . . . . (iii) Identity/Passport No. . . . . .

(iv) Telephone No: Home . . . . . Work . . . . . .

(b) If the claimant is claiming in a representative capacity on behalf of another person, state-

(i) Capacity in which claimant is acting. . . . . .

(ii) Full name and address of the person on whose behalf compensation is being claimed. . . . . .

. . . . . .

. . . . . .

(iii) Identity/Passport number of such person . . . . . .

(iv) Relationship of claimant to such person. . . . . .

(Photocopies of relevant identity documents/passports and marriage and birth certificates, as the case may be, should accompany this form.)

2. **PARTICULARS OF MOTOR VEHICLE FROM THE DRIVING OF WHICH THIS CLAIM ARISES:**

(a) Registration letters and numbers . . . . . .(i) Make . . . . . .

(ii) Type of body. . . . . .

(b) Name and address of the owner at time of accident . . . . . .

. . . . . .

(c) Name and address of the driver at time of accident. . . . . .

. . . . . .

(d) If the identity of neither the owner nor the driver has been established, state-

(i) Any additional information about motor vehicle . . . . . .

(ii) What steps were taken to establish the identity of the owner of the motor vehicle . . . . . .

. . . . . .

(Attach a separate statement if necessary.)

3. **PARTICULARS OF ACCIDENT:**

(a) Date . . . . . (b) Time . . . . . (c) Place . . . . . .

(d) Police station at which reported and police reference number . . . . . .

. . . . . .

(e) Attach an affidavit (supported by a rough sketch of the scene of the accident) in which particulars of the accident are fully set out.

(f) Attach copies of all available statements (including eyewitness accounts) and documents (including police accident report and plan).

4. **PARTICULARS OF ANY OTHER MOTOR VEHICLES INVOLVED IN ACCIDENT:**

		Vehicle (i)	Vehicle (ii)
(a)	Registration letters and numbers	. . . . .	. . . . .
(b) (i)	Name of owner at time of accident.	. . . . .	. . . . .
(ii)	Address.	. . . . .	. . . . .
(iii)	Occupation	. . . . .	. . . . .
(c) (i)	Name of driver at time of accident	. . . . .	. . . . .
(ii)	Address.	. . . . .	. . . . .

(If more than two other motor vehicles were involved the particulars should be set out on a separate statement attached to this form.)

5. **PARTICULARS OF INJURED OR DECEASED PERSON:**

(a) Full name and address . . . . . .

. . . . . .

(b) Identity/Passport No. . . . . (c) Sex . . . . . (d) Date of birth. . . . . .

(e) Marital status at time of accident: never married ☐ married ☐ divorced ☐ widowed ☐

(f) If married: in community of property ☐ out of community of property ☐ customary union ☐

(g) Business or occupation . . . . . .

(h) At the time of the accident, was the person travelling in one of the motor vehicles described in either item 2 or item 4? YES ☐ NO ☐

(i) If YES, state: (i) Registration letters and numbers of motor vehicle . . . . . ; and
(ii) whether as a passenger of driver . . . . . .

(j) If the person was not travelling as a passenger or driver in one of the motor vehicles described in either item 2 or 4, (i) what was his/her mode of conveyance? . . . . . .
or (ii) was he/she a pedestrian? YES ☐ NO ☐

(k) Name and address of usual medical practitioner . . . . . .

(l) Name and address of medical practitioners who attended him/her after the accident . . . . . .
. . . . . .
. . . . . .

(m) (i) At which hospital or nursing home or other place did he/she receive treatment after the accident? . . . . . .
. . . . . .
. . . . . .
(ii) For what period as in-patient (from . . . . . to . . . . . .)
and/or out patient (from . . . . . to . . . . . .)?
(iii) Classification for hospital purposes: hospital patient ☐ private patient ☐

(n) Was he/she suffering from any physical defect or infirmity immediately prior to the accident? YES ☐ NO ☐

(o) If YES, give details . . . . . .
. . . . . .

(p) (i) Name and address of employer at date of accident (if more than one employer, state names and addresses of all) . . . . . .
. . . . . .
. . . . . .
(ii) Nature of work . . . . . .
(iii) Date of resumption of work. . . . . .

(q) Was he/she injured or killed in the course of his/her employment? YES ☐ NO ☐

(r) State his/her income for the 12 months immediately preceding the accident-

	R
(j) from employment	. . . . .
(ii) from any other source (give details)	. . . . .
Total	R. . . . .

6. **IF THE PERSON MENTIONED IN ITEM 5 WAS KILLED, THE FOLLOWING ADDITIONAL INFORMATION IS REQUIRED IN RESPECT OF SUCH PERSON:**

(a) Place where death occurred . . . . . (b) Date of death . . . . . .

(c) Is it known whether an inquest was held? YES ☐ NO ☐

(d) If known, state in what court . . . . . .
and reference number. . . . . (attach a copy of the relevant inquest record if available).

(e) Name and address of the executor of the deceased's estate . . . . . .
. . . . . .

7. **IF THE PERSON MENTIONED IN ITEM 5 WAS KILLED AND COMPENSATION IS CLAIMED BY OR ON BEHALF OF A DEPENDANT OF THAT PERSON, THE FOLLOWING INFORMATION IS REQUIRED IN RESPECT OF SUCH DEPENDANT.** (If compensation is claimed by or on behalf of more than one dependant the information required by this paragraph in respect of each dependant should be set out on a separate statement, which should be attached to this form.)

(a) Full name and address . . . . . .
. . . . . .

(b) Identity/Passport No. . . . . .

(c) Sex . . . . . (d) Date of birth . . . . . .

(e) Relationship to deceased person . . . . . .

(f) Marital status at time of accident: never married ☐ married ☐ divorced ☐ widowed ☐

(g) If married: in community of property ☐ out of community of property ☐ customary union ☐

(h) Business or occupation. . . . . .

(i) Is he/she suffering form any physical defect or infirmity? YES ☐ NO ☐

(j) If YES, give full particulars. . . . . .
. . . . . .

(k) Name and address of employer at date of accident and how long employed by such employer (if more than one employer, state names and addresses of all) . . . . . .
. . . . . .
. . . . . .

(l) State his/her income for the 12 months immediately preceding the accident-

		R
(j)	from employment	. . . . .
(ii)	from any other source (give details)	. . . . .
	Total	R. . . . .

(m) Details and amount of any inheritance or any benefits received form the estate of the deceased or accruing from any other source as a result of the death of the person referred to in item 5, other than insurance and/or pension moneys . . . . . .
. . . . . .
. . . . . .

8. **COMPENSATION CLAIMED:**

Precise details must be given in respect of the following items and must be supported by vouchers, where applicable. (If necessary, the information required by this item may be set out on a separate statement duly signed and attached to this form.) [See also Note (ii) at top of form.]

	Item	*Amount* R
(a)	Hospital expenses (provincial hospitals)	. . . . .
(b)	Hospital expenses (other hospitals).	. . . . .
(c)	Medical expenses	. . . . .
(d)	Estimated future medical expenses.	. . . . .
(e)	Loss of earnings/support from date of accident to date hereof	. . . . .
(f)	Estimated future loss of earnings/support	. . . . .
(g)	Funeral expenses.	. . . . .
(h)	General damages (pain and suffering, permanent disability, etc.)	. . . . .
	Total	R. . . . .

9. **IF THE PERSON MENTIONED IN ITEM 5 WAS KILLED OR INJURED IN THE COURSE OF HIS/HER EMPLOYMENT STATE:**

(a) Whether the claimant is entitled to compensation under the Compensation for Occupational Injuries and Diseases Act, 1993 YES☐NO☐

(b) If the claimant has already been compensated in terms of the Compensation for Occupational Injures and Diseases Act, 1993, state amount received. . . . . .
. . . . . .

I hereby declare that to the best of my knowledge and belief the information set out in this form is true and correct in every respect.

Signed at . . . . . this . . . . . day of . . . . . .

As witnesses:

1. . . . . .

2. . . . . .

. . . . . .
Signature of claimant (mentioned in item 1) or authorised legal representative. (In the latter case, proof in writing that he/she is authorised to act as legal representative of the claimant must accompany this form.)

MEDICAL REPORT

NOTES:

(i) Section 24(2)(a) provides that this report shall be completed by the medical practitioner who treated the injured or deceased person for the bodily injuries sustained by him/her in the accident from which this claim arises or by the superintendent (or his/her representative) of the hospital in which the injured or deceased person was treated for such bodily injuries.

(ii) Where blocks are provided for the purpose of replying to a question, place a cross in the appropriate block.

---

1. (a) Name of the person to whom this report relates . . . . . .

   (b) Are you satisfied that this is the person mentioned in item 5 of the claim form? YES ☐ NO ☐

2. Date when first seen after accident . . . . . .

   Did you treat him/her at any time before the accident? YES ☐ NO ☐

3. If YES, give date of last such treatment and nature of ailment . . . . . .
. . . . . .

4. Parts of body injured and degree of injuries:

	Head	*Chest*	*Neck*	*Abdomen*	*Back*	*Upper limbs*	*Lower limbs*	*Pelvis*
Minor	☐	☐	☐	☐	☐	☐	☐	☐
Fairly severe	☐	☐	☐	☐	☐	☐	☐	☐
Severe	☐	☐	☐	☐	☐	☐	☐	☐

5. (a) Give full details of the nature of the injuries and any complications (e.g. fractured ribs with haemothorax, compound fracture left tibia, disfigurement, etc.)

. . . . . .
. . . . . .
. . . . . .
. . . . . .

(b) State treatment given to date. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .
. . . . . .

6. Is permanent disability expected? YES ☐ NO ☐

If YES, give full details . . . . . .
. . . . . .

If NO, has his/her condition stabilised? . . . . . .

7. Is specialist treatment being given? YES ☐ NO ☐

If YES, give name and address of specialist . . . . . .
. . . . . .

8. (a) Is future medical treatment foreseen? YES ☐ NO ☐

(b) If YES: ☐

(i) What will the probable nature of such treatment be and in respect of which injuries. . . . . .
. . . . . .

(ii) Expected date thereof . . . . . .

(iii) Expected duration thereof . . . . . .

(iv) Estimated cost thereof R . . . . . .

(c) Is hospitalisation foreseen in connection with the future treatment referred to in (a) above? YES ☐ NO ☐

(d) If YES, state:

(i) Expected date of such hospitalisation . . . . . .

(ii) Expected duration thereof . . . . . .

9. Have the injuries aggravated any pre-existing pathological condition? YES ☐ NO ☐

10. Has any such pre-existing pathological condition aggravated the effects of trauma? YES ☐ NO ☐

11. If the answer to either item 9 or 10 above is YES, give full details. . . . . .
. . . . . .

12. Has the person been confined to a hospital/nursing home? YES ☐ NO ☐

If YES, state:

(a) Name and address of hospital/nursing home . . . . . .

(b) Hospital reference number . . . . . .

(c) Date when discharged or when discharge is expected. . . . . .

13. If in employment at date of accident, state when return to employment is expected . . . . . .

14. In the case of death; state:

(a) Date of death . . . . . .

(b) Did any pre-existing pathological condition contribute to death? YES ☐ NO ☐

(c) If YES, give full details . . . . . .
. . . . . .
. . . . . .

Name of medical practitioner . . . . . Qualifications . . . . . .

Address . . . . . .

Signature . . . . . Date . . . . . .

SERIOUS INJURY ASSESSMENT REPORT

RAF 4

Annexure 3

(a) A claim for non-pecuniary loss ("general damages" or "pain and suffering") will not be considered unless this report is duly completed and submitted.
(b) The Road Accident Fund Act (Act No. 56 of 1996) requires this report to be completed by a medical practitioner, registered in terms of the Health Professions Act (Act No. 56 of 1974).
(c) The assessment of the serious injury should be conducted in terms of the method provided in the Regulations promulgated under the Road Accident Fund Act.
(d) Submissions, medical reports and opinions may be submitted as annexures to this report.
(e) If any section of the form is not applicable, mark that section "N/A".
(f) The impairment evaluation reports for Upper Extremities, Lower Extremities and Spine and Pelvis are annexed. If the injury caused an impairment to another body part or system, attach the report specified in the AMA Guides (6th Ed).
(g) In completing this report, refer to the figures, tables and page numbers from the AMA Guides (6th Ed).

1 DETAILS OF PATIENT:

Name and surname

Date of assessment
YYYY/MM/DD

ID number

Date of accident
YYYY/MM/DD

Claim number (if available)

Contact number

2 DETAILS OF MEDICAL PRACTITIONER:

Name & Surname
DR P.R ENGELBRECHT

Telephone number
012 807 1298/9

Practice number (HPCSA and/or BHF)
MP 0234508 / 2804808

E-mail address
legal.prengelbrecht@gmail.com

3 LIST OF NON-SERIOUS INJURIES:

In terms of the Road Accident Fund Act (Act No. 56 of 1996) and Regulation 3(1)(b)(i) promulgated thereunder, the Minister may publish in the Gazette, after consultation with the Minister of Health, a list of injuries which are for purposes of section 17 of the Act not to be regarded as serious injuries and no injury shall be assessed as serious if that injury meets the description of any injury which appears on the list. Once published this part must be completed with reference to the list. A copy of the latest version of the list is available at www.raf.co.za. For more information contact the Road Accident Fund at ShareCall-number 0860 23 55 23.

Number	Description of injury

4 AMA IMPAIRMENT RATING: TO BE COMPLETED IF INJURY IS NOT ON LIST OF NON-SERIOUS INJURIES:

4.1	Describe the nature of the motor vehicle accident:
4.2	Medical treatment rendered from date of accident to present:
4.3	Current symptoms and complaints:
4.4	Diagnosis:
4.5	Conclusion regarding physical examination:
4.6	Conclusion regarding clinical studies. (Review and document actual studies and findings from relevant diagnostic studies, imaging including X-rays, CT, MRI, etc):
4.7	Medical history:
4.8	Social and personal history:

4 AMA IMPAIRMENT RATING: TO BE COMPLETED IF INJURY IS NOT ON LIST OF NON-SERIOUS INJURIES:

4.9 Educational and occupational history:
4.10 Has the patient reached MMI?
4.11 Specify details regarding apportionment, if any:
4.12 A clear, accurate, and complete report must be provided to support a rating of impairment with reference to clinical evaluation, analysis of findings and discussion of how the impairment rating was calculated.
The following impairment evaluation reports are annexed:
• Annexure A: Upper Extremities (Chapter 15)
• Annexure B: Lower Extremities (Chapter 16)
• Annexure C: Spine and Pelvis (Chapter 17)
4.13 Exceptions:

5 SERIOUS INJURY: THE NARRATIVE TEST:

If the injury is not on the list of non-serious injuries and did not result in 30 percent Whole Person Impairment, as provided in the AMA Guides, consider whether the injury resulted in any of the consequences set out below. Provide full details. If necessary support the opinion with reports attached as annexures.

5.1 Serious long-term impairment or loss of a body function.

5.2 Permanent serious disfigurement.

5.3 Severe long-term mental or severe long-term behavioural disturbance or disorder.

5.4 Loss of a foetus.

6 DECLARATION:

I declare that to the best of my knowledge and belief the information and opinions set out in this report are true and correct in every respect.

Signature of medical practitioner

OFFICIAL STAMP

Signed at Pretoria

Date YYYY/MM/DD

ANNEXURE A – UPPER EXTREMITY IMPAIRMENT EVALUATION

Name:	**Exam Date:**
ID Number: **Sex: F M** **Side: R L**	**Birth Date:**
Diagnosis:	**Injury Date:**

	Diagnosis-Based Impairments				
Grid	**Diagnosis/Criteria**	**Assigned Class**	**Grade Modifier Adjustments**	**Assigned Dx Grade**	**Final UEI**
Digit (D) **Wrist (W)** **Elbow (E)** **Shoulder (S)**		0 1 2 3 4	GMFH 0 1 2 3 4 Net GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: Quick DASH Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
D **W** **E** **S**		0 1 2 3 4	GMFH 0 1 2 3 4 Net GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: Quick DASH Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
D **W** **E** **S**		0 1 2 3 4	GMFH 0 1 2 3 4 Net GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: Quick DASH Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
	Combined UEI				

Peripheral Nerve / Entrapments					
Nerve	**Sensory and Motor Grading**	**Assigned Class**	**Grade Modifier Adjustments**	**Assigned Dx Grade**	**Combined UEI**
	Sensory Deficit 0 1 2 3 4 n/a **Motor Deficit** 0 1 2 3 4 n/a	**Sensory Deficit** 0 1 2 3 4 **Motor Deficit** 0 1 2 3 4 n/a	GMFH 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a GMFH 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a	**Sensory:** A B C D E **Motor:** A B C D E	
Entrapment	**Sensory and Motor Grading**	**Assigned Class**	**Grade Modifier Adjustments**	**Assigned Dx Grade**	
	Electrodiagnostics:		Test 0 1 2 3 4 n/a History 0 1 2 3 4 n/a Physical 0 1 2 3 4 n/a	**Average:** **Functional Grade:** **Normal Mild** **Moderate Severe**	

CRPS I Impairment				
Points	**Assigned Class**	**Adjustments**	**Assigned Grade**	**Final UEI**
	0 1 2 3 4	FH 0 1 2 3 4 n/a PE 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	A B C D E	

Amputation				
Level	**Assigned Class**	**Adjustments**	**Assigned Grade**	**Final UEI**
	0 1 2 3 4	FH 0 1 2 3 4 n/a PE 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	A B C D E	

Motion		
Joint	**Total UEI**	**Assigned Class**
		0 1 2 3 4
		0 1 2 3 4
		0 1 2 3 4
Combined UEI		

Adjustment Abbreviations
S = Shoulder
E = Elbow
W = Wrist
H = Hand
D = Digit
GMFH = Grade Modifier Functional History
GMPE = Grade Modifier Physical Examination
GMCS = Grade Modifier Clinical Studies

Summary	**Final UEI**
Diagnosis-Based Impairment	
Peripheral Nerve	
Entrapment	
CRPS (Stand-alone)	
Amputation	
Range of Motion (Stand-alone)	
Final Combined Impairment	
Whole Person Impairment	
Regional Impairments	

Signed: _____ **Name (Print):** DR P.R ENGELBRECHT **Date:** _____

ANNEXURE B – LOWER EXTREMITY IMPAIRMENT EVALUATION

Name:				Exam Date:
ID Number:	Sex: F M	Side: R L		Birth Date:
Diagnosis:				Injury Date:

	Diagnosis-Based Impairments				
Table	Diagnosis/Criteria	Assigned Class	Grade Modifier Adjustments	Assigned Dx Grade	Final LEI
FA K H		0 1 2 3 4	Net GMFH 0 1 2 3 4 GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: AAOS Lower Limb Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
FA K H		0 1 2 3 4	Net GMFH 0 1 2 3 4 GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: AAOS Lower Limb Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
FA K H		0 1 2 3 4	Net GMFH 0 1 2 3 4 GMPE 0 1 2 3 4 GMCS 0 1 2 3 4 (Optional: AAOS Lower Limb Score:) Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	≤ -2 -1 0 +1 ≥ + 2 A B C D E	
	Combined LEI				

FA = Foot / Ankle K = Knee H = Hip

FH applied to single highest diagnosis

Peripheral Nerve / CRPS II Impairments					
Nerve	Sensory and Motor Grading	Assigned Class	Adjustments	Assigned Dx Grade	Combined LEI
	Sensory Deficit 0 1 2 3 4 n/a Motor Deficit 0 1 2 3 4 n/a	Sensory Deficit 0 1 2 3 4 Motor Deficit 0 1 2 3 4	FH 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a FH 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	Sensory: A B C D E Motor: A B C D E	
	Sensory Deficit 0 1 2 3 4 n/a Motor Deficit 0 1 2 3 4 n/a	Sensory Deficit 0 1 2 3 4 Motor Deficit 0 1 2 3 4	FH 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a FH 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	Sensory: A B C D E Motor: A B C D E	
Combined LEI					

CRPS I Impairment					
Points	Assigned Class	Default LEI	Adjustments	Assigned Grade	Final LEI
	0 1 2 3 4		FH 0 1 2 3 4 n/a PE 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	A B C D E	

Amputation					
Level	Assigned Class	Default LEI	Adjustments	Assigned Grade	Final LEI
	0 1 2 3 4	12%	FH 0 1 2 3 4 n/a PE 0 1 2 3 4 n/a CS 0 1 2 3 4 n/a	A B C D E	

Motion		
Joint	Total LEI	Assigned Class
		0 1 2 3 4
		0 1 2 3 4
		0 1 2 3 4
Combined LEI		

Adjustment Abbreviations
FA = Foot / Ankle
K = Knee
H = Hip

GMFH = Functional History
GMPE = Physical Exam
GMCS = Clinical Studies

Summary	Final LEI
Diagnosis-Based Impairment	
Peripheral Nerve	
CRPS	
Amputation	
Range of Motion (Stand-alone)	
Final Combined Impairment	LEI
Whole Person Impairment	WPI
(Regional Impairment)	

Signed: ____________

Evaluator (printed name): DR P.R ENGELBRECHT Date: ____________

ANNEXURE C – SPINE AND PELVIS IMPAIRMENT EVALUATION

Name:				Exam Date:	
ID Number:		Sex: F M	Side: R L	Birth Date:	
Diagnosis:				Injury Date:	
	Diagnosis-Based Impairments				
Grid	**Diagnosis/Criteria**	**Class Diagnosis (CDX)**	**Grade Modifier Adjustments**	**Net Adjustment Value and Assigned Grade Modifier**	**Whole Person Impairment**
Cervical (C)		0 1 2 3 4	GMFH 0 1 2 3 4 n/a GMPE 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a Net Adjustment = (GMFH – CDX) + (GMPE – CDX) + (GMCS – CDX)	Adjusted Grade = Net Adjustment applied to Default Value C ≤2 -1 0 +1 ≥ 2 A B C D E	
Thoracic (T)		0 1 2 3 4	GMFH 0 1 2 3 4 n/a GMPE 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a	Adjusted Grade ≤2 -1 0 +1 ≥ 2 A B C D E	
Lumbar (L)		0 1 2 3 4	GMFH 0 1 2 3 4 n/a GMPE 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a	Adjusted Grade ≤2 -1 0 +1 ≥ 2 A B C D E	
Pelvis (P)		0 1 2 3 4	GMFH 0 1 2 3 4 n/a GMPE 0 1 2 3 4 n/a GMCS 0 1 2 3 4 n/a	Adjusted Grade ≤2 -1 0 +1 ≥ 2 A B C D E	

Signed: _____ **Date:** _____ **Whole Person Impairment:**

TOTAL WPI:

Upper Extremity WPI: _____

Lower Extremity WPI: _____

Spine & Pelvis WPI: _____

Scarring WPI: _____

Other WPI: _____

TOTAL WPI: _____

Qualifies Narrative Test: YES NO

Paragraph(s): 5.1 5.2 5.3 5.4

Signed: Evaluator Name: Dr. P.R Engelbrecht Date:

Annexure 4

HPCSA Serious Injury Narrative Test guideline

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This guideline is published by the Health Professions Council of South Africa Appeal Tribunals to define the use of a Serious Injury Narrative Test Report, as well as the required structure, content and criteria thereof.

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Current South African Road Accident Fund (RAF) legislation requires a medical determination of the seriousness of injuries sustained in motor vehicle accidents to determine whether the claimant is entitled to a claim for general damages. Such medical assessments are submitted in the form of RAF 4 Serious Injury Assessment Reports. Contested claims for serious injury are referred to the Health Professions Council of South Africa (HPCSA) Appeal Tribunals for final determination. The legislation prescribes 2 instruments, namely the American Medical Association (AMA) Guides (6th edition) and the Narrative Test for this purpose. Whereas the AMA Guides are published in a comprehensive book, and training courses are provided in their use, existing legislation does not provide any indication of the required structure, content or criteria of a Narrative Test report. This document is published by the HPCSA Appeal Tribunals as a guideline to the performance of the Narrative Test; what it is, reasons for applying it and who should compile it, as well as the required structure, content and criteria thereof. A Narrative Test Report should include relevant and meaningful comment in relation to each of the 6 sections described in the article.

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1. Summary

This guideline is an *aide memoire* to medical practitioners and other relevant experts compiling Narrative Test Reports. A Narrative Test Report should include relevant and meaningful comment for each of the following:

1.1 Injury diagnosis/nature and extent of injuries in the acute post-traumatic period

- Diagnosis by medical practitioner.
- Opinion of medical practitioner re nexus between the accident and diagnosed injuries.

1.2 Outcome diagnosis/nature and extent of permanent impairment after maximal medical improvement

- Diagnosis by medical practitioner.
- Opinion of medical practitioner re nexus between the accident and diagnosed injuries.

1.3 External/environmental/contextual circumstances of the person's life – either altered or unaltered

- Factual description by medical practitioner and/or other relevant expert(s).
- Opinion of medical practitioner re nexus between injuries sustained in the accident and any changes in external circumstances.

1.4 Individual circumstances of the person's life – either altered or unaltered, including functional impairment

- Factual description by medical practitioner and/or other relevant experts.
- Opinion of medical practitioner re nexus between injuries sustained in the accident and any changes in individual circumstances.

1.5 Chronic pain, subjective suffering and/or loss of enjoyment of life

- Factual description by medical practitioner and/or other relevant experts.
- Opinion of medical practitioner and/or other relevant experts in relation to the credibility, congruence and consistency or otherwise of the complaints.
- Opinion of medical practitioner re nexus between injuries sustained in the accident and reported subjective suffering.

1.6 Level or degree of changes

Comment by medical practitioner and/or other relevant experts, utilising meaningful semi-quantitative terminology, e.g. insignificant, trivial, inconsequential, mild, moderate, severe, intrusive, overwhelming, devastating, significant.

2. The Narrative Test

2.1 What is the Narrative Test?

The Narrative Test is a medical instrument prescribed by the Road Accident Fund (RAF) Amendment Regulations, 2008[1] to the RAF Amendment Act, 2005,[2] which amends the RAF Act 56, 1996.[3]

The Narrative Test stands apart from the American Medical Association (AMA) 'Guides to the Evaluation of Permanent Impairment'[4] and cannot be defined or interpreted in terms of these.

The RAF Amendment Regulations do not provide any guidelines to the structure, content or criteria of the Narrative Test. This guideline is published by the HPCSA Appeal Tribunals as a guideline to the performance of the Narrative Test, as well as the required structure, content and criteria thereof.

2.2 Reasons for applying the Narrative Test

The need for the Narrative Test arises in any case where:

- The injuries are found to have resulted in <30% whole person impairment (WPI) according to the method of the AMA Guides; *and*
- The medical practitioner who is drafting the RAF 4 Serious Injury Assessment Report nonetheless regards the injuries as serious.

There are two reasons for cases that have been regarded as serious by HPCSA Appeal Tribunals despite having <30% WPI according to the method of the AMA Guides:

- The failure of the AMA Guides to take the 'circumstances of the third party' into account properly or effectively.[5]
- Inherent shortcomings of the AMA Guides, especially with respect to estimating the life-altering impact of injuries that have resulted in more abstract and subjective impairments and suffering. [5]

The RAF Amendment Act[2] stipulates in section 17(1A)(a) that the 'assessment of a serious injury shall be based on a prescribed method adopted after consultation with medical service providers and shall be reasonable in ensuring that injuries are assessed in relation to the circumstances of the third party'.

In highlighting the importance of the 'circumstances of the third party', the Act effectively prescribes an assessment of 'disability' as opposed to an assessment of 'impairment'.

In contrast to the requirements of the Act, the AMA Guides prescribe an impairment rating system, which for practical purposes excludes consideration of the 'circumstances of the third party'.

The AMA Guides define impairment and disability as follows:

- **Impairment:** 'a significant deviation, loss, or loss of use of any body structure or body functions in an individual with a health condition, disorder, or disease'.
- **Disability:** 'activity limitations and/or participation restrictions in an individual with a health condition, disorder, or disease'.

The AMA Guides do not provide for any assessment of the nature or degree of permanent disability. The AMA Guides[4] state (page 6):

- 'The Guides is not intended to be used for direct estimates of work participation restrictions. Impairment percentages derived according to the Guides' criteria do not directly measure work participation restrictions.'
- 'In disability evaluation, the impairment rating is one of several determinants of disablement. Impairment rating is the determinant most amenable to physician assessment; it must be further integrated with contextual information typically provided by non-physician sources regarding psychological, social, vocational, and avocational issues.'

2.3 Who should compile a Narrative Test Report?

The RAF Amendment Regulations[1] stipulate that the RAF 4 Serious Injury Assessment Report, including the Narrative Test Report, should be compiled by a 'medical practitioner', defined as a medical practitioner registered in terms of the Health Professions Act, 1974.[6]

For a variety of reasons, although medical practitioners should be able to provide adequately detailed Narrative Test Reports in certain cases, it is found in practice that in many cases medical practitioners do not provide adequate factual descriptions of relevant or altered 'circumstances of the third party'.

It is, therefore, recommended that the Narrative Test Report provided by a medical practitioner should generally be supplemented by reports from other relevant experts, mainly to properly describe the relevant or altered 'circumstances of the third party'.

In this context, 'other relevant experts' refers principally to occupational therapists. Depending on the nature of the impairments and the particular 'circumstances of the third party', however, supplementary reports may be required of neuropsychologists, educational psychologists, speech therapists, and/or industrial psychologists.

In reference to the structure and content of a Narrative Test Report (see section 2.4):

- Sections 1 and 2 should be compiled by the medical practitioner.
- Sections 3 - 6 may be compiled by the medical practitioner or may be compiled in the supplementary report(s) of the other relevant expert(s) (see below); in which case comment should be provided by the medical practitioner (see below).
- The supplementary report of a relevant expert should refer to the diagnoses of the medical practitioner in Sections 1 and 2, and should deal in detail with Sections 3 - 6.
- Where Sections 1 and 2 of the Narrative Test Report of the medical practitioner are not available to the other relevant expert(s) at the time of compiling their report, bearing in mind *inter alia* that the scope of practice of such relevant experts precludes the formulation of medical diagnoses, the other relevant expert(s) should refer to the injury diagnosis and outcome diagnosis of medical practitioners as documented in other available medical records or reports.
- Where available records or reports document only an injury diagnosis but not an outcome diagnosis, the other relevant expert(s) should, on the basis of their own observations and expertise, provide a working description of the impairments (equivalent to an outcome diagnosis) and defer to the medical practitioner for final formulation of the outcome diagnosis.
- Where Sections 3 - 6 have been compiled in the supplementary report of the other relevant expert(s), the medical practitioner should read the report of the other relevant expert(s), and should provide further comment in line with the requirements as set out below.

2.4 The structure and content of a Narrative Test Report

A Narrative Test Report should include relevant and meaningful comment in relation to each of the following sections:

2.4.1 Section 1: Injury diagnosis (acute)

The diagnosis of injuries sustained in the accident should be recorded, i.e. a name describing each injury during the acute post-traumatic period.

The injury diagnosis/diagnoses should be formulated by a medical practitioner.

In addition, the medical practitioner should provide opinion in relation to the nexus between the accident and diagnosed injuries.

Examples of injury diagnoses are:

- compound fracture of the left femur
- head injury with severe traumatic brain injury
- soft tissue injury of the lumbar spine
- psychological trauma.

2.4.2 Section 2: Outcome diagnosis (permanent)

The diagnosis of the chronic condition that has arisen from the injuries should be recorded, i.e. a meaningful name describing each chronic post-

traumatic condition following maximal medical improvement (MMI). For purposes of the Narrative Test, MMI is defined as 'a point at which the patient's condition is considered to have stabilised, and taking into account the medical and surgical treatment available to them, further recovery or deterioration is not anticipated over the following 12 months within medical probability'.

MMI does not preclude the deterioration of a condition that is expected to occur with the passage of time, or as a result of the normal ageing process or possible future complications, nor does it preclude allowances for ongoing follow-up for optimal maintenance of the medical condition in question.

The outcome diagnosis also serves as a description of permanent impairment following the accident.

The outcome diagnosis/diagnoses should be formulated by a medical practitioner.

In addition, the medical practitioner should provide opinion in relation to MMI, and in relation to the nexus between injury diagnosis and outcome diagnosis.

Examples of outcome diagnoses are:

- post-fracture syndrome with malunion and deformity
- post-traumatic organic brain syndrome
- intermittent mechanical back pain
- post-traumatic stress disorder.

2.4.3 Section 3: External circumstances of the person's life

A factual description should be recorded of the external circumstances of the person's life, i.e. the environmental or contextual circumstances.

These circumstances generally remain unaltered following the accident, but in case of any change such changes should be recorded.

External circumstances include:

- geographical location
- type of accommodation
- family support
- financial status
- cultural affiliation
- religious affiliation
- access to transport
- access to healthcare.

In terms of this section of the Narrative Test Report, it is acceptable and generally advisable for the medical practitioner to refer to the supplementary report(s) of other relevant experts (see section 2.3), in which case it is not necessary for the medical practitioner to duplicate such factual descriptions in their report.

It is, however, necessary for the medical practitioner to indicate that they have read such supplementary reports and to express an opinion in relation to the nexus between injuries sustained in the accident and any reported changes in external circumstances.

2.4.4 Section 4: Individual circumstances of the person's life and functional impairment

A factual description of pre-accident individual circumstances should be recorded, i.e. the personal circumstances that are more vulnerable to change or loss flowing from any permanent impairment.

This should be followed by factual descriptions of functional impairment after MMI, including altered and unaltered post-accident individual circumstances.

Changes in these individual circumstances typically describe the nature and elements of permanent disability.

Individual circumstances include:

- basic and advanced activities of daily living (conveniently set out in the AMA Guides,[4] page 323)
- personal amenities such as sporting and other recreational activities
- life roles such as parent, child, sibling, spouse, partner, friend, breadwinner, mentor, supervisor, caregiver, etc.
- independence or degree of dependency
- educational status and capacity
- employment status and capacity.

In terms of this section of the Narrative Test Report, it is acceptable and generally advisable for the medical practitioner to refer to the supplementary report(s) of other relevant experts (see section 2.3), in which case it is not necessary for the medical practitioner to duplicate such factual descriptions in their report.

It is, however, necessary for the medical practitioner to indicate that they have read such supplementary reports and to express an opinion in relation to the nexus between injuries sustained in the accident and findings of the other relevant expert(s) regarding functional impairment and altered post-accident individual circumstances.

2.4.5 Section 5: Chronic pain, subjective suffering and/or loss of enjoyment of life

The consequences of injuries and impairment that are referred to above are largely tangible and objectively determinable. Injuries and impairments may also result in variable degrees of subjective suffering that is more abstract and difficult to measure.

Bearing in mind that compensation for 'general damages' relates largely to compensation for 'pain, suffering and loss of enjoyment of life', all of which are both subjective and abstract, a proper assessment of subjective and abstract suffering is necessary.

A factual description of any accident-related pain, subjective suffering and/or loss of enjoyment of life should be recorded by the medical practitioner and/or other relevant experts.

Because such subjective sequelae of injuries are not amenable to objective or concrete measurement, and because their assessment is more difficult than that of more tangible/concrete sequelae, the report should include opinion based on mindful professional judgement by the medical practitioner and/or the other relevant other expert(s) in relation to the credibility, congruence and consistency or otherwise of the complaints.

In addition, the medical practitioner should provide opinion in relation to the nexus between injuries sustained in the accident and reported pain, suffering and/or loss of enjoyment of life.

2.4.6 Section 6: Level/degree of changes

The consequences of injuries, as seen in relation to the 'circumstances of the third party', essentially describe the nature and elements of permanent disability.

In addition to the nature and elements of permanent disability, determination of the seriousness of injuries requires an assessment of the level or degree of permanent disability, i.e. the level or degree of activity limitations, participation restrictions and subjective suffering.

The report should, therefore, include comment by the medical practitioner and/or the other relevant experts, based on reported facts as well as application of mindful professional judgement, in relation to the level or degree of activity limitations, participation restrictions and subjective suffering, i.e. the significance or otherwise of the changes to the life of the injured person.

Whereas it is not feasible to express such opinions in a rigid quantitative manner (e.g. a percentage rating of permanent disability), it is both feasible and necessary to express meaningful semi-quantitative opinions using terminology, e.g insignificant, trivial, inconsequential, mild, moderate, severe, intrusive, overwhelming, devastating, significant.

2.5 Criteria for assessment of serious injuries

HPCSA Appeal Tribunals regard injuries as serious when it is evident that the injuries have resulted in 'significant life changing sequelae'.

When considering the significance of injury sequelae, the following should be regarded:

- the nature and elements of permanent disability (sections 2.4.2 - 2.4.5), and
- the level or degree of limitations, restrictions and subjective suffering (section 2.4.6).

For example:

- **Chronic pain** may be intermittent mild to moderate pain that occurs twice a month, is relieved by simple analgesics and does not interfere significantly with activities. This would not be regarded as serious.
- On the other hand, **chronic pain** that has been found by the medical practitioner to be congruent with established conditions as well as being credible and consistent, may be constant moderate to severe pain that is only partially relieved by compound or narcotic analgesics and that does interfere significantly with activities. This would be regarded as serious.
- The **loss of employment capacity** related to subtle mental impairment of an assembly line worker who has become dependent on some degree of structure and supervision in the workplace, but for whom such structure and supervision have always formed an integral part of the job, and who has remained in the same employment and continued to satisfy the requirements of the employer, would not be regarded as serious.
- On the other hand, the **loss of employment capacity** related to subtle mental impairment of an advocate who has lost the ability to succeed in Court as well as loss of enjoyment of life related to losses of professional standing, respect and independence would be regarded as serious.

Whereas it is not possible to provide a concretely measurable definition of 'significant life changing sequelae', experience at HPCSA Appeal Tribunal meetings shows that a panel of experienced medical practitioners who are provided with the sufficient relevant information (as set out above) are generally and readily able to reach consensus in relation to cases where injuries have resulted in 'significant life changing sequelae' and cases where injuries have not resulted in 'significant life changing sequelae'.

Therefore, it is recommended that a determination of whether injuries have resulted in 'significant life changing sequelae' or not should be the final criterion for evaluation of injuries as serious or not serious by the Narrative Test.

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MEMORANDUM ON JOINT MNUTES BY EXPERTS IN COURT CASES AND PRE-HEARING PROCESSES

What a "joint minute" is

"Joint minutes" are reports compiled by experts (agreeing and/or disagreeing) which assist the Courts in delineating the issues at hand, and to understand which issues are agreed between the experts (who assists the court in the end). It therefore saves on time in court, and should assist in a speedier resolution of the matter, in that agreed expert views do not have to be re-hashed.

The rules of each division of the High Court set out what is expected in relation to an expert Joint Minute. For example, the North Gauteng High Court states as follows:

3.6 When the quantum of the plaintiff's claim remains in dispute after the 1st and/or the 2nd pre-trial conference and there is no separation of merits and quantum:

3.6.1 joint minutes by opposing expert witnesses shall be delivered not later than four weeks before the allocated trial date, duly typed and signed by such experts;
....

3.6.5 if the parties are unable to settle the quantum of damages at such pre-trial conference, the parties shall set out in detail in the minute of such conference:

3.6.5.1 what factual allegations and opinions in the rule 36(9)(b) summaries and/or joint minutes are in dispute and the reasons therefor;

3.6.5.2 what the contentions of the parties are in respect of such factual allegations and opinions;

3.6.6 the minute of the 3rd pre-trial conference and the joint minute of the experts shall be filed by the plaintiff's attorney not later than four weeks before the allocated trial date. Such minutes shall also deal with the aspects referred to in rule 37(4).

The role of experts

Care must be taken in relation to the duties of expert witnesses, as interpreted by the Courts. An expert should not tailor his/her opinions in order to suit a particular party, and should provide, honest, substantiated expert views on matters, that relate their field of expertise as applied to the matter at hand.

In *Ndlovu v RAF* (39302/10) [2013] ZAGPJHC 201 (8 August 2013), the court set the following guidelines for medico-legal reports:

- As professionals giving objective testimony, the experts should point out and deal with anomalies between reports (in this case it was between the trauma unit records and the RAF medical report).
- Experts must ensure that all reports have been read, not only the last report or a report based on other reports, i.e. experts must show diligence. An opinion is of little value if the material facts relied upon is flawed.
- The source of the primary facts must be identified and secondary sources must be clearly identified as such (e.g. between hospital records as a source and a report based on hospital records).
- Assumptions must be clearly distinguished from fact, e.g. the patient's say-so that leads to a certain deduction, versus a test result that clearly establishes a medical fact.
- If assumptions or assertions are accepted, it must be made clear on what reasoning such acceptance is based, and how that relates to medical grounds and the expert's experience and -field of expertise.

About joint minutes and equal standing of experts

It will also be noted that "joint minutes" when reported in case law, group specific types of experts together, e.g. psychologists with psychologists, psychiatrists with psychiatrists, etc. The reason for this lies in the fact that an expert must indeed by an expert in a particular field, which expertise must be proven an can be challenged during proceedings. Although conceivable, and possible, that a general practitioner could have the necessary expertise to make a pronouncement on a matter within the scope of expertise of an orthopaedic surgeon, the lack of registration as an orthopaedic surgeon, would have to be overcome as a first hurdle.

Therefore the provisions of the Health Professions Act, and the scopes of the various professions registered under it, becomes important. The concept of peer-to-peer interaction is well-known in the health sector and has found its way into many documents and legislation. The control exercised by the HPCSA in approving qualifications and curricula, testify to this. Ethical rule 21 states:

"A practitioner shall perform, except in an emergency, only a professional act –
(a) for which he or she is adequately educated, trained and sufficiently experienced.

Professional acts would include the writing of a joint minute. It would therefore only be possible for professionals from different scopes of practice to write a joint minute if both are able to do so on that specific topic or topics within the ambit of ethical rule 21, i.e. as they are both adequately educated trained and, in particular, sufficiently experienced.

Furthermore, other legislation also recognise this. For example, regulation 15D of the General Regulations to the Medical Schemes Act (managed care programmes must be run by persons appropriately qualified and decisions must be evaluated by clinical *peers*) and the HPCSA Policy on Undesirable Business Practices, that peer review policies are pertinent to evaluate whether there had been under-servicing in pre-payment arrangements (e.g. global fees).

What SAOA could recommend to its members

There is nothing in the Court Rules that would, in principle, prohibit joint minutes between persons who may be qualified and experienced (as per ethical rule 21 and in line with HPCSA registration), but of different designations or professional qualifications, to make pronouncements on certain matters.

However, in order to prevent disputes arising out of the competence and experience of an expert to make definitive and authoritative pronouncements on certain matters, SAOA could advise as follows:

1. The credentials of the experts must be clearly stated, i.e. registered qualifications at the HPCSA (or, in the case of an expert not registered in South Africa, at an equivalent statutory licensing or registration body), recognised qualifications at other bodies, standing in the professional community (e.g. serving on an Executive Committee of a professional body (this is in contrast to serving on management entity)), research roles recognised in the scientific community, years of experience in the field testified to, etc.

2. In general, the specialist knowledge of a surgeon could, due to his/her specialist training and experience in that field of speciality, be deemed to override that of a non-peer (e.g. a general practitioner or an occupational therapist for example).

3. Issues cannot be delineated or narrowed as is the purpose of a joint minute, if the standing and status of the professionals making the assessments and assertions are not made from an equal footing. Not doing so would introduce yet another level of complexity, as a first evaluation would be whether two diverse statements can meet as of equal authority. It could therefore defeat the purpose of a joint minute.

4. Therefore SAOA strongly recommends that Joint Minutes be undertaken by healthcare professionals who are registered in the same professional category at the HPCSA (e.g. both in general practice, both in occupational therapy, both in orthopaedic surgery, etc.), in order to ensure compliance with the HPCSA ethical rule 21. Only in exceptional circumstances and where the other professional is also a registered medical practitioner, but in a different field of interest and with that person limiting his/her general practice to that field, could such a person write a joint minute with an orthopaedic surgeon. Such exceptional circumstances would be when that

other medical practitioner has proven qualifications, training and experience in the subject-matter(s) at hand. The attorneys and experts should ensure that this is indeed the case, prior to entering into discussions that would lead to joint minutes.

5. If it is not possible to have a joint minute done by clinical peers, SAOA recommends that its members then do not do joint minutes and that separate reports detailing the specific approaches and experiences of the two or more non-peer experts, be handed in as is, or that matters on which both experts are able to act as peers, be included in the joint minute, whist others be excluded from it.

6. Where foreign qualified professionals are involved, the same principle, i.e. whether both experts could be deemed to be clinical peers with evidence provided to that effect by both experts, should be employed.

7. SAOA therefore is of the view and recommends to legal professionals to ensure that joint minutes are undertaken by professionals that are deemed to be clinical peers, as is stipulated by ethical rule 21.

RAF PROPOSED LIST OF SERIOUS INJURIES

ORTHOPAEDIC INJURIES

INTRODUCTION

To expedite the finalization of RAF Claims, a list of serious injuries needs to be compiled. This list will assist a General Practitioner in deciding whether injuries sustained by a road accident victim are “serious” and qualify for “general damages”.

The request for a list of “serious” injuries was received from PWC, represented by Drs. Rossolimos and Bomela; mandated by the Road Accident Fund.

It is envisaged that General Practitioners will do the evaluation, based on:

1. Taking of a history
2. Clinical examination
3. Evaluation of special investigations, for example, X-rays

The Orthopaedic list is divided into the following:

1. The upper extremities
2. The lower extremities
3. The spine and pelvis

Each heading includes bone, joints, soft tissues and nervous structures.

Obviously, this list needs to be as clear as possible. However, there will be cases where a General Practitioner cannot come to a decision and will obviously have to default the evaluation to an Orthopaedic Surgeon.

Under each heading so-called “Red flag” injuries will be tabled. These injuries might not necessarily qualify as “serious”; a “Red flag” will raise the probability of this injury being “serious”, if a complication were to arise.

An example would be a femur fracture, healed uneventfully with intra-medullarly nailing and no complications, adjacent joints being normal; would not qualify as “serious”. However, if such a fracture were to be complicated by delayed union, non-union, post-traumatic arthrosis of adjacent joints, infection, malalignment, etc., this would qualify as “serious”.

The list of serious injuries takes into account the published list of “non-serious” injuries, which have already limited a vast number of claims.

In compiling this list, *AMA Guides, Sixth Edition*, *Workman’s Compensation Commissioner Schedules*, as well as experience gained at Tribunal Hearings (HPCSA), were taken into account.

1. UPPER EXTREMITIES

1.1. Wrist dislocation or fracture dislocation.

1.2. Injuries leading to arthrodesis of shoulder, elbow or wrist.

1.3. Injuries leading to shoulder, elbow or wrist joint replacements.

1.4. Injury to brachial plexus with residual impairment of function.

1.5. Injury to median, ulnar or radial nerves with residual impairment of function.

1.6. Amputations:
- (a) Loss of arm down to hand.
- (b) Loss of 4 fingers.
- (c) Loss of thumb.
- (d) Loss of 3 phalanges of index finger.
- (e) Loss of 3 phalanges; combination of 2 and more of middle, ring and little fingers.

1.7. "Red flags"

1.7.1. Fractures of long bones (clavicle, humerus, radius and ulna) complicated by a:
- (a) Delayed union.
- (b) Non-union.
- (c) Infection.
- (d) Malunion / malalignment
- (e) Post-traumatic arthrosis of adjacent joints.

1.7.2. Dislocations of shoulder, elbow as well as joints of fingers and thumb, complicated by:
- (a) Residual instability.
- (b) Infection.
- (c) Post-traumatic arthrosis.

2. LOWER EXTREMITIES

2.1. Hip dislocation or fracture dislocation.

2.2. Intra-articular fractures of the hip.

2.3. Intra-articular fractures around the knee (supra- or inter-condylar femoral fractures and plateau fractures of the proximal tibia, with displacement and incongruency of the knee.

2.4. Pilon fractures of the ankle / intra-articular fractures with incongruent joint.

2.5. Intra articular fractures of talus and calcaneus with incongruent joint.

2.6. Lisfranc fracture dislocations of the foot.

2.7. Injuries of the lower limb leading to:

(a) Joint replacements of hip, knee and ankle.
(b) Arthrodesis of hip, knee and ankle.

2.8. Amputations:

(a) Loss of leg at hip, between hip and knee and below knee, including Syme's amputation.
(b) Loss of foot down to tarso-metatarsal joints.
(c) Loss of big toe at metatarsal phalangeal joint.
(d) Loss of all toes, distal to the proximal inter-phalangeal joints.

2.9. Injury to lumbo-sacral plexus with residual functional impairment.

2.10. Injury to peripheral nerves, femoral nerve, sciatic nerve, peroneal nerve and tibial nerve with residual functional impairment.

2.11. Ligament injuries to knee, for example, Grade III cruciate and / or collateral ligament injuries.

2.12. Fracture dislocations of the ankle, Weber B & C / pronation external rotation and supination external rotation injuries, (bi-malleolar and tri-malleolar injuries).

2.13. Patellectomy.

2.14. "Red flags":

Fractures of long bones (femur, tibia and fibula as well as fractures of the foot), complicated by:

(a) Delayed union.
(b) Non-union.
(c) Infection.
(d) Malunion / malalignment
(e) Post-traumatic arthrosis of adjacent joints.
(f) More than 2.5cm of leg length shortening (Scannogram).
(g) More than 4cm of thigh atrophy.
(h) Fracture dislocations of joints, complicated by:
    (i) Residual Instability.
    (ii) Post-traumatic arthrosis.
    (iii) Infection.

3. SPINE & PELVIS

3.1. Injuries of the spine, resulting in quadriplegia or paraplegia.

3.2. Injuries of the spine resulting in spinal fusions, spinal disc replacements, Laminectomies and kyphoplasty.

3.3. Injuries resulting in Rhizotomies, infiltrations or insertion of inter-spinous devices; not included.

3.4. Compression fractures of the spine, more than 10% as measured on X-rays.

3.5. Injuries to the spine resulting in radiculopathy with functional impairment (for example, drop-foot).

3.6. Injuries of the pelvis, involving the:

(a) Si-joints.
(b) Acetabulum.
(c) Injuries resulting in instability of the pelvis or major deformity of the pelvis.
(d) Injuries of the pelvis complicated by neurological or urological compromise.

4. GENERAL

List of “serious” Orthopaedic injuries to be presented at SAOA EXCO Meeting, 21/02/2014 for comments as well as circulation to the Sub-Specialities. Time frame i.r.o. comments, 4 weeks from 21/02/2014.

The contents of this list remains confidential until such time as it has been released for public comment by the Minister of Transport.

DR. PIET ENGELBRECHT
(SAOA EXCO MEMBER: PORTFOLIO: RAF)
19/02/2014
FIRST DRAFT