APRAV SOLUTIONS GROUP 1 -

SUBSTREAM 5

MEDICO-LEGAL EVALUATION & REPORTING

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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.