# NATIONAL ASSEMBLY

**FOR WRITTEN REPLY**

**QUESTION NO. 1332**

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**(INTERNAL QUESTION PAPER NO. 14)**

**Ms L V James (DA) to ask the Minister of Health:**

Whether he has put any mechanisms in place to address the rising number of medical legal claims?

###### NW1432E

**REPLY:**

Yes.

**Medico-legal Workshop**

A Medico-legal Workshop was held in Pretoria on the 13th January 2015 to look at medico-legal claims. The workshop looked at the following issues:

* Patient safety;
* The impact of medico-legal litigation on the recruitment of specialists and on access to care in South Africa;
* Management of claims; and
* Ensuring access to justice for patients harmed.

This workshop culminated in the Medico-Legal Summit which was held on 09 -10 March 2015.

**Medico-legal Summit**

The Medico-Legal Summit was attended by various stakeholders which included medical and legal personnel (public and private sectors); private and public health establishments (hospitals) and the World Health Organisation among others. The Medico-Legal Summit came up with the Medico-Legal Declaration. The Declaration recommended interventions in 3 areas namely: medical (patient safety), administration and legal solutions.

1. **Medical Solution (Patient Safety)** - This is aimed at reducing the incidences of the negligence, medical malpractice or unethical behaviour and adverse events amongst others.

2. **Administrative Solution** - This strives to ensure proper record keeping that will minimize the loss or theft of medical records and proper communication with patients and members of the public.

3. **Legal Solution** - This looks at various legal interventions including but not limited to mediation; contingency fees; the common law rule of “once and for all”; the periodic or staggered payment instead of a lump sum payment.

**Medical Solution (Patient Safety)**

In implementing the Medical solution (Patient Safety), the following interventions are being implemented:

1. Ensuring that there is a Patient Experience of Care;
2. Ensuring that there is Patient Safety Incident and Reporting, Complaints and Compliments Guidelines;
3. The Office of Health Standards Compliance and the Health Ombud are also critical role players on the compliance with norms and standards for the provision of health services in South Africa;
4. Ensuring that there are also Committees on Confidential Enquiries into Maternal, Neonatal and Under 5 Deaths; and

**Administration**

In implementing the Administrative solution, the Department has started with the following interventions:

1. Improvement of Filing and record systems (from manual record keeping to electronic filling and record keeping);
2. Patient Record Management;
3. Patient Registers; and
4. Health Patient Registration System.

**Legal**

In implementing the Legal solution, the Department with the assistance of Department of Justice and Constitutional Development is currently busy with the following interventions:

1. The South African Law Reform Commission (SALRC) underProject 141 – Medico-Legal Claims has undertaken an investigation on various interventions such as mediation; contingency fees; the common law rule of “once and for all”; the periodic or staggered payment instead of a lump sum payment among others. These investigations will lead to legislative reform. In this regard, the SALRC had issued the Issue paper calling for public comments. The closing date was 30 September 2017.
2. The Department of Justice and Constitutional Development is also introducing the State Liability Amendment Bill, 2018 to introduce periodic or staggered payment of claims instead of a lump sum payment. The State Liability Amendment Bill, 2018 is to provide for the periodic payments instead of lump sum as it is currently and the treatment of Medico-Legal claimants to be provided for in the public sector facilities (Hospitals), free of charge.

The National Health Council (“MinMEC”) passed a resolution to standardize the patient admission forms across Provinces to also include language that allow for mediation as the first compulsory step for resolution of Medico-Legal disputes. This is done with the assistance of the Department of Justice and Constitutional Development (Judge Cassim Sardiwalla and the State Attorney).

END.