

Medical-negligence Bill bad news for patients – critics

A Bill aimed at protecting the state from soaring medical-negligence claims, which grew an average of 45% a year from 2012-13 to 2016-17, is seen by critics as prejudicing patients by limiting their choices and forcing them to seek care from the facilities that harmed them in the first place. A **Business Day** report says the State Liability Amendment Bill proposes scrapping lump-sum settlements for medical-negligence claims of more than R1m and replacing them with a structured schedule of payments. Successful claimants will be limited to receiving future healthcare services at public sector facilities that meet standards set by the Office of Health Standards Compliance (OHSC). If state services are not available, claimants will be able to use private healthcare services, but will be liable for the portion of their bills that exceed public sector rates. Contingent liability arising from claims against the state ran to R56bn – more than a quarter of the consolidated health budget. ‘It is wreaking havoc,’ said Health Minister Aaron Motsoaledi. **‘Part of it is negligence, but part of it is lawyers ... (and) collusion at provincial level,’** he is quoted as saying by **Business Day**. He said the Bill aimed to rectify two key problems facing the state: the fact that the unused portion of a lump sum paid to a claimant for future medical expenses was not retrievable if they died; and the ‘rampant’ fraud in some provinces. Alex van den Heever, of the University of the Witwatersrand, said OHSC norms were not a valid protection. In many instances the public services responsible for gross medical negligence are compliant with the OHSC norms. Werksmans attorney Neil Kirby said the Bill would disadvantage patients as it would limit their choice of healthcare providers and create the undesirable possibility of having to return to the very institution where the negligence occurred.