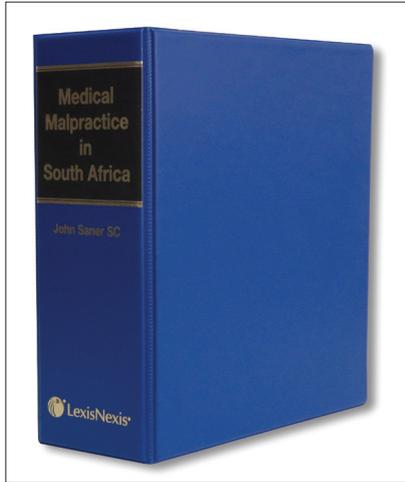


## BOOK REVIEW



### Medical Malpractice in South Africa

By John Saner. Durban: LexisNexis South Africa, 2018. ISBN/ISSN: 978-0-639-00145-6

This is truly a work that caters for the needs of both lawyers and health professionals. As the author correctly points out, with the burgeoning litigation related to medical malpractice there is a real need for health professionals to develop a clear understanding of the law and to be aware of the legal tests that would be applied, including the sort of case they would have to meet if confronted with a claim against them. Knowing the proverbial 'enemy' will reduce some of the anxiety associated with litigation.

For health professionals this book approaches legal concepts in understandable language without being verbose, with helpful

boxed 'Doctor's Take' messages just for good measure, while for lawyers it gives the tools for medical malpractice litigation in a nutshell, with the references to medical terminology, cases and statutes at one's fingertips.

Legal discussions are well presented, and a strong point is the layout, with easy access to answers because of clear numbering, headings of paragraphs, and dividers that separate the different sections of the book. The 'Appendices' section includes, among other things, relevant excerpts from statutes, legal case extracts and selected Health Professions Council of South Africa guidelines. Having all these resources in one book facilitates quick referral to information, which can be extremely helpful, particularly in meetings.

Additional interesting and useful topics covered, where general knowledge is often lacking, include chapter 4, 'The legal liability of the Good Samaritan doctor', chapter 9, 'The recalcitrant practitioner: Disciplinary procedures', and an informative chapter 12, '*Res ipsa loquitur*'. However, a particular highlight and vital contribution is the comprehensive section on experts and their evidence in chapters 14 and 15 for those medical specialists who are prepared to assist lawyers but have no idea what they are going to be confronted with in court.

Chapters 16 - 24 are specific to the lawyer but explain the legal process clearly enough for the health professional to follow if he or she is faced with going through it.

Just one note is that in footnote 5 on page 2-2, the reference to its being mandatory that all medical practitioners have professional indemnity cover based on General Notice

Regulation 755 may not be applicable, as General Notice Regulation 951, published on 22 October 2010, repealed it and I am not aware that the regulation has been reinstated yet, although I agree that it should be an ethical and legal requirement for all health practitioners to have professional indemnity.

Also, in the discussion about consent in footnote 27 on page 5-6, it may be worth mentioning in a future update that in the National Health Act, section 19(d) requires a user to sign a discharge certificate or release of liability if the recommended treatment is refused. The author may also consider including this section 19, 'Duties of users', in the Appendix of the National Health Act excerpts, if the information is not too removed from the purpose of the book. A further suggestion for future updates may be to expand on fee management between the doctor and patient, specifically the legality of asking for a deposit prior to performing surgery or asking for payment up front in full, as issues around billing fall within the ambit of medical malpractice more often than one would like to admit.

In conclusion, John Saner SC's *Medical Malpractice in South Africa* will be a pleasure for practising legal and medical professionals, health law lecturers and their students to use in terms of its relative simplicity and accessibility of facts when looking up information. Definitely worth having on the bookshelf, or accessible, close by, in the library.

**Yolande Guidozzi**

University of the Witwatersrand,  
Johannesburg, South Africa  
yolande.guidozzi@wits.ac.za