

4th International Conference on

GYNECOLOGY & OBSTETRICS

October 02-04, 2017 Barcelona, Spain

Can mediation resolve medico-legal disputes—Is it a legal alternative?

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Medico-legal disputes in both the first and developing world have become a threat to certain medical disciplines, indemnifiers, hospitals and funders in both the private and public sectors. The impact of the ever-increasing quantity and quantum of disputes has put the above stakeholders under threat. An example; the spiraling cost of indemnity for Obstetricians have become insurmountable, with a rapid decline of the discipline due to clinicians withdrawing from practice and the decline of training institutions, training Obstetricians. More so those that do qualify as Obstetricians and Gynaecologists immediately sub-specialize in a subspecialty avoiding the exposure to deliver babies. This has put increasing strain on the public sector who lack the capacity to compensate for obstetric services in the private sector. The public sector has become overburdened, unable to cope with this workload. This together with the declining quality of service has lead to a ever increasing number of litigations against the state. The backlog of the quantum of medico-legal cases against state can be approximated to be \$30 bilj. To help remedy the overall untenable circumstances the South African Society of Obstetrics and Gynaecology (SASOG) implemented a intense program to help remedy the Obstetric problem via the BetterObs program as described by a previous speaker (Dr. Johannes van Waart). Furthermore they together with the legal profession have developed a non-blame legal alternative to remedy disputes rather than litigate. This concept of Mediation has been rolled out on national bases that are legally binding cost effective that resolve conflicts in the sector expeditiously. The legislators and all other stakeholders in the sector of society have adopted this concept. Further more this resolution can serve all medico-legal disputes and is transferable in all countries legal systems.