



WRITTEN SUBMISSION
PUBLIC HEARINGS ON NATIONAL HEALTH INSURANCE BILL
[B11-2019]
PC ON HEALTH

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DETAILED SUMMARY:

MEDICAL AND DENTAL PROFESSIONS BOARD COMMENTS ON THE NATIONAL HEALTH INSURANCE BILL, 2018 [B-11-2019]

MDB welcomes the National Health Insurance Bill (the NHI Bill). The National Health Insurance (NHI) should be the only funding mechanism for health in the Republic. An essential prerequisite of establishing NHI should be a clear pronouncement that it replaces all other funding mechanisms for health. It must be clear that NHI takes over from Medical Schemes and that all assets that sit under Medical Schemes must be transferred to NHI. For NHI to succeed health must be an exclusive national competence and that any section(s) of the Constitution that militate against this view must be amended. NHI Bill must repeal the Medical Schemes Act in its entirety as it has no place in the nationalised centralised funding for health. Any person(s) who requires additional insurance/cover must apply under the Insurance Act.

NHI should be about funding and contracting matters. The following matters should be left under the jurisdiction of the relevant statutory bodies:

- i. Accreditation of professionals and their practices under relevant statutory bodies
- ii. Accreditation of facilities accredited under Office of Health Standards Compliance;
- iii. Standards setting for professions;
- iv. Registration of professionals;
- v. Conduct of professionals; and
- vi. Treatment protocols

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Page 8 Clause 5(1) Registration As Users	<i>5. (1) A person who is eligible to receive health care services in accordance with section 4 must register as a user with the Fund at an accredited health care service provider or health establishment.</i>	This section to reformulated and consolidated to: 5. (1) A person who is eligible to receive health care services in accordance with section 4 must register as a with the national health information system of the Fund as prescribed	Registration as a user must be with the Fund Need to clarify whether registration at birth qualifies one as a citizen or it means registration of a birth which does not confer citizenship – Department of Home Affairs to clarify
Page 9 Clause 6(0) Rights of Users	<i>6(o) to purchase health care services that are not covered by the Fund through a complementary voluntary medical insurance scheme registered in terms of</i>	To be deleted. This section seeks to sustain the dual health system that the NHI should end.	Clause could cause confusion, expectation is that NHI shall provide health care services that the State can provide to citizens, to that effect may <u>not</u> refer to

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	<i>the Medical Schemes Act, any other private health insurance scheme or out of pocket payments, as the case may be.</i>		complementary voluntary medical insurance scheme registered in terms of the Medical Schemes Act, any other private health insurance scheme or out of pocket payments, as the case may be. NHI to specify the services that will not be covered by the Fund.
Page 11 Clause 8(2) Cost Coverage	<i>(2) A person or user, as the case may be, must pay for health care services rendered directly, through a voluntary medical insurance scheme or through any other private insurance scheme, if that person or user— (a) is not entitled to health care services purchased by the Fund in terms of the provisions of this Act; (b) fails to comply with referral pathways prescribed by a health care service provider or health establishment; (c) seeks services that are not deemed medically necessary by the Benefits Advisory Committee; or (d) seeks treatment that is not included in the Formulary.</i>	To be deleted. This section seeks to sustain the dual health system that the NHI should end.	Might have unintended exclusion implications. NHI may <u>not</u> refer to medical insurance scheme but must confine itself to services it will pay for or not pay for.
Page 10 Clause 10(l) Functions of Fund	<i>(l) monitor the registration, license or accreditation status, as the case may be, of health care service providers, health establishments and suppliers;</i>	To be deleted. This function must be left to the relevant statutory bodies.	Monitoring cannot be the function of the Fund but must be left to statutory bodies. Fund cannot be responsible for monitoring of registration, licensing/accreditation status of health care service providers, health establishments and suppliers. These functions must be monitored by an autonomous structure who will provide the reports to the Fund and the Minister
Page 12 Clause 11 (1)(h) Powers of Fund	<i>(h) investigate complaints against the Fund, health care service providers, health establishments or suppliers;</i>	This section to be reformulated and consolidated to:	Investigating complaints against the Fund must be referred by statutory bodies (registered health care

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		Escalate complaints against health care service providers, health establishments or suppliers to relevant statutory bodies and state's investigating structures	practitioners) and other law enforcement agencies as per Constitution of South Africa
Page 13 Clause 13(5)(b)(d) Constitution and composition of Board	<i>(b) have appropriate technical expertise, skills and knowledge or experience in health care service financing, health economics, public health planning, monitoring and evaluation, law, actuarial sciences, information technology and communication;</i>	This section to be reformulated and consolidated to: (b) have appropriate technical expertise, skills and knowledge or experience in health care service financing, health economics, public health planning, monitoring and evaluation, law, actuarial sciences, information technology and communication;	Technical expertise must be a requirement in technical committees
	<i>(d) not be employed by the State; and</i>	This section to be reformulated and consolidated to: (d) persons appointed to represent the Ministers of Health and Treasury Departments	Ministers may be represented in the Board by an employee of the State
Page 14 Clause 15 (3)(a-i) Functions and powers of Board	<i>(3) The Board must advise the Minister on any matter concerning—</i> <i>(a) the management and administration of the Fund, including operational, financial and administrative policies and practices;</i> <i>(b) the development of comprehensive health care services to be funded by the Fund through the Benefits Advisory Committee;</i> <i>(c) the pricing of health care services to be purchased by the Fund through the Health Care Benefits Pricing Committee of the Board;</i> <i>(d) the improvement of efficiency and performance of the Fund in terms of strategic purchasing and provision of health care services;</i> <i>(e) terms and conditions of employment of Fund employees;</i> <i>(f) collective bargaining;</i> <i>(g) the budget of the Fund;</i> <i>(h) the implementation of this Act and other relevant legislation; and</i>	This section to be reformulated and consolidated to: (c) the pricing of health care services to be purchased by the Fund through the Health Care Benefits Pricing Committee of the Fund established by the Minister;	Health Care Benefits Pricing Committee must be an autonomous structure Relationship between the Benefits Pricing Committee and National Pricing Committee (Section 19 of the National Health Act) needs to be clarified.

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	<i>(i) overseeing the transition from when this legislation is enacted until the Fund is fully implemented.</i>		
Page 15 Clause 19(1) Chief Executive Officer Appointment	<i>19. (1) A Chief Executive Officer must be appointed on the basis of his or her experience and technical competence as the administrative head of the Fund in accordance with a transparent and competitive process.</i>	<p>This Section needs to be reformulated and consolidated as follows:</p> <p>A Chief Executive Officer must be appointed on the basis of his or her experience and technical competence as the administrative head of the Fund in accordance with a transparent and competitive process.</p>	<p>Unclear what is meant by technical competence as the administrative head of the Fund. This is the first Fund, the clause presupposes that there is precedence therefore technical experience is open to interpretation.</p>
Page 15 Clause 20(2)(e) Chief Executive Officer Responsibilities	<i>(2) Subject to the direction of the Board, the responsibilities of the Chief Executive Officer include the— (e) establishment of an Investigating Unit within the national office of the Fund for the purposes of— (i) investigating complaints of fraud, corruption, other criminal activity, unethical business practices and abuse relating to any matter affecting the Fund or users of the Fund; and (ii) liaising with the District Health Management Office concerning any matter contemplated in subparagraph (i).</i>	<p>This Section needs to be reformulated and consolidated as follows:</p> <p>(e) establishment of an Investigating Unit within the national office of the Fund for the purposes of— (i) investigating complaints of fraud, corruption, other criminal activity, unethical business practices and abuse relating to any matter affecting the Fund or users of the Fund;</p>	<p>In line with the Constitution of South Africa, the Fund cannot usurp the powers of State’s law enforcement agencies. Investigations must be referred to state structures like SAPS, SIU, etc</p>
Page 16 Clause 21(1) Relationship of Chief Executive Officer with Minister, Director-General and Office of Health Standards Compliance	<i>21. (1) The Chief Executive Officer of the Fund must meet with the Minister, Director-General of Health and the Chief Executive Officer of the Office of Health Standards Compliance at least four times per year in order to exchange information necessary for him or her to carry out his or her responsibilities. (2) Notwithstanding subsection (1) the Chief Executive Officer</i>	<p>This Section needs to be reformulated and consolidated as follows:</p> <p>21. (1) The Chief Executive Officer of the Fund must meet with the Minister, Director-General of Health and the Chief Executive Officer of the Office of Health Standards Compliance and statutory bodies at least four times per year in order to exchange information necessary for him or her to carry out his or her responsibilities.</p>	<p>Fund Chief Executive Officer must also meet with statutory bodies</p>
Page 16 Clause 22	<i>Staff at Executive Management Level</i>	<p>This Section needs to be reformulated and consolidated as follows:</p>	<p>The Chief Executive Officer in consultation with Board appoints the Chief Financial Officer and Chief Actuary who must be Executive Directors at Board level.</p>

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Staff at Executive Management Level	<i>22. The Chief Executive Officer may not appoint or dismiss members of staff at executive management level without the prior written approval of the Board.</i>	The Chief Executive Officer in consultation with Board appoints or dismiss members of staff at executive management level including the Chief Financial Officer, Chief Actuary and Clinical Advisory who must be Executive Directors	Members of the executive management level must be appointed through a competitive and transparent process and must be dismissed on a balance of probabilities of failure/omission to perform
Page 18 Clause 26 Health Care Benefits Pricing Committee	<i>26. The Minister must, after consultation with the Board and by notice in the Gazette, establish a Health Care Benefits Pricing Committee as one of the advisory committees of the Fund, consisting of not less than 16 and not more than 24 members.</i>	This Section needs to be reformulated and consolidated as follows: The Minister must, after consultation with the Board and by notice in the Gazette, establish a Health Care Benefits Pricing Committee as one of the advisory committees of the Fund , and must appoint members consisting of not less than 16 and not more than 24 members.	The Minister appoints members of Advisory Committees established in terms of Section 19 of the National Health Act who report to him/her and are accountable to the Minister not the Fund
Page 18 Clause 31(2) Role of Minister	<i>(2) The Minister must clearly delineate in appropriate legislation the respective roles and responsibilities of the Fund and the national and provincial Departments, taking into consideration the Constitution, this Act and the National Health Act, in order to prevent duplication of services and the wasting of resources and to ensure the equitable provision and financing of health services.</i>	This Section needs to be reformulated and consolidated as follows: 2) The Minister must clearly delineate in appropriate legislation the respective roles and responsibilities of the Fund and the national and provincial Departments, taking into consideration the Constitution, this Act and the National Health Act, in order to prevent duplication of services and the wasting of resources and to ensure the equitable provision and financing of health services.	This (in appropriate legislation) merely postpones the Minister making a decision on the role of the provinces, as this might be interpreted to mean that provinces are opposed to NHI. The roles must be delineated through the NHI Bill
Page 19 Clause 32 Role of Department	<i>32. (1) The functions of the Department are outlined in the National Health Act and the Constitution, and include— (a) issuing and promoting guidelines for norms and standards related to health matters; (b) implementing human resources planning, development, production and management; (c) co-ordinating health care services rendered by the Department with the health care services rendered by provinces, districts and municipalities, as well as providing such additional health services as may be necessary to establish an</i>	To Delete:	Health should be a national competence. Because of efficiency and managing the limited resources of NHI should be with the Minister and not the provinces. (Life Esidimeni adverse events and lack of accountability is cited as an example wherein the Minister was powerless to act as this was in the jurisdiction of the province (MEC of Health) who also could not be held accountable. Because of efficiency and managing the limited resources NHI should be Amend Section 146 of the Constitution of South Africa to exclude provincial authority on health care services

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	<p><i>integrated and comprehensive national health system;</i></p> <p><i>(d) planning the development of public and private hospitals, other health establishments and health agencies as contemplated in section 36 of the National Health Act; and</i></p> <p><i>(e) integrating the annual health plans of the Department and the provincial and district health departments and submitting the integrated health plans to the National Health Council.</i></p> <p><i>(2) Subject to the transitional provisions provided for in section 57, the Minister may introduce in Parliament proposed amendments to the National Health Act for the purpose of centralising the funding of health care services as required by this Act, and in such cases the Minister may—</i></p> <p><i>(a) delegate to provinces as management agents, for the purposes of provision of health care services, and in those cases the Fund must contract with sections within the province such as provincial tertiary, regional and emergency medical services;</i></p> <p><i>(b) designate provincial tertiary and regional hospitals or groups of hospitals as autonomous legal entities accountable to the Minister through regulation; and</i></p>	<p>(2) Subject to the transitional provisions provided for in section 57, the Minister may through the NHI Bill must introduce in Parliament proposed amendments to the National Health Act for the purpose of centralising the funding of health care services as required by this Act, and in such cases the Minister may—</p> <p>(a) delegate to provinces as management agents, for the purposes of provision of health care services, and in those cases the Fund must contract with sections</p>	<p>Parliament has approved a centralised national fund to provide health care services, therefore, centralising of funding nationally must be done in this Bill and not be postponed or expecting the Minister may introduce proposed amendments to NHA for purposes of centralising the fund.</p> <p>Any legislation that undermines this Bill must be repealed.</p>
<p>Page 19 Clause 33 Role of medical schemes</p>	<p><i>33. Once National Health Insurance has been fully implemented as determined by the Minister through regulations in the Gazette, medical schemes may only offer complementary cover to services not reimbursable by the Fund.</i></p>	<p>This Section needs to be deleted</p> <p>33. Once National Health Insurance has been fully implemented as determined by the Minister through regulations in the Gazette, medical schemes may only offer complementary cover to services not reimbursable by the Fund.</p>	<p>The Fund cannot be involved in what happens to services not covered by the Fund. NHI may not refer to <i>medical schemes offering complementary cover not reimbursable by the Fund</i>. NHI effectively repeals the Medical Schemes Act</p>

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Clause 34 and 39(2)(v)	<i>34. (1) The Fund must contribute to the development and maintenance of the national health information system as contemplated in section 74 of the National Health Act through the Information Platform established in terms of section 40.</i>	This Section needs to be reformulated and consolidated: 34. (1) The Fund must contribute to the development and maintenance of the national health information system as contemplated in section 74 of the National Health Act through the Information Platform established in terms of section 40.	Amend Section 74 of NHA: appoint a structure to develop and maintain a national health information system
Page 19 Clause 35 Purchasing of health care services	<i>(4) (a) Emergency medical services provided by accredited and contracted public and private health care service providers must be reimbursed on a capped case-based fee basis with adjustments made for case severity, where necessary. (b) Public ambulance services must be reimbursed through the provincial equitable allocation.</i>	This Section needs to be reformulated and consolidated as follows: (b) Public ambulance services must be reimbursed through the provincial national equitable allocation.	In order to have an effective health system through NHI, health services must be centralised in the national department and not decentralised to the provincial levels. Schedule 5 of Constitution of South Africa must be amended to make health a national competency by amending of management of ambulance services from provincial departments to national department
Page 21 Clause 39 Accreditation of service providers	<i>(5) In order to be accredited and reimbursed by the Fund, a health care service provider or health establishment must submit information to the Fund for recording on the Health Patient Registration System,</i>	This Section needs to be reformulated and consolidated as follows: In order to be accredited and reimbursed by the Fund, a health care service provider or health establishment must submit information to the Fund for recording on the Health Patient Registration System, National Health Information System	
	<i>(7) The Fund must renew the accreditation of service providers every five years on the basis of compliance with the accreditation criteria as reflected in subsection (2).</i>	This Section needs to be reformulated and consolidated as follows: (7) The Fund must renew review the accreditation contracts of service providers every five years on the basis of compliance with the accreditation criteria as reflected in subsection (2).	The Fund must enter into accreditation contracts with service providers
Page 24 Clause 42(2) Complaints	<i>The Investigating Unit established by the Chief Executive Officer in terms of section 20(2)(e) must launch an investigation to establish the facts of the incident reported and must make recommendations to the Chief Executive Officer as to the way in which the matter may be resolved within 30 days of receipt of the complaint.</i>	This Section needs to be reformulated and consolidated as follows: Delete Section 20(2)(e) of the National Health Insurance Bill	The Fund must deal with complaints relating to purchase of services and it must refer other matters to relevant structures for investigation and resolution. Complaints – kinds of complaints to be clarified so that the system is not congested with complaints that should be to statutory bodies and other investigative structures.

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			Fund to have a complaints unit and will respond to complaints related to its mandate but the others will be transferred to the relevant structures with specific turnaround times for resolutions.
Page 24 Clause 44 (1)(a) Appeal Tribunal	44. (1) An Appeal Tribunal is hereby established, consisting of five persons appointed by the Minister: (a) One member appointed on account of his or her knowledge of the law, who must also be the chairperson of the Board;	This Section needs to be reformulated and consolidated as follows: 44. (1) An Appeal Tribunal is hereby established, consisting of five persons appointed by the Minister: (a) One member appointed on account of his or her knowledge of the law, who must also be the chairperson of the Board Appeal Tribunal;	Members of the Board may not be members of an Appeal Tribunal.
<p>Page 31: Schedule Repeal and Amendment of Legislation Affected by Act</p> <p>Amendments to Health Professions Act 56 of 1974</p> <p>a. Section 5(1)(a) (to insert in the subsection “Persons so designated must not be members of the professional board making designations”).</p>			



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