

## HEALTH VIEW



## FOOD FOR THOUGHT

### Why NHI is unconstitutional

"The National Health Insurance scheme and demarcation regulations are unequivocal violations of SA's constitutional rights to freedom of association and access to healthcare," wrote **Martin van Staden, legal researcher at the Free Market Foundation in *BusinessLIVE*, 5 October 2017**

Health Minister Aaron Motsoaledi recently declared that NHI "affects all citizens in the country; they have to belong to it, they don't have a choice".

**"Such arrogant rhetoric implies that the Minister either does not understand the Constitution or simply does not care. Both possibilities fly in the face of our constitutional commitment to the rule of law,"**

wrote Van Staden.

"By forcing South Africans out of their private healthcare arrangements and into the NHI, the government is violating both our right to access to healthcare and our freedom of association.

"Furthermore, the government commits the gravest violation of the rule of law by showing South Africans and foreign investors that not even the Constitution is strong enough to constrain the grandiose and fanciful ideological escapades upon which the government embarks.

"SA's private health sector is the best in Africa, so rather than trying to provide healthcare, the government should pay for the private healthcare of the poor. Indeed, private health insurance providers should compete in the market and the government should pay for the health insurance of those who cannot afford it, or pay for private healthcare directly. But it should not seek a monopoly on health insurance or any other aspect of healthcare."

Van Staden concluded: "This creeping decline in respect for the Constitution stands to eventually create a repressive and poor society. SA, as far as healthcare goes, must return to the rule of law".



## Tax credits, funding and the NHI

Dr. Johann Serfontein

“An Econex research report indicating that 1.9-m medical scheme members might not be able to afford medical aid if the tax credit is scrapped to fund NHI has caused quite a stir,” wrote Dr. Johann Serfontein (HealthMan) in BizCommunity; 11 October.

This would lead to these members having to access health services through the public sector.

Of no apparent concern to the Minister of Health is the increased burden this would place on the public sector even though he indicated in a recent interview that the public sector is already overburdened. Of interest is the fact that there was a document published in the Government Gazette early in July, which says the exact opposite.

A second contentious issue is the scrapping of the employer subsidy for state employees, which is stated in the White Paper and confirmed in the July document.

A portion of the 1.9-million scheme members who might have to give up their scheme membership as unaffordable, earns above the R350 000 threshold set for full payment for services in the public health sector.

While these individuals might be able to fund primary healthcare in public or private with cash spend, any condition that requires hospitalisation is likely to prove financially catastrophic.

**This portion of the population could have their access to healthcare reduced by repurposing their tax credits for NHI funding, while they, themselves, do not have access to the incomplete NHI system as remedy.**

In the absence of the very NHI system for which the tax credit is purported to be utilised by the government, it would be a tough task to convince the Constitutional Court that the right of access to healthcare is not being unfairly limited by this step.

**It is highly unlikely that any funds government saves by cancelling these subsidies and tax credits to state employees will become available for financing of the NHI fund.**

The major concern with the cancellation of the tax credits is the potential Constitutional implications.

South Africa cannot afford the NHI version of comprehensive free cover for all in the current economic climate. Under NHI, medical schemes would cover complementary services, but what about the estimated 50-m people who would be unable to afford scheme cover in the NHI environment?

## VIEW ON GOVERNMENT



**SASOG**

South African Society of Obstetricians & Gynaecologists



## VIEW FROM THE SAPPF:

**Upfront payment for professional services**

The Gynaecology Management Group Ltd (GMG) and the SA Society of Obstetricians and Gynaecology (SASOG), requested the HPCSA to reconsider its ruling on advanced payment of fees for personal services.

Elsabe Klinck (legal services), on behalf of GMG and SASOG, pointed out in a letter to the HPCSA that health practitioners and their clients have been facing extreme financial pressure as a result of the HPCSA's prohibition on healthcare professionals receiving

**Increase in medico-legal litigation**

Regarding the increase in medico-legal litigation against the state, SAPPF states in an open letter that at least some of the concern relates to the Remunerated Work Outside the Public Service (RWOPs), and the associates lack of control.

"It seems that lawyers are touting and canvassing their personal injury work in an unbridled fashion, and that the Law Society does very little to prevent this. The Department of Justice should urgently address this matter with the Law

money for services prior to the services being rendered.

The HPCSA is requested to discuss the matter at its next board meeting.

Society, to not only address illegal or unethical conduct, but also the aggressive nature in which the healthcare professionals are being disparaged, or assertions are made that harm equates to negligence,"

**CEO,SAPPF Dr Chris Archer.**

## Hospital Association of SA: Annual Conference



## Setting up NHI will take 'twice as long as planned'

Developing the legal framework to breathe life into NHI policy is likely to take twice as long as the government has planned, said **Neil Kirby, Werksmans Attorneys' director of healthcare and life science practice**, at the HASA conference.

According to Kirby the complex set of legislative reforms needed would be impossible to achieve by 2022. In addition to amending 11 existing healthcare acts, the government would probably need to craft two new pieces of NHI-related legislation.

He warned that private medical aids and hospital groups should be cautious

in the White Paper on the NHI.

Other uncertainties Kirby mentioned was the future role of the statutory councils, the Office of Health Standards Compliance, the National Public Health Institute of SA, and the design of available benefits and interim structures that have to be finalised before NHI legislation can be considered.

### **Will you lose your medical aid tax credits in 2018?**

Earlier this year Health Minister Aaron Motsoaledi warned that R20-bn in annual medical aid tax credits will likely be cut to fund the NHI.

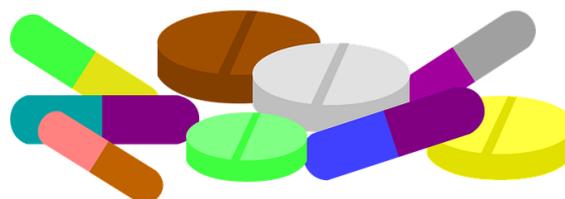
when offering services to government as part of the proposed NHI Scheme because there are still too many uncertainties surrounding the system. Kirby's warning followed various suggestions by leaders in the private healthcare industry about possible cooperation between the public and private sectors regarding pregnancies, school healthcare programmes and cataract and hip replacement procedures, as prioritised

**However, Kirby said it's unlikely that government would be able to effect changes to medical aid tax benefits in time for the start of the next financial year in April 2018.**

- Research produced by economic consultancy Econex found that scrapping the government subsidies could force up to 2 million people to drop private cover.

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## Pick-up points for chronic medicine



The Western Cape health department's chronic medicine dispensing programme has been expanded to provide on average 380 000 packs of medicines each month through its service provider, DSV Healthcare,

It started with a small pilot programme in Cape Town in 2005 that serviced just under 1 000 patients. The programme allows patients to collect their medicine at nearby venues instead of standing in queues for hours at hospitals and clinics.

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## Irregular expenditure at NHLS



**NATIONAL HEALTH  
LABORATORY SERVICE**

The National Health Laboratory Service (NHLS) received a qualified audit for 2016-17 after its auditors, Sizwe-Ntsaluba-Gobodo, highlighted irregular expenditure of more than R1-bn and cast doubt on its ability to continue as a going concern because it reported a R1.879-bn deficit for the year. The deficit represents a significant swing into the red, as the NHLS reported a surplus of R273-m the year before.

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## FINANCIAL VIEW

Tight rules 'push local hospital groups offshore'



According to analysts, SA's strict regulatory framework is forcing healthcare companies to look offshore for growth, wrote **Michelle Gumede** in *BusinessLIVE*, 4 October.

This follows the Competition Commission's decision to block the merger of Netcare with Lakeview Hospital in Benoni. The commission said the merger would reduce or prevent competition in the area, resulting in higher hospital prices for insured patients.

- Matthew Zunckel, an equity analyst at Mvunonala, said listed healthcare players were struggling to expand in SA because of tight regulatory frameworks.

This has resulted in listed players looking offshore for growth.

- Rowan Williams, of Nitrogen Fund Managers, warned that hospital groups would now need to look at the effect of competition when contemplating small regional acquisitions.

This will slow the consolidation of single hospitals or smaller regional groups depending on the competitive dynamics of that region.

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## VIEW ON PHARMACEUTICALS



## ARV drug can be breakthrough

Min. Motsoaledi is optimistic that the new HIV drug, Dolutegravir, that will roll out next year, will assist in achieving government's goal.

The drug has fewer side effects than current drugs, and is safer, cheaper and more effective as HIV cannot develop resistance to it.

## Pre-Exposure HIV fighter rolled out

Right to Care, with the support of the Global Fund to Fight HIV/AIDS, TB and Malaria, is rolling out pre-exposure prophylaxis (PrEP) at three sites in Gauteng and one in the Western Cape targeting those at high risk for HIV exposure.

## Aspen welcomes CC's decision

Aspen Pharmacare has welcomed the Competition Commission's decision to drop the excessive pricing investigations against it and agent Equity.

The CC found that it could not sustain a case of excessive pricing. However, investigations into Roche, US-based Technology Company Genentech and Pfizer were continuing.

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## VIEW ON MEDICAL AIDS

Council for Medical Schemes Report 2016



Medical Aid Schemes 'in poor health'

*Business Day 9 October*

Worsening claim ratios and climbing healthcare costs have resulted in SA's medical aid schemes facing a multimillion-rand deficit, according to the CMS 2016 annual report. The council regulates 82 schemes, including a total of 22 open schemes and 60 restricted schemes.

The report revealed that nearly 62% of the restricted schemes had a R1.435-bn deficit, while 78.3% of the open schemes incurred a total deficit of R955.7-m, up from R539.6-m in 2015. Schemes collected R163.9-bn in contributions as at end-December 2016, but this was undercut by a gross healthcare expenditure of R151.2-bn. Healthcare benefits, which medical schemes covered from their risk pools, amounted to R135.98-bn in 2016. The total gross relevant healthcare expenditure incurred per average beneficiary per month increased by 7.9% to R1 423. The main contributors to healthcare costs were private hospitals, specialists and medicines. Spending on private hospitals rose to R56.32-bn in 2016, while specialists and medicines amounted to R36.32-bn and R23.95-bn, respectively.

## Teasing out actual medical aid increases

## Several schemes have announced increases

Medical schemes are announcing lower contribution increases for next year. However, Victor Crouser, the coastal head of consultancy Alexander Forbes Healthcare, warns that members need to watch out for increases in co-payments, deductibles and thresholds, wrote Laura du Preez in Business Times, 8 October 2017. Benefit cuts will also be less severe, says Victor because schemes do not have much room left to cut. Benefit limits that stay the same are a reduction in real terms, because their values have been eroded by inflation, said Crouser.

A copy of the annual report can be found at:

<http://www.medicalschemes.com/files/Annual%20Reports/CMSAnnualReport%2020162F17.pdf>

### **The following schemes have announced increases for 2018**

- Discovery Health: weighted increase of 7.9%
- Bonitas: an average increase of 8.7%, with increases ranging from 7.9% to 9.9%;
- Momentum Health: an average increase of 8.3%, with increases from 8.2% to 9.7%;
- Medshield: an average increase of 10.9%. Increases range from 10% to 13%;
- Resolution: an average of 9.6%;
- Bestmed: an across-the-board increase of 8.4%;
- Genesis: an average of 5.8%. The range of increases covers 5.3% to 6.1%; and
- LA Health: an average of 5.3%, with a range of 4 percent to 7 percent.

## GENERAL NEWS



### Low rating for SA in Health Index

SA was ranked bottom of a list of 19 nations in the Future Health Index, a global survey which measures the ability of healthcare systems to deliver best results at lowest costs. According to the study SA's efficiency is 4.4 compared with the average of 10.5. The Index gives a view of how well a country's healthcare system is set up for the future.

### Medical school for Eastern Cape

The Nelson Mandela University (NMU) in Port Elizabeth will open SA's ninth medical school in 2020 when the school is expected to accept its first class of 100 aspiring doctors.

The Port Elizabeth University will expand its existing health science faculty to include an undergraduate medical degree.

### Five year waiting list at Bara

Machinery breakdowns and staff shortages are cited among the reasons for a dramatic increase in the backlog for patients requiring surgery at the Chris Hani Baragwanath Hospital. The waiting period for a hip operation is up to five years.

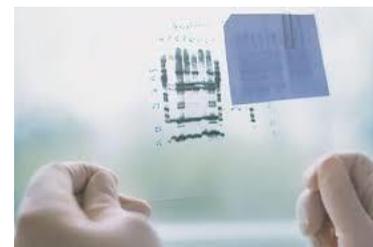
Gauteng health MEC Gwen Ramokgopa said 11 736 patients are waiting for operations.



### Evidence in Esidimeni case



### Child obesity grows tenfold



### New gene test for cancer

The fear of challenging authority, coupled with the reluctance to take accountability, led to the deaths of 118 patients under the care of the Gauteng provincial government. This was the testimony of Health Ombudsman Malegapuru William Makgoba in front of an arbitrary committee currently hearing evidence.

The world had 10 times as many obese children and teenagers last year than in 1975, but underweight kids still outnumbered them, according to a new study published in *The Lancet Medical Journal*. Warning of a “double burden” of malnutrition, researchers said the rate of increase in obesity far outstripped the decline in under-nutrition.

A genetic test that can more accurately predict how likely a woman is to develop breast cancer could soon be available to high-risk groups. The blood or saliva test, developed by a team in Manchester, looks at 18 genetic variations that are known to affect the chances of an individual developing breast cancer.

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