



NHI Draft Bill Newsflash on Certificate of Need

The NHI Draft Bill was published in Government Gazette 41725 on 21 June 2018. The South African Private Practitioners' Forum will be sharing an analysis of the Draft NHI Bill with members, highlighting issues of importance and concern.



Excerpt from the Draft NHI Bill

The NHI Draft Bill has the proposed amendment of Section 36 of the Health Act, by the addition of the Sections in **Bold** below:

National Health Act

36. (l) A person may not-

- (a) establish, construct, modify or acquire a health establishment or health agency;
- (b) increase the number of beds in, or acquire prescribed health technology at, a health establishment or health agency;
- (c) provide prescribed health services; or
- (d) continue to operate a health establishment or health agency after the expiration of 24 months from the date this Act took effect, without being in possession of a Certificate of Need (CON).

(5) The Director-General may issue or renew a CON subject to-

- (a) compliance by the holder with national operational norms and standards for health establishments and health agencies, as the case may be; and
- (aA) accreditation of the health establishment or health agency in terms of section 36 [should be 38] of the National Health Insurance Fund Act, 2018;**

(6) The Director-General may withdraw a CON

- (a) on the recommendation of the Office of Standards Compliance in terms of section 79(7)(6)
- (aA) if the accreditation of the health establishment or health agency in terms of section 36 [should read 38] of the National Health Insurance Fund Act, 2018, is withdrawn or is not renewed;**

Analysis

Section 38 of the National Health Insurance Bill:

38 (2) In order to be accredited by the Fund, a service provider must -

- (a) be in possession of and produce proof of certification by the Office of Health Standards Compliance, and where relevant proof of registration by the Health Professions Council, Nursing Council, South African Dental Council or Pharmacy Council, as the case may be;
- (b) meet the needs of users and ensure service provider compliance with specific criteria, including -
 1. provision of the minimum required range of personal health care services specified by the Minister in consultation with the Fund and published in the Government Gazette from time to time as required;
 2. allocation of the appropriate number and mix of health care professionals to deliver the health care services specified by the Minister in consultation with the National Health Council and the Fund, and published in the Government Gazette from time to time as required;
 3. adherence to treatment protocols and guidelines, including prescribing medicines;
 4. adherence to health care referral networks;
 5. submission of information to the National Health Information Repository and Data System in accordance with section 34(3) to ensure portability and continuity of health care services in the Republic and performance monitoring and evaluation; and
 6. adherence to the national pricing regimen for services delivered.

The Implication of this for Healthcare Professionals is that they will not be able to obtain a CON if they are not accredited (contracted) by the NHI Fund. **This therefore removes the option for any private healthcare provider to opt out of rendering services to the NHI fund, if they wish to have a CON in order to render healthcare services of any kind in South Africa.** It also means that a private provider will have to comply with tariffs as published by the NHI Fund or any other body doing so.