

Could BHF Directors be delinquent?

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On 28 June, at a much publicised press conference co-organised by the Department of Health, Board of Healthcare Funders (BHF) Chairman, Dr Humphrey Zukofa, in support of NHI, commented that “If we want to see economic growth and the implementation of the National Development Plan, we need to change the paradigm. We have an opportunity to participate in correcting what is wrong and to invest in improving the health of our nation. That is why we [BHF] are 100% behind the NHI.”

BHF is a representative organisation for the private healthcare funding industry in South Africa. The company’s motto is “Serving medical scheme members” and its proclaimed aim is “...to ensure the viability, sustainability, relevance and legitimacy of the private healthcare funding industry in Southern Africa”. More likely to achieve that aim, and be in the best interest of BHF members, would be the introduction of a Risk Equalisation Fund (REF) amongst medical schemes which would also pool funds and risks to Medical Schemes’ benefit. Mr Zukofa, though, is not advocating for this, he supported the pooling of funds through the NHI.

The NHI, as envisioned by government in the NHI White Paper, states that medical schemes will only be allowed to fund complementary services not covered by the NHI. Paragraph 401 of the White Paper states: *“In future, all medical schemes will only offer complementary cover for services that are not included in the health service benefits and medicines approved by the NHI Benefits Advisory Committee. The cover provided by medical schemes must only complement (and not duplicate) the NHI service benefits.* It continues further in paragraph 402 that *“When NHI is fully implemented, it is anticipated that the number of medical schemes will reduce from the current 83 to **a much smaller number**”*. The BHF is thus supportive of an initiative that will lead to a large scale reduction in the number of medical schemes in South Africa and subsequently, the detriment of its own member organisations.

Does the BHF have a mandate from its member organisations to support NHI, considering that medical schemes have a responsibility to their members to be managed in a sustainable manner, which, presumably, excludes supporting initiatives that would lead to their demise? Criticising the NHI creates public relations issues for medical schemes, so it is unlikely any of them would publically berate the BHF for this position statement.

The BHF Memorandum of Incorporation (MOI), as lodged with the Companies and Intellectual Property Commission, has listed that directors have a duty to “ensure the integrity, credibility and sustainability of the company” and “ensure that its functions in terms of these memorandum are carried out in a manner that equally serves the interests of all of its members and associate members”.

It could thus be argued that the directors of the BHF are delinquent in their duties to members by either supporting an initiative that is to the detriment of its members’ interests, or by their omission to retract the statements by the chairman of the board and disciplining him for publically expressing the BHF’s support of the NHI. Whether the NHI is the correct way to address universal healthcare in South Africa is not the concern. The concern is the lack of corporate governance in the BHF, and the apparent delinquency of the directors to hold the executive to account for not adhering to the companies’ memorandum of incorporation or the company’s functions and value proposition, which includes representing member interests and “Lobbying and advocating policy position on behalf of our members”.

Should a company that is supposed to serve the interests of medical schemes be supporting an initiative that will radically reduce their numbers? Probably not, according to their MOI. Should the directors of such a company be considered delinquent? The Companies’ Act certainly demands responsible behaviour by directors regarding their members’ best interests. Will the threat of prosecution prompt action from the BHF board regarding this issue? Only time will tell.

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