

## HEALTHMAN PRIVATE PRACTICE REVIEW

### JANUARY – JULY 2018

#### FOOD FOR THOUGHT

*Staggered medical negligence bill ‘unfair’ Tamar Kahn: Business Day, 5 June 2018*

The government has proposed a new “pay as you go” system for dealing with medical negligence claims against the state, in a bill that critics say, could prejudice patients by limiting their choices and forcing them to seek care from the very facilities that harmed them in the first place. The **Public Liability Amendment Bill** proposes scrapping lump-sum settlements for medical negligence claims of more than R1-m and replacing it with a structured schedule of payments. Successful claimants will be limited to receiving future healthcare services in the public sector at facilities that meet the standards set by the Office of Health Standards Compliance (OHSC). If state services are not available, claimants will be able to use private healthcare services, but will be liable for the portion of their bills that exceed public sector rates. Former Finance Minister Malusi Gigaba said last October the measures were an attempt to rein in the state’s soaring pay-outs for medical-negligence claims, which grew an average of 45% a year from 2012-13 to 2016-17. The state paid out R1.2-bn in 2016-17 and the contingent liability arising from claims against the state ran to R56-bn — more than a quarter of the consolidated health budget.

Health Minister Aaron Motsoaledi said the bill, tabled in Parliament early in June, aimed to rectify two key problems facing the state: the fact that the unused portion of a lump sum paid to a claimant for future medical expenses was not retrievable if they died; and the “rampant” fraud in some provinces.

Motsoaledi said the bill directed claimants to public healthcare facilities, as it was drafted with National Health Insurance in mind.

**Alex van den Heever, chairman of Social Security Systems Administration and Management Studies at Wits:**

The bill does not provide adequate protection to patients. He said where services are to be provided by a state service, compliance with the weak OHSC norms are not a valid protection. He supports periodic payments, but not short-changing people who have been treated badly by the state.

**Werksmans attorney Neil Kirby:** The bill would disadvantage patients as it would limit their choice of healthcare providers and create the possibility of having to return to the very institution where the negligence occurred. He said the bill might bring the State Liability Act into conflict with the right to access a healthcare service of one’s choosing in terms of the Bill of Rights.

#### NEWS ON GOVERNMENT:

*Cabinet approves an NHI bill that is thin on details; Tamar Kahn: Business Day, 11 June 2018*

Cabinet has approved the long-awaited National Health Insurance (NHI) Bill, the government’s first and most crucial piece of legislation for implementing its goal of universal healthcare. NHI aims to provide healthcare that is free at the point of delivery to everyone, financed in a way that sees the healthy and wealthy subsidise the poor and the sick, wrote *Tamar Kahn in Business Day on 11 June*

Health Minister Aaron Motsoaledi declined to comment on the bill, saying he would do so at a media briefing in due course. The bill does not provide any details about how NHI will be financed, leaving that to the Treasury to determine. Instead, it sets out the legal mechanism for establishing an NHI Fund, which will purchase services from accredited public and private healthcare providers. Accreditation will be provided by the Office of Health Standards Compliance (OHSC), which will be implementing a new set of norms and standards in 2019 that include the private sector for the first time.

The potentially controversial details of what benefits the fund will cover and how it will reimburse service providers are not spelt out in the bill. That task is instead delegated to a series of ministerial advisory committees, which include an appeal committee.

The work of the ministerial advisory committee on pricing will be closely watched by the private sector, as the white paper says NHI will gradually shift from the current fee-for-service model to alternative reimbursement models. This could imply that a doctor could be paid a fixed fee to provide primary healthcare services to a specified number of patients, rather than being reimbursed separately for each service provided to a patient. The sector is also keenly awaiting the release of the health market inquiry's provisional report on June 28. Observers are particularly interested in what it has to say about private sector pricing and whether it will recommend establishing a mechanism for price control. The bill also sets out the fund's governance structure, including the composition of its board. It is understood that the department regards the Medical Schemes Amendment Bill as an interim measure to ensure consumers are protected as it gradually rolls out NHI.

### ***Medical deans' prescription for SA's public health emergency; BusinessLIVE, 4 June 2018***

The deadly strike in the North West health department, and other crises in SA's public health sector, have driven deans of medical faculties across the country to seek urgent and drastic responses from the government. The South African Committee of Medical Deans says it does not think recent interventions on the part of the National Department of Health have pulled SA's public health sector out of the crisis. It says the problems in the healthcare sector are also hindering the proper training of medical professionals, both undergraduates and postgraduates, at specialist and sub-specialist levels.

The committee said the Cabinet's recent decision to place the North West health department under administration of the national government, in the wake of the health worker protests, and the appointment of the intervention task team in the Gauteng health department for advice on a turnaround strategy, are indicative of a limping and failing health system. The deans called on government to take drastic steps to address the systemic failures in the provincial health departments as a matter of priority. The deans also expressed grave concern about the future of academic medicine because of chronic underfunding, saying that the constant failure to adequately fund internship and community service placements for graduating health professional represents a serious human resources challenge as well as ethical disquiet. The deans' committee called on Health Minister Aaron Motsoaledi to work with Higher Education and Training Minister Naledi Pandor and National Treasury to urgently do the following:

- Ensure all the training sites have been assessed and are ready to host medical students returning from Cuba by June 30;
- Engage with organised labour to ensure industrial action does not limit access to healthcare for patients
- Work with universities to develop a policy and publish regulations to govern academic health complexes, under National Health Act of 2003, Chapter 7, section 51(a) and (b), to resolve issues related to policy, governance, organisation and management, and financing of academic health complexes.
- Establish the National Tertiary Health Services Committee and the National Governing Body for Human Resources for Health (incorporating training and development) by the end of July. These National Health Insurance (NHI) implementation structures will enable the health and higher education and training sectors to jointly plan the short-, medium-and long-term future of health services, and health professions education and training. A joint workforce planning process will also ensure funding is available for guaranteed allocation in internships and community service posts; and
- Facilitate engagements with the Parliamentary portfolio committee on health to host public hearings during June and July 2018 on the crises in provincial health departments. Government should address the outcome of these hearings, using provisions in section 100 of the Constitution to address the systemic failures if necessary.

## **GENERAL NEWS**

***Common infections could increase heart attack risk by 40%; Daily Mail, 13 March 2018***

A major study from Aston Medical School in Birmingham and the University of Cambridge found that patients who suffer common infections have a much greater risk of having a heart attack or stroke in the years to come. The project, tracking 1.2-m patients, found those admitted to hospital for pneumonia or urinary tract infections were 40% more likely to have a heart attack within eight years. They were also 150% more likely to suffer a stroke.

***More listeriosis deaths likely in region;***

By 10 May 1 033 laboratory confirmed cases of listeriosis have been reported, and there have been 204 deaths. The number of reported cases has decreased since the implicated products were recalled on 04 March 2018.

In March *TimesLIVE* reported that the death toll from the listeriosis outbreak could be much higher as it is not a notifiable disease in the SA Development Community (SADC) region. Many of the Southern African countries import Tiger Brands' Enterprise polony and cold meat products. The ST6 strain of listeria, which is responsible for 91% of all South African listeriosis patients, was found at the Tiger Brands Polokwane factory. There have been 967 confirmed cases and 183 deaths from listeriosis in SA.

***Work-related sickness costs SA billions of rand;***

A study by SA Depression and Anxiety Group (SADAG) (published in April) found that more than 40% of all work-related illness is due to work-related stress, major depression, burn-out and anxiety disorders. Depression costs SA more than R232-bn or 5.7% of the country's GDP due to absence from work or attending work whilst unwell.

***Scientists claim allergy breakthrough***

In April Cape Argus reported that researchers essentially found a way to silence the allergic inflammation in mice with a form of immune transfer and gene therapy. According to scientists from the University of Queensland, Australia, experiments on rats proofed that it might be possible for the human immune system to manipulate and re-programme responses that trigger allergy symptoms.











