

**NAMIBIA FINANCIAL INSTITUTIONS
SUPERVISORY AUTHORITY**
(ESTABLISHED UNDER ACT 3 OF 2001)
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October 17, 2002

Enquiries: EU Tjipepa

Ref. no. 14/P

CIRCULAR LETTER: 7/2002

In terms of section 4(2)(h) of the Namibian Financial Institutions Supervisory Authority Act, 2001 (Act No. 3 of 2001), the Registrar: Medical Aid Funds hereby issues the directives set out in the Schedule underneath.

SCHEDULE

1. Definitions

In these directives any word or expression defined in the Act shall have that meaning unless the context indicates otherwise, and in particular-

"administrator" means the business entity rendering administrative support services to funds;

"effective date" means the date determined by the Registrar that these directives enter into force;

"fund" means a medical aid fund registered under the Act;

"healthcare consultant" means a person registered with the Registrar who is neither a fund or an administrator, nor an employee of a fund or administrator, whose functions relate specifically to the medical aid industry and who provides advisory or consulting services to members participating in funds;

"member" means a person who is recognized as a member of the fund in terms of the rules of that fund;

"new member" means a person who has never been a member of a fund or who has not belonged to any fund for a period of at least seven months before becoming a member;

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CHIEF EXECUTIVE OFFICER: FRANS VAN RENSBURG**



"principal member" means the principal member of a fund, whether in active employment or not;

"Registrar" means the Registrar of Medical Aid Funds in terms of the Act;

"the Act" means the Medical Aid Funds Act, 1995 (Act No. 23 of 1995) and includes the regulations made thereunder;

Accreditation

2. Registration of healthcare consultants

- (1) No person shall within three months from the effective date carry on the business of a healthcare consultant in Namibia unless such person is registered to carry on any such business.
- (2) A person must apply to the Registrar in writing for registration as a healthcare consultant and the application must contain –
 - (a) proof of educational qualification(s) of at least Grade 12 (or similar qualification) and appropriate experience of at least two years in the health care industry, copies of ID/passport documents and such other documents and information as the Registrar may require in a particular case; and
 - (b) a non-refundable application fee in the amount of N\$ 500.00.
- (3) The Registrar must issue to the applicant a certificate of registration as a healthcare consultant if the Registrar is satisfied that –
 - (a) the applicant's registration will not be contrary to the public interest; and
 - (b) the applicant is a fit and proper person.
- (4) The certificate of registration referred to in sub-paragraph 3 shall be annually renewable upon application.

3. Use and change of registered name

- (1) Every healthcare consultant must for all purposes and in every public document issued by it, use the name under which it is registered.
- (2) No healthcare consultant may without the prior written approval of the Registrar–

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- (a) change the name under which it is registered.
 - (b) use or refer to itself by a name other than the name under which it is registered; or
 - (c) use or refer to itself by a shortened form or derivative of the name under which it is registered.
- (3) An application for a change of name must be made to the Registrar and be accompanied by an application fee in the amount of N\$100-00.
- (4) The Registrar shall register the consultant concerned under its new name and issue a new certificate of registration to him or her under that name if he or she is satisfied –
- (a) that the applicant is not seeking to be registered under a name that is likely to give rise to confusion; or
 - (b) that the provisions of any other law relating to such a change of name have been complied with.

4. Cancellation of registration of healthcare consultants

- (1) The Registrar may in writing inform a healthcare consultant that he or she intends to cancel the consultant's registration if the Registrar is satisfied that the healthcare consultant –
- (a) no longer satisfies one or more of the requirements for registration specified in directive 2(2)(b) or 2(3); or
 - (b) has –
 - (i) in his or her capacity as a healthcare consultant made a material misrepresentation to members of funds or fund administrators in connection with the information relating to funds;
 - (ii) failed to comply with a condition subject to which he or she has been registered as a healthcare consultant; or
 - (iii) contravened or failed to comply with a provision of the Act.
- (2) A healthcare consultant may, within 30 days from the date of receipt of a notice referred to in subparagraph (1), make written representations to the Registrar in connection with the matter.



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- (3) The Registrar may upon consideration of representations, if any, made by a consultant either withdraw the notice referred to in sub-paragraph (1) or in writing cancel the consultant's registration.
- (4) The Registrar may at the written request of the healthcare consultant cancel the consultant's registration.
- (5) The Registrar may only cancel a healthcare consultant's registration if the Registrar is satisfied that the consultant has made proper arrangements to ensure that his or her liabilities relating to the business in respect of which cancellation of registration is required, will be met.

5. Services and Fees

pg 101 (1) Healthcare consultants may contract directly with members of funds, including employer groups. The services to be rendered and the fees payable for the services must be agreed upon between the consultant and the member/employer group. The fees payable will be for the account of the member/employer group.

agreed by 3 (2) Funds shall only remunerate healthcare consultants for the introduction of new members to the fund at the rate of 3% of the sum of the gross premiums payable by all new members introduced. This fee is payable once only, at the payment of the first premiums of the new member(s) to the fund. No payments in this regard may be made by funds without the approval of NAMFISA. Failure to obtain approval will lead to the Board of Trustees and the principal officer having to repay the amounts paid and will attract criminal prosecution in terms of the Act.

(3) Consultants may not contract with administrators without the prior written approval of the Registrar. }

6. Powers of Inspection of the Registrar

- (1) The Registrar may at any time inspect the affairs or any part of the affairs of a healthcare consultant or instruct an inspector in writing to carry out such an inspection.
- (2) All inspection expenses must be paid by –
 - (a) the person who has applied for the inspection and the Registrar may require such person to furnish such security as the Registrar may require; or

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- (b) the healthcare consultant, or any person, partnership, close corporation or company not registered as a healthcare consultant, being inspected if the Registrar after having considered the inspection report, so decides.
- (3) In order to carry out an inspection the Registrar or an inspector may -
- (a) at any time during normal office hours without previous notice enter any premises occupied by a healthcare consultant and require the production to him or her of any or all of the healthcare consultant's securities, books, records, accounts or documents;
 - (b) search any premises occupied by a healthcare consultant for any moneys, securities, books, records, accounts or documents;
 - (c) open or cause to be opened any strongroom, safe or other container in which he or she suspects any moneys, securities, books, records, accounts or documents of a healthcare consultant are kept;
 - (d) examine and make extracts from and copies of all securities, books, records, accounts and documents of a healthcare consultant or, against a full receipt issued by him for such securities, books, records, accounts or documents, remove them temporarily from the premises of the healthcare consultant for that purpose;
 - (e) require an explanation of any entries in the books, records, accounts or documents of a healthcare consultant;
 - (f) against a full receipt issued by him, seize any securities, books, records, accounts or documents of a healthcare consultant which in his opinion may afford evidence of an offence or irregularity;
 - (g) retain any such seized securities, books, records, accounts or documents for as long as they may be required for any criminal or other proceedings.
- (4) In carrying out an inspection the Registrar or an inspector may examine under oath in relation to the business of a healthcare consultant any person who is or formerly was a director, auditor, local auditor, attorney, valuator, agent, servant, employee, member, debtor, creditor, or shareholder of the healthcare consultant and he or she may administer an oath or affirmation to that person for the purpose of such an examination:



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Provided that the person examined, whether under oath or not, may have his legal adviser present at the examination.

- (5) A person contemplated in paragraph (4) shall, when he is requested by the Registrar or an inspector to do so produce to the Registrar or the inspector every security, book, record, account or document of the healthcare consultant to which he or she has access, and shall give the Registrar or the inspector, at his or her request, any information relating to the affairs of the healthcare consultant.
- (6) An inspector may, with the written authority of the Registrar, also inspect the securities, books, records, accounts or documents of any person, partnership or company if the Registrar –
 - (a) has reason to believe that the healthcare consultant the affairs of which are being inspected, has or had a direct or indirect interest in or in the business of that person, partnership or company;
 - (b) has reason to believe that such person, partnership or company has or had a direct or indirect interest in or in the business of the healthcare consultant;
 - (c) considers it necessary for a proper inspection of the affairs of the healthcare consultant that those securities, books, records, accounts or documents be inspected,and the provisions of paragraph (3) apply with the necessary changes in respect of such an inspection: Provided that for the purposes of paragraph (b) if a person holds shares as a nominee or in trust on behalf of another person in a healthcare consultant, that person must upon request of the inspector disclose the name of that other person.
- (7) An inspector shall on demand produce the written instruction furnished to him or her by the Registrar.
- (8) The healthcare consultant of which the securities, books, records, accounts or documents have been seized under paragraph (1)(f) or its lawful representative is entitled to examine, make entries in and make extracts from them during office hours under such supervision as the Registrar or an inspector may determine.
- (9) When an inspector has completed his/her inspection, he or she shall prepare a report thereon which he or she shall submit to the registrar, and if the inspection was carried out by the Registrar, he or she shall likewise



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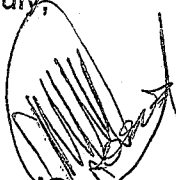
prepare a report thereon, and the Registrar shall transmit a copy of every such report to the healthcare consultant concerned.

7. General and Supplementary

- Publiso*
- (1) Any person who has paid consultant compensation where there has been a material misrepresentation is entitled to the full return of all the money paid.
 - (2) No advance compensation will be paid to a consultant for services not yet rendered.
 - (3) No healthcare consultant may receive any fund contributions from members or employer groups.
 - (4) Administrators or Funds should remunerate healthcare consultants who rendered services contractually until the 30th September 2002, but only in terms of contractual obligations. If there are no agreements, no healthcare consultants may be remunerated.
 - (5) Healthcare consultants, funds and administrators has always to consider the impact of regulation 3 contained in Regulation No. 11 of 11 February 1997, which prohibits paying of commission for rotation of members between funds and retention of members at funds. Transgressions of regulation 3 will be vigorously prosecuted.

I hereby determine that this circular shall come into effect on October 1, 2002.

Yours truly,



Marcelina IGaoses
Deputy Registrar (GM): Provident Institutions
FOR REGISTRAR: MEDICAL AID FUNDS

