



PRESS RELEASE
FOR IMMEDIATE RELEASE

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To : Media, Industry Stakeholders & the Public
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**PRESS RELEASE 20 OF 2010: CLARIFICATION OF ALLEGATIONS PUBLISHED BY
MAIL AND GUARDIAN: “Whistle Blowers Being Targeted”**

The Council for Medical Schemes (CMS) wishes to respond to certain allegations in the article entitled: “Whistle Blowers Being Targeted” which was published by the Mail and Guardian (*M&G*) Vol 26, No 49 on 23 December 2010.

The issue currently portrayed in the *M&G* arises in the context of the process described below:

1. Liberty Health Holdings chief executive Peter Botha lodged a complaint with the Office of the Registrar (the Office) against Liberty Medical Scheme chairperson Larry Jacques and trustee Dan Pienaar– on 1 October 2010. This Office investigated the allegations in his complaint; the process included the complaint being forwarded to the said Board members, giving them 30 days to respond. Upon completion of the investigation, the matter – including their responses and other evidence – was placed before the Council, the non-executive Board of the Council for Medical Schemes (CMS) which is appointed by the Minister of Health and to whom the Registrar is accountable.

2. Once furnished with evidence, the Council decides on the appropriate action to be taken. One of the remedies available to the Council is to invoke the provisions of Section 46 of the Medical Schemes Act 131 of 1998 whereby a member of a Board of Trustees may be removed from office if there exists sufficient reason to believe that s/he is not fit and proper to hold their office. Section 46 again entails a process whereby the person/s whose fitness and propriety is being questioned, is given an opportunity to respond to the allegations made against them; they have 30 days to respond. Once they do, all evidence once again serves before Council who then decides whether or not to remove the trustees in question and whether or not they are fit and proper to hold office.

3. In this case, the Council concluded that, based on the evidence at hand, there was prima facie evidence to show that the Board members concerned – Jacques and Pienaar – may not be fit and proper to hold office and on this basis resolved to invoke the provisions of Section 46 and provide them with 30 days in which to respond. A determination on the fitness and propriety of these Board members has therefore not been made yet; this decision will only be made at the next Council meeting on 24 February 2011 after receipt of the Board members' responses in terms of Section 46. Should the parties be aggrieved by this decision, they have further remedies at their disposal which include lodging an appeal to the Appeal Board .

4. Council, in making this decision, was aware that the administrator V-Med had launched a High Court application against Liberty Medical Scheme and in particular the two Board members in question, the details of which are available in the public domain. The allegations made by Peter Botha were reiterated in these court proceedings and are thus also available in the public domain. This means that all parties concerned are fully aware of the allegations and counter-allegations that formed part of the court case. We must reiterate that Council's decision to invoke the provisions of Section 46 had nothing to do with the outcome of this court case or any articles published in the press and that the process leading up to the decision of the Council has been underway for some time now.

5. The allegations made by Liberty Medical Scheme chairperson Larry Jacques and trustee Dan Pienaar , against Peter Botha were never submitted to this Office, even though both Jacques

and Pienaar are fully aware that such allegations should be submitted to this Office, the regulator of the industry.

6. The allegations against Peter Botha will be investigated by this Office as he is associated with an administrator which is required to be accredited in terms of the Medical Schemes Act and must comply with the fit and proper criteria as prescribed by the Medical Schemes Act. However, these allegations do not form part of the current investigation process undertaken by this Office with regard to Jacques and Pienaar and will separately form part of a process as described above. A separate process will deal with the allegations made by Jacques and Pienaar.
7. This Office reiterates that the actions taken against Jacques and Pienaar are, as described above, part of a process that has been on-going for some time and is yet to be finalised; they are not the result of any counter-allegations or press reports or any other subjective or irregular actions by this Office or any other party. Any allegation regarding “an act of intimidation” and of this Office colluding is without any basis, and is categorically denied.
8. We must emphasise that the Mail and Guardian was advised that it was the Council who made the decision, not the Registrar, and that the Section 46 letter of 20 December 2010 was issued pursuant to the Council having informed this Office of its decision and after certain internal processes were followed. The issuing of the letter to the affected Board members is not informed by any court decision, media reports or other factors but is purely and simply part of the process contemplated by the Medical Schemes Act. This aspect has accordingly been inaccurately reported on.
9. CMS was accordingly not in a position to comment or divulge any information regarding this process prior to the Section 46 letter having been finalised and issued to the parties involved.
10. We would also like to emphasise once again that the decision by Council is not a decision on the fitness and propriety of Jacques and Pienaar, but only a decision to initiate the proceedings contemplated by Section 46 of the Medical Schemes Act. No decision has been taken to remove these trustees and any suggestion to the contrary is factually incorrect.

11. As the industry regulator, our mandate is to regulate without fear or favour to best protect the interests of the members of medical schemes. We do so on a continuous basis.

12. This Office as a creature of statute disposes of the requisite powers, as enshrined in the Medical Schemes Act, to investigate and act on any and all allegations falling within our jurisdiction. We will not hesitate to invoke such provisions to get to the bottom of any allegations or irregularities and act against any culprits involved in wrongdoing.

Despite having communicated the facts outlined above to the Mail and Guardian, these were not all included in the article. The omission of such facts paints a skewed picture. The matter is currently under consideration by our legal representatives.

A handwritten signature in black ink, appearing to read 'Gantsho', with a long horizontal stroke underneath.

DR MONWABISI GANTSHO
CHIEF EXECUTIVE & REGISTRAR