



FRAUD, WASTE & ABUSE SUMMIT



Industry Charter to address Healthcare Fraud, Waste and Abuse

in the private healthcare funding industry

entered into voluntarily between all participating stakeholders

including but not limited to regulators, healthcare funders, administrators, industry representative bodies and professional societies and associations

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E-mail for written submissions:	fwasummit@medicalschemes.com
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Contact person:	Ms Grace Khoza
Tel:	(012) 431 0430/ 071 606 7366

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Preamble

Whereas on 19 and 20 October 2018 the South African Government held the first Presidential Healthcare Summit which included many interested Parties from both the public and private healthcare sectors;

And Whereas there was an acknowledgment that private healthcare has surplus capacity when compared to the overburdened State healthcare services, however remains unaffordable to most of the population of South Africa;

And Whereas there was a firm commitment from all stakeholders who participated in the Healthcare Summit to work towards achieving quality and affordable Universal Healthcare coverage for all citizens, irrespective of their age, health status or financial position;

And Whereas in order to achieve Universal Healthcare for all, there are three fundamental requirements that are critical to establishing a strong National Health Insurance model: namely Cost, Quality and Access;

And Whereas the rising cost of healthcare is one element that must be contained to ensure continued access and financial sustainability for future generations, and the private healthcare industry recognises the important role they play in making this possible;

And Whereas there is concerns about the seriousness of threats posed by healthcare FWA to the stability of the health industry, undermining the values of democracy, ethical values and justice and jeopardising sustainable development and the rule of law;

Now Therefore to give effect to the commitments made at the Healthcare Summit, the Council for Medical Schemes has brought together industry stakeholders to address the challenge of Fraud, Waste and Abuse that contributes to rising healthcare expenditure that is unjustifiable and a material obstacle to the successful implementation of a sustainable and inclusive National Health Insurance system;

Chapter I

General provisions

Article 1. Objectives

1. The principal objective of this Charter is to reach a common understanding and purpose between Parties to actively strive towards improving the quality and reducing the cost of private healthcare;
2. To promote and strengthen measures to prevent and combat healthcare FWA more efficiently and effectively;
3. To promote, facilitate and support cooperation and technical assistance in the detection and prevention of healthcare FWA;
4. To promote integrity, accountability and proper management of medical scheme affairs.

Article 2. Definitions

For the purposes of this Charter:

5. The *Department of Health* is the executive department of the South African government that is assigned to health matters. The mission of the National Department of Health is to improve health status through the prevention of illness, disease and the promotion of healthy lifestyles, and to consistently improve the health care delivery system by focusing on access, equity, efficiency, quality and sustainability;
6. The *Council for Medical Schemes* (CMS) is a statutory body established by the Medical Schemes Act (131 of 1998) to provide regulatory supervision of private health financing through medical schemes.
7. *Regulatory Body* (also regulatory authority, regulatory agency or regulator) is a public authority or government agency responsible for exercising autonomous authority over some area of human activity in a regulatory or supervisory capacity. In the medical industry in South Africa, this includes but is not limited to, the South African Nursing Council (SANC), Healthcare Professions of South Africa (HPCSA), Allied HPCSA and the South African Pharmacy Council (SAPC);
8. *Medical Schemes, Administrators and Managed Care Organisations* are all entities that fall under the jurisdiction of the CMS and subject to the provisions of the Medical Schemes Act;
9. *Industry Representative Bodies* are non-profit organisations that represent the common interests of their collective membership, including the *Healthcare Funders Association (HFA)* and the *Board of Healthcare Funders (BHF)*;

10. *Law enforcement agencies* includes the **South African Police Service (SAPS)** responsible for investigating crime and security throughout the country; the National Prosecution Authority (NPA) which has the power to institute criminal proceedings on behalf of the State; the **Special Investigating Unit (SIU)** which is the state's preferred and trusted forensic investigation and litigation agency and the **Hawks** a South Africa's Directorate for Priority Crime Investigation (DPCI) which targets organized crime, economic crime, corruption, and other serious crime referred to it by the President or the South African Police Service (SAPS).

Article 3. Scope of application

This Charter shall apply, in accordance with its terms, to the prevention, investigation and prosecution of healthcare FWA.

Chapter II

General provisions

Principles

11. This objective can be achieved through a firm commitment to continuous engagement between all stakeholders and the regulatory will to affect much needed change. It will require:
- 11.1 A recognition that healthcare cannot be subject solely to normal free market principles and the current inadequacies in pricing regulations and guidelines need to be addressed;
 - 11.2 A commitment from Parties to create a funding environment that enables medical schemes to move from a Fee-for-Service model to one of Fee-for-Value. Efforts must be made to increase transparency in private healthcare, so that a patient may make an informed decision on aspects of both cost and quality when needing medical treatment;
 - 11.3 Innovative and focused solutions that are aimed at removing the unnecessary wasteful and abusive claiming practices that prevent affordable premiums for most South Africans;
 - 11.4 A commitment to develop clear and binding best practice policies on the ethical and moral obligations of a healthcare practitioner, pharmaceutical company, pharmacy or health facility when it comes to servicing a patient and billing for such service;

These principles are not exhaustive and at all times the Parties to this Charter must be guided by the values of fairness, equality and transparency.

Signatories

12. The private healthcare industry consists of a multitude of different stakeholders. This Charter is intended to be a living document that is open to any industry stakeholder who wishes to contribute to reducing FWA in private healthcare. For purposes of the inaugural FWA Summit to be hosted by CMS, the following signatories have pledged their commitment to reaching the Charter Objectives:

- 12.1 National Department of Health (DoH);
- 12.2 Council for Medical Schemes (CMS);
- 12.3 Healthcare Professions Council of South Africa (HPCSA);
- 12.4 Pharmacy Council of South Africa (PCSA);
- 12.5 Board of Healthcare Funders (BHF);
- 12.6 Healthcare Funders Association (HFA);
- 12.7 Medical Schemes registered with the Council for Medical Schemes;
- 12.8 Managed Care Organisations and Administrators registered with the Council for Medical Schemes;
- 12.9 Law Enforcement Agencies;
- 12.10 Professional Societies and Associations on behalf of their members.

Effective Date

13. The Effective Date of this Charter will be 2019.

Duties of Stakeholders

14. In order to bring effect to the primary Objective of this Charter, it is important to set out the duties and obligations of the respective signatories thereby translating the collective intention into individual action:

14.1 **Regulators**

- 14.1.1 The Regulators are responsible for creating an enabling and transparent mutually beneficial environment for funders and providers that encourages honesty, integrity and ethical behaviour;
- 14.1.2 They commit to strengthening the working relationship between themselves through regular engagements and feedback sessions;
- 14.1.3 The Regulators will strive to identify and resolve any jurisdictional gaps or overlaps that may exist between their respective departments, to ensure policy certainty on matters that involves FWA;
- 14.1.4 Regulators will ensure that stakeholders exercise principles of good corporate governance and have adequate FWA Risk Management controls in place to detect, deter, prevent and report on Healthcare FWA;
- 14.1.5 In order to fight FWA, the regulator Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system;
- 14.1.6 They will ensure that adequate and appropriate sanctions and remedies are in place for fraudsters or abusive claimers, so that there are immediate consequences to those who are manipulating the claims payment process to their financial benefit;
- 14.1.7 Regulators will draft and promote Regulations, including anti-fraud legislation, which will assist in empowering schemes to curb FWA;
- 14.1.8 They will provide the necessary guidance and direction to their applicable jurisdictions when it comes to matters of FWA.

14.2. **Medical Schemes, Managed Care Organisations (MCO) and Administrators**

- 14.2.1 Medical Schemes must always act in the best interests of their members, by balancing the needs of the individual member against that of the collective membership;
- 14.2.2. Medical Schemes, MCO's and the Administrators commit to having FWA Risk Management controls in place, including the necessary resources and systems to detect and prevent FWA;

- 14.2.3 Schemes, MCO's and Administrators agree to ensure that they will always act in a fair, transparent and objective manner when dealing with matters of FWA, and that they will act within the law at all times;
- 14.2.4 Schemes, MCO's and Administrators shall pro-actively participate in industry initiatives meant to curb Fraud, Waste and Abuse including exchanging of relevant information in instances where it is required to detect or prevent FWA;
- 14.2.5 Administrators, MCO's and Medical Schemes shall prepare an Industry Code of Good Practice for regulatory approval, that will govern their conduct when it comes to dealing with matters of FWA;
- 14.2.6 Medical Schemes, MCO's and Administrators will formulate policies and procedures to deal with any over-charging and over-servicing in a consistent manner, and to not sanction a healthcare provider or member on arbitrary grounds.

14.3. ***Industry Representative Organisations***

- 14.3.1 Non-profit organisations that represent a specific membership with aligned interests play an important role in facilitating engagement at an industry level on matters of general application and relevance;
- 14.3.2 The Representative bodies that represent the interests of private healthcare stakeholders, on both the funding and services side of the industry, commit to proactively creating opportunities and platforms for industry engagement to occur;
- 14.3.3 They shall invest time and resourcing into educating and informing their membership on matters of FWA;
- 14.3.4 Representative bodies shall engage with the relevant Regulators on a regular basis, sharing the feedback they received from their membership and working on ideas and solutions that require regulatory support, oversight or approval.

14.4. ***Professional Bodies and Associations***

- 14.4.1 It is acknowledged that the healthcare service provider community is severely fragmented, with a wide variety of different vested interests and views;
- 14.4.2 The Professional Societies and Associations that represent these interests are therefore crucial to successfully communicating issues of FWA, and in getting the buy-in of healthcare service providers in

supporting efforts to curb FWA;

14.4.3 Professional Societies and Associations who are signatories to this Charter confirm that they shall have a zero tolerance towards instances of FWA, and that they agree that all healthcare services should be as cost-effective as possible without compromising on quality;

14.4.4 Representatives of the service providers commit to educating their members on issues of FWA, including reminding them of their ethical duty not to over-charge or over-service patients;

14.4.5 The Professional Societies and Associations will support medical schemes and administrators with clinical advice and best practice benchmarking if requested for assistance at any time;

14.4.6 These Associations shall also support the formulation of policies and guidelines that are aimed at addressing FWA committed by their members;

14.4.7 They commit to assisting Regulators and medical schemes with moving to a Fee-for-Value model of healthcare treatment and reimbursement, with the aim to eliminate the inherent conflicts of interest that arise from the current Fee-for-Service funding model.

Enforceability of the Charter

15. Participation in this Charter shall be voluntary. However the provisions hereof shall be binding on all signatories hereto. Acting in contravention of the principles and duties contained in this Charter shall lead to the removal of the transgressing signatory, and they shall not be afforded the benefits of industry participation and assistance when involved in a matter concerning FWA;

The Council for Medical Schemes shall be the custodian of the Charter, and they shall be responsible for updating and removing Signatories as and when required. They shall also be responsible for facilitating an industry review of this Charter at least once every 2 years.

Undertaking of Signatories

We, the Signatories to this Industry Charter to address Fraud, Waste and Abuse in Private Healthcare, hereby acknowledge our responsibility to contribute to bringing Universal Healthcare to all the citizens of South Africa. We commit to honouring the duties imposed on our organisation within this Charter and to consistently strive to do all within our power to improve the quality and reduce the cost of healthcare.

Signed on this the ____ day of _____ 2019.

Signed

Name:

Organisation:

Signed

Name:

Organisation:

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