



Ref: Update on Bonitas matter  
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## Regulator presses on with Bonitas matter

The Council for Medical Schemes (CMS) is proceeding with its application to have Bonitas Medical Fund placed under curatorship.

The reasons for the CMS application are clear. They have been confirmed by independent investigations and include:

1. Material irregularities exist in the governance of the scheme. Bonitas is not run as prescribed in the Medical Schemes Act (Act 131 of 1998) or in its own registered rules.
2. The Board of Trustees is neither fit nor proper to manage or control the affairs of the scheme.
3. The Board also:
  - a. does not appreciate the nature and extent of its duties;
  - b. did not discharge its functions;
  - c. did not act with the necessary care, diligence, and skill required by the Medical Schemes Act;
  - d. has failed to act when action was required;
  - e. has never had proper control of the scheme;
  - f. has been negligent;
  - g. has breached its fiduciary duties towards the scheme and its beneficiaries;
  - h. has contravened various provisions of the Medical Schemes Act as well as the rules of the scheme; and
  - i. has failed to protect the interests of beneficiaries.

The CMS thus remains of the opinion that the governance structure at Bonitas is fundamentally flawed and that the Board should be removed. The CMS believes it is necessary, desirable, and in the best interests of the beneficiaries of the scheme to appoint a curator at Bonitas to address the problems at the scheme and introduce good corporate governance.

## More details

The acting Registrar of Medical Schemes Mr Craig Burton-Durham, with the concurrence of the Council, approached the South Gauteng High Court in Johannesburg on 26 January 2010 asking for an urgent hearing to place Bonitas under curatorship. The court was expected to hear the matter on 9 March 2010.

But Bonitas opposed the application and approached the CMS with a proposal to settle the matter out of court. The CMS responded with a counter-offer which Bonitas rejected.

A statutory body established in terms of the  
Medical Schemes Act, 1998 (Act 131 of 1998)

Chairperson: Prof. W Pick Acting Registrar & CE: C Burton-Durham



The administrator of the scheme, Medscheme Holdings (Pty) Ltd, then decided to belatedly join the proceedings by asking the court to disregard the inspection report which questions its behavior in relation to Bonitas. The CMS believes Medscheme's application has no merit and has filed papers to oppose it.

A new hearing date is now awaited.

The CMS would again like to emphasise that Bonitas remains financially sound and that its claims-paying ability is not affected by these proceedings.

If you are interested in more details, please refer to our court papers which can be obtained from the court. The case number is 2010/02947.

**C Burton-Durham**  
**ACTING REGISTRAR & CE**  
**COUNCIL FOR MEDICAL SCHEMES**