

Plotting the legislative pathway to NHI

 By [Nicci Botha](#)

2 Oct 2017

However well-intentioned National Health Insurance (NHI) is, it will fall flat without the necessary supporting legislation. "But this is paradigm shift stuff and won't happen overnight," said Neil Kirby, head of the healthcare & life sciences practice at Werksmans Attorneys.



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Changes in legislation

Besides introducing the NHI Act and a separation funding bill, there are 11 other pieces of healthcare law that possibly would need to be amended – including the:

- National Health Act
- The National Health Act
- Mental Health Care Act
- Occupational Diseases in Mines and Works Act
- Health Professions Act
- Traditional Health Practitioners Act
- Allied Health Professions Act
- Dental Technicians Act
- Medical Schemes Act
- Medicines and Related Substances Act
- Provincial Health Acts
- Nursing Act

Kirby believes that the five-year timeframe laid out in the white paper on NHI to change the relevant laws is a bit optimistic. "My prediction is we will need to add another five years.

“We need to address changes in legislation before NHI comes into force. But the lengthy process required to promulgate legislation means that this process can’t be fast tracked,” Kirby said.

Statutory changes are facilitated through amendment acts. So, if 10 to 12 of these changes to the law happened simultaneously, it would put a huge burden on Parliament. In addition, healthcare doesn’t take priority over other sectors.

“It follows that regulations would need to be tweaked, and appropriate regulatory support would also be needed.”

He explained that there are other areas where any new legislation would impact, such as the Consumer Protection Act, and more importantly, the constitution.

Medical Schemes Act

“To date the Medical Schemes Act (MSA) has been the good guy by introducing the most socio-economically viable way of providing access to the private healthcare sector,” said Kirby.

The MSA will have to undergo large-scale revisions to fit in with NHI. It also raises the question of the relevance of medical schemes post-NHI and the plight of the smaller schemes, he added.

Contrary to current speculation, Kirby doesn’t believe that the medical aid tax credits afforded to people for belonging to a scheme will fall away any time soon.

What we don’t know

“We don’t know the ambit of the NHI Fund Bill or the NHI Bill. If these are published first, the other acts will be amended accordingly. But if the others are published first, these amendments will show us the design of the health insurance legislation,” Kirby said.

He cautioned the audience at the Hospital Association of South Africa (Hasa) conference that, as private healthcare providers, they shouldn’t give too much away. “The best approach is vigilance and participation as both consumers and service providers.”

ABOUT NICCI BOTHA

Nicci Botha has been wordsmithing for more than 20 years, covering just about every subject under the sun and then some. She's strung together words on sustainable development, maritime matters, mining, marketing, medical, lifestyle... and that elixir of life - chocolate. Nicci has worked for local and international media houses including Primedia, Caxton, Lloyd's and Reuters. Her new passion is digital media.

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