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PRESS RELEASE

NAMAF TARIFFS UNHEALTHY FOR HEALTHCARE SECTOR

It is becoming impossible for general medical practitioners ("GP's") in private practice in Namibia to sustain an economically viable practice. This is mainly due to the fact that the Namibian Association of Medical Aid Funds ("NAMAF") insists on unilaterally applying the NAMAF Benchmark of Tariffs ("the Tariff") to which all medical aid funds in Namibia are "forced" to subscribe. The Tariff is politically attractive in a country where many live in poverty because it appears to reduce healthcare costs for the average patient. However, the Tariff is quietly killing the healthcare profession with several established GP practices already indicating their eminent closure, mostly in rural towns. The Tariff is out-dated and discourages a viable and progressive healthcare system. This, in turn, is bad news for Namibians in need of good quality and affordable medical care, especially since Namibia already suffers from an acute shortage of healthcare professionals.

NAMAF AND THE COMPETITION COMMISSION RULING

In 2011 the Namibia Private Practitioners Forum ("NPPF") filed a complaint with the Competition Commission (the "CC") against NAMAF on the basis that, amongst others, the Tariff is unlawful in Namibia. After a three-year investigation the CC found that NAMAF and the medical aid funds did breach the Competition Act. The ruling was gazetted on 12 December 2014 in Government Gazette number 5630.

On that same day NAMAF and all nine medical aid funds filed an application to the High Court, arguing that the CC had no jurisdiction over NAMAF or medical aid funds in Namibia, and that NAMAF accordingly has the right to set the Tariff. Ironically NAMAF claimed that application of the Tariff is in the public interest. As we will explain below, this could not be further from the truth.

NPPF COST STUDY

The NPPF recently commissioned a comprehensive cost study (a first for Namibia) of healthcare professionals throughout Namibia. 50 GP practices across Namibia took part in the study conducted by South African professionals (Healthman Pty Ltd) who have

decades of experience in similar studies in South Africa. The cost study assessed the costs of putting up and maintaining a viable healthcare practice. This is important because, as in any other business, if returns do not exceed setup and operational costs with a fair return on investment at a reasonable risk level, a medical practice will have to close down. This is happening in Namibia, especially amongst GP's in the rural areas.

The result of the GP cost study is now available, while more information on other participating healthcare disciplines is still outstanding or being processed.

RESULTS OF COST STUDY

The key points of the study on GP practices can be summarised as follows (all figures relate to 2014):

- It costs (on average) N$796,671 per year to operate a GP practice (excluding any remuneration for the GP);
- A GP that practices obstetrics will pay N$92,260 per year extra in malpractice insurance;
- A GP who wants to cover overhead costs and earn a salary equivalent to a doctor in the employment of government (who obviously has no financial or legal risk in his/her practice, unlike a GP in private practice) must charge N$307,05 per 15 minute consultation; and
- A GP who wants to cover overheads and earn an income comparable to other professions requiring 5+ years training must charge a fee of N$456.60 per 15 minute consultation.

On the methodology employed by NAMAF the report concluded that the current Tariff is "*based on an outdated RSA BHF* [Board of Healthcare Funders] *Tariff and Coding list*". It also states that "*there is no justification for these units* [fixed time interval of 15 minute units] *nor the variations therein*"; "*Namaf has no approval to use the coding structure as it is subject to copyright in South Africa*" and "*the tariff list is in many instances irrational, has no science behind it and is not cost based*".

NPPF members can find the full report on the cost study at www.thenppf.com.

WHAT DOES IT COST TO RUN A SUSTAINABLE GP PRACTICE?

It is clear from the cost study that the Tariff is woefully inadequate to compensate GP's fairly.

In respect of a typical 15 minute consultation (using 2014 figures), PSEMAS pays only N$227 and the funds pay according to the Tariff N$ 296.20. However, a private practice GP who wants to earn a salary equal to a GP in the public sector should charge N$307.05. If the same GP wants to earn a reasonable salary comparable with a professional in

another sector, he/she should charge N$ 456.60 (i.e. the Tariff should increase by at least 50%).

The reality is that GP's who are paid in accordance with the Tariff earn less in private practice than in the employment of government. Furthermore, GP's subsidise PSEMAS out of their own practices as they would earn N$320.20 per hour more in the public sector as apposed to treating PSEMAS patients in private sector.

It is also worth noting that payments in respect of GP fees amount to less than 10% of total healthcare expenditure by medical aid funds. Payments to dentists and all allied healthcare professionals amount to less than 17.5%. The amount funds spend annually on the 332 GPs in private practice is equal to the amount funds spend on just their administration fees annually.

Payments for GP fees have increased by an average of only 4.5% per year from 2009 to 2013. This is the same percentage by which fund membership increased and in real terms payments to GPs did therefore not increase at all.

The current Tariff is therefore simply not sustainable because the return on investment after studying medicine for seven years is insufficient to justify the financial, legal and regulatory risks and statutory restrictions associated with running a private practice.

The average age of GP's in private practice in Namibia is 50; in South Africa 55. The profession is not attractive to new entrants. Established practices close down due to financial difficulty and increased legal risk and restrictions.

LEGAL PROCEEDINGS BY NAMAF AND MEDICAL AID FUNDS

The CC, after an exhaustive investigation, held that NAMAF and the Medical Aid Funds breached the Competition Act by setting and following the Tariff. On 12 December 2014 NAMAF and the Medical Aid Funds (represented by Hartmut Ruppel of Lorentz Angula Inc) filed an application in the High Court requesting the court to rule that the Competition Act does not apply to them. The NPPF, who was only a complainant to the CC in this matter, was also cited as respondent. Another complainant, a hospital group, was not cited to the application. The NPPF can only guess that this is because this hospital group has substantial financial resources and experience after successfully fighting unlawful tariff setting regimes in South Africa and would therefore be an unpalatable respondent for NAMAF.

The application is based on the argument that NAMAF and Medical Aid Fund are not "undertakings" for "gain or reward". This is a flawed argument, especially since open medical aid funds were initially registered by financial service providers (now medical aid fund administrators) with the aim of making profits, and that this industry has grown to a two billion dollar industry in Namibia. It must also not be forgotten that these

administrators are completely unregulated. In fact, apart from the NPPF, there is no entity that monitors material cost risk to the healthcare profession in Namibia. The Namibia Health Professions Council does not see its legal mandate as including the overseeing of professional fees.

CONFLICT OF INTEREST

The NPPF is concerned that both NAMAF and the Medical Aid Funds are represented by the same lawyer in respect of the abovementioned legal proceedings. NAMAF is a regulator of medical aid funds (although it denies this) and its statutory duties and mandate differ from the fiduciary duties associated with medical aid funds. In the tariff setting methodology NAMAF plays a very different role than medical aid funds who could very easily have recourse against NAMAF if penalised. This however is unlikely to happen given that the regulator and its regulated subjects are all sitting around the table of one legal representative. This also poses a real and substantial risk to the members of the funds who are paying for the current legal battle and will have to pay penalties (up to N$200 million) if NAMAF's gamble in this case delivers the wrong outcome for them.

THE WAY FORWARD

The NPPF leaves the legal dispute in the hands of the CC and Namibia's competent courts and will therefore not defend the current application.

The NPPF will complete its ongoing cost study for dentists and participating allied professions and continue to support the sustainability of private healthcare in Namibia.

The NPPF reiterates its offer to support government to deal with this situation through proper legislation and to assist in putting in place a transparent and properly represented statutory entity which can, based on scientific methodologies, assess fees by taking into account all factors influencing both the affordability as well as the sustainability of healthcare services in Namibia.

The NPPF remains opposed to a unilateral tariff setting regime because it inhibits healthy competition and severely hampers innovation. Such a regime is used to limit benefit payments to members of medical aid funds and this has a detrimental impact on the healthcare profession.

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By Email