



22 October 2024

The Chief Executive Officer  
Namibia Association of Medical Aid Funds (NAMAF)  
Email: ceo@namaf.org.na  
Windhoek, Namibia

Dear Mr. Tjiuoro,

## **Demand for Reimbursement of Unlawfully Charged Fees for Renewal of Practice Numbers**

We trust this correspondence finds you well.

### **1. Background**

We refer to prior communication from Eben de Klerk to NAMAF on 4 December 2014, where he stated the following:

*“On an unrelated issue, we noted your refusal to provide any justification for charging for the renewal of practice numbers. If you are a public interest body, which you claim to be, we regard your failure and lack of transparency as irresponsible. Our members have been informed accordingly.”*

Neither the Medical Aid Funds Act (Act 23 of 1995) nor the Regulations promulgated under section 44 of the Act explicitly provide for the charging of fees to healthcare providers for the renewal of practice numbers.

Additionally, please refer to the communication sent by the NPPF to NAMAF on 14 December 2020, particularly the comments on page 3, which state:

*“Also note that the Act does not permit NAMAF to be funded by healthcare providers or to levy fees against them in any manner. Section 12(c) specifies that NAMAF is to be funded solely by registered medical aid funds. If the Legislature had intended for healthcare providers to fund NAMAF, this would have been expressly stated in the Act. We are aware that NAMAF has been opportunistically charging fees for practice numbers without statutory authority for years. We raised this issue with NAMAF in writing many years ago but received no reply. NAMAF has been able to impose these fees due to cooperation from the medical aid funds that control it, but this does not render the practice lawful.”*

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Directors: Dr J Hoffmann, Dr L Pretorius, Dr N Afshani, Dr S Van Rooyen, Dr W Bruwer, Dr J Jacobs

## 2. Legal Grounds for Appeal

We now formally appeal NAMAF's decision to impose and collect fees from healthcare practitioners for the renewal of practice numbers. NAMAF has no statutory authority to impose such financial obligations on healthcare providers.

It is respectfully submitted that NAMAF's collection of these fees constitutes an overreach of its statutory mandate and violates the administrative law principle of acting beyond the legal powers conferred (*ultra vires*).

Moreover, the imposition of such fees, in the absence of statutory authority, contravenes healthcare practitioners' rights to **fair and lawful** administrative action.

We also invoke the common law principle of *condictio indebiti*, which permits restitution of payments made in error or under duress where no legal obligation to pay existed. This principle applies in the present case, as healthcare providers have made payments to NAMAF based on an unfounded legal requirement.

## 3. Demand for Repayment

In light of the unlawful nature of the fees collected, we formally demand that NAMAF:

1. Refund the fees collected from healthcare practitioners between 2016 and 2023, amounting to **N\$5,731.00** per practitioner for the specified period.
2. Provide written confirmation within 14 days of this letter detailing NAMAF's intended course of action to address this matter.

## 4. Conclusion

We trust NAMAF will acknowledge the *ultra vires* nature of these actions and take the necessary steps to rectify the situation, including the reimbursement of all affected practitioners.

Should NAMAF fail to respond or act in line with the legal position set out above, we reserve the right to pursue all available legal remedies to assist HCP's to recover with interest **all** amounts paid to NAMAF for the renewal of practice numbers

We also emphasize that liability may extend to the NAMAF Secretariat and members of its Management Committee, as delegation of responsibility does not absolve those in managerial positions from accountability for the exercise of misconceived powers.

Please do not hesitate to contact us should you require any further information or clarification.

Yours faithfully,



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CC:

- Chairman, NAMAf Management Committee
- NAMAf Secretariat
- Principal Officers of Medical Aid Funds
- Minister of Finance
- All Healthcare Providers and Professional Associations