



CONSTITUTION FOR THE PRIVATE HEALTHCARE FORUM

Definitions:

Founding members - refers to those members stipulated in section 5(3) of this Constitution.

Ordinary members - refers to those members approved by the Executive Committee, subject to the conditions contained herein.

1. Name

1.1 The forum shall be known as the Private Healthcare Forum.

1.2 The shortened form of the Private Healthcare Forum's name shall be either the "Forum" or the "PHF".

2. Status

2.1 The Forum is a voluntary association comprising parties that operate within the private healthcare sector in South Africa.

2.2 The Forum shall be an independent juristic person.

3. Aims and Objectives

3.1 The aims and objectives of the Forum in South Africa are:

- (a) To develop a spirit of partnership and cooperation between the members of the Forum.
- (b) To develop and advance an accurate and fair understanding of the contribution of the private healthcare sector within the Republic.
- (c) To influence and impact positively on the regulatory environment in which the private healthcare sector operates.
- (d) To engage with government to develop solutions for sustainable healthcare.
- (e) To facilitate the best possible health care, within available resources, and which recognises the need to be economically sustainable.
- (f) To facilitate the process of addressing black economic empowerment and transformation within the private healthcare sector.
- (g) To encourage the development of Ethical Codes within the private healthcare sector, and promote constructive engagement within the respective Codes so as not to undermine the initiatives of our members.
- (h) To promote unity within the sector.

3.2 Whilst recognising that the members have diverse interests, these powers and/or functions shall be exercised in accordance with Competition law, and shall at all times ensure compliance with the relevant law of South Africa applicable to the sector.

4. Decision-making Powers

The Forum will make decisions as follows:

- 4.1 The Forum will seek to make decisions by consensus.
- 4.2 Consensus will be taken to exist if there is a clear weight of opinion within the Forum on an issue. The PHF chairperson will determine whether consensus exists on an issue.
- 4.3 A minority party will have the right to minute its opinion and/or objection to a decision.

5. Membership

- 5.1 Membership shall be open to any representative body, association and/or interest (including juristic) that represents a constituency and/or interest group within private health care.
- 5.2 Membership shall comprise of:
 - (a) Founding members.
 - (b) Ordinary members.
- 5.3 The founding members to the Forum are –
 - (a) The Board of Healthcare Funders of Southern Africa
 - (b) The Hospital Association of South Africa
 - (c) The South African Medical Association
 - (d) The Pharmaceutical Manufacturers' Association of South Africa
 - (e) Innovative Medicines South Africa
 - (f) The National Association of Pharmaceutical Manufacturers
 - (g) The South African Medical Devices Industry Association

- 5.4 New members may be admitted to the Forum at the discretion of the Executive Committee on those reasonable terms they consider appropriate. Those members shall be referred to as 'Ordinary members'.
- 5.5 In accordance with section 5.1 the Executive Committee must be satisfied that the applicant qualifies for membership, and in particular:
- (a) Represents an interest of the private health sector, and
 - (b) Is a representative body, association and/or interest, and
 - (c) Agrees with the aims and objectives of the Forum
- 5.6 The Executive Committee shall have the power to determine the various categories of ordinary membership, and to determine fees in regards to the respective categories.
- 5.7 In accordance with section 5.4 the Executive Committee shall attempt to ensure the greatest representation of all sectors, within that which is affordable, and may elect to apply a discretionary approach to such membership, subject to certain conditions (and which may change from time to time) provided that such will be reasonable, equitable and within the aims and objectives of the PHF.
6. Representation on the Forum
- 6.1 A member is entitled to three representatives, and three alternatives at a forum meeting, provided that the names of these individuals shall be forwarded to the Secretariat on an ongoing basis
- 6.2 Each member shall be entitled to one vote, which in the event of a ballot shall be recorded against the name of that member. Provided that such vote will not be published.

7. Forum meetings

- 7.1 The Forum shall meet no less than twice per annum, or as deemed necessary.
- 7.2 One of these shall be designated as the Annual General Meeting and will be held within three months of the end of the financial year. Notice of the AGM shall be sent out no less than one month prior to the meeting.
- 7.3 A simple majority (51%) of members shall constitute a quorum.
- 7.4 Members who are absent from any meeting, where a decision has been taken, and where such decision has either a direct or indirect impact on that member, shall have the right to be informed of that decision timeously, as well as the right to record its opinion and/or objection.

8. Forum chair

- 8.1 The position of the Chairperson who shall hold office for one year, shall be nominated and elected by the Forum, who shall appoint whomever it believes to best represent the interests of the Sector.
- 8.2 The Chairperson shall not serve more than two years of office, and accordingly, after serving a second year as Chair shall not be eligible for re-election.
- 8.3 After a period of two years, such person may be eligible for re-election, but will be limited to a single term of office.
- 8.4 The Chairperson shall represent the interests of the Forum, and shall be required to declare any and all interests, which may be in conflict with his/her position as Chair.

- 8.5 Each Founding Member and Ordinary Member may nominate one person as Chairperson of the Forum. That nominee must accept his/her nomination in writing.
- 8.6 In the event of more than one valid nomination, then the position shall be put to a vote.
- 8.7 Each Founding Member and Ordinary Member shall be afforded one vote each.
- 8.8 The Chairperson will be elected before the Executive Committee is appointed and the new chairperson will then take nominations from members for membership of the Executive Committee.
9. Executive Committee
- 9.1 The Executive Committee shall be no larger than 10 (ten persons), and shall comprise 1 representative per 'Founding member' for a total of seven, and three positions shall be elected from 'Ordinary membership' by the Forum by a secret ballot. The term of office for each Executive Committee member shall be two years. The Chairperson shall be an independent member of the Executive, elected by the Forum and accordingly is an additional member to the maximum number of 10.
- 9.2 Once elected the members of the Executive Committee, may appoint and/or allocate positions to its members, for the effective operation and functioning of its office. This may include, but is not limited to, the appointment of a Vice-Chair and Treasurer.
- 9.3 The Executive Committee who may exercise all such powers of the Forum as required, shall manage the business of the Forum. Without derogating from the provisions of such, this shall not include the power to dissolve the Forum.

- 9.4 The Executive Committee will account to the Forum on its activities at forum meetings.
- 9.5 Each member party represented on the Executive Committee may appoint an alternate to represent it. That alternative may be present at any meeting of the Executive Committee, including a meeting where the representative is present, subject to the conditions prescribed by the Executive Committee from time to time. In the event of both parties being present, only the representative shall have the right to vote.
- 9.6 In the event of a resignation of a member of the Executive Committee, the member party that he/she represents will have the right to re-nominate a person to fill his/her position.
- 9.7 The Executive Committee will endeavour to make decisions by consensus. Should it fail to reach consensus, a vote will be taken and a two-thirds majority, discounting abstentions will determine the issue. In accordance with such:
- (a) Each member of the Executive Committee in person or represented by proxy shall have one vote.
 - (b) The form appointing a proxy shall be in writing under the hand of the member he/she represents, and shall be submitted to the Secretariat and recorded in the minutes of the meeting.
 - (c) Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form as determined by the Executive Committee.
 - (d) At each meeting of the committee, members will be required to declare any interest, which may be in conflict with any deliberation, discussion and purpose of that meeting.

9.8 The Executive Committee will have the authority to interpret and give effect to decisions made by the broader forum and to decide on issues of policy, administration and expenditure between forum meetings provided that the forum ratifies such decisions.

9.9 The Executive Committee may within its discretion co-opt any qualified person to the committee. Such a person shall not be entitled to a vote.

10. Other committees

The Executive Committee may establish other committees to perform any of its functions in accordance with terms of reference determined by it.

11. The Secretariat

11.1 The Executive Committee may establish a Secretariat charged with executing decisions taking by the Executive Committee and Forum from time to time.

11.2 The Executive Committee may appoint persons to fulfil this duty and engage consultants to assist in the execution of the objectives of the PHF.

11.3 The Secretariat shall report directly to the Executive Committee.

12. Indemnity

Every member, manager, secretary, auditor, employee and officer of the Forum shall be indemnified out of the funds of the Private Healthcare Forum against -

- (a) All liabilities incurred by him/her in that capacity;
- (b) Expenditure in defending any proceedings, whether civil or criminal, in which judgment is given in his/her favour, or in which he/she is acquitted; or

- (c) Costs in connection with any application under section 248 of the Act in which relief is granted to him by the Court
- (d) Every such person shall be indemnified by the Forum against it, and it shall be the duty of the Executive Committee out of the funds of the Forum to pay all costs, losses and expenses for which any such person may become liable by reason of -
- any contract entered into; or
 - any act done by him,
- in his capacity as member, secretary, manager, auditor, employee or officer of the Forum or in any way in the discharge of his/her duties.
- (e) Subject to the provisions of this Constitution, no member, manager, secretary, auditor, officer or employee of the Forum shall be liable for -
- Any act, receipt, neglect or fault of any other such officer or servant of the Forum; or
 - Joining in any receipt or other act; or
 - Loss or expense suffered by the Forum through the insufficiency or deficiency of title to any property acquired by order of the Executive Committee for and on behalf of the Forum; or
 - The insufficiency or deficiency of any security in or upon which any of the monies of the Forum have been invested; or
 - Any loss or damage arising from the insolvency or delict of any person with whom any monies, securities or effects have been deposited; or
 - Any loss or damage occasioned by any error of judgement or oversight on his/her part; or

- Any other loss, damage or misfortune, whatever which shall happen in the execution of his/her duties of office or in relation thereto.

13. Finances

- 13.1 The financial year of the Forum will run from 1 March to 28 February
- 13.2 The Executive Committee will prepare an annual budget representing anticipated expenditure for the financial year for the PHF for approval by the Forum
- 13.3 Parties to the Forum will be levied on a quarterly basis in advance, in proportions agreed to by the Executive Committee, to meet budgeted expenditure
- 13.4 Financial statements will be placed before each meeting of the Forum.

14. Auditors

The Executive Committee will appoint auditors to audit its financial statements.

15. Winding up

- 15.1 In the event that the parties to the Forum decide to wind up the Forum, they shall meet all its outstanding debts and liabilities.
- 15.2 Any residual funds will be distributed among the parties to the Forum based upon the level of their contribution.

16. Alteration of the Constitution

- 16.1 The provisions of this Constitution shall not be amended, altered or added to except by resolution of a majority of not less than 75% of the members and proxies entitled to vote of whom a quorum is present at a general meeting of the members called for that purpose, of which at least thirty days notice, in writing, has been given to each member.
- 16.2 Upon such alteration, amendment or addition being made in terms of this Constitution, the same shall be deemed to be incorporated in and form part of this Constitution, in the same manner in all respects as though originally inserted herein and shall be binding upon all members of the Forum.