

THE PIASA BRIEFS: THE NEW CONSUMER PROTECTION ACT

Implications for the consumers of medical scheme products and services

This brief forms part of a series developed by the Pharmaceutical Industry Association of South Africa (PIASA) in the interest of patient education. It explores specific implications of this new Act for the medical scheme sector, current and future members (who are all customers in terms of the law), and agents, such as brokers and administrators. The views expressed in this brief do not constitute legal opinion or legal advice, and consumers should seek assistance to take any matter further.

Application and enforcement

In this Brief we will investigate the following:

- Who are bound by the provisions of the Consumer Protection Act?
- When will the Act be in force?
- Where do I go, if I have a complaint or query?
- Contact details of supporting entities

Who are bound by the Consumer Protection Act?

The Consumer Protection Act binds nearly all entities that supply goods and services, and also those associated with the provision of goods and services, such as marketers, promoters, contractors and agents. In medical scheme terms, it therefore binds medical schemes; administration companies; managed care companies; financial brokers selling medical scheme cover; doctors, hospital and pharmacies contracted by schemes to provide healthcare services; etc.

The Act does not bind the state, which means that products and services provided by state entities, such as the Department of Health, will not fall under the Act, whereas products and services provided by private healthcare facilities and facilitated by entities such as medical schemes, will be bound.

When will the Act be in force?

The provisions in the CPA establishing the structures (a National Consumer Commission and a Consumer Tribunal) and provisions relating to strict liability for products, came into force in April 2010. The Act's substantive provisions were to come into force in October 2010, but this is not certain anymore, but is likely to be in force by end of this year or in the first quarter of next year. Regulations are being drafted and will provide further details as to, for example,

who are regarded as consumers, what information must be provided by suppliers in contracts and on documents, etc.

Complaints and queries...

The Act creates a Consumer Commission, within the Department of Trade and Industry. It also creates a Consumer Tribunal, and awards powers to other courts to, for example, declare contractual provisions as "unfair" or "unjust". The DTI has issued a guide to the Consumer Protection Act, which is available on its website: www.thedti.gov.za

Users of healthcare services and products should note that there may be more than one body which could have the power to deal with complaints and queries. In the case of medical scheme issues, the Council for Medical Schemes would be available to deal with medical scheme member complaints. Patient support groups may also be able to provide assistance in cases of queries or complaints.

As a rule of thumb, it is mostly required that a consumer addresses the issue first with the institution involved, and only if they are not satisfied with the outcome, would they approach any of the relevant bodies. It is important to keep all the information relating to a particular matter, including all letters, brochures, etc, and also a record of what happened when, of telephonic conversations (including the date and name of the person spoken to), etc.

Contact details

Consumer Commission

c/o: National Consumer Office
The DTI, Private Bag X84, Pretoria, 0001
Tel (012) 394 1436 / 1558 / 41076 0861 843 384
Email: contactus@thedti.gov.za

Council for Medical Schemes

Private Bag X34, Hatfield, 0028
Tel 0861 123 267 | Fax 012 431 0608
Email: complaints@medicalschemes.com

Patient Health Alliance of NGOs (Phango)

PO Box 122, River Club, 2149
Tel: 011 706 4196 | Fax: 088 011 706 4196
Email: info@phango.org.za

The Pharmaceutical Industry Association of SA (PIASA) is a trade association of companies involved in the manufacture and/or marketing of medicines in South Africa. The membership includes a broad representation of foreign multinational pharmaceutical companies and local and generic companies, both large and small.