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National Health Insurance – The impact of B-BBEE on hospitals, clinics and other healthcare providers

The recent announcement of the National Health Insurance Bill (Government Gazette no. 42598 of 26 July 2019) has put healthcare providers under considerable pressure.

What is the National Health Insurance (NHI) in South Africa?

The National Health Insurance (NHI) is a health financing system that is designed to pool funds to provide access to quality affordable personal health services for all South Africans based on their health needs, irrespective of their socio-economic status.

The National Health Insurance (NHI) and B-BBEE requirements

There are certainly many decisions that the directors and owners of businesses in the healthcare profession will need to make soon. Government will effectively become their main client under this bill. *Broad-based black economic empowerment or B-BBEE* has traditionally not been a priority for these businesses since their clients were mostly the public.

Going forward, a B-BBEE certificate will definitely be a requirement for participation as a service provider in the NHI programme. From a BEE point of view, the health industry falls under the general charter codes of the revised B-BBEE Codes (*Government Gazette* no. 36928 of 11 October 2013). These codes have specific ownership, management and spend requirements that need to be verified in order to issue a valid B-BBEE certificate. Spending needs to occur within the financial year that is being measured (the last completed financial year). Most companies that have not been participating in the BEE process have not focused on these areas and will end up with a non-compliant certificate, which is obviously worthless.

The solution is to have a proper *BEE strategy* in place which is implemented well within your current financial year. This will offer management an opportunity to budget for such expenses and also to take advantage of tax rebates applicable to some skills programmes.

Ownership will become a serious consideration as it is impossible to attain a good BEE rating without addressing the ownership element. First prize would be to sell shares to a black individual or black-owned company that can add value to your organisation and has the same long-term goals and ethics as the current shareholders. Sadly, the ideal investor doesn’t come along every day. The alternative is an indirect ownership structure. Examples of this type of structure would be a broad-based ownership scheme or an employee share ownership programme that can be housed in a trust or non-profit company as outlined in the B-BBEE Codes. Recent newspaper articles reported incorrectly that these types of structures are not acceptable. The BEE Commission has since confirmed that such structures are not only acceptable but are also recommended provided they meet the requirements of the BEE Codes.

SERR Synergy is a business legal consulting company that specialises in *BEE consulting* and has extensive experience in structuring ownership within the legal boundaries. We assist businesses to implement viable B-BBEE initiatives and ensure alignment of initiatives with the legal requirements of the B-BBEE Codes. We encourage our clients and other impacted healthcare providers to *contact us* for specific guidance on how the NHI Bill is likely to affect them. To date we have assisted more than 4 000 businesses with turnovers below R50 million per annum (EMEs and QSEs) to become 51% black owned and qualify for a level 2 automatic recognition level. We have also assisted numerous companies exceeding the R50 million p/a turnover threshold with their ownership element (usually between 10% and 26%) and drafting of strategies to attain the required BEE level at the most affordable cost to company. We also assist healthcare professionals with *POPI Act compliance* as well as *Consumer Protection Act compliance.*

Thomas Jefferson said: "With great risk comes great reward". This is very true in our current South African economic environment. There are always opportunities – you just need to recognise them.

About the author: Duncan Cloete has been the Pretoria Corporate Marketing Manager at SERR Synergy since 2017. Starting his career in the automotive industry, he worked his way up from sales executive to dealer principal where he was involved both strategically and operationally in sales, marketing and client satisfaction. His previous involvement with B-BBEE verification added to his broad spectrum of B-BBEE knowledge. With more than 5 years' service at SERR Synergy in the B-BBEE environment, he has consulted with thousands of business owners ranging from small start-up companies to large international entities seeking solutions to their B-BBEE challenges.

Sources:

https://www.gov.za/sites/default/files/gcis_document/201908/national-health-insurance-bill-b-11-2019.pdf