

# NATIONAL HEALTH INSURANCE BILL, 2016

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## NATIONAL HEALTH INSURANCE BILL, 2016

**A BILL FOR AN ACT TO REPEAL THE NATIONAL HEALTH INSURANCE ACT, 2007, TO IMPLEMENT A NATIONAL HEALTH INSURANCE PLAN, TO ESTABLISH A NATIONAL HEALTH INSURANCE AUTHORITY, TO ESTABLISH A NATIONAL HEALTH INSURANCE FUND AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH**

**Enacted by the Parliament of The Bahamas**

### **PART I - PRELIMINARY**

#### **1. Short title and commencement.**

- (1) This Act may be cited as the National Health Insurance Act, 2016.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the *Gazette* and different dates may be appointed by notice for the coming into force of particular sections or any Part of the Act.

#### **2. Interpretation.**

In this Act —

- “**Act**” means the National Health Insurance Act, 2016;
- “**actuary**” means a person who satisfies the National Health Insurance Authority that he is a fellow in good standing of a professional body of actuaries that is internationally recognized;
- “**Authority**” means the National Health Insurance Authority established under section 4;
- “**beneficiary**” means a person who is enrolled to receive benefits under the Plan;

- “**benefits**” means the goods and services specified in the *Second Schedule* and available to beneficiaries under the Plan;
- “**contribution**” means a contribution payable to the Fund in accordance with this Act;
- “**Fund**” means the National Health Insurance Fund established under section 10;
- “**health care provider**” or “**Provider**” means an entity, corporate or unincorporate, approved by the Authority to render benefits under the Plan;
- “**Insurance Commission**” means the Insurance Commission of The Bahamas established pursuant to section 4 of the Insurance Act (*Ch.347*);
- “**Minister**” means the Minister with responsibility for national health insurance;
- “**Plan**” means the National Health Insurance Plan;
- “**primary health care**” means the outpatient, first level of health care that focuses on prevention, and addresses and coordinates all essential health needs;
- “**primary care provider**” means a licensed entity approved by the Authority to coordinate health care services to be provided to a beneficiary under the Plan in accordance with section 18 of the Act;
- “**regulated health administrator**” or “**Administrator**” means a company carrying on insurance business which —
- (a) is registered as a long-term insurance business in carrying on sickness or health insurance in accordance with the Insurance Act (*Ch. 347*);
  - (b) is certified as an Administrator by the Insurance Commission in accordance with the provisions of the Insurance Act (*Ch. 347*); and
  - (c) has entered into an agreement with the Authority pursuant to section 25 of the Act;
- “**secondary health care**” means specialised health services or benefits provided by a health care provider upon referral by a primary care provider;
- “**tertiary health care**” means specialised consultative health care, provided to inpatients on referral from a primary or secondary care provider in a facility that has personnel and facilities for advanced medical diagnosis and treatment.

### **3. Objectives of Act.**

Any determination made, decision taken or policy measure implemented under this Act shall be in accordance with the following objectives —

- (a) to establish the administrative framework and other necessary mechanisms to enable the provision of equitable, accessible, affordable and quality health care services to all eligible persons for the attainment of universal health coverage;
- (b) to facilitate people centred health care that meets the needs of the population;
- (c) to provide plurality in the health care system with equal opportunity for public and private sector participation;
- (d) to promote efficiency in health care administrative operations; and
- (e) to enable sustainability through appropriate allocation of resources in health care,

in collaboration with the Ministry of Health.

## **PART II – NATIONAL HEALTH INSURANCE AUTHORITY**

### **ESTABLISHMENT, FUNCTIONS, POWERS, ETC.**

#### **4. Establishment of National Health Insurance Authority.**

- (1) There shall be established a body to be known as the National Health Insurance Authority, which shall have the powers and discharge the functions conferred on it pursuant to this Act.
- (2) The Authority shall be a corporation sole with power to acquire, hold and dispose of property, enter into contracts, sue and be sued and do all things necessary for the purposes of this Act or any other law related to this Act.
- (3) The governing body of the Authority shall be a Board that performs the functions and exercises the powers of the Authority.
- (4) The provisions of the *First Schedule* shall have effect as to the constitution and procedure of the Board and otherwise in relation thereto.
- (5) The Minister may by Order amend the *First Schedule*.

#### **5. Seal of Authority.**

The seal of the Authority —

- (a) shall be kept in the custody of the Chairman or Deputy Chairman or such other person as the Board may direct;

- (b) pursuant to a resolution of the Authority, may be affixed by the Secretary to the Board to instruments in the presence of the Chairman or a member of the Board designated by the Chairman and one other member of the Board;
- (c) shall be authenticated by the signature of the Chairman or Deputy Chairman and the Secretary to the Board.

## **6. Functions of Authority.**

The functions of the Authority are —

- (a) to establish and implement a national health insurance plan (hereinafter referred to as “the Plan”) to facilitate the provision of accessible, affordable, equitable and quality health care services to all eligible persons;
- (b) to establish and implement mechanisms for quality assurance in the delivery of health care and wellness benefits and services under the Plan;
- (c) to promote improved methods and levels of efficiency in the delivery of health care and wellness benefits and services under the Plan;
- (d) to collaborate with the Insurance Commission regarding the criteria and process for certification by the Insurance Commission of a regulated health administrator (hereinafter referred to as an “Administrator”);
- (e) in consultation with the Ministry of Health and relevant bodies, to establish the criteria for registration of a health care provider (hereinafter referred to as a “Provider”) under the Plan;
- (f) to enrol all persons eligible to enrol and receive benefits under the Plan;
- (g) to register —
  - (i) all Providers participating in the Plan; and
  - (ii) all Administrators participating in the Plan;
- (h) to oversee all Providers under the Plan and in accordance with section 18(4), publish an approved list of same;
- (i) to set the terms of all agreements including setting the rates of payment and establishing the risk adjustment mechanism with —
  - (i) Administrators; and
  - (ii) Providers;
- (j) to manage, control and keep under constant review the Fund established pursuant to section 10 and to supervise and control expenditures therefrom;

- (k) to submit to the Minister (and, where the Minister is not the Minister of Health to the Minister of Health), a report on the Plan and policies relating to health care in accordance with section 37 and prescribed regulations;
- (l) to cause a review of the provisions of this Act to be conducted at least once every two years and publish a report with recommendations, if any, to the Minister;
- (m) to do or cause to be done such other things as may be conferred by this Act or any other written law and such other things that may enable the Authority to carry out its functions.

## **7. Powers of Authority.**

- (1) The powers of the Authority are —
  - (a) to establish the benefits to be provided under the Plan;
  - (b) to set the payment rate and establish and administer the risk adjustment mechanism for Administrators for the benefits under the Plan;
  - (c) to fix fee schedules, set payment rates and establish risk adjustment mechanisms for Providers for the various benefits under the Plan;
  - (d) to invest the monies of the Fund;
  - (e) to appoint officers and such other employees or agents as the Authority considers necessary;
  - (f) where necessary, to enter into agreements with —
    - (i) other bodies for the better administration of the Plan;
    - (ii) Administrators for the purposes of managing and administering the benefits under the Plan in accordance with section 25; and
    - (iii) Providers for the provision of the various benefits under the Plan in accordance with section 27;
  - (g) to utilize the monies received by the Fund to achieve the objectives of the Act;
  - (h) to cause on-site inspections in accordance with section 36;
  - (i) to require the production by any person in possession of any information relating to the Plan or any matter in connection with this Act such information as is necessary or expedient for or in connection with carrying out the objectives of this Act;
  - (j) to appoint an actuary to conduct, from time to time, actuarial projections and reviews and to calculate estimates of per capita costs of the Plan;



- (k) to appoint, subject to the provisions of this Act, such committees of the Board as it thinks fit, except that any committee so appointed shall include not less than two members of the Board, and may include persons who are not members of the Board;
  - (l) to determine, subject to the provisions of this Act, the constitution of a committee of the Board;
  - (m) to delegate, in writing, in accordance with subsection (2) any power or function conferred on the Authority under the Act;
  - (n) to outsource any power or function upon such terms and conditions to be agreed except that where an outsource expenditure is likely to exceed one per cent of the annual budget of the Fund, such outsourcing shall be subject to ministerial approval; and
  - (o) to do or cause to be done, such other things as may be conferred by this Act or any other written law and such other things that may enable the Authority to carry out its functions.
- (2) Subject to the provisions of this Act, any power or function which the Authority may exercise or perform under this Act may be delegated to any member of the Board, committee appointed under this Act or an employee, subject to such terms, conditions or restrictions as the Board may determine and the Board shall not be divested of any power delegated by it.
- (3) Notwithstanding subsection (2), the Authority may, subject to agreement, delegate to a governmental or other agency any power or function which the Authority may exercise or perform under this Act, in accordance with such terms, conditions or restrictions which the Board may determine and the Board shall not be divested of any power delegated by it.

## **8. Appointment of Managing Director.**

- (1) The Board shall appoint a Managing Director who shall be the chief executive of the Authority.
- (2) The Board shall employ such other officers and employees at such remuneration and on such terms and conditions as it considers necessary or appropriate for the proper conduct of its business, except that the Managing Director shall not without the prior approval of the Minister —
  - (a) assign to any post a salary, which is above the highest level of that governed by any industrial agreement to which the Board is a party;
  - (b) make an appointment to any post to which a salary mentioned in paragraph (a) of this proviso is attached;
  - (c) make any appointment of a legal adviser to, or medical officer of, the Board or terminate the employment of any person who holds such a post; or

- (d) make any provision for the payment of any pensions or gratuities or other like benefits to any officers or other employees of the Board by reference to their service.
- (3) Subject to the provisions of this Act, the Managing Director may delegate to any committee or officer or employee of the Board any such function as the Managing Director may determine, except that every delegation under this subsection shall be revocable by the Managing Director and no delegation shall prevent the exercise by the Managing Director of any function so delegated.

**9. Minister may give directions in interest of public's health.**

- (1) In the interest of the public's health and where circumstances require immediate action, the Minister may give to the Authority such directions as it appears to the Minister appropriate, whether of a general or specific character and the Authority shall give effect to any such direction.
- (2) Subject to subsection (1), where the Minister is not the Minister of Health, the Minister may only give such directions pursuant to subsection (1) following consultation with the Minister of Health.

**NATIONAL HEALTH INSURANCE FUND**

**10. Establishment of a National Health Insurance Fund.**

- (1) For the purposes of this Act, there shall be established a fund to be known as the National Health Insurance Fund (hereinafter referred to as the "Fund"), which shall be for the purpose of financing the objectives of this Act.
- (2) The Fund shall be under the control and management of the Authority.

**11. Monies paid into or met out of Fund.**

- (1) There shall be paid into the Fund —
  - (a) such sums approved by Parliament for payment into the Fund;
  - (b) all monies paid into the Fund by the Minister responsible for finance out of the Consolidated Fund;
  - (c) all sums properly accruing to the Fund whether by way of loans, grant, donations, rent, dividends or investments;
  - (d) all contributions lawfully paid to the Fund, whether directly or otherwise;
  - (e) any monies payable to the Fund from any levy or tax, as the case may be, authorized under this or any other Act; and

- (f) all other monies lawfully received by or made available to the Authority.
- (2) There shall be paid or met out of the Fund —
  - (a) for the purposes of carrying out the objectives of this Act —
    - (i) monies to finance benefits under the Plan;
    - (ii) all costs and expenses properly incurred in the management and administration of the Authority;
  - (b) monies for national health education and promotion activities; and
  - (c) the costs and expenses incurred by any other governmental agency associated with the implementation and administration of this Act in accordance with regulations made under this Act or any related law.
- (3) For the purposes of determining any sums to be paid into the Fund pursuant to subsection (1)(b), the Minister responsible for finance shall give consideration to any actuarial projections made and actuarial reviews conducted by an appointed actuary.

## FINANCIAL PROVISIONS

### **12. Accounts and audit.**

- (1) The Authority shall —
  - (a) cause to be kept proper books and records of accounts of income, expenditure, assets and liabilities of the Authority in relation to its affairs;
  - (b) annually cause to be prepared a statement of accounts in a form which conforms with International Financial Reporting Standards, and made available in accordance with section 37; and
  - (c) cause to be carried out, no less frequently than once every two years, an actuarial projection and review of the Fund and the actuary carrying out such review shall make recommendations to the Board as is necessary.
- (2) The statement of accounts shall be audited annually by an independent auditor appointed by the Authority and licensed with The Bahamas Institute of Chartered Accountants.
- (3) The Auditor-General shall, at any time, be entitled to inspect and audit the accounts and records of financial transactions of the Authority and records relating to assets of, or in the custody of, the Authority.

### **13. Borrowing powers.**

- (1) Subject to this section, the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions and may in respect of such borrowing, issue debentures or other securities in such form as the Authority may determine.
- (2) Any borrowing of the Authority pursuant to subsection (1) shall be subject to the approval of the Minister and Board, given with the consent of the Minister responsible for finance as to the amount to be borrowed, the source of the borrowing and the terms on which the borrowing may be effected.
- (3) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

### **14. Guarantee of loans to Authority.**

- (1) Subject to subsection (2), the Minister responsible for finance may, on behalf of the Government, at the request of the Minister, guarantee in such manner and on such conditions as he thinks fit the repayment of the principal of, and the payment of interest and other charges on, any authorised borrowing of the Authority.
- (2) No guarantee shall be given for the purposes of subsection (1) unless prior approval thereof has been signified by the House of Assembly in accordance with section 18 of the Financial Administration and Audit Act.
- (3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any monies guaranteed under subsection (1), he shall direct the payment out of the Consolidated Fund of the amount in respect of which there has been such default and such payment shall be a charge on the Consolidated Fund.
- (4) Where any sum is issued from the Consolidated Fund for fulfilling a guarantee given under this section, the Minister responsible for finance shall, as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability under the guarantee is finally discharged, lay before the House of Assembly a statement relating to that sum.

### **15. Reserve Fund.**

- (1) All monies of the Fund not immediately required to be expended in meeting any of the obligations of the Authority or discharging any of its functions or the functions of other government agencies with responsibilities related to this Act shall be paid into a Reserve Fund in accordance with prescribed regulations.

- (2) The Authority may determine —
  - (a) the management of the Reserve Fund;
  - (b) use of the Reserve Fund; and
  - (c) the sums to be carried from time to time to the credit of the Reserve Fund,but no part of the Reserve Fund shall be applied otherwise than for the purposes of the objectives of the Act.
- (3) The Minister may make regulations governing the Reserve Fund.

#### **16. Power to invest.**

- (1) The Authority may invest monies in —
  - (a) securities issued or guaranteed by the Government; and
  - (b) other securities, real estate, financial contracts, agreements and investments authorised by the Minister on the recommendation of the Authority.
- (2) Notwithstanding subsection (1), the Authority shall not invest in property or securities outside The Bahamas without the general or special directions of the Minister after he has obtained the concurrence of the Minister responsible for finance and any other requisite regulatory approval under any other law.
- (3) Any investment exercised other than pursuant to subsection (2), may be approved either generally or specifically by the Minister.
- (4) Regulations made pursuant to this section may provide for the manner in which the Authority may make investments and the types of investments the Authority may make.

### **PART III – NATIONAL HEALTH INSURANCE PLAN**

#### **17. Eligibility for national health insurance.**

- (1) A person shall be eligible to enrol to receive benefits under the Plan if he —
  - (a) is a citizen of The Bahamas and ordinarily resident in The Bahamas or lawfully residing in The Bahamas in accordance with the provisions of the Immigration Act (*Ch. 191*), having resided in The Bahamas for a period of not less than six months immediately preceding enrolment; and

- (b) is registered with the National Insurance Board and has been issued a valid microchip embedded national insurance card issued by the National Insurance Board (commonly known as a “Smart Card”).
- (2) Notwithstanding any other law, for the purposes of subsection (1), “**ordinarily resident**” shall be construed to mean that a person's ordinary residence shall not be considered to have been interrupted by reason of the fact that the person is occasionally or temporarily absent from The Bahamas or is absent from The Bahamas because of his —
  - (a) occupation or employment, or that of his spouse or, if a minor, his parent or legal guardian, in the public service or at any embassy, high commission or any other agency of the Government of The Bahamas or any international organisation to which The Bahamas is accredited and that occupation or employment requires him, his spouse or, if a minor, his parent or legal guardian to travel outside of The Bahamas; or
  - (b) pursuit of a *bona fide* full-time programme of study, or such pursuit by his spouse, or, if a minor, his parent or legal guardian and such a programme involves occasional or regular residence outside of The Bahamas.
- (3) A person shall be ineligible to enrol to receive benefits under the Plan if he —
  - (a) fails to meet any of the criteria under subsection (1); or
  - (b) is employed by an international organisation declared as such pursuant to section 3 of the International Organisations (Immunities and Privileges) Act (*Ch. 14*).
- (4) The Minister may, by order, subject to affirmative resolution of both Houses of Parliament, extend the eligibility of persons who may enrol to receive benefits under the Plan.
- (5) For the purposes of this section, “**affirmative resolution**” means approved by a resolution of each House of Parliament.

## 18. Enrolment of beneficiaries.

- (1) In order to access any benefit under this Act, a person who is eligible under section 17 must enrol in the Plan in accordance with prescribed regulations.
- (2) Enrolment shall be in accordance with prescribed regulations and at the time of enrolment a person shall be required to —
  - (a) select a primary care provider from the approved list of primary care providers published by the Authority; and
  - (b) select an Administrator from the approved list of Administrators published by the Authority.

- (3) Where a person is covered under group health coverage maintained by an employer as provided for in section 20(5), the selection of the Administrator shall be made in accordance with prescribed regulations.
- (4) An approved list referred to in subsection (2) shall be published by notice in the Gazette or in such manner as the Authority may determine.
- (5) A person shall not be enrolled in the Plan until he has selected or been assigned a primary care provider.
- (6) Where a person —
  - (a) fails to select a primary care provider or Administrator pursuant to subsection (2) for any reason —
    - (i) an Administrator shall be assigned to that person by the Authority; or
    - (ii) a primary care provider may, with the written approval of the person or his legal guardian, facilitate the person's selection of that primary care provider at the time of the person's visit with the primary care provider;
  - (b) is a resident at a licensed residential care establishment, a primary care provider shall be assigned to that person by the Authority.

**19. Re-selection of Administrator or primary care provider.**

- (1) Notwithstanding section 18, a beneficiary may in accordance with prescribed regulations, if he so desires, re-select once a year —
  - (a) his Administrator;
  - (b) his primary care provider.
- (2) Notwithstanding subsection (1), where —
  - (a) a beneficiary —
    - (i) has relocated to another settlement or island which makes it no longer feasible for him to access his Administrator or primary care provider;
    - (ii) with good reason, is not satisfied with the services of his primary care provider or Administrator;
    - (iii) is no longer employed by an employer that maintains group health coverage for its employees or otherwise is no longer eligible for such coverage; or
  - (b) the services of a primary care provider or Administrator are no longer available to a beneficiary, the beneficiary may upon application in writing and with the written approval of the Authority, select another Administrator or primary care provider or both if necessary in accordance with prescribed regulations.

**20. Entitlement to benefits.**

- (1) A beneficiary shall be entitled to the level and category of benefits specified in the *Second Schedule* and such benefits shall be subject to conditions and limitations as may be imposed by regulations.
- (2) A beneficiary shall make such co-payments or be subject to such other cost-sharing obligations for benefits in the amounts and manner as may be prescribed by the regulations.
- (3) The Minister may by Order, from time to time, on the recommendation of the Authority amend the *Second Schedule*.
- (4) Regulations made pursuant to this section shall provide the amount of any co-payments or other cost-sharing obligations to be paid by different categories of beneficiaries.
- (5) Nothing in this Act shall preclude a person from procuring or maintaining private health insurance coverage, whether independently or under his employer.
- (6) The level and category of benefits referred to in subsection (1) means primary, secondary and tertiary care.

**21. Coordination of coverage of benefits.**

Where a beneficiary is covered by private health insurance for a benefit included in the *Second Schedule*, the private health insurance carrier shall be the primary payer in accordance with prescribed regulations.

**22. Termination or suspension of benefits.**

- (1) Where in the opinion of the Authority, a beneficiary no longer meets the criteria for eligibility pursuant to section 17, that beneficiary may be subject to termination of his benefits under the Plan.
- (2) Where in the opinion of the Authority a beneficiary —
  - (a) fails to pay any contributions prescribed under this Act;
  - (b) commits fraud under the Plan; or
  - (c) fails to consent to disclose relevant information,that beneficiary may be subject to suspension of his benefits, but such suspension shall not negate the obligation of the beneficiary under this Act.
- (3) Regulations made pursuant to this section shall provide for the process to be carried out for the termination or suspension of benefits.



### **23. Contributions.**

- (1) Contributions shall be payable to the Plan on behalf of beneficiaries at such time and in such manner as may be determined by the Authority and prescribed in regulations by the Minister or as provided for in any other law.
- (2) Contributions for certain classes of persons, as may be prescribed in regulations, shall be paid out of the Consolidated Fund.
- (3) Where a beneficiary or his employer, if applicable, fails to pay any contribution due under the Plan, such person shall be liable to pay the full cost of any medical services obtained by the beneficiary that would otherwise be paid under the Plan.
- (4) Regulations made pursuant to this section shall provide for the rates of contribution to be paid by different categories of beneficiaries and employers.

## **PART IV – REGULATED HEALTH ADMINISTRATORS AND HEALTH CARE PROVIDERS**

### **REGULATED HEALTH ADMINISTRATORS**

#### **24. Application of Part.**

Sections 24 to 26 of this Part shall apply to a company, whether wholly or partially owned by the Government or otherwise, carrying on insurance business within the definition of “**regulated health administrator**” within the meaning of section 2.

#### **25. Eligibility.**

- (1) For the purposes of this Act, there shall be Administrators that shall manage and administer the benefits under the Plan for beneficiaries who have chosen or who have been assigned to that Administrator in accordance with section 18 of this Act.
- (2) Any person that is desirous of participating in the Plan as an Administrator must —
  - (a) be a company carrying on long-term insurance business and registered with the Insurance Commission to carry on long-term insurance business for sickness or health insurance in accordance with the Insurance Act (*Ch. 347*);
  - (b) be certified by the Insurance Commission as an Administrator in accordance with the provisions of the Insurance Act (*Ch. 347*);

- (c) enter into an agreement with the Authority in accordance with the provisions of this Act; and
  - (d) satisfy such other requirements as may be determined by the Authority,
- and, upon satisfaction of the above, shall be registered by the Authority for participation in the Plan in accordance with any criteria established under this Act.
- (3) The Authority may enter into an agreement with any Administrator for management and administration services at rates applicable thereto in respect of the Plan, upon such terms as may be stipulated by the Authority.
  - (4) An agreement referred to in subsection (3) must, at a minimum, contain provisions which state that —
    - (a) guaranteed issue applies to all beneficiaries who select or are assigned to that Administrator;
    - (b) guaranteed renewal applies to all beneficiaries who select or are assigned to that Administrator;
    - (c) no beneficiary shall be excluded from receiving benefits due to a pre-existing medical condition; and
    - (d) no beneficiary shall be precluded or denied access to benefits by that Administrator without good reason.
  - (5) Subject to subsection (4), an agreement entered into between the Authority and an Administrator shall also provide for —
    - (a) the procedure to be followed by which beneficiaries shall be entitled to access services, including the referral process;
    - (b) the benefits to be provided to beneficiaries and the payment rates for such benefits;
    - (c) the services to be rendered by the Administrator and the payment rates for such services;
    - (d) any health care quality expectations and standards;
    - (e) the procedure for the processing and management of claims;
    - (f) the terms of payment for services rendered;
    - (g) any financial and clinical audit functions to be conducted;
    - (h) the terms and conditions of any agreement to be entered into between the Administrator and a Provider; and
    - (i) the general responsibilities of the parties.

## **26. Functions of Administrators.**

The functions of an Administrator are to —

- (a) provide beneficiaries with access to the benefits included in the Plan;
- (b) pay Providers for benefits rendered under the Plan at the rates established by the Authority;
- (c) process beneficiary claims and to provide prior authorisation for referrals where necessary and appropriate;
- (d) conduct case management to improve health outcomes in a cost effective manner;
- (e) implement programmes for health promotion and prevention;
- (f) monitor the provision of health care benefits in accordance with quality assurance and standards of care and any regulations prescribed;
- (g) submit such information in relation to the Plan, as may be requested from time to time by the Authority or the Insurance Commission; and
- (h) do or cause to be done such other things as are necessary or expedient for or in connection with carrying out the objectives of this Act.

## HEALTH CARE PROVIDERS

### **27. Eligibility.**

- (1) For the purposes of this Act, there shall be Providers that shall provide the various benefits under the Plan.
- (2) An entity that is desirous of participating in the Plan as a Provider must enter into an agreement with the Authority in accordance with the provisions of this Act and —
  - (a) satisfy the requirements under any law governing the profession and practice of that Provider to the satisfaction of the Authority;
  - (b) make application in the manner and form prescribed;
  - (c) except in exceptional circumstances and in accordance with prescribed regulations, provide Plan benefits for all beneficiaries whose selection of or assignment to a primary care provider is confirmed;
  - (d) agree to any standards or conditions to be imposed by the Authority for participation in the Plan;
  - (e) agree to any fee schedule or other payment rate set by the Authority for the provision of benefits under the Plan; and
  - (f) satisfy such other requirements as may be determined by the Authority,

and, upon satisfaction of the above, shall be registered by the Authority for participation in the Plan in accordance with any criteria established under this Act.

- (3) The Authority may enter into an agreement with a Provider for the provision of benefits to beneficiaries under the Plan upon such terms as stipulated by the Authority.
- (4) An agreement entered into between the Authority and a Provider, must, at a minimum, contain provisions that provide for —
  - (a) the procedure to be followed by beneficiaries to access services, including the referral process;
  - (b) any benefits to be provided;
  - (c) the terms of payment for services rendered or for benefits provided;
  - (d) health care quality assurance and standards of care;
  - (e) the procedure for the submission of claims;
  - (f) on-site, financial and clinical audit functions to be conducted;
  - (g) no beneficiary to be denied access to benefits by that Provider without good reason;
  - (h) reporting requirements; and
  - (i) the general responsibilities of the parties.

## **28. Functions of Providers.**

The functions of a Provider are —

- (a) to provide applicable benefits to beneficiaries under the Plan;
- (b) to provide such information as the Authority or an Administrator may require; and
- (c) to carry out such other functions as may be prescribed in regulations.

## **29. Quality of care.**

- (1) The Authority shall ensure that Providers participating under the Plan implement policies and procedures that assure quality of care, utilisation review and technology assessment as prescribed in regulations to ensure that —
  - (a) the quality of health care services delivered is of high standard;
  - (b) access to benefits is suitable, equitable and standardized;
  - (c) the use of medical technology and equipment is consistent with needs and standards of medical practice under the Plan; and
  - (d) benefits are appropriate and necessary and comply with accepted medical practice and ethics.

- (2) The Authority may issue protocols prescribing the quality of care to be maintained by Providers.

## REPORTS, TERMINATION, ETC.

### **30. Duty to submit reports.**

- (1) Every Administrator and Provider shall report, in the manner and form prescribed, to the Authority with respect to —
  - (a) in the case of an Administrator, the administration and management of the Plan, and Provider and beneficiary satisfaction reports;
  - (b) in the case of a Provider, the services provided, and beneficiary health outcomes and satisfaction reports.
- (2) A report referred to in subsection (1) may be required to provide details on —
  - (a) financial data;
  - (b) utilization data;
  - (c) beneficiary health outcome data;
  - (d) beneficiary and Provider satisfaction survey data;
  - (e) specific quality and performance data; and
  - (f) such other data as may be considered necessary and requested by the Authority.

### **31. Termination of Provider or Administrator.**

- (1) Where a Provider —
  - (a) submits a false or fraudulent claim;
  - (b) commits any act of fraud in relation to the Plan;
  - (c) fails to disclose any material information requested by the Authority;
  - (d) fails to comply with any recommendation of an inspector pursuant to section 36;
  - (e) discloses confidential data or fails to protect confidential data;
  - (f) fails to meet any quality assurance or standards of care requirement;
  - (g) without good reason, fails to provide appropriate benefits to a beneficiary;
  - (h) does any act or omission that results in the revocation or suspension of his licence; or
  - (i) breaches any material term of the agreement,the Authority may terminate participation of that Provider in the Plan.

- (2) Where an Administrator —
- (a) commits any act of fraud in relation to the Plan;
  - (b) fails to disclose any material information requested by the Authority;
  - (c) fails to meet any quality assurance requirements;
  - (d) without good reason fails to provide benefits to a beneficiary;
  - (e) discloses confidential data or fails to protect confidential data; or
  - (f) does any act or omission that results in the revocation or suspension of his licence with the Insurance Commission; or
  - (g) breaches any material term of the agreement,
- the Authority may terminate participation of that Administrator in the Plan and notification of same shall be forwarded to the Insurance Commission forthwith.
- (3) The Authority may, at any time —
- (a) in the interest of public health or safety; or
  - (b) for breach of any of the material terms of an agreement,
- terminate the participation of an Administrator or Provider in the Plan in accordance with any agreement made between the parties pursuant to this Act.

### **32. Withdrawal.**

Any Administrator or Provider that no longer wishes to participate in the Plan shall give the Authority no less than ninety days written notice of the intention to withdraw participation in the Plan in accordance with any agreement made between the parties pursuant to this Act and must provide for transition of care of beneficiaries as set forth in the agreement or as prescribed in regulations.

## **PART V - GENERAL PROVISIONS**

### **33. Cooperation and information sharing.**

- (1) The Authority may cooperate with any government agency, including, by sharing information that it has acquired in the course of its duties or in the exercise of its functions under this or any other law where the Authority considers that such cooperation or information may be relevant to the discharge of the statutory functions of the requesting agency, and the requesting agency has a reciprocal arrangement in place to facilitate a request from the Authority for information that may be relevant to the discharge of its statutory functions.

- (2) Notwithstanding subsection (1), the Authority shall not share any information that relates to the medical history or medical status in respect of an individual.
- (3) Subsection (2) shall not apply to a disclosure of information —
  - (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
  - (b) in respect of the affairs of a beneficiary where the consent of the beneficiary or legal guardian, as the case may be, has been given voluntarily;
  - (c) where the information disclosed is in a manner that does not enable the identity of any beneficiary, Regulated Health Administrator, or Provider to which the information relates to be ascertained.
- (4) Any information shared pursuant to this section must be shared securely and in accordance with section 39 and any regulations as may be prescribed.
- (5) For the purposes of this section, the Authority may enter into an appropriate information sharing agreement.

#### **34. Power to require information.**

- (1) In the performance of its duties under this Act, the Authority may at all reasonable times require—
  - (a) a Provider or an Administrator to supply such information as the Authority may reasonably require or to produce for examination such records that are required to be kept pursuant to section 35;
  - (b) a beneficiary to supply such information as the Authority may reasonably require for the purpose of enabling the Authority to perform its functions under this Act;
  - (c) an employer to supply such information as the Authority may reasonably require for the purpose of enabling the Authority to perform its functions under this Act;
  - (d) anybody involved in the regulation of health care providers as specified in the *Third Schedule* to supply such information as the Authority may reasonably require to perform its functions under this Act.
- (2) The Minister may, on the recommendation of the Authority, by Order amend the *Third Schedule*.
- (3) Where —
  - (a) any Provider or Administrator fails or refuses to produce any record or to supply any information as is required by subsection (1), such Provider or Administrator commits an offence and shall be liable on

conviction to a fine not exceeding two hundred and fifty thousand dollars and may in addition be subject to termination from the Plan; or

- (b) any beneficiary or employer fails or refuses to produce any record or to supply any information as is required by subsection (1), such person shall be liable to pay the full cost of any medical services rendered to the beneficiary that would otherwise be paid under the Plan in respect of the matter in question.

### **35. Maintenance of records.**

Every Administrator and Provider shall in accordance with prescribed regulations maintain and keep records relating to —

- (a) the benefits rendered under the Plan;
- (b) all claims under the Plan, where applicable;
- (c) financial records related to the Plan;
- (d) the performance standards as required by the Authority; and
- (e) such other information as the Authority may require.

### **36. Routine Inspection of Providers.**

- (1) The Authority may for the purposes of supervising Providers participating in the Plan —
  - (a) inspect the premises, equipment and any documents related thereto, and the procedures and information technology systems of a Provider;
  - (b) examine the claims, data and accounting records in the possession of a Provider;
  - (c) make enquiries as may be necessary to ascertain whether the provisions of this Act are being or have been complied with in any such premises or place and exercise such other powers as may be necessary for the administration of this Act.
- (2) The Authority may appoint suitably qualified and experienced persons to carry out an inspection on its behalf.
- (3) An inspector acting under this section —
  - (a) shall, if so requested, produce evidence of his appointment;
  - (b) shall, after completion of an inspection compile a report including his recommendations to the Provider for compliance where applicable and a copy of such recommendations shall be forwarded to the Provider; and
  - (c) may request the assistance of a peace officer in carrying out his functions.



### **37. Annual Report.**

- (1) The Authority shall, within three months of the end of each financial year, cause to be made and shall submit to the Minister an annual report.
- (2) The Annual Report shall—
  - (a) include a report on the activities and operations of the Authority and the carrying out of its functions during that year;
  - (b) include a copy of the statement of accounts of the Fund for that financial year certified by an auditor;
  - (c) include a plan of the proposed objectives for the forthcoming year;
  - (d) set out the strategy for the forthcoming financial year;
  - (e) set out the priorities of the Board for the succeeding two years;
  - (f) set out the key performance indicators for the forthcoming year;
  - (g) set out the key activities carried out during the previous financial year, whether or not envisaged in the annual report for the previous year;
  - (h) set out the budget of the Authority establishing the target activities of the forthcoming year;
  - (i) outline the Authority's financial performance against its budget; and
  - (j) include a detailed report of the performance of the Authority against the aforementioned performance indicators.
- (3) The Minister shall cause a copy of the Annual Report together with the annual statement of accounts, the auditor's report and any actuarial report to be laid before each House of Parliament within thirty days from the date of submission to the Minister.
- (4) The Authority shall take all necessary measures to make available to the public copies of the Annual Report by ensuring that the Annual Report is published on its website within seven days after the same has been laid in Parliament.

### **38. Determination of questions and grievances.**

- (1) Where any person —
  - (a) is denied enrolment under the Plan;
  - (b) is aggrieved in respect of any violation of his entitlement under the Plan;
  - (c) is aggrieved by any decision of the Authority; or
  - (d) disagrees with an Administrator regarding the payment of a claim, the matter shall be determined by a person or tribunal appointed or constituted in accordance with regulations with —

- (i) exclusive jurisdiction to hear and determine all appeals matters and disputes referred to it and shall have such original, appellate and supervisory jurisdiction as may be conferred upon it by this Act or any other law; and
  - (ii) exclusive jurisdiction to issue orders in accordance with this Act or any other law.
- (2) An appellant who is aggrieved with a decision of the person or tribunal in accordance with subsection (1), may appeal the decision, on matters of law only, to the Supreme Court within twenty-one days after service on the appellant of a notice of the decision in writing.
- (3) Without prejudice to the generality of subsection (1), regulations made thereunder may include provisions —
  - (a) as to the procedure which is to be followed, the form which is to be used for any document, the evidence which is to be required and the circumstances in which any official record or certificate is to be sufficient or conclusive evidence;
  - (b) as to the time to be allowed for making any claim or appeal, for raising any question with a view to the review of any decision or for producing any evidence;
  - (c) for summoning persons to attend and give evidence or produce documents and for authorising the administration of oaths to witnesses; and
  - (d) for the making of application for judicial review made to the Court in all cases where the person or tribunal does not have jurisdiction under subsection (1)(d)(i) or (ii).

### **39. Confidentiality.**

- (1) Any person who works with or comes into contact with any data or information of relating to —
  - (a) the affairs of the Authority;
  - (b) the affairs of a beneficiary; or
  - (c) the affairs of a Provider or Administrator,received in relation to any functions performed in accordance with this Act, shall —
  - (i) regard and deal with as secret and confidential such data or information;
  - (ii) not disclose such data or information without the proper authorisation; and

- (iii) take appropriate security measures to prevent unauthorised access to, or alteration, disclosure or destruction of such data and against their accidental loss or destruction.
- (2) Subsection (1) shall not apply to a disclosure of data or information —
  - (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
  - (b) for the purpose of assisting the Authority to exercise any function conferred on it by this Act, by any other Act, or by regulations made thereunder;
  - (c) in respect of the affairs of a beneficiary where the consent of the beneficiary or legal guardian, as the case may be, has been voluntarily given;
  - (d) where the information disclosed is or has been available to the public from a lawful source;
  - (e) where the information disclosed pertains to one's self; or
  - (f) where the information is disclosed in a manner that does not enable the identity of any beneficiary, Provider or Administrator to which the information relates to be ascertained.
- (3) Any person who contravenes the provisions of this section commits an offence and is liable upon conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding ten years, or to both such fine and imprisonment.

#### **40. Offences and penalties.**

- (1) Any person who —
  - (a) knowingly obtains any benefits under this Act by means of a false declaration commits an offence and shall be liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year;
  - (b) knowingly makes any false declaration or false statement of a material nature in any application made under this Act, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year;
  - (c) wilfully attempts to use or uses funds paid or received with respect to this Act for purposes other than those prescribed under the Act commits an offence and is liable on conviction in the case of —
    - (i) a beneficiary, to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year;
    - (ii) a Provider, to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year;

- (iii) an Administrator, to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding one year;
  - (d) wilfully delays, assaults or obstructs an inspector in the exercise of his functions under this Act commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding one year;
  - (e) knowingly and intentionally commits fraud with respect to this Act is liable to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding three months;
  - (f) wilfully fails to pay any contribution under this Act whether for himself or in respect of another, commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars;
  - (g) having received monies in advance for benefits, and without good reason fails to render services pursuant to any agreement, commits an offence and is liable to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding ten years;
  - (h) without lawful excuse, refuses to furnish any information or to produce any document when required to do so by an inspector in the exercise of his functions under this Act, commits an offence and is liable to a fine not exceeding two hundred thousand dollars or to imprisonment for a term not exceeding three months.
- (2) Where any Administrator or Provider wilfully fails to comply with any requirement or duty imposed upon such Administrator or Provider under this Act, or with any request made by a duly certified Inspector for the purposes of carrying out an inspection, that Administrator or Provider commits an offence and is liable upon conviction to a fine not exceeding fifty thousand dollars.
- (3) Where —
- (a) an offence under this Act is committed by a body corporate and is proven to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the body corporate, or any person who was authorised to act in any such capacity, such person as well as the body corporate, shall be liable;
  - (b) the affairs of a body corporate are managed by its members, paragraph (a) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**41. Review of Act.**

- (1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed by the Prime Minister in consultation with the Leader of the Opposition for that purpose.
- (2) The first review of this Act shall be conducted not later than five years after the date of the first appointed day notice under the Act.

**42. Non-derogation.**

- (1) For the avoidance of doubt, unless otherwise provided for in any other law, nothing in this Act shall derogate from —
  - (a) the provisions relating to any injury attracting industrial benefit under the National Insurance Act (*Ch. 350*) unless the extent of such care is provided under the *Second Schedule*;
  - (b) any bodily injury caused to any person arising out of the use of a vehicle on a road attracting coverage under a policy of insurance as required under section 10(1)(c) of the Road Traffic Act (*Ch. 220*);
  - (c) any other law generally or any other law conferring a health care benefit on a person.
- (2) For the purposes of section (1)(a), the Authority may enter into a cost sharing agreement.

**43. Regulations.**

- (1) The Minister may, on the recommendations of the Authority, make regulations generally for the better carrying out of the provisions and objectives of the Act and, without prejudice to the generality of the aforesaid, the Minister may make regulations —
  - (a) prescribing the procedure for enrolment and re-selection of Administrators and primary care providers by beneficiaries;
  - (b) prescribing the categories of beneficiaries and the applicable benefits relating thereto;
  - (c) prescribing the procedure, rate and mode for the payment of contributions by beneficiaries and employers;
  - (d) prescribing the registration criteria for Administrators participating in the Plan;
  - (e) prescribing the registration criteria for Providers participating in the Plan;
  - (f) prescribing the categories of persons and the means of identifying them, who may be exempted from paying contributions, co-payments or other cost-sharing obligations under the Plan;

- (g) prescribing matters related to information sharing, maintenance of records, privacy and data protection;
  - (h) prescribing matters relating to the setting of payments for Providers and Administrators and the risk adjustment mechanism for Providers and Administrators;
  - (i) prescribing procedures for the resolution and determination of grievances;
  - (j) prescribing the percentage of the Fund to be used for activities that directly facilitate access to health care;
  - (k) prescribing the appointment, functions and procedure of committees;
  - (l) prescribing the manner and form of any forms to be used;
  - (m) requiring the reporting of data by Providers, and the form and manner thereof;
  - (n) requiring the reporting of data by Administrators, and the form and manner thereof; and
  - (o) prescribing any other matter for the better carrying out of the objectives of the Act.
- (2) Any committee appointed pursuant to section 7 shall be consulted by the Authority as appropriate prior to the making of any recommendations to the Minister for the making of regulations made under subsection (1).
  - (3) Regulations made under subsection (1) may notwithstanding section 25 of the Interpretation and General Clauses Act, provide for the imposition of a fine not exceeding fifty thousand dollars for any contravention or failure to comply with the provisions of the regulations.

#### **44. Transitional provisions.**

- (1) On the date of the coming into force of Part IV of this Act, any person carrying on the business of accident and sickness insurance as a registered long-term insurer that is desirous of being an Administrator under the Plan or practising as a licensed health practitioner or health care facility that is desirous of providing primary health care under the Plan and applies in the prescribed manner within ninety days of the date thereof to be registered as —
  - (a) a regulated health administrator under section 25; or
  - (b) a health care provider under section 27,
 and meets the provisions of this Act and prescribed regulations, may be registered by the Authority to participate in the Plan.
- (2) The Minister may by notice in the *Gazette* extend or otherwise modify the time period specified in subsection (1).

- (3) The Minister may, by regulations made under this section, provide for such further transitional provisions to have effect in connection with the coming into operation of any provision or Part of this Act as are necessary or expedient.
- (4) In this section —
- “**health practitioner**” shall have the meaning ascribed thereto in the Hospitals and Health Care Facilities Act (*Ch. 235*); and
- “**health care facility**” shall have the meaning ascribed thereto in the Hospitals and Health Care Facilities Act (*Ch. 235*).

**45. Repeal.**

The laws mentioned in the first column of the *Fourth Schedule* are amended to the extent specified in the second column of that Schedule.

## FIRST SCHEDULE

(section 4)

### CONSTITUTION AND PROCEDURES OF THE BOARD

#### 1. Constitution of Board.

- (1) The Board shall consist of nine members —
- (a) two of whom shall be appointed by the Minister in his discretion of whom —
    - (i) one shall be regarded as having demonstrated experience in the health sector in areas such as health service delivery, health workforce, health information systems, access to essential medicines, health financing, health leadership or governance;
    - (ii) one shall be regarded as having demonstrated experience in the commercial sector in areas such as financial expertise, business strategy, business administration or executive-level management,and not less than forty percent of the members of the Board shall be female and not less than forty percent shall be male;
  - (b) three of whom shall be appointed by the Minister in his discretion, of whom —
    - (i) two shall be selected from among those categories of persons regarded as representative of the views of patients, beneficiaries or civil society;
    - (ii) one shall be selected from among those categories of persons regarded as representative of the views of the nursing or allied health professions;
  - (c) four of whom shall be approved by the Minister of whom —
    - (i) one shall be proposed by The Bahamas Chamber of Commerce and Employers Confederation;
    - (ii) one shall be proposed by the National Congress of Trade Unions Bahamas;
    - (ii) one shall be proposed by The Bahamas Insurance Association;
    - (iv) one shall be proposed from among the Medical Association of The Bahamas.



- (2) The Managing Director of the National Health Insurance Authority, the Chief Medical Officer, the Director of the National Insurance Board, the Superintendent of the Insurance Commission of The Bahamas and the Director of Social Services shall be *ex-officio* members with no voting rights.
- (3) The Minister shall appoint the Chairman and the Deputy Chairman from among the appointed members of the Board.
- (4) Prior to the acceptance of membership of the Board, a proposed member shall disclose whether or not he is a director or officer or shareholder of any business that offers a service in accordance with the Plan, and if the Minister is fully satisfied, upon completing due diligence with respect to the proposed member that the presence of the member shall not —
  - (a) prejudice the principles of natural justice; and
  - (b) subject the proceedings of the Board to a charge of bias,the Minister may proceed to issue a letter of appointment to that member.
- (5) Upon appointment, or in any other case, before discharging any duty in connection to the Board, each member shall sign a declaration of acceptance of membership of the Board and an undertaking that he will adhere to the rules pertaining to his duties or any other such relevant rules or procedures.

**2. Appointment of secretary.**

There shall be a secretary to the Board who shall be appointed by the Board and who shall perform such functions at such remuneration and upon such terms and conditions as the Board may determine.

**3. Tenure of members of the Board.**

- (1) All members of the Board, other than the *ex-officio* members shall hold office for a period not exceeding three years as specified in the instrument of appointment and may be eligible for re-appointment for an additional period not exceeding three years, but in any event must not hold office for more than two consecutive terms.
- (2) Four members of the Board shall serve for an initial term of two years and five members of the Board shall serve for a term of three years.
- (3) An appointed member may at any time resign his office by notifying the Chairman in writing who shall forward the same to the Minister and upon the date of the receipt by the Chairman of such document such member shall cease to be a member.
- (4) The Chairman may resign his office by notifying the Minister in writing and such resignation shall take effect upon the date of the receipt of such document by the Minister.

- (5) Where the Chairman or the Deputy Chairman ceases to be a member of the Board, he shall also cease to be Chairman or Deputy Chairman, as the case may be.
- (6) The appointment, termination, death or resignation of the Chairman, Deputy Chairman or an appointed member shall be published by notice in the Gazette and by such other means as the Authority deems fit.

**4. Vacancies.**

- (1) A vacancy shall arise in the membership of the Board in the case of —
  - (a) the death or resignation of a member; or
  - (b) the termination of any member of the Board in accordance with paragraph 5.
- (2) Where a member of the Board is, for a reasonable cause, unable to act as a member, the Chairman shall determine whether the inability would result in a vacancy.
- (3) Where a vacancy arises in the membership of the Board, the Chairman shall notify the Minister of the vacancy and the Minister shall, if he thinks it desirable or expedient to so do, revoke the appointment by instrument in writing and appoint another person within fourteen days to fill the vacancy.

**5. Termination of membership.**

The Minister shall terminate the appointment of a member of the Board where

—

- (a) there has been proved against the member, or he has been convicted on, a charge in respect of —
  - (i) an offence involving fraud or dishonesty;
  - (ii) an offence under any law relating to corruption;
  - (iii) any other offence punishable with imprisonment, in itself only or in addition to or in lieu of a fine, for more than two years;
- (b) the conduct of the member, whether in connection with his duties as a member of the Board or otherwise, has been such as to bring discredit to the Board;
- (c) the member breaches the clause of confidentiality pursuant to paragraph 9;
- (d) the member is adjudged bankrupt;
- (e) the member is of unsound mind or is otherwise incapable of discharging his duties;
- (f) the member has an interest in a matter before the Board and has failed to disclose that interest, or was present or participated in the

deliberations of the matter to which it is necessary for such interest to be disclosed;

- (g) in the case of a member of the Board other than the Chairman, such member absence himself from three consecutive meetings of the Board;
- (h) the resignation of a member is accepted by the Minister.

**6. Remuneration.**

There shall be paid out of the Fund —

- (a) to each member, in respect of his office such remuneration and allowances, if any, as the Minister may determine;
- (b) to the Chairman and to the Deputy Chairman in respect of their offices such remuneration and allowances, if any, in addition to any remuneration or allowances to which they may be entitled in respect of their offices as members; and
- (c) to any person invited to attend meetings of the Board under paragraph 7(7) such remuneration and allowances, if any, as the Board may by resolution declare.

**7. Meetings of the Board.**

- (1) The Board shall meet monthly in such manner and at such times as may be necessary or expedient to do so for the transaction of business and where a member is unable to attend in person, that member may attend via electronic means approved by the Board.
- (2) The Director shall be entitled to take part in any meeting, but shall not be entitled to vote.
- (3) The Chairman shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the time and place determined by the Chairman.
- (4) The Chairman shall preside at meetings of the Board, and in the absence of the Chairman or Deputy Chairman, a member of the Board elected by the members present from among their number shall preside.
- (5) The quorum of the Board shall consist of a two thirds majority of members.
- (6) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.
- (7) The Board may invite any person, who in the opinion of the Board have expert knowledge concerning any of the functions of the Board that is likely to be of assistance, to attend any meeting of the Board and to take part in its proceedings, but that person shall not be entitled vote on a matter for decision at the meeting.

- (8) The proceedings of the Board shall not be invalidated because of a vacancy among the members or a defect in the appointment or qualification of a member.
- (9) Subject to this paragraph, the Board shall determine the procedure for its meetings.

**8. Voting.**

- (1) A quorum shall consist of two thirds of the voting members of the Board.
- (2) Every voting member shall cast one vote of equal weight or abstain.
- (3) The Chairman of the Board shall vote at the same time as the Board on all votes, but the vote shall be kept separate and shall only be considered in the case of a tie to break a deadlock.

**9. Disclosure of interest.**

- (1) A member of the Board who has an interest in a matter for consideration —
  - (a) shall immediately disclose to the Board, in writing, the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
  - (b) shall not be present or participate in the deliberations of the Board in respect of that matter.
- (2) Unless the Board is fully satisfied that the relationship concerned is not prejudicial to the preservation of the principles of natural justice or public procurement requirements and specifically that the legal requirement that Board proceedings should not be open to the charge of bias, then that member shall take no part in the Board's deliberations on the matter and the disclosure and absence of the member shall be recorded in the minutes.
- (3) Where any member of the Board is personally the subject of a matter which is before the Board for consideration, that Board member shall withdraw from any deliberations of the Board on the matter and his absence of the member from the deliberations shall be recorded in the minutes.
- (4) Notwithstanding subparagraph (3), where the Board is fully satisfied that the presence of the member during such deliberations is not prejudicial to the preservation of the principles of natural justice and, specifically, the legal requirement that Board proceedings should not be open to the charge of bias.
- (5) Where the Minister is satisfied, after due investigation and following receipt of a recommendation from the Board, that any member of the Board failed, at a material time, to disclose a relationship, he shall remove that person from membership of the Board in accordance with paragraph 3

and any person so removed shall not be eligible for appointment as a member of any committee.

**10. Confidentiality.**

- (1) A member of the Board shall keep confidential the matters discussed at meetings unless otherwise agreed by the Board.
- (2) Where allegations of a breach of confidentiality by a member of the Board arises, the matter shall be brought to the attention of the Minister at the earliest opportunity and the Minister shall cause to be carried out an investigation into the matter.
- (3) Where the Minister is satisfied, after proper investigation that any member of the Board is in breach of this clause the member shall be removed.

**11. Limitation of liability.**

- (1) Subject to subparagraph (2), no action, prosecution or other proceedings shall be brought or instituted personally against the Chairman or any other member of the Board in respect of any Act done *bona fide* in pursuance or execution or intended execution of the provisions of the Act.
- (2) Where any member of the Board is exempt from liability by reason of subparagraph (1), the Authority shall be liable to the extent that it would be if that member were a servant or agent of the Authority, however, if in any case, the Authority is not liable for any of the above mentioned acts, then subparagraph (1) does not operate to exempt such member as therein stated.

## **SECOND SCHEDULE**

(section 20)

### **BENEFITS AVAILABLE TO A BENEFICIARY UNDER THE PLAN**

#### **PRIMARY HEALTH CARE**

The benefits provided at the primary health care level shall consist of —

1. Primary health care services of health care providers
2. Primary health care diagnostic, laboratory, pharmaceutical and other medical services, including care integration, counselling, home or residential care and population health services addressing the social and other determinants of health
3. Personal preventative services
4. Primary health care prescription drugs and biologicals
5. Health education and promotion

## **THIRD SCHEDULE**

(section 34)

### **BODIES INVOLVED IN THE REGULATION OF HEALTH CARE PROVIDERS**

Nursing Council - Established under section 3 of the Nurses and Midwives Act (*Ch. 225*)

The Bahamas Pharmacy Council - Established under section 3 of the Pharmacy Act (*Ch. 227*)

The Bahamas Medical Council - Referred to under section 4 of the Medical Act, 2014)

Bahamas Dental Council - Established by section 3 of the Dental Act (*Ch.226*)

Health Professionals Council - Established under section 3 of the Health Professions Act (*Ch.233*)

Hospitals and Health Care Facilities Licensing Board – Established under section 4 of the Hospitals and Health Care Facilities Act (*Ch.235*)

**FOURTH SCHEDULE**

(section 46)

**AMENDMENTS**

<b>LAW</b>	<b>AMENDMENT</b>
National Health Insurance Act, 2007 (No. 3 of 2007)	Repeal whole Act
Data Protection (Privacy of Personal Information) Act (Ch. 324A)	In section 13 — (a) in paragraph (g), delete the word “or”; (b) in paragraph (h), delete the period appearing after the word “behalf” and substitute the words “; or”; and (c) insert immediately after paragraph (h) the following new paragraph (i)— “(i) required for the purposes of the implementation and management of national health insurance and the determining of eligibility and benefits thereunder. ”.

**OBJECTS AND REASONS**

This Bill seeks to repeal the National Health Insurance Act, 2007, to implement a National Health Insurance Plan, to establish a National Health Insurance Authority and a National Health Insurance Fund to fund the Plan and to provide for matters connected therewith.

Part I of the Bill provides for the preliminary provisions. Therein, clause 1 of the Bill sets out the short title and commencement of the Bill with the latter providing for particular sections or Parts of the Bill to come into force on different dates.

Clause 2 of the Bill provides for the definition of terms used within the Bill. Some pertinent definitions are —

- (a) **“health care provider”** or **“Provider”** means an entity, corporate or unincorporate, approved by the Authority to render benefits under the Plan;

- (b) **“primary care provider”** means a licensed entity approved by the Authority to coordinate health care services to be provided to a beneficiary under the Plan in accordance with section 18 of the Act;
- (c) **“primary health care”**, which means the outpatient, first level of health care that focuses on prevention, and addresses and coordinates all essential health needs; and
- (d) **“regulated health administrator”** or **“Administrator”** means a company carrying on insurance business which —
  - (i) is registered as a long-term insurance business in carrying on sickness or health insurance in accordance with the Insurance Act (*Ch. 347*);
  - (ii) is certified as an Administrator by the Insurance Commission in accordance with the provisions of the Insurance Act (*Ch. 347*); and
  - (iii) has entered into an agreement with the Authority pursuant to section 25 of the Act;

Clause 3 of the Bill sets out the objectives of the Bill which include, to establish the administrative framework and other necessary mechanisms to enable the provision of equitable, accessible, affordable and quality health care services to all eligible persons for the attainment of universal health coverage; to facilitate people centred health care that meets the needs of the population; to provide plurality in the health care system with equal opportunity for public and private sector participation; to promote efficiency in health care administrative operations; and to enable sustainability through appropriate allocation of resources in health care, in collaboration with the Ministry of Health.

Part II of the Bill provides for clauses 4-16 and makes provision for those clauses with respect to the National Health Insurance Authority. Therein, clause 4 of the Bill provides for the establishment of the National Health Insurance Authority which shall be a corporation sole and shall have the powers and discharge the functions conferred on it pursuant to the Act.

Clause 5 of the Bill provides for the seal to be kept in the custody of the Chairman or Deputy Chairman and provides for the documents or instruments to be under seal, and the decisions of the Authority to be signified under the hand of the Chairman, Deputy Chairman or Secretary to the Board.

The Authority's functions under Clause 6 of the Bill allow for the achievement of the objectives of the Act which are outlined under Clause 3. These functions include the establishment and implementation of a national health insurance plan to facilitate the provision of equitable, accessible, affordable, and quality health care services and to register all persons eligible to enrol under the Plan. The Authority is also endowed



with functions to address the registration and rates of payment of Administrators and Providers participating in the Plan.

Clause 7 of the Bill provides for the powers of the Authority, which include the establishment of the benefits and the applicable fees to be provided under the Plan, the management, utilization and investment of monies of the National Health Insurance Fund, the appointment of employees and the appointment of an actuary.

Clause 8 of the Bill provides for the appointment and remuneration of a Managing Director and such other officers and employees.

Clause 9 of the Bill provides discretion for the Minister to give to the Authority, in the interest of the public's health and where circumstances require immediate action, such directions as it appears to the Minister appropriate whether of a general or specific character and the Authority shall give effect to any such directions. Where the Minister is not the Minister of Health, the Minister may only give such directions following consultation with the Minister of Health.

Clause 10 of the Bill seeks to establish a National Health Insurance Fund which shall be for the purpose of financing the objectives of the Act.

Clause 11 of the Bill provides for monies to be paid into or met out of the Fund.

Clauses 12-16 of the Bill addresses the financial provisions of the Bill.

Clause 12 of the Bill provides the provisions with respect to accounts and audit and requires the Authority to keep records of income, expenditure, assets and liabilities of the fund. Further, clause 12 provides for the preparation of an annual statement of accounts which conforms with the law governing any principles and practices established by the body responsible for regulating the practice of public accounting in The Bahamas and an actuarial projection and review of the Fund to be prepared no less frequently than once every two years.

Clause 13 of the Bill empowers the Authority to borrow sums required for meeting any of its obligations. However, this clause provides that any borrowing shall be subject to the approval of the Minister and the Board, given with the consent of the Minister responsible for finance.

Clause 14 of the Bill provides that the Minister responsible for finance, may guarantee the repayment of loans made to the Authority and the conditions thereof.

Clause 15 of the Bill establishes a Reserve Fund, which shall consist of all monies not immediately required to be expended in meeting the Authority's obligations and shall not be applied otherwise than for the purposes of the objectives of the Act.

Clause 16 of the Bill empowers the Authority to invest monies from the Reserve Fund as well as the Fund. However, the investment in property or securities outside The Bahamas is subject to the general or specific directions of the after having

obtained the concurrence of the Minister responsible for finance and in accordance with any regulatory approval under any other law. Clause 16 also provides for the making of regulations regarding the types and manner of investments that the Authority may make.

Part III of the Bill provides for clauses 17 - 23 and makes provision for those clauses with respect to the National Health Insurance Plan and its beneficiaries. Therein, clause 17 of the Bill makes provision for the eligibility of persons to enrol to receive benefits under the Plan.

Clause 18 of the Bill, *inter alia* provides for the enrolment of beneficiaries in the Plan.

Clause 19 of the Bill provides for re-selection of an Administrator or Provider in certain circumstances.

Clause 20 of the Bill provides for the beneficiaries entitlement to benefits.

Clause 21 of the Bill provides for the coordination of benefits for beneficiaries with private health insurance coverage of benefits for beneficiaries.

Clause 22 provides for the circumstances under which benefits may be terminated while clause 23 makes provisions for contributions under the Plan.

Part IV of the Bill provides for clauses 24-32 and makes provision for those clauses with respect to eligibility and functions of the Regulated Health Administrators and Health Care Providers. Clause 24 of the Bill provides that sections 24-26 shall apply to a company, whether wholly or partially owned by the Government or otherwise, carrying on insurance business within the definition of “regulated health administrator” within the meaning of section 2.

Clause 25 of the Bill provides that the Authority shall set the criteria under which an Administrator shall be registered by the Authority for participation in the Plan and makes provision for an Administrator who wishes to participate in the Plan.

Clause 26 of the Bill provides for the functions of an Administrator.

Clause 27 of the Bill makes provision for eligibility of Providers, while clause 28 of the Bill provides for the functions of Providers.

Clause 29 of the Bill makes provision to ensure quality of care.

Clause 30 of the Bill provides for the duty to submit reports by Administrators and Providers.

Clause 31 of the Bill provides for the conditions under which the participation of an Administrator or Provider under the Plan may be terminated, while clause 32 of the

Bill provides the conditions under which the Administrator or Provider may withdraw from participation in the Plan.

Part V of the Bill provides for clauses 33-46 and makes provision for those clauses with respect to the General Provisions of the Bill.

Clause 33 of the Bill provides for the Authority to collaborate and request relevant information from government ministries, departments or agencies.

Clause 34 of the Bill provides for the Authority to have the power to require information from a Provider, Administrator, beneficiary or an employer or any body listed in the *Third Schedule*.

Clause 35 of the Bill provides that every Administrator and Provider shall in accordance with prescribed regulations maintain and keep records relating to the benefits rendered under the Plan; where applicable, all claims; financial records; the performance standards as required by the Authority; and such other information as the Authority may require.

Clause 36 of the Bill provides for the routine inspection by the Authority of Providers, their premises and business affairs to ensure compliance with the Act. The Authority may appoint suitably qualified and experienced persons to carry out inspections on its behalf.

Clause 37 of the Bill provides that the Authority shall within three months of the end of each financial year, submit to the Minister, a report on its activities and operations and the statement of accounts of the Fund. Such report together with copies of the statement of accounts, the auditor's report, and any actuarial report shall be tabled before each House of Parliament within thirty days from the date of submission to the Minister.

Clause 38 of the Bill provides for the procedure for the determination of questions and grievances. Provisions for confidentiality is provided for under clause 39 of the Bill and offences and penalties are provided for under clause 40 of the Bill.

Clause 41 of the Bill provides for the review of the Act by a committee of both Houses of Parliament appointed by the Prime Minister in consultation with the Leader of the Opposition. The first review of the Act shall be conducted no later than five years after the date of the first appointed day notice under the Act.

Clause 42 of the Bill provides that for the avoidance of doubt, unless otherwise provided for in any other law, nothing in this Act shall derogate from —

- (a) the provisions relating to any injury attracting industrial benefit under the National Insurance Act (*Ch. 350*) unless the extent of such care is provided under the *Second Schedule*;

- (b) any bodily injury caused to any person arising out of the use of a vehicle on a road attracting coverage under a policy of insurance as required under section 10(1)(c) of the Road Traffic Act (*Ch. 220*);
- (c) any other law generally or any other law conferring a health care benefit on a person.

Clause 43 of the Bill provides for the making of regulations, generally, for the better carrying out of the provisions and objectives of the Act.

Clause 44 of the Bill provides that any person carrying on business as a registered long- term insurer or practising as a licensed health practitioner or health care facility and who is desirous of providing primary health care under the Plan and applies in the prescribed manner within ninety days of the date thereof to be registered as an Administrator or Provider and meets the provisions of this Act, may be registered by the Authority to participate in the Plan. Further the clause provides for the Minister to extend or otherwise modify the period of ninety days. Further, clause 41 of the Bill also provides that the Minister may extend or modify the time period of ninety days and by regulations, provide for further transitional provisions.

Clause 45 of the Bill provides for the repeal of certain laws.

The *First Schedule* to the Bill provides for the provisions with respect to the constitution and procedures of the National Health Insurance Authority Board.

The *Second Schedule* to the Bill provides for the benefits that are available to a beneficiary under the Plan.

The *Third Schedule* to the Bill provides for the bodies involved in the delivery of health care services.

The *Fourth Schedule* to the Bill provides for the repeal and other consequential amendments.