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IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

CASE NO: 2022/015979

BEFORE THE HONOURABLE MADAM JUSTICE  
CRUTCHFIELD ON 8 SEPTEMBER 2022

In the *ex parte* application of:

**Applicant**

**THE REGISTRAR OF MEDICAL SCHEMES**

and

Filed: Ben ZT, Johannesburg 2000

**Respondent**

**HEALTH SQUARED MEDICAL SCHEME**

2022-09-08

In re:

GLD-JHB-007

In the matter of:

**Applicant**

**HEALTH SQUARED MEDICAL SCHEME**

and

**First Respondent**

**THE REGISTRAR OF MEDICAL SCHEMES**

**Second Respondent**

**THE COUNCIL FOR MEDICAL SCHEMES**

**Third Respondent**

**SOUTH AFRICAN NEPHROLOGY SOCIETY**

**Fourth Respondent**

**CHRISTO LUKAS MARX**

**Fifth Respondent**

**ELVIRA REGINA GRUMMET**

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**ORDER**

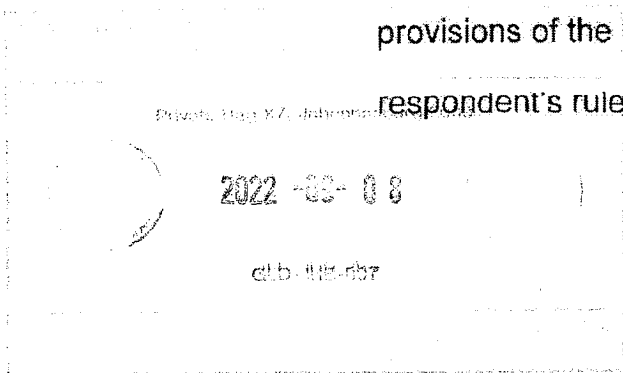
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Having considered the documents filed of record and having heard counsel for the parties,

IT IS ORDERED THAT:

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1. This application is enrolled as one of urgency in accordance with the provisions of uniform rule 6(12)(a) and the usual forms and service provided for in the rules are dispensed with;
  
2. A *rule nisi* is issued calling upon the respondent and any interested persons to show cause, in terms of Part B of the application, on **Tuesday 20 September 2022**, at 10:00, or so soon thereafter as the matter may be heard, why an order should not be made in the following terms:
  - 2.1. That the respondent is placed under curatorship as contemplated in section 56(1) of the Medical Schemes Act, 1998 and sections 5(1) and 5(2) of the Financial Institutions (Protection of Funds) Act, 28 of 2001;
  
  - 2.2. That Mr Joe Seoloane be appointed as the curator of the respondent;
  
  - 2.3. That the curator, appointed as aforesaid, be and is hereby:
    - 2.3.1. authorised to take immediate control of, and in the place of the respondent's board of trustees and principal officer, to manage the business and operations of, and concerning, the respondent, together with all assets and interests relating to the business of the respondent, in accordance with the provisions of the Medical Schemes Act, 131 of 1998, and the respondent's rules;

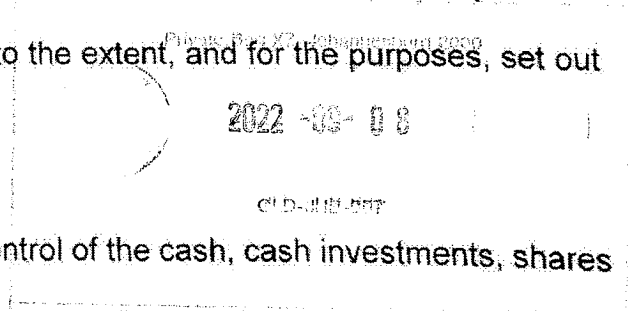


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2.3.2. vested with all powers of control and management which would ordinarily be vested in, and exercised by, the board of trustees or the principal officer of the respondent, whether in law or in terms of the rules of the respondent;

2.3.3. directed to give consideration to the best interests of the members of the respondent and, in particular, to attend to facilitating and negotiating the transfer of the respondent's members to other medical schemes prior to the impending winding-up of the respondent, on such favourable terms as may be appropriate in the circumstances and to report to the applicant thereon on a weekly basis;

2.3.4. directed to exercise the powers vested in him with a view to managing the business of the respondent and, not without the leave of any liquidator who may be appointed to the respondent, to alienate or dispose of any property of the respondent, save to the extent, and for the purposes, set out hereunder;



2.3.5. directed to take control of the cash, cash investments, shares and other securities, as well as of all other assets owned, held or administered, by or on behalf of the respondent until a liquidator is appointed to wind-up the respondent's business;

2.3.6. authorised to incur such reasonable expenses and costs as may be necessary for purposes of the curatorship and control of the business and operations of the respondent, and to pay same from the assets owned, administered or held by or on behalf of the respondent;

2.3.7. authorised to pay claims or other benefits to the respondent's members, as may have been received before 27 September 2022 when the respondent will apply for a winding-up order, including in respect of the class of beneficiaries referred to in the resolution taken by the board of trustees of the respondent, dated 31 August 2022 (Appendix 1 hereto);

2.3.8. permitted to engage such assistance of a legal, accounting, actuarial, administrative or other professional nature, as he may reasonably deem necessary for the performance of his duties in terms of this order, and to defray reasonable charges and expenses thus incurred from the assets owned, administered or held by or on behalf of the respondent;

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2.3.9. authorised to institute or prosecute any legal proceedings on behalf of the respondent and to defend any action against the respondent subject to the direction of the liquidator once appointed to wind-up the respondent's business;

- 2.3.10. authorised to invest such funds as are not required for the immediate purposes of the business, with an institution or financial instrument as he may regard as financially sound and appropriate until such time as a liquidator is appointed to attend to the winding-up of the respondent;
- 2.3.11. authorised to take control, and to operate or close existing bank accounts, of the respondent, whether conducted in South Africa or off-shore, and to open and operate any new bank accounts in the name of the respondent as might be reasonably required for purposes of the curatorship and subject to the further direction of a liquidator who may be appointed pursuant to a winding-up of the respondent;
- 2.3.12. authorised to investigate allegations of financial and governance irregularities or mismanagement and to recommend appropriate action to be taken to address and, where necessary, recommend action to be taken against any person who may be guilty of misconduct or a crime;
- 2.3.13. authorised to apply, at any time during his term of office, on 48 hours' notice or on an *ex parte* basis, for any amendment or amplification of the powers granted to him in terms hereof, in the event that it is necessary to amend or amplify such

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powers for the effective exercise of his powers and responsibilities;

2.3.14. authorised to be entitled to reasonable remuneration and disbursements, as might be allowed by agreement with the applicant, alternatively, failing such agreement, as may be determined later by this court, and that such remuneration shall be paid by the respondent and shall be a first charge upon the respondent's assets.

2.4. Directing the curator to report on his curatorship to the applicant on a monthly basis and to include in his report a statement of his findings and recommendations concerning the respondent's affairs and the continuation, if necessary, of the curatorship.

3. Directing that the powers of the curator, whether provisional or final, shall not extend to overruling, curtailing or in any way diminishing the rights of the class of patients referred to in the resolution taken by the board of trustees of the respondent, dated 31 August 2022 (Appendix 1 hereto) and as referred to in any order as may be granted by this Honourable Court, under case number 2022/015979, in relation to the protection and benefits of such category of patients as referred to in such resolution and in such court order, for the period terminating on 30 September 2022.

Private Law Act, Johannesburg 2009

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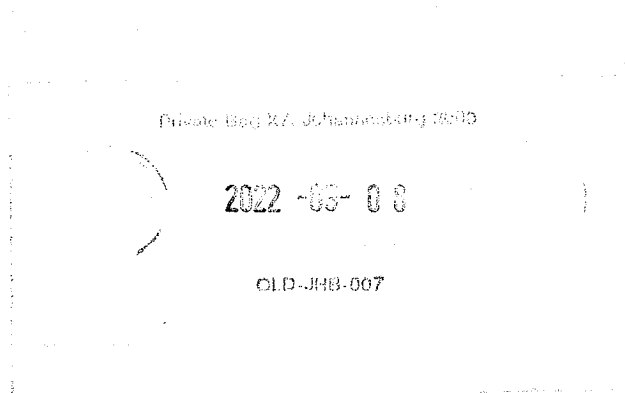
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4. Pending the outcome of the return date to confirm the appointment of the curator with the powers, duties and mandate as set out above, the relief sought in prayers 2.1 to 2.4 above shall operate as an interim order with immediate effect.
5. Directing that this application, together with the interim order obtained herein, be served on the respondent and any other interested party.
6. Directing that the costs of this application be reserved for determination by the court hearing Part B of this application.

BY THE COURT

Registrar



**AJ Lapan**  
**Applicant's counsel**  
**Chambers**  
**5 September 2022**

**(Tel: (011) 895- 9000)**

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