

# A Regulatory Perspective on Emerging Challenges and Reform Imperatives:

Reimagining the Future of Healthcare to 2030 in South Africa



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# Outline

- **Healthcare System Inequities**
- **Medical Schemes Market Structure and Access**
- **Contracting, Administration, and Data Governance**
- **Strategic Regulatory Priorities (2025–2030)**
  - **Regulatory Transformation for Vision 2030**
  - **Digital Health and AI Oversight**
  - **Judicial Influence on Health Policy**
  - **Fraud, Waste, and Abuse in the Health Sector**
  - **Tariff and Price Regulation Challenges**
- **Conclusion and Policy Imperatives**



# Brief overview of the healthcare landscape in South Africa

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## **Public Health Sector:**

- Serves over 80% of the population
- Underfunded and overstretched

## **Private Health Sector:**

- Highly resourced, technologically advanced
- Accessible mainly to those with private medical scheme cover (~15% of the population)
- Concerns around high costs, over-servicing, and lack of price regulation

## **Key Challenges:**

- Inequity between public and private care
- Burden of disease: HIV/AIDS, TB, NCDs, and rising mental health issues
- High healthcare costs and limited financial protection
- Weak integration across sectors and fragmented information systems

## Inequality and market structure- Medical Schemes

### Open Schemes

Serve the general public but lack bargaining power.

Higher admin costs, fewer benefits → reduced affordability and access.

### Closed Schemes

Employer-based, stable risk pools.

Richer benefits, lower costs → access limited to a privileged group.

### Bargaining Council Schemes

Sector-specific with rigid structures.

Limited flexibility → uneven benefits and outdated services.

# Disparities and market structure issues

## Scheme Type Dynamics

- **Limited Choice:** Members face restricted options due to the dominance of employer-based closed schemes.
- **Growth of Closed Schemes:** Closed schemes now account for **over 90%** of market share—up from **51%** in 2017, **44%** in 2007.
- **Equity Concerns:** While rich in benefits, closed schemes limit access and deepen disparities between members.
- **Regulatory Implication:** The trend calls for interventions to promote choice, transparency, and equity across schemes.

## Contracting and Administration Challenges

- **Limited Scope of Services:** Many medical schemes contract only a narrow set of administrative services, often lacking integrated, end-to-end solutions.
- **High Dependence on Third Parties:** Most schemes rely heavily on external administrators, raising concerns about **costs, accountability, and long-term sustainability.**
- **Copyright and System Ownership Issues:**
  - Service providers often retain ownership of core IT systems and data architectures.
  - This restricts scheme autonomy, innovation, and control over member data and operations.

# Regulatory Vision 2025- 2030

*An efficient, effective, high-quality, agile and trusted South African regulator  
generating sustainable stakeholder value.*

# CMS Strategic Outcomes 2025/26 - 2029/30

## Effective Regulation and Compliance

- Register, accredit, and monitor all entities in line with the Medical Schemes Act
- Ensure financial soundness, fair rules, and protection of scheme members

## Improved Access to Quality and Affordable Healthcare

- Monitor service utilisation and chronic disease prevalence
- Support PMB revisions to include PHC, TB, and vaccinations
- Promote cost-effective private healthcare financing

## Risk Pooling and Innovation

- Standardize benefit options and consolidate small schemes
- Introduce a comprehensive PHC package
- Align research with policy developments and support evidence-based planning

## Strengthened Stakeholder Engagement

- Formalise partnerships and collaboration with local, regional, and international regulators
- Position CMS as an effective and credible sector regulator

## Ethical Leadership and Good Governance

- Improve organisational efficiency via ICT, HR, finance, legal, and policy SOPs
- Promote ethical leadership through training and internal policy development

## Policy-Driven Research, Monitoring and Evaluation

- Conduct industry-wide M&E and provide insights to the Health Ministry
- Generate and share data on private sector quality, outcomes, and entitlements
- Drive strategic alignment through partnerships with research bodies
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# Why regulatory transformation is critical to achieving Vision 2030

Bridges Equity Gaps - Harmonises benefits and access across public/private sectors and scheme types

Enhances Consumer Protection - Enforces fair pricing, transparency, and accountability

Strengthens Governance: Empowers regulators to tackle fraud, control tariffs, and oversee fair contracting

Drives System Integration - Enables seamless coordination across fragmented schemes and providers

Supports Innovation Responsibly - Facilitates adoption of AI and digital tools while safeguarding patient rights

Accelerates Universal Health Coverage - Builds a sustainable, inclusive healthcare system that leaves no one behind

# 1. Regulation of Artificial Intelligence in Healthcare

# AI Regulation in Healthcare



Opportunities - Investment in AI can reduce long-term costs through improved efficiency and preventive care.



Risks - High upfront costs, uncertain returns, and risk of widening inequities if AI benefits are unevenly funded.



Gaps - Limited funding for regulatory capacity, monitoring, and incentives for compliant, ethical AI development.

## Interventions

- Allocate dedicated funds for AI regulatory infrastructure and oversight.
- Create financial incentives for equitable, standards-compliant AI innovations.
- Support regulator training and AI pilot projects focusing on health equity.

## 2. Judicial Rulings and Health Policy

# Court Cases - Health Access, Equity & Policy in South Africa

## Historical Landmark Cases:

- **Soobramoney v Minister of Health (1997):**  
*Set limits on access to scarce public health resources; established rationing principles.*
- **Minister of Health v Treatment Action Campaign (2002):**  
*Mandated government provision of HIV/AIDS treatment, reinforcing constitutional health rights.*

- **Recent and Ongoing Legal Challenges:**
- **National Health Insurance (NHI) Litigation:**  
*Challenges around constitutionality, funding, and rollout of NHI reforms.*
- **Low-Cost Benefit Options (LCBO):**  
*Legal debates on scheme benefit design to ensure fair access while controlling costs.*
- **Certificate of Need (CoN) Issues:**  
*Court involvement in controlling new healthcare infrastructure to prevent unnecessary duplication.*

# Blind Spots & Dangers in Judicial and Health Policy

- Reactive Policy Changes - Courts often prompt reforms only after litigation, delaying proactive health policy development.
- Legal Uncertainty - Conflicting or unclear rulings can create regulatory ambiguity, complicating policy enforcement.
- Equity Risks - Judicial focus on individual cases may overlook broader systemic inequities or resource constraints.
- Implementation Gaps- Court mandates without adequate funding or planning can lead to poor policy execution.
- Policy Resistance - Litigation can trigger stakeholder pushback, slowing reforms like NHI or tariff regulation.
- Limited Judicial Expertise- Courts may lack technical understanding of complex health issues, affecting decisions.
- Potential for Policy Overreach- Judicial decisions might unintentionally constrain policymaker flexibility needed for systemic change.

### 3. Regulatory Response to Fraud, Waste, and Abuse

# Regulatory Response to Fraud, Waste, and Abuse (FWA)

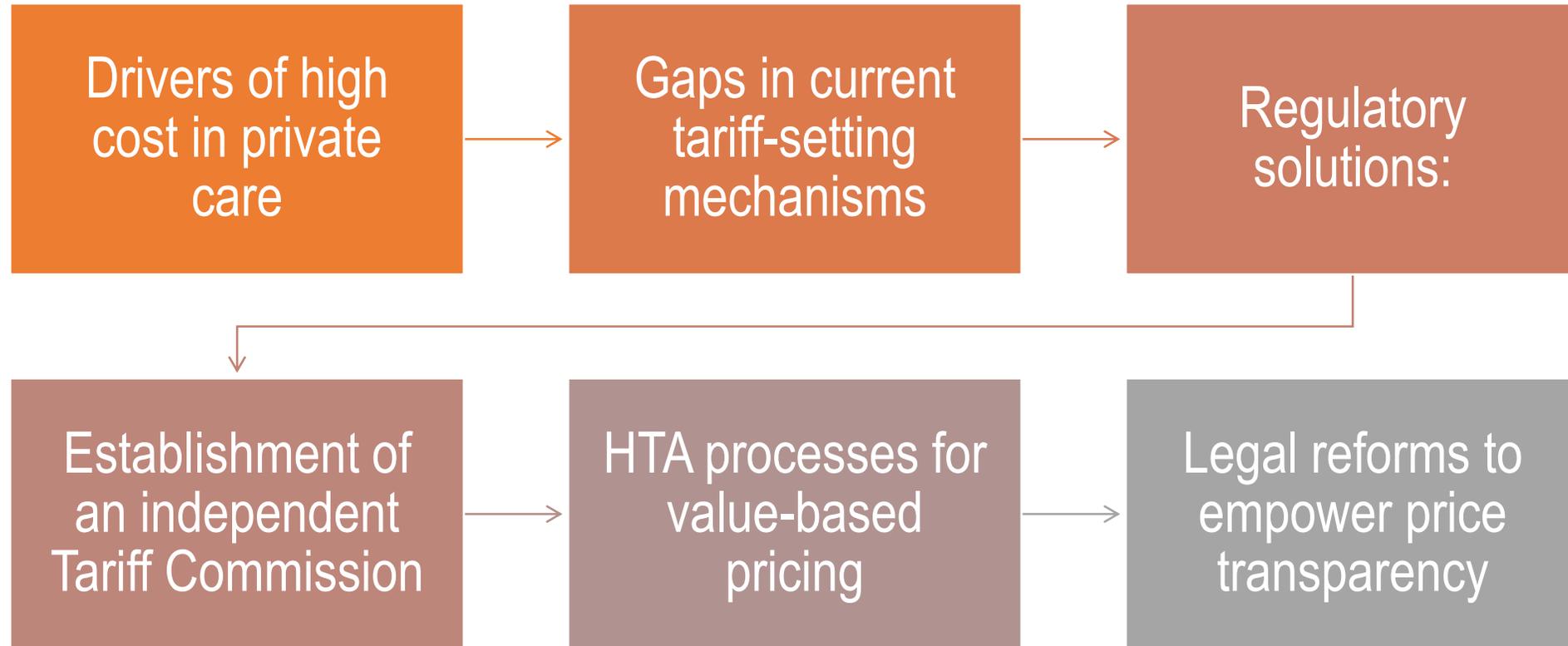
## **Scope & Impact:**

- Financial losses threaten sustainability for funders and quality of care from providers
- Undermines trust and collaboration among schemes, providers, and members

## **Current Shortcomings:**

- Delayed enforcement and fragmented oversight
- Limited real-time detection of fraudulent claims by providers and beneficiaries
- Weak penalties and inadequate whistleblower protections
- Lack of transparency and fairness in investigations and sanctions

# Tariffs and Price Regulation



# Building Regulatory Capacity and Governance Systems

01

Modernising the CMS, SAHPRA, OHSC, and NICD

02

Investing in legal and policy expertise within the health system

03

Strengthening accountability through inter-agency data sharing and audit systems

# Conclusion

Unified legal framework,  
institutional innovation,  
and equity-focused  
regulation



“Regulation is not a  
constraint—it is the  
foundation of trust,  
quality, and sustainable  
progress.”