

Tshiamiso Trust Medical Reviewing Authority not transparent

I refer to the article in Vol. 29 Issue 3, 2023 published in *Occupational Health Southern Africa* on behalf of the Tshiamiso Trust: 'Tshiamiso Trust Reviewing Authorities commence with their dispute resolution function'. https://www.occhealth.co.za/_assets/articles/350/2440.pdf

May I politely point out that the Medical Reviewing Authority (MRA) is a clandestine body whose members are a secret. This makes peer review most difficult, and it is further complicated by the fact that the MRA does not provide detailed reasons for a finding against a former worker. For example, it simply states, "no silicosis or respiratory impairment", without providing the radiological diagnosis in accordance with the ILO International Classification of Radiographs


of Pneumoconioses (1/0, 0/0, 2/1, etc.), and/or the spirometry result, e.g. FVC = 65% of predicted.

This makes an appeal for review of the findings by an occupational medicine practitioner most difficult. The legal opinion that we have obtained is that this is a violation of the Promotion of Administrative Justice Act, but the workers cannot afford to take the matter on legal review.

I welcome the Tshiamiso Trust's answer to the above issues.

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The Editor of Occupational Health Southern Africa gave Tshiamiso Trust sight of this letter, after which the names of the medical practitioners serving on the Medical Reviewing Authority (MRA) were published on its website. We acknowledge that Prof. Rodney Ehrlich is very respected in the field of silicosis, as is

Prof. Rajen Naidoo. However, Prof. Naidoo is listed as a consultant on the Tshiamiso Trust, which is not reflected in the Trust Deed. It is noted that Dr Audrey Vukosi Banyini also serves on the Medical Certification Panel – the decisions of which are reviewed by the MRA. 

Tshiamiso Trust responds

Thank you for giving the Tshiamiso Trust the opportunity to respond to the letter submitted to you by Dr Rhett Kahn. The Trust Deed authorises the Trustees to appoint a qualified medical practitioner with experience in the evaluation of respiratory impairment and occupational lung diseases to fulfil the dispute resolution role of the Medical Reviewing Authority (MRA).

The MRA comprises of the following registered medical practitioners:

Main members:

- Dr Audrey Vukosi Banyini
- Prof. Rodney Ehrlich

Consultant:

- Prof. Rajen Naidoo

The names of the MRA and the Certification Reviewing Authority are now published on the Tshiamiso Trust website.

As per the Trust Deed, the MRA reviews the Certificate of Medical Finding, the Medical Report to which it relates, and ancillary documentation, and may consult with one or more medical practitioners, including the Accredited Practitioner who issued the Medical Report, and the medical practitioner (or practitioners) who constituted the Medical Certification Panel that issued the Certificate of Medical Finding. When the MRA adjudicates a dispute, they review the detailed Medical Report, which includes the chest radiograph and spirometry result. This ensures a thorough and fair process.

The determination of the MRA in each case is final and binding on the Disputing Claimant and the Trustees, unless the Trustees determine that the MRA has clearly and manifestly misapplied the principles for determining diagnoses, and the criteria for Qualifying Diseases, contained in Schedule H, in which event the determination shall be referred to the MRA for reconsideration. The Trust Deed does not stipulate an option for a review on appeal by an external occupational medical practitioner.

The certificate issued to claimants outlines the criteria not met by the mine worker which resulted in an ineligibility certification. Claimants can request access to any records, including medical records held by the Trust, should they need a view of the details. The request must be made in terms of the Promotion of Access to Information Act, 2000 (PAIA) using the prescribed Request for Access to Record form (Form 2), which is to be completed and submitted to the Information Officer at paia.requests@tshiamisotrust.com.

We remain committed to ensuring that all eligible mine workers receive the compensation that is due to them, seeking to give claimants the best chance of a positive outcome, within the confines of the Trust Deed.

Yours sincerely
Dr Munyadziwa Kwinda
Chief Executive Officer 