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REGULATORY REQUIREMENTS FOR REGISTRATION OF MEDICAL DEVICES IN SOUTH AFRICA

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ABSTRACT

The principal motivation for regulating medical devices is to protect patients and users. Complying with regulations may result in an increase in development, manufacturing and service costs for medical companies and ultimately for healthcare providers and patients, limiting the access to adequate medical equipment. On the other hand, poor regulatory control has resulted in the use of substandard devices. The new south African medical device guideline majorly applies to the manufacture, importation, exportation and distribution of Medical Devices and IVDs; are subjected to control in terms of the provisions of the Medicines and Related Substances Act, 1965 (Act 101 of 1965) as amended. This study delves on the registration requirements for medical devices in South Africa.

INTRODUCTION:

The South African Department of Health has issued new regulatory requirements covering both medical devices and in vitro diagnostic (IVD) devices. The regulations are based on guidance and principles of the International Medical Device Regulators Forum (IMDRF) and its predecessor organization, the Global Harmonization Task Force (GHTF); the new rules appear to take effect immediately, but Emergo offices in South Africa and the US are working to verify implementation and compliance details.[1] Based on an initial analysis of the new regulations, registration with the South African Medicines Control Council (MCC) is now required only for devices whose manufacturers and sponsors participate in the country's public tender system.

However, the MCC has the authority to impose registration requirements at its discretion for devices not participating in public tenders, as well. The South African Department of Health eventually wants all devices to be registered through a formal registration system but is starting slowly with devices that are sold in public tenders. Initial takeaways regarding the new regulations include:

- Only devices registered with the MCC may participate in public tenders
- Only companies licensed with the MCC may import devices into South Africa
- There are transitional arrangements for unlicensed manufacturers,

importers and distributors, as well as for unregistered medical devices and IVDs

The South African government has set an August 2016 as implementation date for registration of domestic medical device manufacturers, importers and distributors first proposed in late 2015.[1] According to new guidelines issued by the South African Department of Health and MCC, the new regulations apply to the manufacturing, importing, exporting and distribution of medium- and high-risk devices. Class B, C and D devices as well as IVDs fall under the scope of the new requirements, while low-risk Class A devices are exempted. Although MCC licensing requirements applies to local companies, foreign manufacturers exporting to South Africa will also be affected; foreign firms will have to provide their importers and local distributors with basic device information including Global Medical Device Nomenclature (GMDN) codes, Certificates of Free Sale (CFS) from reference countries for Class C and D devices, and CFSs or Certificates to Foreign Countries (CFG) for Class B and D devices. The new guidance also specifies that manufacturers and distributors applying for MCC licenses must also be able to submit full technical documentation on their devices or IVDs to the South African regulator on request. Foreign manufacturers will need to support their importers and/or distributors in South Africa with the required Free Sales Certificates and technical documentation. The South African importer/distributor will have to appoint a neutral person to be the Authorized Representative.[1]

Discussion:

- New South African registration requirements for medical devices and IVDs appear to have taken immediate effect from December 9, 2016.
- Registration will initially be required only for devices participating in South Africa's public tender system.
- The MCC will continue requiring licensing of local manufacturers, distributors and importers in order to import devices into South Africa.
- The registration of medical devices and IVDs in South Africa is governed by the provisions and requirements of the Medicines and Related Substances Control Act No. 101 of 1965.[2]

There are six general Essential Principles of Safety and Performance that apply to all medical devices.

General Principles [2]

1.1 Use of medical devices not to compromise health and safety

1.2 Design and construction of medical devices to conform to safety principles

1.3 Medical devices to be suitable for intended purpose

1.4 Long-term safety

1.5 Medical devices not to be adversely affected by transport or storage

1.6 Benefits of medical devices to outweigh any side effects

There are a further nine Essential Principles of Safety and Performance about design and construction that apply to devices on a case-by-case basis.

Principles about design and construction

2.1 Chemical, physical and biological properties

2.2 Infection and microbial contamination

2.3 Construction and environmental properties

2.4 Medical devices with a measuring function

2.5 Protection against radiation

2.6 Medical devices connected to or equipped with an energy source
2.7 Information to be provided with medical devices.
2.8 Clinical evidence
2.9 Principles applying to IVD medical devices only

Conformity Assessment Standards:[1]

Compliance with local and international Medical Device and IVD Standards, and Conformity Assessment Standards can be used to demonstrate compliance with the medical device and IVD legislative requirements. The use of these standards is not mandatory but is one way to establish compliance with the regulatory requirements. The standards cover topics such as: clinical evidence, risk management, medical devices required to be sterile, quality management systems and quality assurance techniques and sterility. The legislative framework adopts the philosophies of the IMDRF previously known as GHTF, an international forum that was established to achieve greater uniformity between national medical device regulatory systems.

Key Elements for Regulatory Control:

The key elements of the regulatory control of medical device and IVDs include:

- Requirements for a person or entity to hold a Licence to manufacture, import, export, wholesale and or distribute a medical device and or IVD in South Africa. The register of Licence holders is a record of all the authorized persons and entities who are legally responsible for the medical devices and IVDs on the market.[2]
- product requirements (the Essential Principles) for the quality, safety, and performance of the medical device that must be complied with:
    - before the device is supplied to the market in South Africa, and
    - on an ongoing basis while the device is supplied to the market in South Africa
- a device classification scheme based on different levels of risk
- options as to how compliance with the Essential Principles can be demonstrated
- the optional use of recognized standards
- ongoing monitoring of medical devices& IVDs that are available on the market
- regulatory controls for the manufacturing processes of medical devices& IVDs
- the Medical Device and IVD Register as a central point of control for the legal supply of medical devices and IVDs in South Africa
- the provision for imposing penalties where regulatory requirements are breached
- a range of corrective actions that may be taken if there is a problem with a medical device or IVD [2].
- The legislation also makes provision for specific types of medical devices, including:
    Single-use devices
    - Active medical devices (energy using)
    - Medical devices that contain a pharmaceutical ingredient systems or procedure packs
    - Custom-made medical devices

Most medical devices and IVDs must be included in the respective register before being made available for supply in South Africa. Applications for inclusion of a

medical device or IVD in the register are submitted through the office of the Registrar of Medicines for consideration by the MCC. For a medical device or IVD to be included in the register, the Council must be satisfied that evidence exists appropriate to the perceived risks of the medical device or IVD to support its safe and effective use, and that an appropriate system is in place for monitoring the ongoing performance and safety of the device. If someone intends to supply a device that is identical to a device that is already in the register, even if both devices are made by the same manufacturer, an application to include the device in the register must still be made to the Council. Furthermore, it is necessary to obtain a manufacturers Licence to manufacture, import and or export and or a wholesaler Licence to wholesale and or distribute a medical device and or IVD in South Africa. The register of Licence holders is a record of all the authorized persons and entities who are legally responsible for the medical devices and IVDs on the market in South Africa.

The Council may conduct an evaluation of the conformity assessment documentation that demonstrates compliance with the Essential Principles for:

- Manufacturers specific high-risk devices, including devices that contain a pharmaceutical active ingredient:
- There are medical devices and IVDs that must undergo a mandatory application review audit prior to being included in the register unless the medical device or IVD has been assessed under a Mutual Recognition Agreement with another regulatory authority or if Council aligns itself with another regulatory authority, and supporting evidence is available of the current status with the respective country authority.
- a Class C medical device that has not been assessed under a Mutual Recognition Agreement with another regulatory authority or if Council is not aligning itself with another regulatory authority.
- There are two mechanisms for accessing unapproved medical devices in South Africa:
  1) Clinical investigations and evaluations in South Africa
  2) Authorized importers and prescribers

Classification system of medical devices in South Africa:

- The medical devices regulatory framework has a classification system for medical devices and IVDs, as per Medical Device Regulation 12 of Act 101 of 1965.
- A medical device, other than an IVD medical device, has the medical device classification applying under the classification rules set out in the Technical Rules for Classification of Medical Devices.

An IVD medical device has the medical device classification applying under the classification rules set out in the Technical Rules for Classification of IVDs.

Classification	Level of risk
Class A	Low risk
Class B	Low–moderate risk
Class C	Moderate – high risk
Class D	High risk

Table 1: Medical Device Classification

The classification levels for medical devices are: The manufacturer or distributor is responsible for determining the classification of a medical device using a set of classification rules supplied by the Council, based on the:

• Manufacturer's or distributor's intended use of the device or IVD

• Level of risk to patients, users and other persons (the probability of occurrence of harm and the severity of that harm)

• Degree of invasiveness in the human body

• Duration of use and exposure.

Identical medical devices may be classified differently if they are to be used in different parts of the body. Intended use of the device is so critical to determining the appropriate classification. The intended use can be obtained from the:

• Instructions for use

• Label

• Original manufacturer's advertising materials

• Technical documentation

Tier-based licensing and registration

The new guideline of the medical devices issued by the MCC had come up the four-tier, risk-based classification to provide license for manufactures, importers and distributors. Based on the level of risk and intended use of the device the regulations are applicable to the manufacture, importation, exportation and distribution, as well as the wholesaling of medical and IVD devices.

All classes of medical devices are regulated in terms of the requirement for a medical device establishment Licence, which authorizes a company to manufacture, distribute or wholesale The new regulations also have provisions for expedited registration, when the medical or IVD devices in question are in short supply, unavailable, or of national interest, or when the government invites an international tender and such medical or IVD devices are not already registered in SA.

medical devices. The approved Licence precedes the registration of medical devices. Domestic manufacturers, distributors and wholesalers are required to apply for licenses; foreign-based manufacturers are not. It is mandatory for foreign manufacturers to provide their importers and domestic distributors with basic device information, including Global Medical Device Nomenclature codes, Certificates of Free Sale from reference countries for Class C and Class D devices, and Certificates of Free Sale or Certificates to Foreign Countries for Class B and Class D devices. The 2015 Act prohibits the importation of Class B, Class C or Class D medical or IVD devices that are not registered in SA for personal use, unless authorization is granted by SAHPRA, stating the specified period and quantity. Manufacturers and distributors of moderate- to high-risk Class C and Class D devices and IVD devices are required to show proof of pre-market approval or registration for a medical or IVD device from at least one of the following regulatory authorities as part of their SA registration: Australian Therapeutic Goods Administration

Brazil's National Health Surveillance Agency (ANVISA),

Health Canada,

The European Competent Authority,

The Japanese Pharmaceuticals and Medical Devices Agency

US Food and Drug Administration.

Registration process of class A medical devices: [3] The registration of medical devices in South Africa is governed by the provisions and requirements of the Medicines and Related Substances Control Act No. 101 of 1965, and the Regulations and Guidelines published in terms thereof. Compliance with local and international Medical Device Standards and Conformity Assessment Standards can be used to

demonstrate compliance with the medical device legislative requirements. The use of these standards is not mandatory, but it is a way to establish compliance with the regulatory requirements. Registration processes of class A medical devices: The specific processes to acquire registration of a medical device or IVD, depends on the classification of the medical device or IVD. There are two processes: Process to supply a Low risk Class A medical device or IVD in South Africa, Process to supply a Class B Class C and Class D medical device or IVD in South Africa.

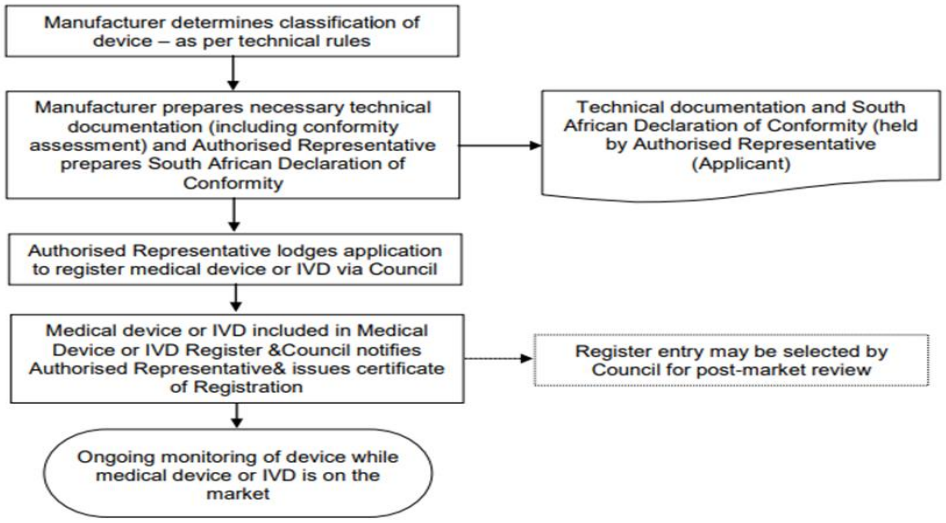

Figure 1: Registration process of class A medical devices

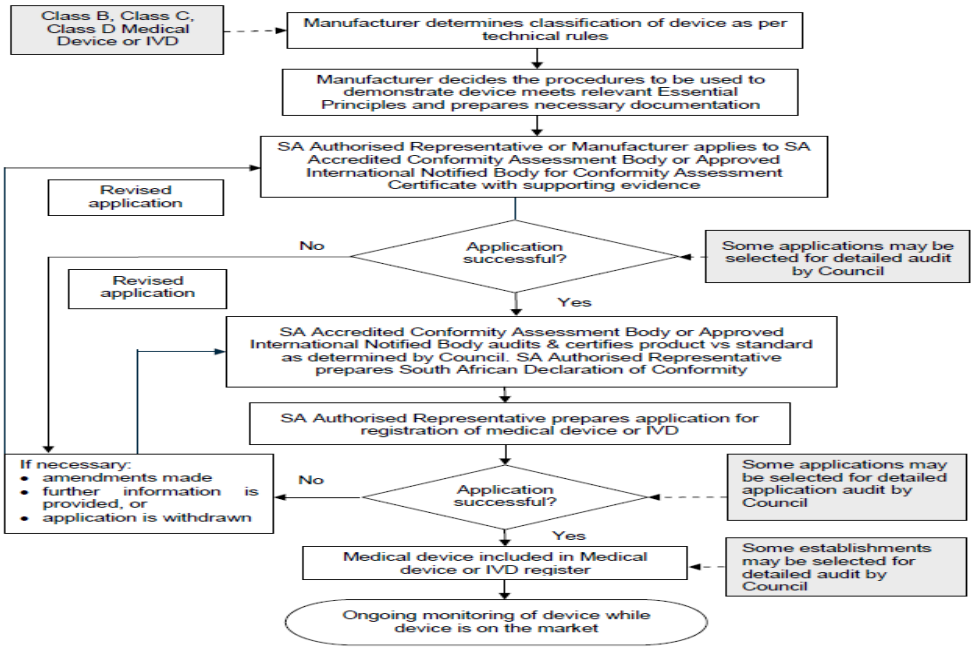

Figure 2: Registration pathway of Class B, Class C and Class D Medical devices in South Africa

Registration pathway of Class B, Class C and Class D Medical devices in South Africa:

The registration of medical devices and IVDs in South Africa is governed by the provisions and requirements of the Medicines and Related Substances Control Act No. 101 of 196

CONCLUSION:

South Africa Department of Health and MCC and the Medicines and Related Substances Amendment Act 14 of 2015 is a positive development in the regulation of medical devices in SA. Its impact on the medical device industry depends on implementation, and conditions created that are conducive to SAHPRA's execution of its mandate. African medical device regulations have an affinity to all regulated countries, even though the regulated countries are strict comparatively.

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