
GOVERNMENT NOTICE

DEPARTMENT OF HEALTH

No. R. 1467

15 December 2004

MENTAL HEALTH CARE ACT, 2002 (ACT NO. 17 OF 2002)

GENERAL REGULATIONS

The Minister of Health has under sections 9(2)(a), 12(2), 16, 27(2), 29(2) (a), 33(2), 34(1) (b), (3) (b) (i), (5(a) and (7) (a), 35 (2) (c) 44 (4), 47(2), 48 (6), 57 (4), 66 and 67 of the Mental Health Care Act, 2002 (Act No. 17 of 2002), in accordance with section 68 of the said Act, made the regulations in the Schedule.

SCHEDULE

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1.Definitions

1.In these Regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless the context otherwise indicates -

“health establishment administered under the auspices of the State” means –

(a) a public health establishment; or

(b) a health establishment contracted to and funded by the State to provide mental health care services on behalf of the State;

“maximum security facility” means a ward or unit within a psychiatric hospital, designated by or such the head of that psychiatric hospital.

“physical means of restraint” means temporarily physically restraining the movement of the body by one or more persons in order to prevent that the person so restrained harm himself or herself or others.

“primary health care facility” means a health establishment which provides primary health care;

“private hospital” means a hospital, which is not owned or funded by the State;

“seclusion” means the isolation of a user in a space where his or her freedom of movement is restricted;

“the Act “ means the Mental Health Care Act, 2002 (Act No.17 of 2002).

CHAPTER 1: QUALITY STANDARDS AND NORMS

Co-ordination and implementation of mental health services

2. (1) A person requiring, or deemed to require, mental health services must ordinarily present himself or herself at a health establishment that provides primary health care.

(2) A mental health care user must be assessed and, if such user requires care, treatment and rehabilitation services he or she must be -

- (a) treated and cared for at such primary health care facility;
- (b) referred to a community based mental health care practitioner to be assessed and if treatment is required, be treated in the community; or
- (c) referred to a hospital for assessment and/or admission.

(3) A mental health care user who requires tertiary or specialized mental health care must be referred to a health establishment that provides tertiary or specialized services.

(4) A mental health care user referred to a secondary or tertiary level who, following his or her discharge requires follow-up services at primary health or community levels must be referred back to the latter level and shall be provided with the relevant care, treatment and rehabilitation programme within the available resources.

Decision by Head of health establishment

3. (1) When a head of a health establishment makes a decision in terms of these regulations that falls outside his or her scope of professional practice, he or she must act in consultation with the relevant mental health care practitioners.

(2) The duties and functions to be performed by the head of a health establishment in terms of the Act or these Regulations may in the absence of such head, be performed by the person acting as head of such health establishment.

Home visits

4. Providers of mental health care may visit homes and places of employment of persons ~~deemed~~ to be mentally ill or intellectually disabled, within the catchment areas in which they operate, if such home visit is required for the care, treatment or rehabilitation of a mental health care user.

Community care

5. (1) Programmes and facilities for the community care, treatment and rehabilitation of people with mental health problems must be provided where possible.

- (2) Community programmes or facilities may be run by-

- (a) organs of the State;
- (b) health establishments under the auspices of the State;
- (c) non-profit organizations;
- (d) volunteer or consumer groups;
- (e) profit making organizations;
- (f) individuals registered with a relevant health or social service statutory council; or
- (g) registered training institutions.

- (3) Services by a grouping referred to in sub-regulation (2) may, within their professional scope of practice, include medical care, residential community accommodation, ~~day-~~ centers, counseling, support or therapeutic groups, psychotherapy, vocational rehabilitation programmes, psychosocial rehabilitation programmes or other services, which would assist the recovery of the person to optimal functioning.

Subsidies or transfers to non-government organizations or volunteer organizations

6. The State must provide subsidies to appropriate non-profit organizations or volunteer organizations for the provision of community care, treatment and rehabilitation to meet the objectives of the Act.

Report on exploitation and abuse

7. (1) A person witnessing any form of abuse against a mental care user as contemplated in section 11 (1) of the Act -
- (a) must report this fact to the Review Board concerned in the form of form MHCA 01 of the Annexure; or
 - (b) may lay a charge with the South African Police Service who shall in writing notify the Review Board concerned of that charge.
- (2) When a Review Board receives a report or notification contemplated in sub-regulation (1) that Board must investigate that report or notification and if necessary, lay a charge with the South African Police Service.

CHAPTER 2: APPLICATION FOR MENTAL HEALTH CARE AND ASSESSMENT**Emergency admission or treatment without consent**

8. Any person or health establishment that provides care, treatment and rehabilitation services to a health care user or admits such user in circumstances contemplated in section 9(1)(c) of the Act must report that fact in writing in the form of form MHCA 02 of the Annexure to the relevant Review Board.

Application for assisted mental health care

9. (1) An application for assisted mental health care by a person contemplated in section 27(1) of the Act must be made in the form of form MHCA 02 of the Annexure.

- (2) Where an applicant is unable, for whatever reason, to complete a written application, that applicant must be assisted by a staff member at the health establishment concerned.
- (3) An application form referred to in sub-regulation (1) must be available at all health establishments where there are at least two mental health care practitioners able to examine such person in terms of section 27(4) of the Act.
- (4) The application form contemplated in sub-regulation (1) must when it has been completed, be submitted to the head of a health establishment.
- (5) On completion of the examination referred to in sub-regulation (3), the mental health care practitioners must submit their finding in the form of form MHCA 04 of the Annexure to the head of the health establishment concerned.
- (6) A health establishment that is unable to provide the examination contemplated in section 27 (4) of the Act, must refer an applicant to a health establishment within the closest proximity that provides that examination.
- (7) The head of the health establishment concerned must give notice in terms of section 27(9) of the Act to the applicant in the form of form MHCA 05 of the Annexure of his or her decision concerning the application for assisted care, treatment and rehabilitation in question and reasons thereof.
- (8) The head of the health establishment concerned must in terms of section 28(1) of the Act, within seven days of his or her decision referred to in sub-regulation (7), send a copy of the application for assisted care, treatment and rehabilitation to the relevant Review Board together with a copy of the findings of the two mental health care practitioners referred to in sub-regulation (5) and a copy of the notice referred to in sub-regulation (7).
- (9) The Review Board concerned must, after receiving the documentation referred to in sub-regulation (8) and after completing an investigation in terms of section 28(2) of the Act within 30 days, report on its findings and decision to the head of the health establishment concerned, the applicant and the head of relevant provincial department in the form of form MHCA 14 of the Annexure.

Application for involuntary mental health care and assessment

10. (1) An application for involuntary mental health care by a person contemplated in section 33(1) of the Act must be made in the form of form MHCA 04 of the Annexure.
- (2) Where an applicant is unable, for whatever reason, to complete in the written application, that applicant must be assisted by a staff member at the health establishment concerned.
- (3) The application form contemplated in sub-regulation (1) must be available at all health establishments where there are at least two mental health care practitioners who are able to examine a person in accordance with section 33(4) of the Act.
- (4) An application form contemplated to in sub-regulation (1) must when it has been completed, be submitted to the head of a health establishment.
- (5) On completion of the examination referred to in sub-regulation (3), the mental health care practitioners must submit their findings in the form of form MHCA 05 of the Annexure to the head of the health establishment concerned.
- (6) A health establishment that is unable to provide an examination contemplated in section 33 (4) of the Act, must refer an applicant to a health establishment within the closest proximity which provides that examination.
- (7) The head of the health establishment concerned must give notice in terms of section 33(8) of the Act to the applicant in the form of form MHCA 07 of the Annexure of his or her decision concerning the application for involuntary care, treatment and rehabilitation in question and reasons thereof.

72-Hours assessment after head of health establishment grants application for involuntary care, treatment and rehabilitation.

11. (1) The assessment contemplated in section 34 of the Act must be done in accordance with form MHCA 06 of the Annexure.
- (2) A medical practitioner conducting an assessment contemplated in section 34 of the Act may determine the treatment programme and the place within the

Application for involuntary mental health care and assessment

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- (2) Where an applicant is unable, for whatever reason, to complete in the written application, that applicant must be assisted by a staff member at the health establishment concerned.
- (3) The application form contemplated in sub-regulation (1) must be available at all health establishments where there are at least two mental health care practitioners who are able to examine a person in accordance with section 33(4) of the Act.
- (4) An application form contemplated to in sub-regulation (1) must when it has been completed, be submitted to the head of a health establishment.
- (5) On completion of the examination referred to in sub-regulation (3), the mental health care practitioners must submit their findings in the form of form MHCA 05 of the Annexure to the head of the health establishment concerned.
- (6) A health establishment that is unable to provide an examination contemplated in section 33 (4) of the Act, must refer an applicant to a health establishment within the closest proximity which provides that examination.
- (7) The head of the health establishment concerned must give notice in terms of section 33(8) of the Act to the applicant in the form of form MHCA 07 of the Annexure of his or her decision concerning the application for involuntary care, treatment and rehabilitation in question and reasons thereof.

72-Hours assessment after head of health establishment grants application for involuntary care, treatment and rehabilitation.

11. (1) The assessment contemplated in section 34 of the Act must be done in accordance with form MHCA 06 of the Annexure.
- (2) A medical practitioner conducting an assessment contemplated in section 34 of the Act may determine the treatment programme and the place within the

hospital where the mental health care user must be kept during the 72-hours assessment period to ensure the safety of such user and others.

- (3) If the facilities at the health establishment concerned are unsuitable for the 72-hours assessment or personnel within that health establishment are unable to cope with a mental health care user due to the potential harm which that user may inflict on himself, herself, others or property if he or she remains in that health establishment, that health establishment must transfer that user to another health establishment with suitable personnel or facilities to conduct the assessment.
- (4) The medical practitioner contemplated to in sub-regulation (2) must make a provisional diagnosis of any mental illness and initiate treatment according to standard treatment guidelines or protocols as soon as possible.
- (5) A medical practitioner must monitor the condition of the mental health care user closely and give a written report to the head of the health establishment concerned on such user's mental status at least every 24 hours during the 72-hours assessment period.
- (6) The mental health care practitioner who conducted 72- hours assessment must within 12 hours after the expiry of the 72-hours assessment period submit a joint written report in the form of form MHCA 06 of the Annexure to the head of the health establishment concerned, indicating their assessment on the physical and mental health status of the mental health care user and their recommendations concerning further treatment.
- (7) The head of a health establishment concerned may discharge or transfer a mental health care user to voluntary status during the 72-hours assessment if that user's mental condition warrants it.
- (8) If the head of the health establishment concerned, following the 72-hours assessment, is of the opinion that the mental health status of the mental health care user warrants further involuntary care, treatment and rehabilitation services on an outpatient basis, he or she must inform the Review Board in the form of form MHCA 09 of the Annexure thereof.
- (9) If the head of the health establishment concerned, following the 72-hours assessment, is of the opinion that the mental health status of the mental health

care user warrants further involuntary care, treatment and rehabilitation services on an inpatient basis, he or she must request the Review Board in the form of form MHCA 07 of the Annexure to approve such further care, treatment and rehabilitation.

- (10) The Review Board must within 30 days of receipt of documents referred to in section 34(3)(c)(i) of the Act send a decision on further involuntary care, treatment and rehabilitation on an inpatient basis in the form of form MHCA 14 of the Annexure with reasons to the applicant and the head of the health establishment.

Information regarding health establishments that provide assessment

12. (1) The head of a provincial department must submit to all health establishments under the auspices of the State, private health establishments within the province concerned, the South African Police Service and the national department a list of the health establishments in each district in that province that provide the 72-hours assessments contemplated in section 34 of the Act.
- (2) The head of such provincial department must update the list contemplated in sub-regulation (1) on an annual basis indicating which health establishment falls in which district and submit that updated list to the bodies referred to in sub-regulation (1).

CHAPTER 3: APPEALS

Appeal against decision of head of health establishment to approve application for assisted care, treatment and rehabilitation

13. (1) A person referred to in section 29(1) of the Act may within 30 days of the date of the written notice issued in terms of section 27(9), appeal in the form of form MHCA 15 of the Annexure against the decision of the head of the health establishment to the Review Board.
- (2) An appeal contemplated to in section 29 (1) of the Act may be -
- (a) made directly to the Review Board concerned; or

- (b) submitted to the head of the health establishment where the application in terms of section 27 of the Act was made, who must immediately submit that appeal to the Review Board concerned.

Appeal against decision of head of health establishment on involuntary care, treatment and rehabilitation

14. (1) A person referred to in section 35(1) of the Act may within 30 days of the date of the written notice issued in terms of section 33(8), appeal in the form of form MHCA 15 of Annexure against the decision of the head of the health establishment.
- (2) An appeal contemplated in section 35 (1) of the Act -
- (a) made directly to the Review Board concerned; or
 - (b) submitted to the head of the health establishment where the application in terms of section 33 of the Act was made, who must immediately submit that appeal to the Review Board concerned.

Consideration of appeals by Review Board

15. (1) If an appeal against a decision contemplated in section 27 (9) and 33 (8) to provide assisted or involuntary care, treatment and rehabilitation is made to a Review Board, the secretariat of that Review Board must ensure that all documentation in terms of section 29 and 35 of the Act is obtained and delivered to the members of that Review Board at least one week prior to the appeal being considered by that Review Board.
- (2) The secretariat of a Review Board must in writing and by registered post inform the appellant, the person referred to in section 27(1) or 33(1) of the Act, the relevant mental health care practitioners, the head of the health establishment concerned and any other person whom the Review Board considers to be important to the appeal hearing, of the date of the appeal and whether written or oral representation, as appropriate, must be made to the Review Board.
- (3) The Review Board may specifically invite the persons referred to in sub-regulation (2) to the appeal hearing.

- (4) The Review Board must give notice of the appeal hearing at least two weeks before the date of such hearing.
- (5) The Review Board may summon any person in the form of form MHCA 18 of the Annexure to appear before it as a witness to give evidence or to produce any book, record, document or other item, which in the opinion of the Review Board is relevant to the appeal.
- (6) A person referred to in sub-regulation (5) must be compensated by funds appropriated by the provincial department concerned for any reasonable expenses which such person may have incurred in order to attend the appeal hearing.

Order by High Court on further involuntary care, treatment and rehabilitation

- 16. Within 30 days after receipt of the documents submitted by the Review Board in terms of sections 34(7) or 35(4), the High Court must in terms of section 36 of the Act in the form of form MHCA 16 of the Annexure order –
 - (a) further hospitalization of the mental health care user and, if necessary, that the financial affairs of such user be managed and administered according to provisions of Chapter VIII of the Act; or
 - (b) immediate discharge of such user.

CHAPTER 4: TRANSFER AND DISCHARGE

Discharge report

- 17. The head of a health establishment must of the Act issue a discharge report in the form of form MHCA 03 of the Annexure.

Involuntary outpatient mental health care user

- 18. (1) If a mental health care user's mental health care status warrants further involuntary care, treatment and rehabilitation services on an outpatient basis in terms of section 34(3) or section 34(5) of the Act, the head of the health establishment concerned must provide that user and his or her custodian with

a schedule of conditions relating to his or her outpatient care, treatment and rehabilitation in the form of form MHCA 10 of the Annexure.

- (2) The schedule of conditions contemplated in sub-regulation (1) must be read to the mental health care user and to his or her custodian or read and translated into one of the official languages that such user can understand.
- (3) The conditions contemplated in sub-regulation (1) must include -
 - (a) the name of a custodian into whose care the mental health care user must be given;
 - (b) the name of the health establishment where the mental health care user's mental health status must be monitored or reviewed and the timeframe of each review; and
 - (c) the name of the health establishment where treatment will be provided if such treatment is not provided in the health establishment referred to in paragraph (b);
 - (d) behavior which must be adhered to by the mental health care user; and
 - (e) the name of the psychiatric hospital or care and rehabilitation center concerned where the mental health care user is to be admitted if -
 - (i) he or she relapses to the extent of being a danger to himself, herself or others if he or she remains an involuntary outpatient; or
 - (ii) the conditions of outpatient care are violated.
- (4) The health establishment concerned must forward the schedule of conditions to -
 - (a) the mental health care user;
 - (b) the custodian contemplated in sub-regulation 3(a);
 - (c) every health establishment(s) contemplated in sub-regulation (3)(b) and (c); and

- (d) the Review Board concerned.
- (5) A mental health care user who does not accept the conditions regarding his or her involuntary outpatient care, treatment and rehabilitation must remain an involuntary inpatient mental health care user.
- (6) A custodian into whose control a mental health care user has been entrusted must take over the responsibility for that user when the user is discharged from the health establishment concerned where he or she received inpatient care.
- (7) If a custodian into whose control a mental health care user has been entrusted when that user was discharged, intends to change the place where that user resides and that change requires using another health establishment -
- (a) where that user's mental health status will be monitored or reviewed;
and
- (b) where treatment will be provided,
- that custodian must apply in writing to the head of the current health establishment for transfer of that user to the other health establishment.
- (8) If the head of the current health establishment and the head of the health establishment to where the mental health care user is to be transferred approve the application contemplated in sub-regulation (7), that mental health care user can be transferred to the other health establishment.
- (9) Where a mental health care user does not present himself or herself for monitoring and review according to the conditions referred to in sub-regulation (1), and after the necessary measures have been taken by the health establishment concerned to locate such user, such user must be deemed to have absconded in terms of section 40(4) of the Act and in such case the health establishment concerned must inform the South African Police Service in the form of form MHCA 25 of the Annexure.

Transfer of involuntary mental health care user

19. Arrangement for a transfer contemplated section 34(4) (b) of the Act must be made in accordance with form MHCA 11 of the Annexure between the head of the psychiatric hospital, care and rehabilitation center concerned and the head of a health establishment where the involuntary is currently admitted.

Transfer of involuntary mental health care user from inpatient basis to outpatient basis and vice versa

20. (1) Where required in terms of sections 8(3) or 34(5) or (6) of the Act, a mental health care user may be transferred from inpatient to outpatient care and vice versa, using form MHCA 12 of the Annexure.
- (2) Arrangements for a transfer referred to in sub-regulation (1) must be made between the head of the psychiatric hospital concerned and the head of a health establishment where the involuntary outpatient mental health care user is being reviewed.
- (3) Where such a transfer has taken place, notice of such transfer must be given within two weeks thereafter by the head of the health establishment concerned to the Review Board concerned for their consideration in terms of section 34(7) of the Act.

Periodical reports

- 21 (1) A periodic review on –
- (a) an assisted mental health care user in terms of section 30 of the Act;
- (b) an involuntary mental health care user in terms of section 37 of the Act;
- (c) a state patient in terms of section 46 of the Act;
- (d) a mentally ill prisoner in terms of section 55 of the Act, must be done on form MHCA 13 of the Annexure.
- (2) With regard to a person referred to in sub-regulation (1)(a), (b) or (c) -

- (a) the first review must be done by a medical practitioner ~~six~~ months after the commencement of care, treatment and rehabilitation services;
 - (b) the second review must be done by any mental health care practitioner **12** months after the first review referred to in paragraph (a); and
 - (c) the reviews thereafter must be done every **12** months, provided that every alternate review shall be done by a medical practitioner.
- (3) ~~With regard to~~ a person referred to in sub-regulation (1)(d) periodic reviews must ~~be~~ done every ~~six~~ months by a medical practitioner.
- (4) Within **30** days after the Review Board concerned has received a summary report of a periodic review referred to in sub-regulation (1)(a), (b) and (d), such Review Board must decide on the review in the form of form **MHCA 17** of the Annexure.

Application ~~for the~~ transfer of a mental health care user ~~to~~ a maximum security facility

22. The head of a health establishment may in terms of section **43** or **54(2)** of the Act in the form of form **MHCA 19** of the Annexure request the Review Board Concerned to order the transfer of a State patient or mentally **ill** prisoner to another designated health establishment with a maximum security facility.

Order ~~for~~ transfer ~~of~~ mental health care user ~~to~~ maximum security facility

23. (1) If the Review Board concerned approves in terms of section **39(4)** of the Act the request of a head of a health establishment referred to in regulation **20(1)**, such Review Board may in the form of form **MHCA 20** of the Annexure order the transfer of an assisted or involuntary mental health care user to a health establishment with maximum security facilities.
- (2) If the Review Board concerned approves in terms of section **43(3)** or **54(1)** of the Act the request of a head of a health establishment referred to in regulation **20(2)** or **(3)**, such Review Board may in ~~the~~ form of form **MHCA 20** of the Annexure order the transfer of a State patient or mentally **ill** prisoner to another designated health establishment with a maximum security facility.

Notice of transfer of State patient or mentally ill prisoner between health establishments

24. (1) The person responsible for effecting a transfer of a State patient in terms of section 43 of the Act, must in the form of form MHCA 21 of the Annexure, notify the official *curator ad litem*.
- (2) The person or body ordering the transfer in terms of section 54 of the Act, must, within 14 days of such transfer, in the form of form MHCA 21 of the Annexure notify the head of the prison where the prisoner is detained of the details of the transfer.

Transfer of State patient from detention center to designated health establishment and between designated health establishments

25. (1) The head of the national department of Health must immediately after receipt of an order referred to in section 42(1) of the Act make arrangements in terms of section 42(3) of the Act in the form of form MHCA 23 of the Annexure for the transfer of the State patient concerned from the detention center to the health establishment designated in terms of section 41 of the Act.
- (2) Despite the determination by the head of the national department in terms of section 42(3) as to which health establishment the State patient concerned must be transferred to from the detention center, a head of the relevant provincial department may thereafter in terms of section 43(1) of the Act make arrangements in the form of form MHCA 24 of the Annexure for the transfer of such State patient to another health establishment designated in terms of section 41.

Leave of absence

26. (1) The head of the health establishment concerned may grant leave of absence in the form of form MHCA 27 of the Annexure to an assisted- or involuntary mental health care user for a period not exceeding two months at a time: Provided that the terms and conditions to be complied with during such period of leave are stipulated on such form.
- (2) The head of a health establishment concerned may grant leave of absence in the form of form MHCA 27 of the Annexure to a State patient for a period not

exceeding ~~six~~ months at a time: Provided that the terms and conditions to be complied with during such period of leave is stipulated on such form.

- (3) The head of a health establishment concerned may, during a period of leave, contemplated in terms of section 45 of the Act, cancel the leave when he or she is authorized to do so in the form of form MHCA 28 of the Annexure and direct on that form that the State patient, assisted- or involuntary mental health care user concerned be returned to the health establishment by the custodian or in terms of regulations 28 or 29.

Transfer of assisted or involuntary mental health care user, State patient or mentally ill prisoner with the assistance of the South African Police Service

27. (1) The head of the health establishment concerned may only in exceptional circumstances and upon the recommendation of a mental health care practitioner, request assistance of the South African Police Service with the transfer of an assisted or an involuntary mental health care user, state patient or mentally ill prisoner.
- (2) A request contemplated in sub-regulation (1) must only be made if the head of the health establishment is satisfied that medical care has been provided to such user or that an attempt was made to provide such care and such head is of the opinion that such mental health care user, state patient or mentally ill prisoner is too dangerous to be transferred in a vehicle staffed only by health personnel or is likely to abscond during such transfer unless guarded.
- (3) A mental health care user contemplated in sub-regulation (1) who has to be transferred, may be held in custody at a police station for a period of not more than 24 hours in order to effect the transfer.
- (4) A health care practitioner must accompany the mental health care user contemplated in sub-regulation (1) during transfer.

Apprehension and handing over of person to health establishment by South African Police Service

28. If a member of the South African Police Services apprehends a person in terms of section 40(1) of the Act, that member must cause that person to be -

- (a) taken to a health establishment administered under the auspices of the State, listed in terms of regulation 12 by the provincial department concerned, for assessment of the mental health status of that person; and
- (b) handed over using form MHCA 22 of the Annexure into the custody of the head of the health establishment or any other person designated by the head of the health establishment to receive such persons.

Return of an absconded person who has been apprehended and is being held in custody by South African Police Service

29. (1) If a mental health care user has absconded or is deemed to have absconded, the head of the health establishment concerned may in terms of section 40(4), of the Act and in the form of form MHCA 25 of the Annexure notify and request assistance from the South African Police Service to locate, apprehend and return the user to the health establishment concerned.
- (2) If a mental health care user referred to in sub-regulation (1) is apprehended by the South African Police Service in terms of section 40(4), of the Act in the vicinity of such health establishment, the South African Police Service must return such user immediately to such establishment and hand over to the head of such health establishment or any other person so designated by that head to receive such user, provided that form MHCA 26 of the Annexure must be completed at the time the user is handed over .
- (3) If a mental health care user who has absconded from a health establishment is apprehended by the South African Police Service in terms of sections 40(4), 44(1) or 57(1) of the Act and that apprehension does not take place in the vicinity of that health establishment, the South African Police Service must—
- (a) notify the head of the health establishment that such user has been apprehended and is in the custody of the South African Police Service; and
 - (b) provide the information with regard to the physical and mental condition of that user that the notifying member is able to provide.
- (4) The head of the health establishment contemplated in sub-regulation (1) must, if circumstances so require, take steps to ensure that a mental health care

practitioner from a health establishment nearest to the police station where the mental health care user is held in custody or another suitable mental health care practitioner, examines that mental health care user and provides the treatment may be required at the police station or the nearest local health establishment.

- (5) After an examination contemplated in sub-regulation (4), it is the responsibility of the member in command of the South African Police Service station where the mental health care user is being detained, to consult with the head of the health establishment concerned and to make arrangements for the return of such mental health care user, taking into account the physical and mental condition of such user: Provided that if that user *is* -

- (a) too dangerous to be transferred in a vehicle staffed only by health personnel;
- (b) likely to abscond during the transfer, unless guarded,

that user must be conveyed by the South African Police Service or a member of the South African Police Service must accompany that user while being conveyed.

- (6) A mental health care user may be held in custody at a police station for a period of not more than 24 hours to effect the return of that user.

Discharge of State patient

30. (1) A person contemplated in section 47(1) of the Act who *is* not the official *curator ad litem* or administrator of a State patient may apply in the form of form MHCA 29 of the Annexure to a judge in chambers for the discharge of that State patient.
- (2) The official *curator ad litem* or administrator of a State patient may apply in the form of form MHCA 30 of the Annexure to a judge in chambers for the discharge of a State patient.
- (3) On considering an application, the judge in chambers may make an order in the form of form MHCA 31 of the Annexure that the State patient be discharged conditionally.
- (4) If the head of a health establishment, after receiving a report contemplated in section

41(3) of the Act, has reason to believe that the State patient has not fully complied with the terms and conditions applicable to the discharge or that the mental health status of the State patient has deteriorated, that head must use form MHCA **34** of the Annexure for the purpose of section **48(5)** of the Act.

- (5) A State patient who has been discharged conditionally must for the purpose of section **48(6)** of the Act, make an application in the form of form MHCA **35** of the Annexure.

Procedure on expiry of term of imprisonment of mentally ill prisoner

- 31. An application in terms of section **58(3)** of the Act must be made in the form of form MHCA **38** of the Annexure.

CHAPTER 5: SURGICAL PROCEDURES, MEDICAL OR THERAPEUTIC TREATMENT

Psychosurgery

- 32 (1) No psychosurgery may be performed on a mental health care user who is not capable of giving informed consent for such surgery.
- (2) Before any psychosurgery is performed on a mental health care user, a medical report constructed and signed by at least **two** independent psychiatrists **must state** whether in their opinion, all mental health treatment previously applied has failed and psychosurgery is necessary.
- (3) Psycho-surgery may only be performed by a registered neuro-surgeon who has agreed to perform the operation.

Electro-convulsive treatment

- 33. (1) Electro-convulsive treatment must be conducted by a medical practitioner with special training in mental health and may only be carried out under a general anaesthetic together with a muscle relaxant

- (2) No mental health care user may have more than one electro convulsive treatment carried out in a 24-hour period and such treatment may not be administered more frequently than on alternate days.
- (3) The provisions of regulation 35 relating to consent must be adhered to in the case of electro - convulsive treatment.
- (4) A health establishment under the auspices of the State or a private health establishment may only perform electro-convulsive treatment by the head of the provincial department concerned.
- (5) Whenever electro-convulsive treatment is performed a register kept for that purpose must be signed and completed by the relevant medical practitioner and a transcript of the register must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of form **MHCA 47** of the Annexure.

Sleep therapy

34. The use of "sleep therapy" is prohibited in respect of mental health care users.

Consent to treatment or operations for illness other than mental illness

35. (1) An involuntary mental health care user, an assisted mental health care user, a state patient or a mentally ill prisoner who is capable of giving informed consent to treatment or an operation, must decide whether to have treatment or an operation or not.
- (2) Where a mental health care practitioner deems a user to be incapable of consenting to treatment or an operation due to mental illness or intellectual disability, then a curator, if a court has appointed one, a spouse, next of kin, a parent or guardian, a child over the age of 18, a brother or sister, or a partner or associate, may consent to the treatment or operation.
- (3) The head of the health establishment where the mental health care user resides or the head of a facility licensed in terms of regulation 42(1) where the mental health care user resides, may grant consent to treatment or an operation if—

- (a) none of the persons contemplated in sub-regulation (2) is available and unsuccessful attempts have been made to locate them and this has been confirmed in writing;
 - (b) the relevant alternatives have been discussed with the head of the health establishment or the head of the licensed facility concerned above and that head is satisfied that the most appropriate intervention is to be performed; and
 - (c) the medical practitioner who is going to perform that operation recommends the treatment or operation.
- (4) The information requested in sub-regulation (1) and in paragraphs (a), (b) and (c) of sub-regulation (3) must be documented in the clinical record of the mental health care user concerned before the treatment or operation.

Use of mechanical means of restraint

36. (1) Mechanical means of restraint may not be used during the transfer of a mental health care user or within a health establishment unless pharmacological or other means of calming, physical means of restraint or seclusion of the user are inadequate to ensure that the user does not harm himself or herself or others.
- (2) Where mechanical means of restraint is required in order to administer pharmacological treatment, such means should be applied for as short a period, depending on the condition of the mental health care user concerned, as is necessary to effect the treatment.
- (3) While the mental health care user is under restraint, he or she must be subject to observation at least every 30 minutes and such observations should be recorded in the clinical notes.
- (4) Whenever mechanical means of restraint is utilized -
- (a) a register kept for that purpose must be signed and completed by the relevant medical practitioner;
 - (b) the form of mechanical means of restraint, the time period used, the times when the mental health care user was observed and the reason

for administering such means of restraint must be outlined by the medical practitioner in the register contemplated in paragraph (a); and

- (c) the head of the health establishment concerned must receive a report on a daily basis that indicates all incidents involving the use of mechanical means of restraint.
- (5) A transcript of the register contemplated in sub-regulation (4) must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of form MHCA 48 of the Annexure.
- (6) Mechanical means of restraint may not be used as punishment.

Seclusion

37. (1) (a) A mental health care user may not be secluded as a punishment and seclusion may only be used to contain severely disturbed behaviour, which is likely to cause harm to others.
- (b) Seclusion may not be used as a punishment.
- (2) While a mental health care user is secluded, he or she must be subject to observation at least every 30 minutes and that observation should be recorded in the clinical notes.
- (3) Whenever seclusion is utilized -
- (a) a register, signed by a medical practitioner, must be completed;
 - (b) the time period that the mental health care user concerned needed to be secluded and the reason for secluding that mental health care user must be outlined and the seclusion must be outlined in the relevant register by the medical practitioner; and
 - (c) the head of the health establishment concerned must on a daily basis receive a report indicating all incidents of seclusion.

- (4) A transcript of the register referred to in sub-regulation (2) must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of form MHCA48 of the Annexure.

CHAPTER 6: MAXIMUM-SECURITY FACILITIES

38. Arrangements for **the** transfer of a mental health care user to another health establishment must be made between the heads of the **two** health establishments concerned.

CHAPTER 7: COMPULSORY RECORDS

39. The following records must be kept in a health establishment that provides mental health care, treatment and rehabilitation-
- (a) a register recording the admission, discharge, death, transfer and change in legal status of every mental health care user in that facility and leaves of absence or abscondments;
 - (b) a medical record of all information concerning the physical and mental health of a mental health care user and records of treatments which have been prescribed and administered including the date on which an entry into such records has been made, the full signature, name in print and all the qualification(s) of the mental health care practitioner who made that entry;
 - (c) administrative records of legal documents and copies of correspondence concerning the mental health care user; and
 - (d) a record of any minor or major injury sustained by a mental health care user in that psychiatric hospital or care and rehabilitation center.

Monthly Reports

40. The head of a health establishment contemplated in regulation 44 must on a monthly basis submit to the head of the provincial department a return of the number of patients, their legal status and the information contemplated in regulation 44.

CHAPTER 8: OBSERVATION AND TREATMENT

Observation and ~~treatment~~ of mental health care users referred to health establishment ~~by~~
a court of law in terms ~~of~~ the Criminal Procedures Act, 1977 (Act No. 51 of 1977)

41. (1) A person referred by a court of law to a health establishment in terms of section 78f the Criminal Procedure Act for observation must be informed that a report ~~will~~ be submitted by a mental health care practitioner to the court of law and that he or she ~~is~~ under no obligation to divulge information.
- (2) ~~If~~ a person contemplated in sub-regulation (1) ~~is~~ found to be mentally ~~ill~~ to the degree that he or she is a danger to himself or herself or others and psychiatric treatment has become a matter of urgency, such treatment must be commenced immediately even before the report contemplated in sub-regulation (1) has been submitted to a court of law.
- (3) Where a person has been referred by a court of law to a health establishment for observation, such person may, ~~with~~ the assistance of the South African Police Services, be taken to a health establishment for any neuro-psychiatric or physical health investigation that cannot be done at the place where that person ~~is~~ being detained provided that, while the person is undergoing investigation at the health establishment, the South African Police Services shall remain responsible for the safe custody of that person.
- (4) When the person contemplated in sub-regulation (2) has undergone that investigation contemplated in sub-regulation (3), that person **must** be transferred with the assistance of the South African Police Services to the place where that person is being detained, or that alternative place, including a psychiatric hospital, that may have been arranged arising from the investigation, provided that the documentation relating ~~to~~ that investigation must ~~be~~ sent together with the person to the place where he or she ~~is~~ being transferred,

CHAPTER 9: AUTHORISATION AND LICENSING

Authorization and licensing of private hospital providing mental health services

- 42.1** (1) An application for a licence to operate a hospital must be made in accordance with the applicable general health legislation.
- (2) A hospital, which wishes to admit assisted or involuntary mental health care users, such hospital must in addition to a licence contemplated in sub-regulation (1), apply in writing to the national department for a licence to admit such users.
- (3) A written application for a licence contemplated in sub-regulation (2) must indicate that-
- (a) the mental health care practitioners who **will** examine assisted or involuntary mental health care users in terms of sections 27 and 33 of the Act, will not be employed as **staff** at that hospital and **will** have no material or financial interest in that hospital;
 - (b) the hospital has been inspected and audited by designated officials of the provincial department concerned and found to be suitable to accommodate assisted and/or involuntary mental health care users or assisted and voluntary mental health care users, as the case may be; and
- (4) "Suitable to accommodate" in sub-regulation 3 (b) includes-
- (a) a lockable ward in addition to an open ward;
 - (b) suitable mental health care practitioners, including at least one psychiatrist, as well as other trained **staff** deemed necessary to carry out all necessary duties;
 - (c) procedures for ensuring the safety of assisted and involuntary mental health care users and other health users in that hospital; and
 - (d) an approved activity or psychosocial rehabilitation ward programme,

- (5) The conditions of a licence contemplated in sub-regulation (2) must be clearly stipulated by the provincial department concerned, and must include -
- (a) the number of people to be accommodated;
 - (b) whether such service is to be used for children, adults or geriatrics;
 - (c) service requirements;
 - (d) duration of the licence;
 - (d) that the licence is not transferable; and
 - (e) that the renewal of a licence must be done by the province, based on an inspection.
- (6) If a condition of a licence contemplated in sub-regulation (5) is not complied with, the national department concerned may withdraw that a licence.

Licensing of community facilities

43. (1) Any service not directly run under the auspices of an organ of the State and which is not a designated hospital, but which provides residential or day-care facilities for 5 people or more with mental disorders must in terms of the Act -
- (a) obtain a licence from the provincial department concerned to operate; and
 - (b) be subjected to at least an annual audit by designated officials of the provincial department concerned.
- (2) The conditions of a licence contemplated in sub-regulation (1) must be clearly stipulated by the national department concerned and must include -
- (a) the physical address of the relevant service;
 - (b) the number of people to be accommodated;
 - (c) whether such service is to be used for children, adults or geriatrics;

- (d) service requirements;
- (e) the duration of the licence; and
- (9) that the licence is not transferable.

- (3) If a condition of a licence as contemplated in sub-regulation (1) or (2) is not complied with, the provincial department Concerned may withdraw that licence.

CHAPTER 10: EDUCATIONAL PROGRAMMES

Establishment and implementation of educational programmes for mental health care users admitted at health establishments

44. (1) The National Department of Education must, after consultation with the national department and the National Department of Social Development, establish educational programmes for users in the compulsory age groups or those entitled to basic adult education programmes.
- (2) Any decision about where a user contemplated in sub-regulation (1) must receive educational support should be based on assessing and determining the intensity of support needed and where such support can be reasonably provided.
- (3) The assessment contemplated in sub-regulation (2) must be conducted by a committee consisting of a representative of the Provincial Department of Education, the National Department and the National Department of Social Development in accordance with the career and in consultation with the person concerned.
- (4) Any final decision about the placement of a user must be approved by the head of the provincial Department of Education concerned.
- (5) Exemptions from compulsory education resulting from a person being mentally ill or intellectually disabled must be made by a committee contemplated in sub-regulation (3) and based on the functional level of the mental health care user concerned.

**CHAPTER 11: CARE AND ADMINISTRATION OF PROPERTY OF MENTALLY ILL
PERSON OR PERSON WITH SEVERE OR PROFOUND INTELLECTUAL DISABILITY**

Application to Master of High Court for appointment of an administrator

- 45.** The Master of a High Court must make a decision contemplated in section 60 (8) of the Act in terms of form MHCA 40.

CHAPTER 12: GENERAL PROVISIONS

Payment of maintenance costs and expenses in facilities run under auspices of the State

- 46.** (1) Voluntary or assisted mental health care users must be assessed and charged according to a patient fee structure.
- (2) Appeals against a fee contemplated in sub-regulation (1) must be directed for consideration to the head of the health establishment concerned.
- (3) An involuntary mental health care user is exempted from payment of a fee contemplated in sub-regulation (1).
- (4) An awaiting trial prisoner who is admitted for observation in terms of the Criminal Procedure Act, must be charged in accordance with the tariff agreed to between the Department of Health and the Department of Justice and Constitutional Development and must be paid by the latter Department.
- (5) A mentally ill prisoner who is admitted for treatment must be charged in accordance with the tariff agreed to between the Department of Health and the Department of Correctional Services and must be paid by the latter Department.

Estimated property value and annual income

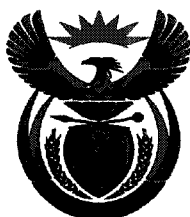
- 47** (1) The estimated property value for the purposes of sections 60(4)(b), 60(5)(c) and 61(4)(b) of the Act is **R200 000**.
- (2) The annual income for the purposes of sections 60(4)(b), 60(5)(c) and 61(4)(b) of the Act is **R24 000**.

Repeal

48. (1) Government Notice No. R. 565 of 27 March 1975 as amended by Government Notices Nos. R. 1000 of 11 June 1976, R. 599 of 15 April 1977, R. 2315 of 24 November 1978, R. 2295 of 19 October 1979, R. 2629 of 10 December 1982, R. 943 of 6 May 1983 and R. 858 of 19 April 1985 is hereby repealed.
- (2) Government Notice No. R. 1061 of 4 June 1982 is hereby repealed.



ME TSHABALALA- MSIMANG
MINISTER OF HEALTH



DEPARTMENT OF HEALTH
Republic of South Africa

ANNEXURES

MHCA 01

DEPARTMENT OF HEALTH

EMERGENCY ADMISSION OR TREATMENT WITHOUT CONSENT REPORT TO MENTAL HEALTH REVIEW BOARD [Section 9(2) of the Act]

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

.....

.....

.....

Date of admission of person for emergency care without their consent

Time of admission of person for emergency care without their consent

Name of health establishment

Reason for admission without consent:

Based on my/practitioners at this health establishment's assessment, any delay in providing care, treatment and rehabilitation services / admission may, due to mental illness, result in:

(a) the death or irreversible harm to the user

Reasons for this assessment (including mental health status and behavioural reasons)

.....

.....

- (b) the user inflicting serious harm to him/herself or others

Reasons for this assessment (including mental health status and behavioural reasons)

.....

- (c) the user causing serious damage to or loss of property belonging to him/herself or to others

Reasons for this assessment (including mental health status and behavioural reasons)

.....

I (name of mental health care practitioner)
 hereby declare that I have personally assessed
 (name of mental health care user) at
(name of health establishment) on (date).

.....

Signature

Outcome of assessment within 24 hours -

- (a) An application for involuntary care, treatment and rehabilitation was made

Date of application Time of application.....

- (b) The user agreed to voluntary care, treatment and rehabilitation.

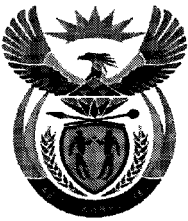
- (c) The user was discharged.

Print initials and surname.....

Signature:

(health care provider or head of health establishment)

Date:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 02

DEPARTMENT OF HEALTH

**REPORT ON EXPLOITATION, PHYSICAL OR OTHER ABUSE, NEGLECT OR
DEGRADING TREATMENT OF A MENTAL HEALTH CARE USER**

[Section 11(2) of the Act]

I

(name)

.....

..... (address)

hereby declare that I have witnessed exploitation, physical or other abuse, neglect or degrading treatment of the following mental health care user:

(where known)

Surname of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

.....

.....

.....

Name of health establishment or other place where exploitation, physical or other abuse, neglect or degrading treatment occurred

Address:

.....

.....

.....

.....

Description of exploitation, physical or other abuse, neglect or degrading treatment:

.....

.....

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Print initials and surname.....

Signature:
(person who witnessed abuse)

Date:



DEPARTMENT OF HEALTH

[Copy to Review Board, head of prison and head of national department, as applicable]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 04

DEPARTMENT OF HEALTH

APPLICATION FOR ASSISTED- OR INVOLUNTARY CARE, TREATMENT AND
REHABILITATION

[Section 27(1) or 33(1) of the Act]

I hereby apply for assisted care or involuntary care for:

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

.....

.....

.....

Surname of applicant

First name(s) of applicant

Date of birth of applicant (must be over 18 years of age)

Residential address:

.....

.....

.....

.....

Relationship between applicant and mental health care user: (mark with a cross)

Spouse ☐ Next of kin ☐ Partner ☐ Associate ☐

Guardian ☐ Health care provider ☐ Parent ☐

(If user is under 18 this application must be made by the parent or guardian)

I last saw the user on, at
(date) (time) (place)

(The applicant must have seen the user within seven days of making this application)

Where the applicant is the health care provider:

If the spouse, next of kin, partner, associate, parent or guardian is unwilling to make the application, state the reasons why:

.....
.....
.....
.....

If the spouse, next of kin, partner, associate, parent or guardian is incapable or not available to make the application, state the steps that have been taken to locate them:

.....
.....
.....
.....
.....

I, the undersigned, am of the opinion that the above-mentioned person is suffering from a mental illness / intellectual disability for the following reasons:

.....
.....
.....
.....

and believe that assisted- or involuntary care, treatment and rehabilitation is needed because

.....
.....
.....
.....
.....

In the case of an application for involuntary care:

I further give reasons which show that the person is so ill that he / she will not accept treatment as a voluntary mental health care user or cannot be admitted as an assisted mental health care user

.....
.....
.....
.....
.....

I also attach the following information in support of my application (if available)

- Medical certificates
 - History of past mental illness / intellectual disability
 - Other:
-

Print initials and surname.....

Signature:

(Applicant)

Date:

Place:

Note: Applicant must sign under oath



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 05

DEPARTMENT OF HEALTH

**EXAMINATION AND FINDINGS OF MENTAL HEALTH CARE PRACTITIONER
FOLLOWING AN APPLICATION FOR ASSISTED- OR INVOLUNTARY CARE,
TREATMENT AND REHABILITATION
[Sections 27(5) and 33(5) of the Act]**

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

.....

.....

.....

Date of examination: Place of examination:

Category of designated mental health care practitioner:

Physical health status (filled in only by mental health care practitioner qualified to conduct physical examination):

(a) General physical health

.....

.....

.....

.....

(a) Are there signs of injuries? Yes ☐ No ☐(b) Are there signs of communicable diseases? Yes ☐ No ☐

If the answer to (b) or (c) is Yes, give further particulars:

.....

.....

2

Information on user received from other person(s) or family (state names and contact details)

.....

Facts concerning the mental condition of the user which were observed on previous occasions (State dates and places):

.....

Mental health status of the user at the time of the present examination:

.....

Type of illness (provisional diagnosis):

.....

In my opinion the above-mentioned user

Has homicidal tendencies

Yes ☐

No ☐

Has suicidal tendencies

Yes ☐

No ☐

Is dangerous

Yes ☐

No ☐

Recommendation to head of health establishment – application for assisted care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes ☐

No ☐

The user is suffering from a mental illness / severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for their own health and safety or the health and safety of others

Yes ☐

No ☐

If Yes, this should be on an inpatient or outpatient basis:

Inpatient ☐

Outpatient ☐

Give reasons:

.....

Recommendation to head of health establishment – application for involuntary care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services: Yes ☐ No ☐

The user is willing to receive care, treatment and rehabilitation services

Yes ☐ No ☐

In my view, the user is likely to inflict serious harm on him / herself or others

Yes ☐ No ☐

In my view, care, treatment and rehabilitation is necessary for the user's financial interests and reputation

Yes ☐ No ☐

The user should receive involuntary care, treatment and rehabilitation

Yes ☐ No ☐

If No, would you recommend that the user receive assisted care?

Yes ☐ No ☐

I (name of mental health care practitioner)

hereby declare that I have personally assessed

..... (name of mental health care user) at

..... (name of health establishment) on (date).

.....

Signature

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 06

DEPARTMENT OF HEALTH

**72-HOUR ASSESSMENT AND FINDINGS OF MEDICAL PRACTITIONER OR MENTAL
HEALTH CARE PRACTITIONER AFTER HEAD OF HEALTH ESTABLISHMENT HAS
GRANTED APPLICATION FOR INVOLUNTARY CARE, TREATMENT AND REHABILITATION
[Section 34(1) of the Act]**

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

.....

.....

.....

Date of beginning of 72-hour assessment:

Place of assessment:

Category of designated mental health care practitioner for example "nurse", "psychologist" or
"medical practitioner":Physical health status (filled in only by mental health care practitioner qualified to conduct
physical examination):

(a) General physical health

.....

.....

.....

(a) Are there signs of injuries?

Yes

☐

No

☐

(b) Are there signs of communicable diseases?

Yes

☐

No

☐

If the answer to (b) or (c) is Yes, give further particulars:

.....

2

.....

Facts concerning the mental condition of the user which were observed on previous occasions (State dates and places):

.....

Mental health status of the user at the time of the present assessment:

.....

Type of illness (provisional diagnosis):

.....

In my opinion the above-mentioned user

Has homicidal tendencies

Yes

☐
☐
☐

No

☐
☐
☐

Has suicidal tendencies

Yes

☐
☐
☐

No

☐
☐
☐

Is dangerous

Yes

☐
☐
☐

No

☐
☐
☐

"If 'No' to all the above-mentioned questions, the following recommendation and reason(s) therefore are as follows:"

Recommendation to head of health establishment – application for assisted care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes

☐

No

☐

The user is suffering from a mental illness / severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for their own health and

3

safety or the health and safety of others

Yes ☐No ☐

If Yes, this should be on an inpatient or outpatient basis:

Inpatient ☐Outpatient ☐

Give reasons:

.....

.....

Recommendation to head of health establishment – application for involuntary care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes ☐No ☐

The user is willing to receive care, treatment and rehabilitation services

Yes ☐No ☐

In my view, the user is likely to inflict serious harm on him / herself or others

Yes ☐No ☐

In my view, care, treatment and rehabilitation is necessary for the user's financial interests and reputation

Yes ☐No ☐

The user should receive involuntary care, treatment and rehabilitation

Yes ☐No ☐

If Yes, should this use receive involuntary outpatient care, treatment and rehabilitation

Yes ☐No ☐

If No, would you recommend that the user receive assisted care?

Yes ☐No ☐

Print initials and surname.....

Signature:

(mental health care practitioner / medical practitioner)

Date:

Place:



MHCA 07

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT ON WHETHER TO PROVIDE
ASSISTED- OR INVOLUNTARY INPATIENT CARE, TREATMENT AND
REHABILITATION**

[Sections 27(9), 28(1) and 33(8) of the Act]

I hereby consent / do not consent

(name of head of health establishment)

to the inpatient assisted care, treatment and rehabilitation / involuntary care, treatment and
rehabilitation* of

(name of user)

The findings of two mental health care practitioners concur that the user –

- (a) should / should not receive assisted care, treatment and rehabilitation services as an
outpatient / inpatient; or
- (b) must / must not receive involuntary care, treatment and rehabilitation services

I am satisfied / not satisfied, that the restrictions and instructions on the mental health care
user's right to movement, privacy and dignity are proportionate to the care, treatment and
rehabilitative services contemplated.

The reasons for consenting / not consenting are as follows:

.....
.....
.....

Print initials and surname.....

Signature:

(head of health establishment)

Date:

Place:

* Delete what is not applicable

[Copy to applicant, mental health care user and Review Board]



MHCA 08

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT TO REVIEW BOARD
REQUESTING APPROVAL FOR FURTHER INVOLUNTARY CARE,
TREATMENT AND REHABILITATION ON AN INPATIENT BASIS
[Section 34(3)(c)(ii) of the Act]**

I, hereby request
(name of head of health establishment)
approval from the Review Board for further involuntary care, treatment and rehabilitation on
an inpatient basis of
(name of user)

The findings of the mental health care practitioner and medical practitioner are that the user
requires further involuntary care, treatment and rehabilitation.

I am satisfied / not satisfied that the restrictions and intrusions on the mental health care
user's right to movement, privacy and dignity are proportionate to the care, treatment and
rehabilitative services contemplated.

Attached hereto please find –

- (a) a copy of the application to obtain involuntary care, treatment and rehabilitation
[MHCA 04];
- (b) a copy of the notice given in terms of section 33(8) [MHCA 07]; and
- (c) a copy of the assessment findings [MHCA 06].

The basis of this request for further involuntary care, treatment and rehabilitation on an
inpatient basis is

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.....

Signature:
(head of health establishment)

Date:

Place:

“(Copy (excluding attachments) to applicant)”



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 09

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT AFTER 72-HOUR
ASSESSMENT PERIOD INFORMING REVIEW BOARD THAT MENTAL HEALTH CARE
USER WARRANTS FURTHER INVOLUNTARY CARE, TREATMENT AND
REHABILITATION ON AN OUTPATIENT BASIS**

[Section 34(3)(b) of the Act]

I hereby inform
(name of head of health establishment)
the Review Board that
(name of user)
requires further involuntary care, treatment and rehabilitation on an outpatient basis.

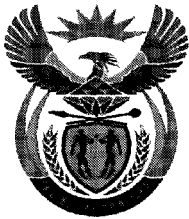
I am satisfied / not satisfied that the restrictions and intrusions on the mental health care user's right to movement, privacy and dignity are proportionate to the care, treatment and rehabilitative services contemplated.

Signature:
(head of health establishment)

Date:

Place:

[Copy to mental health care user and Review Board]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 10

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER –
SCHEDULE OF CONDITIONS RELATING TO HIS OR HER OUTPATIENT CARE,
TREATMENT AND REHABILITATION
[Sections 34(3)(b) or (5) of the Act]**

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

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Name of custodian into whose charge the user is discharged:

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Address of custodian:

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.....

The user's mental health status will be monitored and reviewed at

..... (name of health establishment)

The user is to present him / herself to this health establishment every weeks /
months to be monitored and have his or her mental health status reviewed.

Name of health establishment(s) where involuntary mental health care, treatment and rehabilitation will be provided on an outpatient basis if different from preceding health establishment:

Conditions of behaviour which must be adhered to by the user:

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.....
.....

Name of psychiatric hospital / care and rehabilitation centre where the user is to be admitted if he / she relapses to the extent of being a danger to him / herself or others if he / she remains an involuntary outpatient, or to which he / she is to be admitted if the conditions of outpatient care are violated

(name of health establishment)

Print initials and surname.....

Signature:

(head of health establishment)

Date:

Place:

Signature of user:

(understand and accept the stipulated conditions)

Signature of custodian:

(understand and accept the stipulated conditions)

[Copy to Review Board, user, custodian and head of health establishment to whom user was referred on outpatient basis]



MHCA 11

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER ON
INPATIENT BASIS TO PSYCHIATRIC HOSPITAL
[Section 34(4), (5) or (6) of the Act]**

..... an involuntary
(name and surname of user)
mental health care user on an inpatient basis who was admitted to
..... (name of health establishment)
which is not a psychiatric hospital on (date) must be
transferred to (name of psychiatric hospital).

Print initials and surname
(head of health establishment)

Signature:
(head of health establishment)

Date:

Place:

[Copy to Review Board]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 12

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER FROM
INPATIENT TO OUTPATIENT CARE AND VICE VERSA**

[Section 34(4) or (5) of the Act]

Transfer from inpatient to outpatient care

The mental health status of

(name and surname of user)

an involuntary inpatient at

(name of health establishment)

has improved / altered to such an extent that he / she should be provided with care, treatment and rehabilitation services as an outpatient. The schedule of conditions attached to this transfer are outlined in the attached MHCA 10.

Transfer from outpatient to inpatient care

..... an involuntary outpatient being

(name and surname of user)

monitored and reviewed at

(name of health establishment)

has not complied with the terms and conditions applicable to his / her discharge / relapsed to the extent of being a danger to him / herself or others if he / she remains an involuntary outpatient, and must be admitted as an involuntary inpatient to

..... (name of health establishment).

Specific reasons for transfer to inpatient care are:

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.....
.....

Print initials and surname

Signature:

(head of health establishment)

Date:

Place:

[Copy to Review Board]

DEPARTMENT OF HEALTH
Republic of South AfricaMHCA 13A

DEPARTMENT OF HEALTH

PERIODICAL REPORT NO. ON MENTAL HEALTH CARE USER
(ASSISTED/INVOLUNTARY USER/MENTALLY ILL PERSON)

[Sections 30 (2), 37(2) and 55 (1) of the Act]

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

The user is an: (mark with a cross)

Assisted user ☐ Involuntary inpatient ☐ Involuntary outpatient ☐

Name of health establishment concerned:

Registration number (if any):

Date of first admission of mental health care user under this section:

Mental health status: (Short statement of the mental health status before and since admission, since the last report, and the present condition, with special reference to any symptom indicating homicidal, suicidal or dangerous tendencies)

Before admission:

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Since admission / previous report:

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Present mental status:

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Present treatment programme to be followed, including psycho-pharmacological, ECT, occupational therapy or psychotherapy social work intervention with family, leave of absence to family, etc):

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Present physical condition:

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Diagnosis at present date:

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Family contacts:

Personal ☐ Correspondence ☐ Regular ☐ Seldom ☐ Never ☐

In the case of never, what has been done to trace the family?

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.....
.....

Assisted mental health care user (section 30 of the Act)

Does the user have the capacity to express him / herself on the need for care, treatment and rehabilitation? Yes ☐ No ☐

Comment:
.....

Is there other care, treatment or rehabilitation which is less restrictive or intrusive on the user's

rights to movement, privacy and dignity? Yes ☐ No ☐

Comment:
.....

Should the user be discharged? Yes ☐ No ☐

Comment:
.....

Involuntary mental health care user (section 37 of the Act)

Does the user have the capacity to express him / herself on the need for care, treatment and rehabilitation? Yes ☐ No ☐

Comment:
.....

Is the user likely to inflict serious harm on him / herself or others? Yes ☐ No ☐

Comment:
.....

Is there other care, treatment or rehabilitation which is less restrictive or intrusive on the user's

rights to movement, privacy and dignity? Yes ☐ No ☐

Comment:
.....

Should the user be discharged? Yes ☐ No ☐

Comment:
.....

If the user is an inpatient, should he / she be transferred to outpatient involuntary care?

Yes ☐ No ☐

Comment:
.....

Recommendation on a plan for further care, treatment and rehabilitation (to be completed for any of assisted and involuntary users and mentally ill prisoners)

(Specify treatment programme followed, give details of psychiatric interviews, counseling, group therapy sessions etc, stating clearly the aims of treatment, progress made, assessments done, changes made and patient's reactions to changes):

Please add additional paper, as this is extremely important!!

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Print initials and surname of assessing practitioner:

Signature:

(assessing practitioner)

Date:

Place:

Instructions and remarks:

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Signature:

(head of health establishment)

Date:

Place:

“Copy of report in case of mentally ill prisoner to relevant magistrate, administrator, if appointed, and head of relevant prison”



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 13B

DEPARTMENT OF HEALTH

PERIODICAL REPORT NO. ON MENTAL HEALTH CARE USER

[Sections 46(2) of the Act]

Surname of user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

The user is an: (mark with a cross)

State patient ☐ Mentally ill prisoner ☐

Name of health establishment concerned:

Registration number (if any):

Date of first admission of mental health care user under this section:

Mental health status: (Short statement of the mental health status before and since admission, since the last report, and the present condition, with special reference to any symptom indicating homicidal, suicidal or dangerous tendencies)

Before admission:

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Since admission / previous report:

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Present mental status:

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Present treatment for example psycho-pharmacological treatment, ECT, occupational therapy or psychotherapy:

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Present physical condition:

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Diagnosis at present date:

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Family contacts:

Personal ☐ Correspondence ☐ Regular ☐ Seldom ☐ Never ☐

In the case of never, what has been done to trace the family?

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State patients (section 46 of the Act)

Charge faced:

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Should the user be discharged conditionally? Yes ☐ No ☐

Comment:
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Should the user be discharged unconditionally? Yes ☐ No ☐

Comment:
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Give reasons if the "present mental status" reflects a normal picture and further confinement is recommended:

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Comment on the merit of granting the user leave of absence:

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Recommendation on a plan for further care, treatment and rehabilitation (to be completed for any of assisted and involuntary users and mentally ill prisoners)

(Specify treatment programme followed, give details of psychiatric interviews, counselling, group therapy sessions etc., stating clearly the aims of treatment, progress made, assessments done, changes made and patient's reactions to changes):

Please add additional paper as this is extremely important!!

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Print initials and surname of assessing practitioner:

Signature:

(assessing practitioner)

Date:

Place:

Instructions and remarks:

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.....

Signature:

(head of health establishment)

Date:

Place:

STATE PATIENTS

[This part must be completed by head of national department (or designated official)]

Considerations and remarks:

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Recommendations:

(a) Further care and treatment:

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(b) Leave of absence (State patients):

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(c) Discharge of user: