
GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HEALTH DEPARTEMENT VAN GESONDHEID

No. R. 98

11 February 2005

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

CORRECTION NOTICE TO THE GENERAL REGULATIONS

The following correction to Government Notice No. R. 1467 appearing in Government Gazette No. 27117 of 15 December 2004, is hereby published for general information.

In the Schedule:

1. CHAPTER 1: QUALITY STANDARDS AND NORMS

1.1. Regulation 3 of the regulations: Decision by Head of health establishment

1.1.1. On page 4, substitute the following for regulation 3(1):

“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.”

1.2. Regulation 4 of the regulations: Home visits

1.2.1. On page 5, substitute the following for regulation 4:

“4. Providers of mental health care may visit homes and places of employment of persons who are 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.”

1.3. Regulation 5 of the regulations: Community care

1.3.1. On page 5, substitute the following for regulation 5(3):

“5. (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-care centres, counselling, 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.”

1.4. Regulation 7 of the regulations: Report on exploitation and abuse

1.4.1. On page 6, substitute the following for the opening sentence of regulation 7(1):

“7.(I) A person witnessing any form of abuse against a mental health care user as contemplated in section 11(1) of the Act –”.

1.4.2. On page 6, substitute the following for regulation 7(1)(a):

“(a) must report this fact to the Review Board concerned in the form of form MHCA 02 of the Annexure;or”.

2. CHAPTER 2: APPLICATION FOR MENTAL HEALTH CARE AND ASSESSMENT**2.1. Regulation 8 of the regulations: Emergency admission or treatment without consent**

2.1.1. On page 6, substitute the following for regulation 8:

“8. Any person or health establishment that provides care, treatment and rehabilitation services to a mental 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 01 of the Annexure to the relevant Review Board.”.

2.2. Regulation 9 of the regulations: Application for assisted mental health care

2.2.1. On page 6, substitute the following for regulation 9(1):

“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 04 of the Annexure.”.

2.2.2. On page 7, substitute the following for regulation 9(5):

“9. (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 05 of the Annexure to the head of the health establishment concerned.”.

2.2.3. On page 7, substitute the following for regulation 9(7):

“9. (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 07 of the Annexure of his or her decision concerning the application for assisted care, treatment and rehabilitation in question and reasons thereof.”.

2.2.4. On page 7, substitute the following for regulation 9(9):

“9. (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(3) 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 the relevant provincial department in the form of form MHCA 14 of the Annexure.”.

2.3. Regulation 11 of the regulations: 72-Hours assessment after head of health establishment grants application for involuntary care, treatment and rehabilitation

2.3.1. On page 9, delete the hyphen (-) between the expression “concerning” and the expression “further” in the last sentence of regulation 11(6).

2.3.2. On page 10, substitute the following for regulation 11(9):

“11.(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 08 of the Annexure to approve such further care, treatment and rehabilitation.”.

3. CHAPTER 4: TRANSFER AND DISCHARGE

3.1. Regulation 17 of the regulations: Discharge report

3.1.1. On page 12, substitute the following for regulation 17:

“17. The head of a health establishment must in terms of section 16 or 56 of the Act issue a discharge report in the form of form MHCA 03 of the Annexure.”.

3.2. Regulation 21 of the regulations: Periodical reports

3.2.1. On page 15, substitute the following for the closing sentence of regulation 21(1):

“...must be done on form MHCA 13A of the Annexure.”.

3.3. Regulation 22 of the regulations: Application for the transfer of a mental health care user to a maximum security facility

3.3.1. On page 16, substitute the following for regulation 22:

“22. The head of a health establishment may in terms of section 39(1), 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 an assisted-or involuntary mental health care user and a State patient or mentally ill prisoner to another health establishment or a designated health establishment with a maximum security facility.”.

3.4. Regulation 30 of the regulations: Discharge of state patient

3.4.1. On page 20, substitute the following for regulation 30(4):

“30.(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.”.

4. CHAPTER 8: OBSERVATION AND TREATMENT

4.1. Regulation 41 of the regulations: Observation and treatment of mental health care users referred to health establishment by a court of law in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)

4.1.1. On page 26, substitute the following for regulation 41(1):

“41.(1) A person referred by a court of law to a health establishment in terms of section 79 of the Criminal Procedure Act, 1977 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.”.

4.2. Regulation 43 of the regulations: Licensing of community facilities

4.2.2. On page 28, substitute the following for the opening sentence of regulation 43(1):

“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-“.

5. ANNEXURES

5.1. Form MHCA 05

5.1.1. On page 1 of the Form MHCA 05, on lines 20 to 26, substitute the following sequence of numbering of paragraph (a), (b) and (c) for the incorrect numbering (a), (a) and (b).

5.2. Form MHCA 06

5.2.1. On page 1 of the Form MHCA 06, on lines 23 to 28, substitute the following sequence of numbering of paragraphs (a), (b) and (c) for the incorrect numbering (a), (a) and (b).

5.3. Form MHCA 08

5.3.1. On page 1 of the Form MHCA 08, on lines 6 on the heading, substitute the following expression “[Section 34(3)(c)(i) of the Act]” for the expression “[Section 34(3)(c)(ii) of the Act]”.

5.4. Form MHCA 13A

5.4.1. On page 1 of the Form MHCA 13A, line 4, substitute the following expression “(ASSISTED INVOLUNTARY USER MENTALLY ILL PRISONER)” for the expression “(ASSISTED INVOLUNTARY USER MENTALLY ILL PERSON)”.

- 5.4.2. On page 1 of the Form MHCA 13A, line 11, substitute the following expressions
"Assisted user Involuntary user Mentally ill prisoner
for the expressions "Assisted user Involuntary inpatient
Involuntary outpatient