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# GOVERNMENT NOTICE

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## DEPARTMENT OF HEALTH

No. R. 192

20 March 2014

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

#### REGULATIONS ESTABLISHING MINISTERIAL ADVISORY COMMITTEE ON MENTAL HEALTH

The Minister of Health intends, in terms of section 71(1) and (2) (a) – (c) of the Mental Health Care Act, 2002 (Act No. 17 of 2002), to make the regulations in the schedule.

Interested persons are invited to submit any substantiated comments on the proposed Regulations, or any representations they may wish to make in regard thereto, to the Director-General: Health, Private Bag X828, Pretoria, 0001 – for the attention of the Director: Mental Health and Substance Abuse within 30 days of the publication of this notice.

Copies of the draft regulation may be obtained from the Government Printing Works and the National Department of Health website ([www.doh.gov.za](http://www.doh.gov.za)).

**SCHEDULE****1. DEFINITIONS:**

For the purpose of these regulations, unless the context otherwise indicates:

“**Committee**” means the Ministerial Advisory Committee on Mental Health;

“**Department**” means the National Department of Health;

“**DG**” means the Director General of the National Department of Health;

“**NGO**” means Non-Governmental Organisation;

“**NPO**” means Non-Profit Organisation;

“**Technical Committee(s)**” means committee(s) appointed by the Ministerial Advisory Committee on Mental Health to provide technical expertise;

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

**2. ESTABLISHMENT OF MINISTERIAL ADVISORY COMMITTEE ON MENTAL HEALTH**

(1) The Ministerial Advisory Committee on Mental Health to be appointed is hereby established.

**3. COMPOSITION OF THE COMMITTEE**

(1) The Committee shall consists of the following members, appointed by the Minister, taking into account the factors which include but not limited to, the appropriate representation of race, gender and disability-

- (a) one representatives from Academic Institutions in the fields of mental Health;
- (b) one representatives of NGOs that operate nationally in the field of Mental Health;
- (c) one representative from an organisation of mental health care users;
- (d) the DG or an official from the national department designated by the DG;
- (e) five members with at least five years experience in the following categories: -
  - (i) psychiatric nursing;
  - (ii) social work;
  - (iii) psychiatry;

- (iv) psychology; and
  - (v) occupational therapy;
- nominated by their respective Professional Councils or Bodies.
- (f) Members nominated by the Director Generals responsible for the following Departments:
- (i) Social Development;
  - (ii) Labour;
  - (iii) Basic Education;
  - (iv) Higher Education;
  - (v) Correctional Services;
  - (vi) Women, Children and People with Disabilities and
  - (vii) South African Police Services.

#### 4. APPOINTMENT OF MEMBERS OF THE COMMITTEE

- (1) The Minister must appoint the members contemplated in regulation 3 (e) – (f) as nominated by the relevant bodies, Departments and institutions.
- (2) The Minister must, before appointing the members contemplated in regulation 3 (a) – (c) by notice in the *Gazette* and in two or more nationally circulating newspapers in the Republic to invite all interested persons to nominate, within the period specified in the notice, persons who in the opinion of such interested persons are fit to be so appointed, stating the grounds upon which such opinion is based.
- (3) If a suitable person or the required number of persons is not nominated as contemplated in regulation 4 sub-regulation (2), the Minister must appoint an appropriate person or persons who qualify to be appointed in terms of this Act.
- (4) The members of the Committee may hold office for a period of five years, as the Minister may determine at the time of appointment, but may be eligible for re-appointment for one additional term.
- (5) A member of the Committee, excluding a member who is in the full-time employment of the State or the Service, must be appointed on such conditions, as the Minister may, with the concurrence of the Minister of Finance, determine.

**5 CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE**

- (1) The Minister must appoint a chairperson and vice-chairperson of the Committee from the members contemplated in regulation 3.
- (2) Whenever the chairperson of the Committee is absent or unable to perform his or her functions as chairperson, the vice-chairperson must act as chairperson.
- (3) If the vice-chairperson is absent or unable to act as chairperson the members must designate another member of the Committee to act as chairperson until the chairperson or vice-chairperson is available.
- (4) Any person acting as chairperson of the Committee in terms of sub-regulations (2) and (3) must exercise all the powers and perform all the functions and duties of the chairperson.

**6 DISQUALIFICATION FROM MEMBERSHIP OF COMMITTEE AND VACATION OF OFFICE**

- (1) A person may not be appointed as a member of the Committee if that person-
  - (a) is not a South African citizen and ordinarily resident in the Republic;
  - (b) is an unrehabilitated insolvent;
  - (c) has at any time been convicted of an offence involving dishonesty, whether in the Republic or elsewhere, and sentenced to imprisonment without the option of a fine; or
  - (d) has been removed from an office of trust.
- (2) A member of the Committee must vacate his or her office if-
  - (a) he or she becomes disqualified in terms of sub-regulation (1), from being appointed as a member of the Committee;
  - (b) he or she submits his or her resignation to the Minister in writing;
  - (c) he or she has, without the leave of the Committee, been absent from more than two consecutive meetings of the Committee without an apology;
  - (d) the Minister withdraws the appointment because in the opinion of the Minister, and after consultation with the Committee, the member is incompetent or unfit to fulfil his or her duties; or
  - (e) he or she ceases to be ordinarily resident in the Republic.
- (3) If a member of the Committee dies or vacates his or her office in terms of sub-regulation (2), the Minister may, subject to regulation 4, appoint a person to fill the vacancy for the unexpired portion of the period for which that member was appointed.

## **7 WORKING PROCEDURE OF THE COMMITTEE**

- (1) The meetings of the Committee and the conduct of business at meetings must be done in accordance with the rules determined by the Committee in its first sitting.
- (2) A quorum for a meeting of the Committee is the simple majority (50% plus 1) of its members.
- (3) A decision of the majority of the members of the Committee present at any meeting constitutes a decision of the Committee and, in the event of an equality of votes; the member presiding at the meeting must have a casting vote in addition to his or her deliberative vote.
- (4) A decision taken by the Committee or an act performed under the authority of the Committee is not invalid by reason only of a vacancy on the Committee, or that a person who is not entitled to sit as a member of the Committee sat as a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the requisite majority of the members of the Committee who were present at the time and entitled to sit as members.
- (5) Minutes of the proceedings of every meeting of the Committee must be prepared and recorded.
- (6) Minutes of the proceedings of each meeting must be submitted at the next meeting of the Committee and, if passed as correct, must be confirmed by the signature of the chairperson or other member presiding thereat and may, when so confirmed, be evidence in a court of law of the proceedings of the first-mentioned meeting.

## **8 APPOINTMENT OF TECHNICAL COMMITTEES**

- (1) The Committee may appoint one or more technical committees from among its members to assist it with the performance of its functions and exercise of its powers.
- (2) The Committee may appoint one or more people other than members of the Committee, to assist it with the performance of its functions and exercise of its powers.

## **9 FUNCTIONS OF THE COMMITTEE**

- (1) The Committee shall be responsible for the following:

- (a) Facilitate the achievement of the resolutions of the April 2012 National Mental Health Summit and the objectives of the Mental Health Policy Framework and Strategic Plan 2013-2020;
- (b) Provide advice to the Department on evidence based and cost effective minimum mental health packages for each level of the health system;
- (c) Engage with consumers and family associations in policy development and implementation, as well as planning and monitoring of services; to give substance to the slogan “nothing about us without us”;
- (d) Provide technical support to the Department to ensure that in the financing of National Health Insurance System, mental health services will be given parity with other health conditions, in proportion to the burden of disease and evidence for cost – effective interventions;
- (e) Update national norms and standards in line with the Act and service delivery platform;
- (f) Provide technical support to the Department for routine periodic population survey of the prevalence and burden of mental illness in South Africa and a national evaluation of mental health services.
- (g) Facilitate the development of national mental health research agenda, in consultation with the National Health Research Council and academic research institutions.

## 10 CONFLICT OF INTEREST FOR COMMITTEE

- (1) A member of the Committee may not be present during or take part in any discussion of or the making of decisions on any matter before the Committee in which-
  - (a) that member, the spouse or the partner, an immediate family member, a business partner or an associate or employer (other than the State) of that member; or
  - (b) a business partner or an associate, immediate family member or employer (other than the State) of the spouse or partner of that member, has a direct or an indirect financial interest or has had such an interest during the previous 12 months.

## 11 DECLARATION BY COMMITTEE MEMBERS

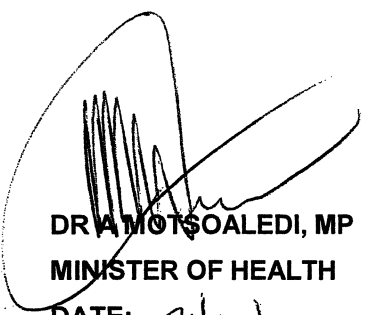
- (1) A person appointed in terms of regulation 4 to the Committee must:
  - (a) Within ten days of receiving notice of his or her appointment on the Committee and acceptance of such nomination or appointment, submit a written declaration to the DG which must contain;
    - (i) any financial or other interest which are or could be related or are in conflict with such appointment, and
    - (ii) relevant information about any conviction for a Schedule 1 offence in terms of the Criminal Procedure Act, 1977 (Act No 51 of 1977);
- (2) Failure to submit the declaration contemplated in sub-regulation (a) above will result in the appointment being revoked.
- (3) At such time as a member of the Committee experiences a change in financial or other interests which might affect the ability of the member to consider any matter impartially, such a member must, within 10 days from the date of the changed circumstances submit a written notice of such change of financial or other interests to the DG. Failure to comply with the provisions of this sub-regulation may result in the appointment of the member being revoked.
- (4) Any declaration submitted shall be for the sole purpose of determining whether such financial or other possible conflicts of interest may preclude the appointment or continuing in office of the appointee as a member of the Committee.
- (5) The DG shall ensure that any declaration submitted is confidential in nature and not subject to public disclosure.
- (6) No member of the Committee may use his or her appointment as a member of the Committee to promote any financial or other interest of any person in relation to mental health services.
- (7) Where a member of the Committee or a member of his or her family or a business associate has a current or potential financial or other conflict of interest, such member must timeously recuse himself or herself from any proceedings where such conflict of interest could arise.

**12 REMUNERATIONS AND ALLOWANCES OF COMMITTEE MEMBERS**

Members of the Committee shall be remunerated in accordance with the Treasury Regulations as amended.

**13 TERMINATION OF MEMBERSHIP**

- (1) A member of the Committee may, at any time and in not less than 30 days written notice to the Minister, resign as a member of the Committee.
- (2) Notwithstanding the provisions of the above, inclusive, the Minister may terminate the appointment of a member of the Committee with immediate effect if such a member-
  - (a) is or becomes un-rehabilitated insolvent;
  - (b) fails to declare his or her financial interest or other conflicts of interests or fails to recuse himself or herself where he or she or an immediate family member has an interest in the outcome of any decision to be made or made by the Committee;
  - (c) is suffering from an infirmity of mind or body which prevents him or her from properly discharging his or her duties as a member of the Committee;
  - (d) has engaged in conduct, which in the opinion of the Minister, brings or could bring the office or the activities of the Committee into disrepute or threatens the integrity of the Committee; or
  - (e) fails to carry out duties and functions of the Committee to the best of his or her ability.



**DR A MOTSOLEDI, MP**  
**MINISTER OF HEALTH**

DATE:

31/03/2013