
GOVERNMENT NOTICE

DEPARTMENT OF HEALTH

No. R. 328**2 May 2014****NATIONAL HEALTH ACT 61 OF 2003 (ACT NO. 61 OF 2003)****REGULATIONS ESTABLISHING MINISTERIAL ADVISORY COMMITTEE ON EHEALTH**

The Minister of Health intends, in terms of section 91(1) and (2) (a) – (c) of the National Health Act, 2003 (Act No. 61 of 2003), 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 Cluster Manager: Health Information Management, Monitoring and Evaluation within 90 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.health.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;

“eHealth” means the combined utilization of electronic communication and information technology to generate, capture, transmit, store and retrieve digital data for clinical, educational and administrative purposes ;

“Ad hoc Sub-Committee(s)” means committee(s) appointed by the Ministerial Advisory Committee on eHealth to provide technical expertise;

“the Act” means the National Health Act, 2003 (Act No. 61 of 2003) as amended.

2. ESTABLISHMENT OF MINISTERIAL ADVISORY COMMITTEE ON NATIONAL eHEALTH

- (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 ICT specialist or Senior Manager responsible for ICTs from each province;
 - (b) a Deputy Director General from the National Department of Health;
 - (c) five members with at least ten years experience ICTs and/or public health from private sector, academic or research institutions , and non government organisations.

4. APPOINTMENT OF MEMBERS OF THE COMMITTEE

- (1) The Minister must appoint the members contemplated in regulation 3(1) (a) – (c) and as nominated by the relevant, Departments and institutions.
- (2) The Minister must, before appointing the members contemplated in regulation 3(1) (a) – (c) by notice in the *Gazette* and in two or more nationally circulating newspapers in the Republic 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 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.
 - (e) is suffering from an infirmity of mind or body which will prevent him or her from properly discharging his or her duties as a member of the Committee.
- (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;
 - (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;
 - (e) he or she ceases to be ordinarily resident in the Republic; or
 - (f) 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.
- (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 AD HOC SUB-COMMITTEES

- (1) The Committee may appoint one or more ad hoc sub-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 specialist ad hoc sub-committees consisting of members 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:
 - (a) Provision of advice to the Minister on eHealth Strategy's implementation, monitoring and evaluation. The advise shall cover the following areas:-
 - (i) Strategy and leadership;
 - (ii) Stakeholder engagement;
 - (iii) Standards and interoperability;
 - (iv) Investment, affordability and sustainability;
 - (v) Benefits realisation;
 - (vi) Capacity and workforce;
 - (vii) eHealth foundations;
 - (viii) Applications and Tools to support health care delivery; and
 - (ix) Any other matters including emerging issues.

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 ehealth 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

- (1) 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;
 - (e) fails to attend three consecutive meetings of the Committee without having been granted leave of absence by the Chairperson; or

- (f) fails to carry out duties and functions of the Committee to the best of his or her ability.



DR A MOTSOALEDI, MP

MINISTER OF HEALTH

DATE: 3/4/2014