

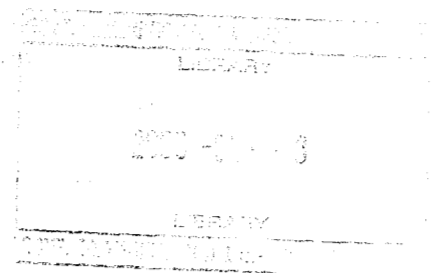
REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

NATIONAL HEALTH BILL

[B 32—2003]

*(As agreed to by the Portfolio Committee on Health)
(National Assembly)*



[B 32A—2003]

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AMENDMENTS AGREED TO

NATIONAL HEALTH BILL [B 32-2003]

PREAMBLE

1. On page 2, in the twenty eighth line, after “of” to insert “quality”.
2. On page 2, in the twenty-ninth line, after “of” to insert “equity, efficiency,”.

CLAUSE 1

1. On page 6, in line 1, after “a” to insert “public”.
2. On page 6, after line 12, to insert the following definition:

“**essential health services**” means those health services prescribed by the Minister to be essential health services after consultation with the National Health Council;
3. On page 6, from line 36, to omit the definition of “health establishment” and to substitute:

“**health establishment**” means the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services;
4. On page 7, in line 1, to omit “provides” and to substitute “is involved in the provision of”.
5. On page 7, in line 22, to omit “control” and to substitute “health surveillance”.
6. On page 7, in line 23, to omit “communicable disease control” and to substitute:

surveillance and prevention of communicable diseases, excluding immunisations
7. On page 7, in line 28, to omit paragraph (j).
8. On page 7, after line 62, to insert the following definition:

“**primary health care services**” means such health services as may be prescribed by the Minister to be primary health care services;
9. On page 8, in line 38, after “parent,” to insert “grandparent,”.

CLAUSE 2

1. On page 8, in line 50, after “provides” to insert “in an equitable manner”.
2. On page 8, in line 54, after “(c)” to insert “protecting,”.

3. On page 8, in line 57, to omit ", within available resources".
4. On page 9, after line 2, to add the following subparagraph:
 - (iv) vulnerable groups such as women, children, older persons and persons with disabilities.

CLAUSE 3

1. On page 9, in line 11, after "services" to insert ", which must at least include primary health care services,".
2. On page 9, in line 14, after "(e)" to insert "equitably".
3. On page 9, from line 14, to omit "taking into consideration health needs and available resources".
4. On page 9, in line 18, after "must" to insert "equitably".

CLAUSE 4

1. On page 9, in line 21, after "Minister" to insert ", after consultation with the Minister of Finance,".
2. On page 9, after line 28, to add the following paragraph and subsection:
 - (d) the needs of vulnerable groups such as women, children, older persons and persons with disabilities.

(3) Subject to any condition prescribed by the Minister, the State and clinics and community health centres funded by the State must provide—

 - (a) pregnant and lactating women and children below the age of six years, who are not members or beneficiaries of medical aid schemes, with free health services;
 - (b) all persons, except members of medical aid schemes and their dependants and persons receiving compensation for compensable occupational diseases, with free primary health care services; and
 - (c) women, subject to the Choice on Termination of Pregnancy Act, 1996 (Act No. 92 of 1996), free termination of pregnancy services.

CLAUSE 5

1. On page 9, in line 32, after "provider" to insert ", health worker".

CLAUSE 6

1. On page 9, in line 43, after "services" to insert "and explain the implications, risks, obligations and consequences of such refusal".
2. On page 9, after line 43, to add the following subsection:
 - (2) The health care provider concerned must, where possible, inform the user as contemplated in subsection (1) in a language that the user understands and in a manner which takes into account the user's level of literacy.

CLAUSE 7

1. On page 10, in line 3, after “parent,” to insert “grandparent,”.
2. On page 10, after line 11, to insert the following subsection:
 - (2) A health care provider must take all reasonable steps to obtain the user’s informed consent.

CLAUSE 9

1. On page 10, in line 29, to omit “Where” and to substitute “Subject to any applicable law, where”.

CLAUSE 10

1. On page 10, in line 43, to omit “as an inpatient”.
2. On page 10, after line 44, to add the following subsections:
 - (2) In prescribing the information contemplated in subsection (1), the Minister must have regard to-
 - (a) the nature of the health service rendered;
 - (b) the prognosis for the user; and
 - (c) the need for follow-up treatment.
 - (3) A discharge report provided to a user may be verbal in the case of an outpatient or a user who is not an inpatient, but must be in writing in the case of an inpatient.

CLAUSE 12

1. On page 11, in line 3, after “that” to insert “appropriate,”.
2. On page 11, after line 11, to add the following paragraph:
 - (g) the rights and duties of users and health care providers.

CLAUSE 15

1. On page 11, in line 27, to omit “Any person working for or on behalf of any health establishment or any” and to substitute “A health worker or”.

CLAUSE 16

1. On page 11, after line 40, to add the following subsection:
 - (2) If the study, teaching or research contemplated in subsection (1)(a) reflects or obtains no information as to the identity of the user concerned, it is not necessary to obtain the authorisations contemplated in that subsection.

CLAUSE 18

1. On page 12, after line 25, to insert the following subsections:

- (3) The procedures for laying complaints must-
- (a) be displayed by all health establishments in a manner that is visible for any person entering the establishment and the procedure must be communicated to users on a regular basis;
 - (b) in the case of a private health establishment, allow for the laying of complaints with the head of the relevant establishment;
 - (c) include provisions for the acceptance and acknowledgment of every complaint directed to a health establishment, whether or not it falls within the jurisdiction or authority of that establishment; and
 - (d) allow for the referral of any complaint that is not within the jurisdiction or authority of the health establishment to the appropriate body or authority.

CLAUSE 19

1. On page 12, in line 33, after “(b)” to insert “subject to section 14,”.
2. On page 12, after line 35, to insert the following paragraph:
 - (c) treat health care providers and health workers with dignity and respect;
3. On page 12, in line 36, after “certificate” to insert “or release of liability”.

NEW CLAUSE

1. That the following be a new clause:

“Rights of health care personnel

20. (1) Health care personnel may not be unfairly discriminated against on account of their health status.

(2) Despite subsection (1) but subject to any applicable law, the head of the health establishment in question may in accordance with any guidelines determined by the Minister impose conditions on the service that may be rendered by a health care provider or health worker on the basis of his or her health status.

(3) Subject to any applicable law, every health establishment must implement measures to minimise—

- (a) injury or damage to the person and property of health care personnel working at that establishment; and
- (b) disease transmission.

(4) A health care provider may refuse to treat a user who is physically or verbally abusive or sexually harasses him or her.

CLAUSE 20

1. On page 13, from line 7, to omit “medical, dental and auxiliary staff” and to substitute “human resources for health”.
2. On page 13, in line 11, to omit “emergency” and to substitute “health and”.
3. On page 13, after line 26, to add the following subsections:
 - (3) (a) The Director-General must prepare strategic, medium term health and human resources plans annually for the exercise of the

powers and the performance of the duties of the national department.

(b) The national health plans referred to in paragraph (a) must form the basis of—

- (i) the annual budget as required by the national department responsible for finance and state expenditure; and
- (ii) any other governmental planning exercise as may be required by any other law.

(4) The national health plans must comply with national health policy.

(5) The Director-General must integrate the health plans of the national department and provincial departments annually and submit the integrated health plans to the National Health Council.

CLAUSE 22

1. On page 14, after line 12, to insert the following subsection:

(2) The National Health Council may determine the time frames, guidelines and the format for the preparation of national and provincial health plans.

3. On page 14, in line 22, after “Minister” to insert “or his or her nominee contemplated in section 21(2)(a)”.

CLAUSE 23

Clause rejected.

CLAUSE 24

Clause rejected.

CLAUSE 25

Clause rejected.

CLAUSE 26

1. On page 15, in line 22, to omit “paragraph (b)” and to substitute “paragraphs (b) and (c)”.
2. On page 15, after line 23, to insert the following paragraph:

(b) The National Consultative Health Forum must include relevant stakeholders.
3. On page 15, in line 24, to omit “two years” and to substitute “12 months”.

CLAUSE 27

1. On page 15, from line 37, to omit “authorities” and to substitute “councils”.
2. On page 15, in line 39, to omit “authorities” and to substitute “councils”.
3. On page 15, from line 54, to omit paragraph (m).

4. On page 16, after line 13, to insert the following subsections:
 - (3) The head of a provincial department must—
 - (a) prepare strategic, medium term health and human resources plans annually for the exercise of the powers of, the performance of the duties of and the provision of health services in the province by the provincial department; and
 - (b) submit such plans to the Director-General within the time frames and in accordance with the guidelines determined by the National Health Council.
 - (4) Provincial health plans must conform with national health policy.

CLAUSE 29

1. On page 16, in line 33, to omit “intergovernmental”.
2. On page 17, after line 5, to insert the following subsection:
 - (2) A Provincial Health Council may determine the format and time frames for the preparation of district health plans within its jurisdiction.
3. On page 17, after line 8, to insert the following subsection:
 - (5) The Provincial Health Council may create one or more committees to advise it on any matter.
3. On page 17, in line 10, after “Council” to insert “or his or her nominee contemplated in section 28(2)(a)”.

CLAUSE 30

Clause rejected.

CLAUSE 31

Clause rejected.

CLAUSE 32

Clause rejected.

CLAUSE 33

1. On page 17, in line 53, to omit “paragraph (b)” and to substitute “paragraphs (b) and (c)”.
2. On page 17, after line 55, to insert the following paragraph:
 - (b) A provincial consultative body must include relevant stakeholders.
3. On page 18, in line 1, to omit “two years” and to substitute “12 months”.

CLAUSE 36

1. On page 19, after line 7, to insert the following subsection:
 - (4) A district health council may create one or more committees to advise it on any matter.

CLAUSE 37

1. On page 19, in line 25, after “that” to insert “appropriate”.
2. On page 19, in line 26, after “are” to insert “effectively and equitably”.
3. On page 19, from line 30, to omit subsection (3) and to substitute:
 - (3) An agreement contemplated in section 156(4) of the Constitution is known as a service level agreement and must provide for—
 - (a) the services to be rendered by the municipality;
 - (b) the resources that the relevant Member of the Executive Council must make available;
 - (c) performance standards which must be used to monitor services rendered by the municipality; and
 - (d) conditions under which the agreement may be terminated.

CLAUSE 38

1. On page 19, in line 38, after “plan” to insert “and development of district human resource plans”.
2. On page 19, from line 37, to omit all the words following upon “district” up to and including “Council” in line 38 and to substitute:

metropolitan health manager must develop and present to the district health council in question and the relevant member of the Executive Council
3. On page 19, after line 42, to add the following subsection:
 - (2) The relevant member of the Executive Council must ensure that each health district develops and implements a district human resource plan in accordance with national guidelines issued by the Director-General.

CLAUSE 40

1. On page 20, in line 1, to omit “, location and type” and to substitute “and location”.
2. On page 20, after line 6, to add the following subparagraph:
 - (vi) in the case of private health establishments, whether or not the establishment is for profit or not.

CLAUSE 41

1. On page 20, in line 17, to omit “one year” and to substitute “24 months”.
2. On page 20, in line 39, after “providers” to insert “and health workers”.

3. On page 20, after line 43, to insert the following paragraphs:
 - (k) the need to ensure the availability and appropriate utilisation of human resources and health technology;
 - (l) whether the private health establishment is for profit or not;
4. On page 21, in line 4, after “provider” to insert “or health worker”.
5. On page 21, in line 7, after “provider” to insert “or health worker”.
6. On page 21, in line 11, after “provider” to insert “or health worker”.
7. On page 21, in line 16, after “must” to insert “within a reasonable time”.

CLAUSE 42

1. On page 21, in line 20, to omit “exceed 10 years” and to substitute “exceed 20 years”.

CLAUSE 43

1. On page 21, after line 32, to insert the following subsection:
 - (4) The Minister must within a reasonable time after reaching a decision give the appellant written reasons for such decision.

CLAUSE 44

1. On page 21, in line 44, to omit “promote” and to substitute “ensure”.
2. On page 21, in line 44, after “services” to insert:

,with special regard to vulnerable groups such as woman, older persons, children and people with disabilities
3. On page 21, in line 50, after “must” to insert “ensure and”.
4. On page 21, in line 53, after “services” to insert:

,with special regard to vulnerable groups such as woman, older persons, children and people with disabilities
5. On page 21, after line 56, to insert the following paragraph:
 - (g) must avoid or prohibit practices, schemes or arrangements by health care providers that directly or indirectly conflict with, violate or undermine good ethical and professional practice;

CLAUSE 46

1. On page 22, in line 30, after “with” to insert:

,in the case of a central hospital, the National Treasury and, in the case of any other hospital,
2. On page 22, in line 32, after “a” to insert “representative”.
3. On page 22, in line 36, after the first “a” to insert “representative”.

CLAUSE 53

1. On page 24, after line 21, to add the following subsection:
 - (2) The policy and guidelines contemplated in subsection (1) must amongst other things facilitate and advance-
 - (a) the adequate distribution of human resources;
 - (b) the provision of appropriately trained staff at all levels of the national health system to meet the population's health care needs; and
 - (c) the effective and efficient utilisation, functioning, management and support of human resources within the national health system.

CLAUSE 54

1. On page 24, in line 25, after "providers" to insert "and health workers".

CLAUSE 55

1. On page 24, in line 35, to omit "(a)" and to substitute "(i)".
2. On page 24, in line 36, to omit "(b)" and to substitute "(ii)".
3. On page 24, after line 37, to insert the following subparagraph:
 - (iii) two representatives of tertiary education institutions,
4. On page 24, in line 50, to omit ", controlled or treated" and to substitute "or controlled".
5. On page 25, in line 27, to omit "ombuds" and to substitute "ombudsperson".

CLAUSE 56

1. On page 26, in line 24, after "establishments" to insert:

at all levels of the national health system, including peripheral facilities,

CLAUSE 57

1. On page 26, after line 46, to insert the following paragraphs:
 - (f) ensure the existence of adequate human resources planning, development and management structures at national, provincial and district levels of the national health system;
 - (g) ensure the availability of institutional capacity at national, provincial and district levels of the national health system to plan for, develop and manage human resources;
 - (h) ensure the definition and clarification of the roles and functions of the national department, provincial departments and municipalities with regard to the planning, production and management of human resources; and

CLAUSE 58

1. On page 27, in line 6, to omit “and blood fractionation”.
2. On page 27, in line 9, to omit “or blood fractionation”.

CLAUSE 75

1. On page 32, after line 40, to insert the following paragraph:
 - (d) the health needs of vulnerable groups such as woman, older persons, children and people with disabilities;

CLAUSE 77

1. On page 33, in line 40, after “committees” to insert:

and hear any complaint by a researcher who believes that he or she has been discriminated against by a health research ethics committee
2. On page 33, from line 41, to omit paragraph (e) and to substitute:
 - (e) refer to the statutory health professional council matters involving the violation or potential violation of an ethical or professional rule by a health care provider;
3. On page 33, in line 43, to omit “disciplinary action” and to substitute “such disciplinary action as may be prescribed”.

CLAUSE 83

1. On page 34, in line 40, after “department” to insert:

which must include a person who acts as ombudsperson in respect of complaints in terms of this Act
2. On page 35, in line 2, after “providers” to insert “, health workers”.
3. On page 35, in line 3, after “agency” to insert “, health worker”.
4. On page 35, in line 5, after “provider” to insert “, worker”.
5. On page 35, in line 17, after “agencies” to insert “, health workers”.

CLAUSE 84

1. On page 35, in line 31, to omit “annually” and to substitute “every three years”.
2. On page 35, in line 32, to omit “, but” and to substitute “and”.
3. On page 35, after line 39, to insert the following subsection:
 - (3) If the Office for Standards Compliance orders the total or partial closure of a health establishment, the Minister must ensure, within a reasonable period from the date of such closure, that reasonable alternative and accessible health services are available to any community affected by the closure.
4. On page 35, in line 48, after “provider” to insert “or health worker”.

CLAUSE 85

1. On page 36, from line 14, to omit ", or of a District Health Council with the approval of the relevant municipal council,".
2. On page 36, after line 16, to add the following paragraph:
 - (c) the mayor of a metropolitan or district council may appoint any person in the employ of the council in question as a health officer for the municipality in question.

CLAUSE 95

1. On page 39, after line 54, to insert the following paragraphs:
 - (t) the processes and procedures to be implemented by the Director-General in order to obtain prescribed information from stakeholders relating to health financing, the pricing of health services, business practices within or involving health establishments, health agencies, health workers and health care providers, and the formats and extent of publication of various types of information in the public interest and for the purpose of improving access to and the effective and efficient utilisation of health services;
 - (u) the processes of determination and publication by the Director-General of one or more reference price lists for services rendered, procedures performed and consumable and disposable items utilised by categories of health establishments, health care providers or health workers in the private health sector which may be used—
 - (i) by a medical scheme as a reference to determine its own benefits; and
 - (ii) by health establishments, health care providers or health workers in the private health sector as a reference to determine their own fees,

but which are not mandatory.
2. On page 40, in line 2, to omit "published".
3. On page 40, in line 3, to omit "generally".
4. On page 40, in line 3, after "authoritative" to insert "by internationally recognised health bodies".