

(5 September 2014 – to date)

MENTAL HEALTH CARE ACT 17 OF 2002

*(Government Notice 1386 in Government Gazette 24024 dated 6 November 2002. Commencement date:
15 December 2004 [Proc. No. R.61 in Government Gazette 27116 dated 15 December 2004])*

REGULATIONS ESTABLISHING MINISTERIAL ADVISORY COMMITTEE ON MENTAL HEALTH

*Government Notice R699 in Government Gazette 37978 dated 5 September 2014. Commencement date:
5 September 2014.*

The Minister of Health, in terms of Section 71(1) and (2)(a) - (c) of the Mental Health Care Act, 2002 (Act No. 17 of 2002), hereby makes the Regulations in the schedule.

SCHEDULE

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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;

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“Higher education institution” means any institution that provides higher education on a full-time, part-time or distance basis and which is-

- (a) merged, established or deemed to be established as a public higher education institution under the Act;
- (b) declared as a public higher education institution under the Act; or
- (c) registered or provisionally registered as a private higher education institution under the Act.

“Immediate family member” means the member's parent, adoptive parent, parents-in-law, sister- and brother-in-law, grandparent, child, adopted child, stepchild, grandchild or sibling.

“NGO” means Non-Governmental Organisation;

“NPO” means Non-Profit Organisation;

“Republic” means Republic of South Africa;

“Services” means members not employed under the Public Service Act 103 (Act No. 103 of 1994);

“Sub - 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

The Ministerial Advisory Committee on Mental Health to be appointed is hereby established in terms of Section 71(1) of the Act.

3. COMPOSITION

- (1) The Committee shall consist 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 representative from a higher education institutions or institutions that conduct research in the field of Mental Health;
 - (b) one representative from NGOs that provide Mental Health care, treatment and rehabilitation;

- (c) two representatives from NPOs of Mental Health care users;
- (d) one representative with at least five years working experience as a registered professional nurse who has been trained to provide prescribed mental health care, treatment and rehabilitation services;
- (e) one representative with at least five years working experience as a registered social worker;
- (f) one representative with at least five years working experience as a registered psychiatrist;
- (g) one representative with at least five years working experience as a registered psychologist;
- (h) one representative with at least five years working experience as a occupational therapist;
- (i) one representative with at least five years working experience as a registered Traditional Health Practitioner;
- (j) one representative from the private health care sector;
- (k) magistrate, an attorney or an advocate admitted in terms of the law of the Republic; nominated by their respective Institutions or Professional Councils or Organizations;
- (l) the DG or a representative from the Department designated by the DG; and
- (m) one member 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

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- (1) The Minister must appoint the members contemplated in Regulation 3(l) - (m) as nominated or designated by the relevant Departments.
- (2)
 - (a) Call for nominations will be advertised by notice in the Gazette and in two or more nationally circulating newspapers in the Republic inviting all interested Institutions or Professional Councils or Organizations to nominate, within the period specified in the notice, persons who in the opinion of such interested Institutions or Professional Councils or Organizations are fit to be so appointed, stating the grounds upon which such opinion is based.
 - (b) The Minister must appoint the members contemplated in Regulation 3(a) - (k) from the list of nominees nominated in terms of Regulation 4(2)(a).
- (3) If a suitable person or the required number of persons is not nominated as contemplated in Regulation 4(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 Services, must be appointed on such conditions, as the Minister may, with the concurrence of the Minister of Finance, determine.

5. CHAIRPERSON AND VICE-CHAIRPERSON

- (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 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; or
 - (d) has been removed from an office of trust.
- (2) If a member of the Committee dies or vacates his or her office in terms of regulation 13, 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

- (1) The committee must determine its own procedures and rules for conducting business in line with good governance practices.
- (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 equal number 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, 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 SUB - COMMITTEES

The Committee may appoint one or more Sub - Committees from amongst its members to assist it in the performance of its functions and exercise of its powers.

9. FUNCTIONS

Prepared by:

- (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 mental health care users in policy development and implementation, as well as planning and monitoring of services;
 - (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) Recommend to the National Health Council, mental health services norms and standards in line with the Act.
 - (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 Committee.

10. CONFLICT OF INTEREST

- (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 from the date of appointment.
- (2) Failure to comply, will render any decisions taken during such time when such member was present at or took part in any discussion, invalid, and may result in the appointment being revoked.

11. DECLARATION BY MEMBERS

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- (1) A person receiving written notice of his or her appointment in terms of regulation 4 to the Committee must:
 - (a) Within ten days of written acceptance of such 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.
- (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, failing which may result in the appointment of the member being revoked.

12. REMUNERATIONS AND ALLOWANCES OF MEMBERS

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

13. TERMINATION OF MEMBERSHIP

Prepared by:

- (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) The Minister may terminate the appointment of a member of the Committee with immediate effect if such a member-
 - (a) becomes disqualified in terms of Regulation 6(1);
 - (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 impaired to an extent that the severity prevents the member to participate adequately in discharging his or her duties;
 - (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 carry out duties and functions of the Committee to the best of his or her ability; or
 - (f) without leave of the Committee, has been absent from more than two consecutive meetings of the Committee without an apology.

(Signed)

DR A MOTSOLEDI, MP

MINISTER OF HEALTH

DATE: 21/8/2014