

PROVINSIE VRYSTAAT

PROVINSIALE KOERANT

PROVINCIAL GAZETTE

FREE STATE PROVINCE

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GENERAL NOTICE 1 OF 2007

PUBLIKASIE VAN DIE WETSONTWERP OP
PROVINSIALE GESONDHEID, 2007

PUBLICATION OF THE PROVINCIAL
HEALTH BILL, 2007

Dit word vir algemene kennismaking en kommentaar bekendgemaak dat bestaande Wetsontwerp hierby gepubliseer word in terme van Reël 141 van die Reëls en Orders van die Vrystaatse Wetgewer.

It is notified for general information and comment that the above-mentioned Bill is hereby published in terms of Rule 141 of the Rules and Orders of the Free State Legislature.

Enige kommentaar of opmerkings moet gestuur word aan die Sekretaris: Vrystaatse Wetgewer, Privaatsak X20561, Bloemfontein, 9300 om haar nie later as 17 Mei 2007 te bereik nie.

Any comments or remarks must be submitted to the Secretary: Free State Legislature, Private Bag X20561, Bloemfontein, 9300 to reach her not later than 17 May 2007.

E ROCKMAN
SECRETARY: FREE STATE LEGISLATURE

E ROCKMAN
SEKRETARIS: VRYSTAATSE WETGEWER

WETSONTWERP

Om voorsiening te maak vir die vestiging van 'n gesondheidstelsel wat verenigbaar is met gestruikureerde eenvormige nasionale standarde; om gesondheidsbeheerstrukture te vestig; om provinsiale gesondheidswetgewing in ooreenstemming te bring met Hoofstuk 2 van die Wet op Nasionale Gesondheid, 2003 (Wet Nr. 61 van 2003) en om Hoofstuk 4 van die Nasionale Wet te vervang insoverre dit met gesondheidskwessies handel wat in hierdie Wet hanteer word; om die Vrystaatse Wet op Gesondheid, 1999 (Wet Nr. 8 van 1999) te herroep; en om voorsiening te maak vir sake wat daarmee gepaard gaan.

AANGESIEN elkeen grondwetlik die reg van toegang het tot gesondheidsorgdienste;

EN AANGESIEN DIE Vrystaatse Provinsiale Regering verbind is om te sorg vir 'n gesonde en selfstandige Vrystaatse gemeenskap deur bekostigbare, doelmatige, **geïntegreerde** en omvattende gesondheidsdienste te voorsien;

WORD DAAR BEPAAL deur die Vrystaatse Provinsiale Wetgewer, soos volg:-

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BILL

To provide for the establishment of a health system that is compatible with the structured uniform national standards; to establish health governance structures; to bring the provincial health legislation in line with Chapter 2 of the National Health Act, 2003 (Act No. 61 of 2003) and to replace Chapter 4 of the National Act in as far as it deals with health issues that are dealt with in this Act; to repeal the Free State Health Act, 1999 (Act No. 8 of 1999); and to provide for matters incidental thereto.

WHEREAS everyone has the constitutional right to have access to health care services;

AND WHEREAS the Free State Provincial Government is committed to ensure a healthy and self-reliant Free State community by providing affordable, effective, integrated and comprehensive health services,

BE IT THEREFORE ENACTED by the Free State Provincial Legislature as follows:-

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1.	In hierdie Wet, tensy die samehang anders aandui, beteken-	30
	"akademiese gesondheidsdienste-kompleks" 'n groep gesondheidheidsfasiliteite wat aangewend word vir die verskaffing van gesondheidsdienste, opleiding, onderwys en navorsing in samewerking met 'n inrigting vir hoer onderwys;	35
	"ambulans" 'n ambulans soos omskryf in artikel 1 van die Padverkeerswet, 1989 (Wet Nr. 29 van 1989);	
	"besoedeling" beteken besoedeling soos omskryf in artikel 1 van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet Nr. 107 van 1998);	40
	"Departement" die Departement van Gesondheid van die Vrystaat;	
	"Direkteur-Generaal" die hoof van die nasionale departement;	45
	"distrikgesondheidsbestuurder" die hoof van 'n gesondheidsdistrik;	

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CHAPTER 1 INTRODUCTORY PROVISIONS

Definitions

- 30 1. In this Act, unless the context indicates otherwise -
- "academic health services complex" means a group of health facilities utilised for the provision of health services, training, education and research in collaboration with an institution of higher education;
- 35 "ambulance" means ambulance as defined in section 1 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
- "central hospital" means a public hospital designated by the Minister to provide health services to users from more than one province;
- 40 "chief executive officer" means the head of a hospital;
- 45 "communicable disease" means a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host;
- "Constitution" means the Constitution of the Republic of South Africa, 1996;

"distrikgesondheidsraad" 'n raad wat ingestel is ingevolge artikel 33 van hierdie Wet;

"distrikgesondheidstelsel" die stelsel soos beoog in artikel 31 van hierdie Wet;

5

"gebruiker" beteken die persoon wat behandeling in 'n gesondheidsinstansie ontvang;

"gesondheidsbeampte" 'n persoon wat as gesondheidsbeampte ingevolge artikel 45 van hierdie Wet aangestel is of wat as sodanig aangewys word ingevolge daardie artikel;

10

"gesondheidsdienste" beteken -

(a) gesondheidsorgdienste, met inbegrip van reproduktiewe gesondheidsorg en mediese noodbehandeling, soos beoog in artikel 27 van die Grondwet;

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(b) basiese voeding en basiese gesondheidsorgdienste soos beoog in artikel 28(1)(c) van die Grondwet; en

20

(c) mediese behandeling soos beoog in artikel 35(2)(e) van die Grondwet; en

(d) munisipale gesondheidsdienste;

"gesondheidsdistrik" 'n distrik waarvan die grense afgebaken is in die Afbakeningswet, Nr 27 van 1998;

25

"gesondheidsfasiliteit" die geheel of gedeelte van 'n openbare of private inrigting, gebou of plek waar persone behandeling, diagnostiese of terapeutiese ingryppings of ander gesondheidsdienste ontvang met inbegrip van fasilitete soos 'n kliniek, mobiele kliniek, gemeenskapsgesondheidsentrum of hospital;

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"gesondheidsinstansie" die geheel of gedeelte van 'n openbare of private inrigting, fasiliteit, gebou of plek, hetsy bedryf vir wins of nie, wat bedryf word of ontwerp is vir die voorsiening van binnekaspatente of buitekaspatente behandeling, diagnostiese of terapeutiese ingryping, verpleging, rehabilitiewe, palliatiewe, herstel of ander gesondheidsdienste;

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"gesondheidsorgpersoneel" gesondheidsorgverskaffers en gesondheidswerkers;

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"gesondheidsorgverskaffer" 'n persoon wat gesondheidsdienste voorsien ingevolge enige wet, insluitende-

(a) Wet op Verwante Gesondheidsdiensberoep, 1982 (Wet Nr. 63 van 1982);

45

(b) Wet op Aanvullende Gesondheidsdiensberoep, 1974 (Wet Nr. 56 van 1974);

(c) Wet op Verpleging, 2005 (Wet Nr. 33 van 2005);

- "Department" means the Department of Health of the Free State;
- "Director General" means the head of the national department;
- 5 "district health system" means the system contemplated in section 31 of this Act;
- "District Health Council" means a council established in terms of section 33 of this Act;
- 10 "district health manager" means the head of a health district
- "Head of Department of Health" means the Head of the Provincial Department of Health;
- 15 "health care personnel" means health care providers and health workers;
- "health care provider" means a person providing health services in terms of any law, including in terms of the-
- 20 (a) Allied Health Professions Act, 1982 (Act No. 63 of 1982);
(b) Health Professions Act, 1974 (Act No. 56 of 1974);
(c) Nursing Act, 1978 (Act No. 33 of 2005);
25 (d) Pharmacy Act, 1974 (Act No. 53 of 1974); and
(e) Dental Technicians Act, 1979 (Act No. 19 of 1979);
- 30 "health district" means a district whose boundaries have been demarcated in the Demarcation Act no 27 of 1998;
- 35 "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;
- 40 "health facility" means a whole or part of the public or private institution, building or place where persons receive treatment, diagnostic or therapeutic interventions or other health services and include facilities such as a clinic, mobile clinic, community health centre or hospital;
- 45 "health nuisance" means a situation, or state of affairs, that endangers life or health or adversely affects the well-being of a person or community;

- (d) Wet op Aptekers, 2005 (Wet Nr. 53 van 1974);
- (e) Wet op Tandtegnici, 1979 (Wet Nr. 19 van 1979);
- "gesondheidsnavorsing" sluit enige navorsing in wat bydra tot kennis van - 5
- (a) die biologiese, kliniese, sielkundige of maatskaplike prosesse in mense;
- (b) verbeterde metodes vir die voorsiening van gesondheidsdienste; 10
- (c) menslike patologie;
- (d) die oorsake van siekte;
- (e) die uitwerking van die omgewing op die menslike liggaam; 15
- (f) die ontwikkeling of nuweaanwending van farmaseutiese middels, medisyne en verwante middels; en
- (g) die ontwikkeling van nuwe aanwendings van gesondheidstegnologie; 20
- "gesondheidswantoestand" 'n situasie of stand van sake, wat lewens of gesondheid bedreig of die welstand van 'n persoon of 'n gemeenskap nadelig raak;
- "gesondheidswerker" beteken enige persoon wat betrokke is by die verskaffing van gesondheidsdienste aan 'n gebruiker, maar sluit nie 'n gesondheidsorgverskaffer in nie; 25
- "Grondwet" die Grondwet van die Republiek van Suid-Afrika.; 30
- "Hoof van Departement van Gesondheid" die Hoof van die Provinciale Departement van Gesondheid;
- "hoofuitvoerende amptenaar" die hoof van 'n hospitaal; 35
- "Inspektoraat vir Gesondheidsinstansies" beteken 'n inspektoraat wat gestig is ingevolge artikel 55.
- "LUR" beteken die Lid van die Uitvoerende Raad verantwoordelik vir Gesondheid in die Provinsie Vrystaat; 40
- "mediese praktisyn" 'n persoon wat gekwalifiseerd en geregistreer is ingevolge die Wet op Gesondheidsdiensberoep, 1974 (Wet Nr. 56 van 1974);
- "Minister" die Nasionale Minister verantwoordelik vir Gesondheid; 45

"health officer" means a person appointed as a health officer under section 45 of this Act or designated as such in terms of that section;

"health research" includes any research which contributes to knowledge of -

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(a) the biological, clinical, psychological or social processes in human beings;

(b) improved methods for the provision of health services;

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(c) human pathology;

(d) the causes of disease;

(e) the effects of the environment on the human body;

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(f) the development or new application of pharmaceuticals, medicines and related substances; and

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(g) the development of new applications of health technology;

"health research ethics committee" means a committee established in terms of section 41 of this Act;

"health services" means -

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(a) health care services, including reproductive health care and emergency medical treatment, contemplated in section 27 of the Constitution;

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(b) basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution; and

(c) medical treatment contemplated in section 35(2)(e) of the Constitution; and

(d) municipal health services;

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"health worker" means any person who is involved in the provision of health services to a user, but does not include a health care provider;

"hospital manager" means the head of a hospital;

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"Inspectorate for Health Establishments" means a inspectorate established in terms of section 55;

45

"MEC" means the Member of the Executive Council responsible for Health in the Free State Province;

"medical practitioner" means a person who is qualified and registered in terms of the Health Professions Act, 1974 (Act No. 56 of 1974);

"munisipale gesondheidsdienste" vir die doeleindes van hierdie Wet, sluit in-

- (a) monitering van water gehalte; 5
- (b) voedselbeheer;
- (c) afvalbestuur;
- (d) gesondheidstoesig van persele; 10
- (e) toesig en voorkoming van oordraagbare siektes, behalwe immuniserings;
- (t) vektorbeheer;
- (g) omgewingsbesoedelingsbeheer; 15
- (h) verwydering van dooies; en
- (i) chemiese veiligheid,

maar met uitsluiting van ingangspoortgesondheid, malariabeheer en beheer van gevaaerlike middels 20

"munisipale raad" beteken 'n munisipale raad soos beoog in artikel 157 (1) van die Grondwet; 25

"munisipaliteit" beteken 'n munisipaliteit soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet Nr. 32 van 2000);

"Nasionale Wet" beteken die Wet op Nasionale Gesondheid, 2003 (Wet Nr. 61 van 2003); 30

"Ombudspersoon" beteken 'n persoon wat aangestel is ingevolge artikel 18 van hierdie Wet; 35

"oordraagbare siekte" 'n siekte wat die gevolg is van 'n infeksie wat te wyte is aan patogeniese verwekker of gifstowwe wat deur die infeksie gegenereer is, nà die regstreekse of onregstreekse transmissie van die verwekker vanaf die bron na die gasheer;

"openbare gesondheidsinstansie" beteken 'n gesondheidsinstansie wat deur 'n staatsorgaan besit of beheer word;

"primere gesondheidsorg" beteken noodsaaklike gesondheidsorg gegrond op praktiese, gesonde wetenskaplike en maatskaplik-aanvaarbare metodes en tegnologie wat algemeen aan individue en gesinne in die gemeenskap toeganklik gemaak word deur hul volle deelname teen 'n koste wat deur die gemeenskap en die land bekostig kan word in die gees van selfstandigheid en selfbeskikking; 45

"Minister" means the National Cabinet Minister responsible for Health;

"municipal council" means a municipal council contemplated in section 157 (1) of the Constitution;

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"municipal **heath** services" for the purposes of this Act, includes-

- (a) water quality monitoring;
- 10 (b) food control;
- (c) waste management;
- (d) health surveillance of premises;
- 15 (e) surveillance and prevention of communicable diseases, excluding immunisations;
- (t) vector control;
- 20 (g) environmental pollution control;
- (h) disposal of the dead; and
- (i) chemical safety,

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but excludes port health, malaria control and control of hazardous substances

30

"municipality" means a municipality as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

35

"National Act" means the National Health Act, 2003 (Act No. 61 of 2003);

"Ombudsperson" means a person who is appointed in terms of section 18 of this Act;

"pollution" means pollution as defined in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);

40

"prescribed" means prescribed by regulation under section 59;

45

"primary **health** care" means essential health care based on practical, scientifically sound and socially acceptable methods and technology made universally accessible to individuals and families in the community through their full participation and at a cost that the community and the country can afford to maintain in the spirit of self-reliance and self-determination;

"primere gesondheidsorgdienste" beteken sodanige gesondheidsdienste soos deur die Minister as prirnere gesondheidsorgdienste voorgeskryf kan word;

"private gesondheidsinstansie" beteken 'n gesondheidsinstansie wat nie deur 'n staatsorgaan besit of beheer word nie; 5

"Provinsiale Gesondheidsraad" beteken 'n raad wat ingestel is ingevolge artikel 23 van hierdie Wet;

"Provinsiale Gesondheids Raadplegende Forum" beteken 'n raad wat ingestel is ingevolge artikel 27 van hierdie Wet; 10

"sentrale hospitaal" 'n openbare hospital wat deur die Minister aangewys is om gesondheidsdienste aan gebruikers uit meer as een provinsie te voorsien; 15

"SITA" beteken die Staat se Inligting en Tegnologie Agentskap wat gestig is ingevolge die Wet op SITA Nr. 88 van 1998;

"teraiere onderwysinrigtings" beteken enige inrigting wat hoer onderwys op 'n voltydse, deeltydse of afstand grondslag voorsien; 20

"voorgeskryf" beteken voorgeskryf deur regulasie kragtens artikel 159.

Doele van hierdie Wet

2. (1) Die doel van hierdie Wet is om 'n doelmatige gesondheidsorg- en beheerstelsel vir die Vrystaat te voorsien, en - 25

(2) om die volgende primere doelwitte van hierdie Wet na te kom:

(a) 'n provinsiale gesondheidstelsel te skep en instand te hou wat-

(i) 'n integrale del vorm van 'n nasionale gesondheidstelsel;

(ii) aanvaarbare en billike gesondheidsdienste aan die bevolking van die Vrystaat te voorsien ; 35

(b) 'n distriksgesondheidstelsel te skep en instand te hou wat-

(i) omvattende en noodsaaklike gesondheidsdienste aan die bevolking in daardie distrik te voorsien; 40

(ii) samewerkende staatsbestuur tussen die provinsiale regering en die plaaslike munisipaliteite bevorder;

(iii) wat 'n integrale deel vorm van die provinsiale gesondheidstelsel; 45

(c) sorg vir die voorsiening van doeltreffende gesondheidsdienste en om voorsiening te maak vir verwante gesondheisaangeleenthede.

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"primary health care services" means such health services as may be prescribed by the Minister to be primary health care services;

5 "private health establishment" means a health establishment that is not owned or controlled by an organ of state;

"Provincial Health Consultative Forum" means a committee established in terms of section 27 of this Act;

10 "Provincial Health Council" means the body established in terms of section 23 of this Act;

"public health establishment" means a health establishment that is owned or controlled by an organ of state;

15 "SITA" means the State Information and Technology Agency that is established in terms of SITA Act No. 88 of 1998;

20 "tertiary education institutions" means any institution that provides higher education on a full-time, part-time or distance basis;

"user" means the person receiving treatment in a health establishment.

Purpose of this Act

- 25 2. (1) The purpose of this Act is to provide for an effective health care and health governance system for the Free State, and -
- (2) to fulfil the primary objectives of this Act, which are to -
- 30 (a) create and maintain a provincial health system which -
- (i) is an integral part of a national health system;
- (ii) provide acceptable and equitable health services to the population of the Free State;
- (b) create and maintain a district health system which-
- 40 (i) renders comprehensive essential health services to the population in that district;
- (ii) promotes co-operative governance between the provincial government and the local municipalities; and
- 45 (iii) is an integral part of the provincial health system;
- (c) ensures the provision of efficient health services and to provide for related health matters.

- (3) Die bepalings van Hoofstuk 4 van die Wet op Nasionale Gesondheid is nie van toepassing op die provinsie nie.

Interpretasie van hietdie Wet

3. 'n Persoon wat hierdie Wet toepas moet die bepalings daarvan interpreteer -
- (a) om uitvoering te gee aan die primere oogmerke daarvan;
 - (b) ter nakoming van die Nasionale Wet; en
 - (c) met behoorlike inagneming van die regte en verpligte wat in die Grondwet verskans is.

HOOFSTUK2

REGTE EN PLIGTE VAN GEBRUIKERS EN GESONDHEIDSORGPERSONEEL

- Noodbehandeling 20
4. 'n Gesondheidsorgverskaffer, gesondheidswerker of gesondheidsinstansie mag nie mediese noodbehandeling aan 'n persoon weier nie.
- Gebruiker moet volledig ingelig word 25
5. (1) Elke gesondheidsorgverskaffer moet die gebruiker inlig oor -
- (a) die gebruiker se gesondheidstatus behalwe onder omstandighede waar daar genoegsame bewys is dat die openbaarmaking van die gebruiker se gesondheidstatus indruis teen die belang van die gebruiker,
 - (b) die omvang van die diagnostiese prosedures en behandelingsopsies wat oor die algemeen aan die gebruiker beskikbaar is;
 - (c) die voordele, risiko's, koste en gevolge wat oor die algemeen met elke behandelingsopsie geassosieer word; en
 - (d) die gebruiker se reg om gesondheidsdienste te weier en die implikasies, risiko's, verpligte van sodanige weiering te verduidelik.
- (2) 'n Gesondheidssorgverskaffer moet, waar moontlik, ten einde die bepalings van subartikel (1) na te kom, 'n taal gebruik wat die gebruiker verstaan en op 'n wyse wat die gebruiker se geletterdheidsvlak in ag neem. 40 45

- (3) This Act replaces Chapter 4 of the National Health Act with regard to matters dealt with in this Act.

Interpretation of this Act

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3. A person applying this Act must interpret its provisions -
- (a) to give effect to its primary objectives;
 - 10 (b) in compliance with the National Act; and
 - (c) having due regard to the rights and obligations that are enshrined in the Constitution.

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CHAPTER 2

RIGHTS AND DUTIES OF USERS AND HEALTH CARE PERSONNEL

Emergency treatment

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4. A health care provider, health worker or health establishment may not refuse a person emergency medical treatment.

User to have full knowledge

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5. (1) Every health care provider must inform a user of -
- (a) the user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user;
 - (b) the range of diagnostic procedures and treatment options generally available to the user;
 - 30 (c) the benefits, risks, costs and consequences generally associated with each treatment option; and
 - (d) the user's right to refuse health services and explain the implications, risks, obligations of such refusal.
- 35 (2) A health care provider must, where possible, in order to comply with the provisions of subsection (1), use a language that the user understands and a manner which takes into account the user's level of literacy.

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Toestemming van gebruiker

6. (1) Onderhewig aan artikel 7, mag 'n gesondheidsdiens nie aan 'n gebruiker voorsien word sonder die gebruiker se ingelige toestemming nie, tensy - 5
- (a) die gebruiker nie in staat is om ingelige toestemming te gee nie en sodanige toestemming gegee word deur 'n persoon -
 - (i) wat skriftelik deur die gebruiker gemagtig is om namens hom of haar toestemming te gee; of 10
 - (ii) gemagtig is om ingevolge enige wet of hofbevel sodanige toestemming te gee;
 - (b) die gebruiker nie in staat is om ingelige toestemming te gee nie en daar geen persoon gemagtig is om sodanige toestemming te gee nie, en die toestemming gegee word deur die gebruiker se gade of lewensmaat of, in die afwesigheid van sodanige gade of lewensmaat, 'n ouer, grootouer, 'n volwasse kind of 'n broer of suster van die gebruiker, in die spesifieke rangorde soos gelys; 15
 - (c) die voorsiening van 'n gesondheidsdiens sonder ingelige toestemming gemagtig word ingevolge 'n wet of 'n hofbevel;
 - (d) versuim om die gebruiker, of 'n groep mense waarby die gebruiker betrokke is, te behandel, ernstige openbare gesondheidsrisiko tot gevolg kan hê; of 20
 - (e) 'n vertraging in die voorsiening van die gesondheidsdiens aan die gebruiker sy of haar dood of onherstelbare skade aan sy of haar gesondheid tot gevolg kan hê, en die gebruiker nie uitdruklik, by implikasie of deur gedrag die diens geweier het nie. 25
- (2) 'n Gesondheidsorgverskaffer moet aile redelike stappe neem om die gebruiker se ingelige toetstemming te verkry. 35
- (3) Vir die doeleindes van hierdie artikel beteken 'ingelige toestemming' toestemming tot die verskaffing van 'n gespesifiseerde gesondheidsdiens deur 'n persoon met die handelingsbevoegdheid om dit te doen en wat ingelig is soos beoog in artikel 5. 40

Deelname in besluite

7. (1) 'n Gebruiker is geregtig om deel te neem in 'n besluit wat sy of haar persoonlike gesondheid en behandeling raak. 45
- (2) (a) Indien die ingelige toestemming wat deur artikel 6 vereis word gegee word deur 'n ander persoon as die gebruiker, moet so 'n persoon, indien moontlik, die gebruiker raadpleeg voordat die verlangde toestemming gegee word. 50

Consent of user

6. (1) Subject to section 7, a health service may not be provided to a user without the user's informed consent, unless-

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(a) the user is unable to give informed consent and such consent is given by a person -

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(i) mandated by the user in writing to grant consent on his or her behalf; or

(ii) authorised to give such consent in terms of any law or court order;

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(b) the user is unable to give informed consent and no person is mandated or authorised to give such consent, and the consent is given by the spouse or partner of the user or, in the absence of such spouse or partner, a parent, grandparent, an adult child or a brother or a sister of the user, in the specific order as listed;

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(c) the provision of a health service without informed consent is authorised in terms of a law or a court order;

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(d) failure to treat the user, or group of people which includes the user, will result in a serious risk to public health; or

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(e) a delay in the provision of the health service to the user might result in his or her death or irreversible damage to his or her health and the user has not expressly, impliedly or by conduct refused that service.

(2) A health care provider must take all reasonable steps to obtain the user's informed consent.

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(3) For the purposes of this section 'informed consent' means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed as contemplated in section 5.

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Participation in decisions

7. (1) A user has the right to participate in a decision affecting his or her personal health and treatment.

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(2) (a) If the informed consent required by section 6 is given by a person other than the user, such person must, if possible, consult the user before giving the required consent.

- (b) 'n Gebruiker wat die vermoe het om te verstaan moet ingelig word soos beoog in artikel 5 al beskik hy of sy nie oor die handelingsbevoegdheid om die ingelige toestemming te gee wat deur artikel 6 vereis word nie. 5
- (3) Indien die gebruiker nie in staat is om deel te neem in 'n besluit wat sy of haar persoonlike gesondheid en behandeling raak nie, moet hy of sy ingelig word soos beoog in artikel 5 na die voorsiening van die betrokke gesondheidsdiens tensy die openbaarmaking van sodanige inligting teenstrydig sou wees met die gebruiker se belang. 10
- Gesondheidsdiens sonder toestemming**
8. (1) Onderhewig aan enige toepaslike wet, waar 'n gebruiker toegelaat word tot 'n gesondheidsinstansie sonder sy of haar toestemming, moet die gesondheidsinstansie die Hoof van die Departement binne 48 uur nadat die gebruiker toegelaat is van die gebruiker se toelating in kennis stel en sodanige ander inligting voorle soos voorgeskryf. 15
- (2) Indien die 48-uur tydperk soos beoog in subartikel (1) op 'n Saterdag, Sondag of openbare vakansiedag verstryk, moet die gesondheidsinstansie die Hoof van die Departement van die gebruiker se toelating in kennis stel en die ander inligting soos beoog in subartikel (1) voorle te eniger tyd voor die middag van die volgende dag wat volg op 'n Saterdag, Sondag of die openbare vakansiedag. 20
- (3) Subartikel (1) is nie van toepassing indien die gebruiker binne 24 uur van toelating instem tot die voorsiening van 'n gesondheidsdiens in daardie gesondheidsinstansie nie. 25
- Ontslagverslae**
9. (1) 'n Gesondheidsorgverskaffer moet 'n gebruiker ten tyde van die ontslag van die gebruiker uit 'n gesondheidsinstansie met 'n ontslagverslag voorsien wat sodanige inligting vervat soos wat voorgeskryf is. 30
- (2) By die voorskryf van die inligting beoog in subartikel (1), moet die LUR die volgende in ag neem:
- (a) die aard van die gesondheidsdiens wat gelewer is ; 40
 - (b) die prognose vir die gebruiker; en
 - (c) die behoefté aan opvolgbehandeling.
- (3) 'n Onslagverslag wat aan die gebruiker voorsien word kan mondelings wees in die geval van 'n buitepasient, maar moet skriftelik wees in die geval van 'n binnekasient, 45

(b) A user who is capable of understanding must be informed as contemplated in section 5 even if he or she lacks the legal capacity to give the informed consent required by section 6.

5 (3) If a user is unable to participate in a decision affecting his or her personal health and treatment, he or she must be informed as contemplated in section 5 after the provision of the health service in question unless the disclosure of such information would be contrary to the user's best interest.

10 **Health service without consent**

8. (1) Subject to any applicable law, where a user is admitted to a health establishment without his or her consent, the health establishment must notify the Head of the Department within 48 hours after the user was admitted of the user's admission and must submit such other information as may be prescribed.

15 (2) If the 48-hour-period contemplated in subsection (1) expires on a Saturday, Sunday or public holiday, the health establishment must notify the Head of the Department of the user's admission and must submit the other information contemplated in subsection (1) at any time before noon of the next day following a Saturday, Sunday or public holiday.

20 (3) Subsection (1) does not apply if the user consents to the provision of a health service in that health establishment within 24 hours of admission.

25 **Discharge reports**

9. (1) A health care provider must provide a user with a discharge report at the time of the discharge of the user from a health establishment containing such information as may be prescribed.

30 (2) In prescribing the information contemplated in subsection (1), the MEC must have regard to-

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(a) the nature of the health service rendered;

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(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, but must be in writing in the case of an inpatient.

Gesondheidsdienste vir eksperimentele of navorsingsdoeleindes.

10. (1) Onderhewig aan subartikel (2), voordat 'n gesondheidsinstansie 'n gesondheidsdiens vir eksperimentele of navorsingsdoeleindes aan 'n gebruiker voorsien, moet die gesondheidsinstansie die gebruiker op die voorgeskrewe wyse in kennis stel dat die gesondheidsdiens vir eksperimentele of navorsingsdoeleindes is of dat dit deel is van 'n eksperimentele - of navorsingsprojek. 5
- (2) 'n Gesondheidsinstansie mag nie enige gesondheidsdiens aan 'n gebruiker voorsien vir 'n doel soos beoog in subartikel (1) nie tensy die gebruiker, die gesondheidsorgverskaffer wat primêr verantwoordelik is vir die gebruiker se behandeling, die hoof van die betrokke gesondheidsinstansie en die toepaslike etiese komitee vir gesondheidsnavoring, of ander persoon aan wie die gesag gedelegeer is, vooraf skriftelike magtiging gegee het vir die voorsiening van die betrokke gesondheidsdiens. 10
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Plig om inligting te versprei

11. Die provinsiale departement, distrikgesondheidsraad en 'n munisipaliteit moet sorg dat toepaslike, voldoende en omvattende inligting oor die gesondheidsdienste waarvoor hulle verantwoordelik is versprei word, wat die volgende moet insluit : 20
- (a) die soort en beskikbaarheid van gesondheidsdienste; 25
 - (b) die organisering van gesondheidsdienste;
 - (c) schedules van operasies en roosters van besoektye;
 - (d) procedures vir toegang tot gesondheidsdienste; 30
 - (e) ander aspekte van gesondheidsdienste wat van belang kan wees vir die publiek;
 - (t) procedures vir die lê van klagtes; en 35
 - (g) die regte en pligte van gebruikers en gesondheidsorgverskaffers.

Verpligting om rekord te hou

12. Onderhewig aan die Provinsiale Wet op Argiewe, 1999 (Wet Nr. 4 van 1999), en die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000), moet die persoon wat in beheer is van 'n gesondheidsinstansie t oesien dat 'n gesondheidsrekord wat sodanige inligting bevat soos wat voorgeskryf word, vir elke gebruiker van gesondheidsdienste by daardie gesondheidsinstansie geskep en gehou word. 40
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Health services for experimental or research purposes

10. (1) Subject to subsection (2), before a health establishment can provide a health service for experimental or research purposes to a user, the health establishment must inform the user in the prescribed manner that the health service is for experimental or research purposes or part of an experimental or research project.
- 5 (2) A health establishment may not provide any health service to a user for a purpose contemplated in subsection (1) unless the user, the health care provider primarily responsible for the user's treatment, the head of the health establishment in question and the relevant health research ethics committee, or other person to whom that authority has been delegated, has given prior written authorisation for the provision of the health service in 15 question.
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- 15

Duty to disseminate information

20. 11. The provincial department, district health council and a municipality must ensure that appropriate, adequate and comprehensive information is disseminated on the health services for which they are responsible, which must include-
- 25 (a) the types and availability of health services;
- (b) the organisation of health services;
- 30 (c) operating schedules and timetables of visits;
- (d) procedures for access to the health services;
- (e) other aspects of health services which may be of use to the public;
- (f) procedures for laying complaints; and
- 35 (g) the rights and duties of users and health care providers.

Obligation to keep record

40. 12. Subject to the Provincial Archives Act, 1999 (Act No. 4 of 1999), and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the person in charge of a health establishment must ensure that a health record containing such information as may be prescribed is created and maintained at that health establishment for every user of health services.

Vertroulikheid

13. (1) Inligting rakende en gebruiker, met inbegrip van inligting wat betrekking het op sy of haar gesondheidstatus, behandeling of verblyf in en gesondheidsinstansie, is vertroulik. 5
- (2) Onderhewig aan artikel 14, mag en persoon nie inligting openbaar soos beoog in subartikel (1) tensy -
- (a) die gebruiker skriftelik daartoe instem nie; 10
 - (b) en hofbevel of enige wet die openbaarmaking vereis nie; of
 - (c) nie-bekendmaking van die inligting en emstige dreigement inhoud vir openbare gesondheid. 15

Toegang tot gesondheidsrekords

14. (1) en Gesondheidswerker of gesondheidsorgverskaffer wat toegang het tot die gesondheidsrekords van en gebruiker mag sodanige persoonlike inligting openbaar aan en ander persoon, gesondheidsorgverskaffer of gesondheidsinstansie soos wat nodig is vir wettige doeleinades binne die normale gang en bestek van sy of haar pligte wanneer sodanige toegang of openbaarmaking in die belang is van die gebruiker. 20
- (2) Vir doeleinades van hierdie artikel, beteken 'persoonlike inligting' persoonlike inligting soos omskryf in artikel 1 van die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000); 25
- (3) Toegang tot gesondheidsorgrekords is onderhewig aan die bepalings van die die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet Nr. 2 van 2000). 30

Toegang tot gesondheidsrekords deur gesondheidsorgverskaffer

15. (1) en Gesondheidsorgverskaffer mag en gebruiker se gesondheidsrekords nagaan vir die doeleinades van -
- (a) behandeling met die magtiging van die gebruiker; of 40
 - (b) studie, onderrig of navorsing met die magtiging van die gebruiker, hoof van die betrokke gesondheidsinstansie en die toepaslike etiese komitee vir gesondheidsnavorsing.
- (2) Indien die studie, onderrig of navorsing soos beoog in subartikel (1)(b) geen inligting weerspieel of bekom wat betref die identiteit van die betrokke gebruiker nie, sal dit nie nodig wees om die magtigings beoog in daardie subartikel te verkry nie. 45

Confidentiality

13. (1) Information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment is confidential.
- 5 (2) Subject to section 14, a person may not disclose information contemplated in subsection (1) unless-
- 10 (a) the user consents to that disclosure in writing;
- (b) a court order or any law requires that disclosure; or
- 15 (c) non-disclosure of the information represents a serious threat to public health.

Access to health records

14. (1) A health worker or a health care provider that has access to the health records of a user may disclose such personal information to other person, health care provider or health establishment as is necessary for legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interests of the user.
- 20 (2) For the purpose of this section, 'personal information' means personal information as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000).
- 25 (3) Access to health care records is subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No.2 of 2000).

Access to health records by health care provider

- 30 35 (1) A health care provider may examine a user's health records for the purposes of-
- (a) treatment with the authorisation of the user; or
- (b) study, teaching or research with the authorisation of the user, head of the health establishment concerned and the relevant health research ethics committee.
- 40 (2) If the study, teaching or research contemplated in subsection (1)(b) 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.

Beskerming van gesondheidsrekords

16. (1) Die persoon in beheer van 'n gesondheidsinstansie wat in besit is van 'n gebruiker se gesondheidsrekords moet beheermaatreels instel wat ongemagtigde toegang verhoed tot daardie rekords en tot die bergingsfasiliteite waarin, of die stelsel waardeur, die rekords gehou word. 5
- (2) 'n Persoon wat -
- (a) nalaat om 'n plig uit te voer wat aan hom of haar opgedra is ingevolge subartikel (1); 10
 - (b) 'n rekord vervals deur byvoegings of uitwissings te maak ten opsigte van die inligting vervat in daardie rekord; 15
 - (c) sonder magtiging 'n rekord skep, verander of vernietig;
 - (d) nalaat om 'n rekord te skep of te verander wanneer dit met reg van hom of haar vereis word; 20
 - (e) valse inligting verskaf met die bedoeling dat dit in 'n rekord ingesluit moetword;
 - (f) sonder magtiging enige gedeelte van die rekord kopieer; 25
 - (g) sonder magtiging die persoonlike identifikasie elemente van 'n gebruiker se rekord koppel aan enige element van daardie rekord wat betrekking het op die gebruiker se toestand, behandeling of geskiedenis; 30
 - (h) ongemagtigde toegang verkry tot 'n rekord of rekordhou-stelsel, insluitende die onderskepping van inligting wat van een persoon na 'n ander oorgedra word, of een gedeelte van 'n rekordhou-stelsel, na 'n ander een; 35
 - (i) sonder magtiging, een gedeelte van 'n rekenaar of ander elektroniese stelsel waarop rekords gehou word, koppel aan
 - (i) 'n ander rekenaar of ander elektroniese stelsel; of
 - (ii) 'n terminaal of ander installasie wat gekoppeel is of deelvorm van 'n ander rekenaar of ander elektroniese stelsel; of
 - (j) sonder magtiging, die werking modifiseer of benadeel van -
 - (i) 'n gedeelte van die bedryfstelsel van 'n rekenaar of ander elektroniese stelsel waarop 'n rekenaar se rekords gehou word; of

Protection of health records

16. (1) The person in charge of a health establishment in possession of a user's health records must set up control measures to prevent unauthorised access to those records and to the storage facility in which, or system by which, records are kept.

5 (2) A person who -

10 (a) fails to perform a duty imposed on them in terms of subsection (1);

(b) falsifies a record by adding to or deleting or changing information contained in that record;

15 (c) creates, changes or destroys a record without authority to do so;

(d) fails to create or change a record when properly required to do so;

20 (e) provides false information with the intent that it be included in a record;

(f) without authority, copies any part of a record;

25 (g) without authority, connects the personal identification elements of a user's record with any element of that record that concerns the user's condition, treatment or history;

30 (h) gains unauthorised access to a record or record-keeping system, including intercepting information being transmitted from one person, or one part of a record-keeping system, to another;

(i) without authority, connects a part of a computer or other electronic system on which records are kept to-

35 (i) another computer or other electronic system; or

(ii) a terminal or other installation connected to or forming part of another computer or other electronic system; or

40 (j) without authority, modifies or impairs the operation of-

(i) part of the operating system of a computer or other electronic system on which a user's records are kept; or

- (ii) 'n gedeelte van die program wat gebruik word om inligting op 'n rekenaar of ander elektroniese stelsel waarop 'n gebruikers se rekords gehou word op te teken, te berg, terug te vind of te vertoon,

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pleeg 'n misclryf en is by skuldigbevinding blootgestel aan 'n boete of gevangenisstraf vir 'n tydperk van hoogstens een jaar of beide 'n boete en gevangenisstraf.

Indiening van klagtes

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17. (1) 'n Persoon kan 'n klag lê oor die wyse waarop hy of sy by 'n gesondheidsinstansie behandel is en die klage laat ondersoek.

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(2) Die LUR en elke munisipale raad moet 'n prosedure vasstel vir die lê van klagtes binne daardie areas van die gesondheidstelsel waarvoor hulle verantwoordelik is.

(3) Die prosedures vir die indiening van klagtes moet -

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(a) by aile gesondheidsinstansies vertoon word op 'n manier wat dit sigbaar maak vir mense wat die inrigting binnegaan en die prosedures moet op 'n gereeld grondslag aan gebruikers gekonununikeer word;

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(b) in die geval van 'n private gesondheidsinstansie, voorsiening te maak vir die indiening van klagtes by die hoof van die toepaslike inrigting;

(c) bepalings insluit vir die aanvaarding en erkenning van elke klage wat gerig is aan 'n gesondheidsinstansie, of dit binne die jurisdiksie of gesag val van daardie inrigting al dan nie; en

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(d) voorsiening maak vir die verwysing na die toepaslike instansie of owerheid van 'n klage wat nie binne die jurisdiksie of gesag van die gesondheidsinstansie val nie.

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(4) Wanneer 'n klag ingedien word, moet die persoon beoog in subartikel (1) die prosedure voig wat neergele is deur die LUR of die toepaslike munisipale raad, na gelang van die geval.

40

Ombudspersoon

18. (1) Die kantoor van die Ombudspersoon word hiermee in die lewe geroep.

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(2) Die LUR mag, by wyse van kennisgewing in die *Provinsiale Koerant*, die wyse bepaal van die Ombudspersoon se aanstelling, vergoeding, funksies, bevoegdhede, ampstermy, verwydering uit amp en enige ander aangeleenthede wat daarmee gepaard gaan.

(3) Die Ombudspersoon moet aile klagtes oplos wat na die kantoor verwys word ingevolge die bepalings van hierdie Wet.

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- (ii) part of the programme used to record, store, retrieve or display information on a computer or other electronic system on which a user's records are kept,

5 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

10 Laying of complaints

17. (1) A person may lay a complaint about the manner in which he or she was treated at a health establishment and have the complaint investigated.
- (2) The MEC and every municipal council must establish a procedure for the laying of complaints within those areas of the health system for which they are responsible.
- (3) The procedures for laying complaints must -
- (a) be displayed by all health establishments in a manner that is visible to a 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 a complaint that is not within the jurisdiction or authority of the health establishment to the appropriate body or authority.
- 35 (4) In laying a complaint, the person contemplated in subsection (1) must follow the procedure established by the MEC or the relevant municipal council, as the case may be.

40 Ombudsperson

18. (1) The office of the Ombudsperson is hereby established.
- (2) The MEC may, by notice in the *Provincial Gazette*, determine the manner of appointment of the Ombudsperson, the remuneration, the functions and powers, term of office, removal from office, as well as other matters that are incidental thereto.
- (3) The Ombudsperson must resolve all the complaints that are referred to the office that are raised in terms of the provisions of this Act.

- (4) Die gesondheidsinstansie moet die gebruiker wie se klakte nie opgelos is nie adviseer om die klakte na die Ombudspersoon te verwys.

Pligte van gebruikers

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19. 'n Gebruiker moet -

- (a) bly by die reëls van die gesondheidsinstansie wanneer behandeling ontvang of dienste by die gesondheidsinstansie gebruik word;
- (b) onderhewig aan artikel 13 die gesondheidsorgverskaffer met akkurate inligting voorsien betreffende sy of haar gesondheidstatus en saamwerk met gesondheidsorgverskaffers wanneer gesondheidsdienste gebruik word;
- (c) gesondheidsdiensteverskaffers en gesondheidswerkers met waardigheid en respek behandel; en
- (d) 'n ontslagsertifikaat of kwytskelding van aanspreeklikheid onderteken indien hy of sy weier om die aanbevole behandeling te ontvang.

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Regte van gesondheidsorgpersoneel

20. (1) Daar mag nie onregverdiglik teen gesondheidsorgpersoneel en gesondheidsdiensverskaffers gediskrimineer word op grond van hul gesondheidstatus nie.

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(2) Ten spyte van subartikel (1) maar onderhewig aan enige toepaslike wet, kan die hoof van die betrokke gesondheidsinstansie in ooreenstemming met 'n riglyn wat deur die LUR vasgestel is, voorwaardes neerle betreffende die diens wat deur 'n gesondheidsorgverskaffer of gesondheidswerker gelewer word op grond van sy of haar gesondheidstatus.

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(3) Onderhewig aan enige toepaslike wet, moet elke gesondheidsinstansie maatreels implementeer om die volgende te minimaliseer:

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- (a) beserings of skade aan die persoon en eiendom van gesondheidsorgpersoneel wat by die inrigting werksaam is; en
- (b) oordrag van siektes.

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(4) Onderhewig aan subartikel (3), kan 'n gesondheidsorgverskaffer weier om 'n gebruiker te behandel wat fisies of verbaal beledigend optree of wat hom of haar seksueel teister.

Verwysing van een openbare gesondheidsinstansie na 'n ander een

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21. (1) Onderhewig aan hierdie Wet, kan 'n gebruiker by 'n openbare gesondheidsinstansie aandoen vir die doel om gesondheidsdienste te ontvang soos deur die LUR vasgestel.

- (4) The health establishment must advise the user whose complaint has not been resolved to refer the complaint to the Ombudsperson.

Duties of users

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19. A user must -

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- (a) adhere to the rules of the health establishment when receiving treatment or using health services at the health establishment;
- (b) subject to section 13 provide the health care provider with accurate information pertaining to his or her health status and co-operate with health care providers when using health services;
- 15 (c) treat health care providers and health workers with dignity and respect; and
- (d) sign a discharge certificate or release of liability if he or she refuses to accept recommended treatment.

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Rights of health care personnel

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

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- (2) Despite subsection (1) but subject to any applicable law, the head of the health establishment concerned may in accordance with a guideline determined by the MEC 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.

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- (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.

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- (4) Subject to subsection (3), a health care provider may refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her.

Referral from one public health establishment to another

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21. (1) Subject to this Act, a user may attend a public health establishment for the purposes of receiving health services as may be determined by the MEC.

- (2) Indien en openbare gesondheidsinstansie nie in staat is om die nodige behandeling of sorg te voorsien nie, moet die betrokke gesondheidsinstansie die betrokke gebruiker oorplaas na en toepaslike openbare gesondheidsinstansie wat in staat is om die nodige behandeling of sorg te voorsien op sodanige wyse en op sodanige voorwaardes soos deur die LUR vasgestel. 5

HOOFSTUK3

PROVINSIALE GESONDHEIDSDIENSTE EN ALGEMENE FUNKSIES VAN DIE DEPARTEMENT

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Provinsiale Gesondheidsdienste en algemene funksies van die Departement

22. (1) Die LUR moet toesien dat die nasionale gesondheidstelsel, norme en standarde eenvormig in die provinsie as geheel gelimplementeer word. 15
- (2) (a) Die hoof van die departement moet jaarliks strategiese-, medium termyn- en menslike hulpbron planne voorberei vir die uitoefening van bevoegdhede en die uitvoer van die pligte van die departement. 20
- (b) Die gesondheidsplan waarna in subartikel (a) verwys word, moet die grondslag vorm van:
- (i) die jaarlikse begroting soos benodig deur die Nasionale Departement verantwoordelik vir finansies en staatsuitgawes; en 25
- (ii) enige ander regeringshandeling wat deur enige ander wet vereis word. 30
- (c) Die hoof van die departement moet jaarliks die gesondheidsplanne van die departement integreer en die geïntegreerde planne voorle aan die Provinsiale Gesondheidsraad. 35
- (3) Die Hoof van die departement moet, in ooreenstemming met die nasionale gesondheidsbeleid en in ooreenstemming met die provinsiale gesondheidsbeleid -
- (a) gespesialiseerde hospitaaldienste voorsien; 40
- (b) die provinsiale gesondheidsinligtingstelsel beplan en bestuur;
- (c) deelneem aan interprovinsiale en intersektorale koordinasie en medewerking; 45
- (d) die befondsing en finansiële bestuur van distrikgesondheidsrade koordineer;
- (e) tegniese en logistiese steun te voorsien aan distrikgesondheidsrade; 50

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- (2) If a public health establishment is not capable of providing the necessary treatment or care, the public health establishment in question must transfer the user concerned to an appropriate public health establishment which is capable of providing the necessary treatment or care in such manner and on such terms as may be determined by the MEC.

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CHAPTER 3

PROVINCIAL HEALTH SERVICES AND GENERAL FUNCTIONS OF THE DEPARTMENT

Provincial Health Services and general functions of the Department

- 15 22. (1) The MEC must ensure that national health system, norms and standards are uniformly implemented throughout the entire province.
- 20 (2) (a) The Head of Department 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 Department.
- 25 (b) The health plans referred to in subsection (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.
- 30 (c) The Head of Department must integrate the health plans of the Department annually and submit the integrated health plans to the Provincial Health Council.
- 35 (3) The Head of the Department must, in accordance with national health policy and in line with the provincial health policy -
- 40 (a) provide specialised hospital services;
- (b) plan and manage the provincial health information system;
- (c) participate in interprovincial and intersectoral co-ordination and collaboration;
- 45 (d) co-ordinate the funding and financial management of district health councils;
- (e) provide technical and logistical support to district health councils;

- (l) gesondheidsdienste te beplan, te koordineer en te monitor en die lewering van gesondheidsdienste te evalueer.
- (g) gesondheids- en mediese dienste gedurende provinsiale rampe te koordineer ; 5
- (h) navorsing te doen of te faciliteer op gesondheid en gesondheidsdienste;
- (i) menslike hulpbronne vir die lewering van gesondheidsdienste te beplan, te bestuur en te ontwikkel; 10
- (j) die ontwikkeling van openbare en ander gesondheidsinstansies en gesondheidsagentskappe te beplan; 15
- (k) die koste en financiering van openbare gesondheidsinstansies en openbare gesondheidsagentskappe te beheer en te bestuur;
- (l) die voorsiening van ingangspoortgesondheidsdienste, omvattende primêre gesondheidsdienste en gemeenskapshospitaaldienste, te faciliteer en te bevorder ; 20
- (m) mediese noodhulpdienste en forensiese patologie, forensiese kliniese medisyne en verwante dienste, met inbegrip van die voorsiening van mediese-geregtelike lykshuise en mediese-geregtelike dienste te voorsien en te koordineer; 25
- (n) die gehalte van alle gesondheidsdienste en faciliteite te beheer ;
- (o) gesondheidsdienste beoog deur bepaalde provinsiale diensprogramme te voorsien ; 30
- (P) toerusting, voertuie en gesondheidsfaciliteite in die openbare sector te voorsien en in stand te hou ; 35
- (g) gemeenskappe te raadpleeg oor gesondheisaangeleenthede;
- (r) beroepsgesondheidsdienste te voorsien;
- (s) gesondheid en gesonde leefstyle te bevorder; 40
- (t) gemeenskapsdeelname in die beplanning, voorsiening en evaluering van gesondheidsdienste te bevorder;
- (u) omgewingsbesoedelingsbeheerdienste te voorsien; 45
- (v) te sorg vir gesondheidstelselsnavorsing ;

- (f) plan, co-ordinate and monitor health services and must evaluate the rendering of health services;
- 5 (g) co-ordinate health and medical services during provincial disasters;
- (h) conduct or facilitate research on health and health services;
- 10 (i) plan, manage and develop human resources for the rendering of health services;
- (j) plan the development of public and other health establishments and health agencies;
- 15 (k) control and manage the cost and financing of public health establishments and public health agencies;
- (l) facilitate and promote the provision of port health services, comprehensive primary health services and community hospital services;
- 20 (m) provide and co-ordinate emergency medical services and forensic pathology, forensic clinical medicines and related services, including the provision of medico-legal mortuaries and medico-legal services;
- (n) control the quality of all health services and facilities;
- (o) provide health services contemplated by specific provincial health service programmes;
- 25 (P) provide and maintain equipment, vehicles and health care facilities in the public sector;
- (q) consult with communities regarding health matters;
- 30 (r) provide occupational health services;
- (s) promote health and healthy lifestyles;
- (t) promote community participation in the planning, provision and evaluation of health services;
- 35 (u) provide environmental pollution control services;
- (v) ensure health systems research;

- (w) gemeenskapsdeelname in die beplanning, voorsiening en evaluering van gesondheidsdienste te bevorder; en
- (x) dienste vir die bestuur, voorkoming en beheer van oordraagbare en nie-oordraagbare siektes te voorsien.

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HOOFSTUK4

GESONDHEIDSBEHEERSTRUKTURE

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Instelling en samestelling van Provinsiale Gesondheidsraad

23. (1) en Raad bekend as die Provinsiale Gesondheidsraad word hiermee in die lewe geroep.

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(2) Die Provinsiale gesondheidsraad bestaan uit -

(a) die LUR, of sy of haar benoemde, wat as voorsitter optree;

(b) 1 raadslid van elke distrik munisipaliteit in die provinsie;

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(c) die Hoof van die provinsiale Departement van Gesondheid;

(d) die Hoof van die Departement verantwoordelik vir Plaaslike regering of sy/haar benoemde;

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(e) die voorsitter van die Suid-Afrikaanse Plaaslike Regerings Vereniging of sy/haar benoemde; en

(f) bykomende lede wat deur die LUR aangestel is.

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(3) Die LUR kan, by wyse van kennisgewing in die *Provinsiale Koerant*, die prosedure vasstel ingevolge waarvan die lede soos beoog in subartikel (2)(f) aangestel en genomineer sal word.

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Funksies van die Provinsiale Gesondheidsraad

24. (1) en Provinsiale Gesondheidsraad moet die LUR adviseer oor -

(a) beleidsake wat die gesondheid van die bevolking binne die provinsie sal beskerm, bevorder, verbeter en in stand hou, met inbegrip van -

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(i) verantwoordelikhede vir gesondheid binne die provinsie deur individue en die openbare en private sektore;

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(ii) teikens, prioriteite, norms en standarde binne die provinsie wat verband hou met die billike voorsiening en finansiering van gesondheidsdienste;

(w) promote community participation in the planning, provision and evaluation of health services; and

5 (x) provide services for the management, prevention and control of communicable and non-communicable diseases.

CHAPTER 4

HEALTH GOVERNANCE STRUCTURES

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Establishment and composition of Provincial Health Council

23. (1) A council known as the Provincial Health Council is hereby established.

15 (2) The Provincial Health Council consists of -

(a) the MEC, or his or her nominee, who acts as chairperson;

20 (b) 1 councillor from each district municipality in the province;

(c) the Head of the provincial Department of Health;

25 (d) the Head of the Department responsible for Local Government or his/her nominee;

(e) the chairperson of South African Local Government Association in the province or his/her nominee; and

30 (f) additional members appointed by the MEC.

(3) The MEC may by notice in the *Provincial Gazette* determine the procedure in terms of which the members as envisaged in subsection (2)(f) may be appointed and nominated.

35 Functions of Provincial Health Council

24. (1) A Provincial Health Council must advise the MEC on -

40 (a) policy matters that will protect, promote, improve and maintain the health of the population within the province, including -

(i) responsibilities for health within the province by individuals and the public and private sector;

45 (ii) targets, priorities, norms and standards within the province relating to the equitable provision and financing of health services;

- (iii) doeltreffende koordinering van gesondheidsdienste binne die provinsie en tussen aangrensende provinsies; 5
 - (iv) menslike hulpbronne beplanning, produksie, bestuur en ontwikkeling; 5
 - (v) ontwikkeling, verkryging en gebruik van gesondheidstegnologie binne die provinsie;
 - (vi) billike finansiele mechanismes vir die befondsing van gesondheidsdienste binne die provinsie; 10
 - (vii) die ontwerp en implementering van programme binne die provinsie om voorsiening te maak vir doelmatige verwysing van gebruikers tussen gesondheidsinstansies of gesondheidsorgverskaffers of om integrasie tussen openbare en private gesondheidsinstansies moontlik tye maak; 15
 - (viii) finansiele en ander bystand ontvang deur die provinsie vanaf buitelandse regerings, interregerings of nie-regerings organisasies, die voorwaardes wat van toepassing is om sodanige bystand te ontvang en die mechanismes om nakoming van hierdie voorwaardes te verseker; 20
 - (ix) epidemiologiese waarneming en monitering van provinsiale tendense met betrekking tot emstige siektes en risiko faktore vir siektes; en 25
 - (x) verkryging, prosessering en gebruik van statistiese opgawes; 30
 - (b) voorgestelde wetgewing wat betrekking het op gesondheisaangeleenthede voordat dit in die betrokke provinsiale wetgewer ter tafel gele word; 35
 - (c) norms en standarde vir die vestiging van gesondheidsinrigtings;
 - (d) riglyne vir die bestuur van gesondheidsdistrikte;
 - (e) die implementering van nasionale en provinsiale gesondheidsbeleide; en 40
 - (f) die uitvoering van enige ander funksie wat vasgestel word deur die LUR.
- (2) 'n Provinciale Gesondheidsraad kan die tydsraamwerk, riglyne en formaat vir die voorbereiding van distrikgesondheidsplanne binne sy jurisdiksie bepaal. 45

- (iii) efficient co-ordination of health services within the province and between neighbouring provinces;
- 5 (iv) human resources planning, production, management and development;
- (v) development, procurement and use of health technology within the province;
- 10 (vi) equitable financial mechanisms for the funding of health services within the province;
- (vii) the design and implementation of programmes within the province to provide for effective referral of users between health establishments or health care providers or to enable integration of public and private health establishments;
- 15 (viii) financial and other assistance received by the province from foreign governments, inter-governmental or non-governmental organisations, the conditions applicable to receiving such assistance and the mechanisms to ensure compliance with these conditions;
- 20 (ix) epidemiological surveillance and monitoring of provincial trends with regard to major diseases and risk factors for disease; and
- 25 (x) obtaining, processing and use of statistical returns;
- 30 (b) proposed legislation relating to health matters before it is introduced in the relevant provincial legislature;
- (c) norms and standards for the establishment of health establishments;
- 35 (d) guidelines for the management of health districts;
- (e) the implementation of national and provincial health policies; and
- (f) the performance of any other function determined by the MEC.
- 40 (2) A Provincial Health Council may determine the time frames, guidelines and the format for the preparation of district health plans within its jurisdiction.

- (3) 'n Provinsiale Gesondheidsraad kan konsulteer met of vertoe ontvang vanaf enige persoon, organisasie, instelling of owerheid.
- (4) Die Provinsiale Gesondheidsraad kan een of meer komitees skep om hom oor enige aangeleentheid te adviseer.

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Vergaderings van die Provinsiale Gesondheidsraad

25. (1) Die LUR of sy/haar benoemde moet as voorsitter optree by die vergaderings van die Provinsiale Gesondheidsraad.
- (2) 'n Kворум van 'n Provinsiale Gesondheidsraad bestaan uit die meerderheid lede teenwoordig by die vergadering.
- (3) Die Provinsiale Gesondheidsraad kan sy eie reëls en prosedures vir sy vergaderings vasstel.
- (4) Die Provinsiale Gesondheidsraad moet minstens eenkeer elke drie maande vergader.
- (5) Die voorsitter beskik oor 'n beslissende en beraadslagende stem.
- (6) Lede van die Provinsiale Gesondheidsraad wat nie in diens is van die Staat nie moet redelikerwys vergoed word vir reis en verblyf uitgawes of toelaes ontvang vir die bywoning van vergaderings van die Raad of komitees wat deur die Raad in die lewe geroep is.

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Ampstermyn van die Provinsiale Gesondheidsraad

26. (1) Die ampstermyn van die lede van die Provinsiale Gesondheidsraad is 3 jaar.
- (2) 'n Lid kan heraangestel word vir 'n tweede termyn nà die verstryking van die eerste termyn.
- (3) Die LUR kan die lidmaatskap van 'n lid beeindig indien 'n lid -
- (a) vir twee agtereenvolgende vergaderings sonder 'n skriftelike verskoning afwesig was;
- (b) onbevoeg deur 'n hof verklaar word om sy of haar eie sake te behartig;
- (c) skuldig bevind word deur 'n hof en tot gevangenisstraf sonder die opsie van 'n boete gevonnis word;
- (d) bedank deur skriftelike kennis te gee en die LUR die bedanking aanvaar;
- (e) insolvent verklaar word en nie gerehabiliteer is nie; en

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- (3) A Provincial Health Council may consult with or receive representations from any person, organisation, institution or authority.
- 5 (4) The Provincial Health Council may create one or more committees to advise it on any matter.

Meetings of the Provincial Health Council

- 10 25. (1) The MEC or his/her nominee must preside over the meetings of the Provincial Health Council.
- (2) A quorum of a Provincial Health Council is the majority of the members present at the meeting.
- 15 (3) The Provincial Health Council may determine its rules and procedures governing the meetings.
- (4) The Provincial Health Council must meet at least once in every three months.
- 20 (5) The chairperson has a casting, as well as a deliberative vote.
- (6) Members of the Provincial Health Council who are not in the employ of the State must be paid reasonable subsistence and travelling expenses or allowances for attending the meetings of the Council or committees that are established by the Council.

Term of office of the Provincial Health Council

- 30 26. (1) The term of office of the members of the Provincial Health Council is 3 years.
- (2) A member may be reappointed for a second term after the expiry of the first term.
- 35 (3) The MEC may terminate membership of a member -
- (a) has been absent from more than two consecutive meetings without a written apology;
- 40 (b) is declared unable to manage his or her own affairs by a court of law;
- (c) is convicted by a court of law and sentenced to a prison term without an option of a fine;
- (d) resigns by giving written notice and the MEC accepts the resignation;
- 45 (e) is declared insolvent and is not rehabilitated; and

- (f) indien, na die mening van die LUR, grondige redes aangevoer word vir die beeindiging van die lidmaatskap van die lid;

Instelling van die Provinciale Raadplegende Gesondheidsforum

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27. 'n Provinciale Raadplegende Gesondheidsforum word hiermee in die lewe geroep.

Samestelling van die Provinciale Raadplegende Gesondheidsforum

28. Die Provinciale Raadplegende Gesondheidsforum bestaan uit lede waarvan die getal deur die LUR vasgestel word. 10

Funksies van die Provinciale Raadplegende Gesondheidsforum

29. Die Provinciale Gesondheidsforum kan - 15

- (a) op versoek van die LUR openbare forums byeenroep;
- (b) prosesse inisieer om 'n saak wat met gesondheid verband hou te oorweeg of te hersien; 20
- (c) 'n handeling uitvoer wat nodig is om die doelwitte van hierdie Wet te bevorder; en
- (d) interaksie, kommunikasie en uitruiling van inligting oor provinsiale gesondheidswessies bevorder en faciliteer. 25

Vergaderings van die Provinciale Raadplegende Gesondheidsforum

30. Die Provinciale Raadplegende Gesondheidsforum moet minstens eenkeer elke drie maande vergader. 30

HOOFSTUKS DISTRIKGESONDHEIDSTELSEL

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Instelling van distrikgesondheidstelsel

31. (1) 'n Distrikgesondheidstelsel word hiermee in die lewe geroep.
 (2) Die distrikgesondheidstelsel bestaan uit verskeie gesondheidsdistrikte. 40

Indeling van gesondheidsdistrikte in subdistrikte

32. (1) (a) Die LUR kan, met die instemming van die LUR verantwoordelik vir plaaslike regering in die betrokke provinsie en onderhewig aan subartikel (2), enige gesondheidsdistrik in die provinsie in subdistrikte opdeel en kan die grense van sodanige distrikte bepaal en verander. 45

- (f) if, in the opinion of the MEC, a good cause is shown for terminating membership of the member.

Establishment of Provincial Consultative Health Forum

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27. A Provincial Consultative Health Forum is hereby established.

Composition of the Provincial Consultative Health Forum

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28. The Provincial Consultative Health Forum consists of representatives from the Provincial Health Department and health organisations at the provincial and municipal level and/or all the relevant stakeholders.

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Functions of the Provincial Consultative Health Forum

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29. The Provincial Consultative Health Forum may-

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- (a) at the request of the MEC, convene public forums;
- (b) identify challenges and solutions to health care in the province;
- (c) perform an act that is necessary to promote the objectives of this Act; and
- (d) promote and facilitate interaction, communication and sharing of information on provincial health issues.

Meetings of the Provincial Consultative Health Forum

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30. The Provincial Consultative Health Forum must meet at least once in every twelve months.

CHAPTERS DISTRICT HEALTH SYSTEM

35

Establishment of district health system

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31. (1) A district health system is hereby established.

- (2) The district health system consists of various health districts.

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Division of health districts into subdistricts

32. (1) (a) The MEC may, with the concurrence of the MEC responsible for local government in the province in question and subject to subsection (2), divide any health district in the province into subdistricts and may determine and change the boundaries of such subdistricts.

- (b) Besonderhede oor 'n opdeling, bepaling of verandering moet in die *Provinciale Koerant* gepubliseer word.
- (2) Die LUR moet die beginsels in ag neem wat neergele is in artikels 27 en 195 van die Grondwet en die maatstawwe neergele in artikel 25 van die Wet op Plaaslike Regering: Munisipale Afbakening, 1998 (Wet Nr. 27 van 1998); 5

Instelling van distrikgesondheidsrade

33. (1) Die LUR, ná konsultasie met die LUR vir plaaslike regering in die provinsie en die munisipale raad van die distrik munisipaliteit, moet 'n distrikgesondheidsraad vir elke gesondheidsdistrik in sy of haar provinsie stig. 10
- (2) 'n Distrikgesondheidsraad bestaan uit - 15
- (i) 'n lid van die distrik munisipale raad wat in die betrokke gesondheidsdistrik gesetel is, genomineer deur die betrokke raad en is die voorstander van die distrikgesondheidsraad; 20
 - (ii) 'n lid van die raad van elke plaaslike munisipaliteit binne die gesondheidsdistrik, genomineer deur die lede van die betrokke raad;
 - (iii) 'n persoon aangestel deur die LUR om hom of haar te verteenwoordig; 25
 - (iv) voorstanders van die distrikhospitaalrade;
 - (v) 1 verteenwoordiger vanaf die nie-regerings organisasie se konsortium wat met gesondheidsake gemoeid is; 30
 - (vi) 'n lid van die raad van tradisionele gesondheidspraktisyens.
 - (vii) distrikgesondheidsbestuurder as 'n *ex officio* lid. 35
- (3) Pligte van die distrikgesondheidsraad - 40
- (a) bevorder saamwerkende staatsbestuur tussen homself en die distrikgesondheidsrade in die provinsie;
 - (b) sorg vir die koordinering van beplanning, begroting, voorsiening en monitering van alle gesondheidsdienste wat die inwoners raak van die gesondheidsdistrik vir wie die raad ingestel is; en

- (b) Details of a division, determination or change must be published in the *Provincial Gazette*.
- 5 (2) The MECs contemplated in subsection (1) must have due regard to the principles laid down in sections 27 and 195 of the Constitution and the criteria laid down in section 25 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998).
- 10 Establishment of district health councils
- 15 33. (1) The MEC, after consultation with the MEC responsible for local government in the province and the municipal council of the district municipality, must establish a district health council for every health district in his or her province.
- 20 (2) A district health council consists of -
- (i) a member of the district municipal council situated in the health district in question, nominated by the relevant council and is the Chairperson of the district health council.
- (ii) a member of the council of each local municipality within the health district, nominated by the members of the relevant council.
- 25 (iii) a person appointed by the MEC to represent him or her;
- (iv) chairperson of the district hospital boards;
- (v) 1 representative from the non-governmental organisation consortium that deals with health matters;
- 30 (vi) a member from the traditional health practitioner's council.
- (vii) district health manager as an *ex-officio* member.
- 35 (3) Duties of the district health council-
- 40 (a) promote co-operative governance between itself and the district health councils in the province;
- (b) ensure co-ordination of planning, budgeting, provisioning and monitoring of all health services that affect residents of the health district for which the council was established; and

- (c) adviseer die betrokke LUR, deur die Provinsiale Gesondheidsraad en die munisipale raad van die distrikmunisipaliteit, oor aangeleenthede wat handel oor gesondheid of gesondheidsdienste in die gesondheidsdistrik waarvoor die raad ingestel is. 5
- (4) Die Provinsiale Gesondheidsraad kan een of meer komitees skep om hom oor enige aangeleenthed te adviseer.
- (5) Die LUR moet verseker dat elke gesondheidsdistrik en elke gesondheidsubdistrik doelmatig bestuur word. 10

Ampstermyn van lede van die Distrikgesondheidsraad

34. (1) Die arnpstermyn van die lede van die Distrik Gesondheidsraad is 3 jaar. 15
- (2) 'n Lid van die Distrik Gesondheidsraad wie se arnpstermyn verstryk het, kan vir nog 'n termyn aangestel of genomineer word.
- (3) Die LUR kan die lidmaatskap van lid beeindig indien - 20
- (a) 'n lid vir twee agtereenvolgende vergaderings sonder skriftelike verskoning afwesig was;
- (b) 'n lid insolvent verklaar word en nie gerehabiliteer is nie; en 25
- (c) 'n lid deur 'n hof onbevoegd verklaar is om sy eie sake te behartig;
- (d) 'n lid bedank deur skriftelike kennis te gee en die LUR die bedanking aanvaar; 30
- (e) 'n lid skuldig bevind is en gevangenisstraf opgele word sonder die keuse van 'n boete;
- (4) Die LUR kan, indien grondige redes aangevoer word, versoek dat die lid deur die betrokke owerheid verwyder word indien - 35
- (a) die Distrikgesondheidsraad versuim om sy funksies te verrig;
- (b) dit in die belang van geregtigheid is. 40

Voorbereiding van distrikgesondheidsplanne

35. (1) Elke distrikgesondheidsbestuurder moet binne die provinsiale begrotingsiklus 'n distrikgesondheidsplan ontwikkel en aan die betrokke distrikgesondheidsraad en die LUR voorle wat opgestel is in ooreenstelling met die nasionale riglyne uitgereik deur die Direkteur-Generaal met behoorlike inagneming van die nasionale en provinsiale gesondheidsbeleide en die vereistes van die betrokke geïntegreerde ontwikkelingsplan wat voorberei is ingevolge artikel 25 van die Wet op Plaaslike regering: Munisipale Stelsels, 2000 (Wet Nr. 32 van 2000). 45 50

Term of office of members of the District Health Council

- 15 34. (1) The term of office of the members of the District Health Council is 3 years.

20 (2) A member of the District Health Council whose term of office has expired may be reappointed or nominated for another term.

25 (3) MEC may terminate membership of a member if -

30 (a) a member absents himself or herself from two consecutive meetings without a written apology;

35 (b) a member is declared insolvent and is not rehabilitated;

40 (c) a member is declared unfit by a court to manage his or her own affairs;

45 (d) a member resigns in writing and the MEC accepts the resignation;

50 (e) a member is convicted and sent to a prison term without an option of a fine.

55 (4) The MEC may, on good cause shown, request the removal of the member by the relevant authority if -

60 (a) the District Health Council fails to perform its functions;

65 (b) it is in the interest of justice.

Preparation of health district plans

- 45 35. (1) Each district health manager must within the provincial budget cycle develop and present to the district health council in question and the MEC a district health plan drawn up in accordance with national guidelines issued by the Director-General with due regard to national and provincial health policies and the requirements of the relevant integrated development plan prepared in terms of section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

- (2) Die LUR moet sorg dat elke gesondheidsdistrik 'n menslike hulpbronplan ontwikkel en implementeer in ooreenstemming met nasionale riglyne uitgereik deur die Direkteur-General,

Gesondheidsdienste wat deur munisipaliteite voorsien moet word

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36. (1) Elke distrik munisipaliteit moet sorg dat gepaste munispale gesondheidsdienste op doelmatige en billike wyse in hul onderskeie gebiede voorsien word.

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- (2) Die LUR moet sodanige gesondheidsdienste toewys aan 'n munisipaliteit in sy of haar provinsie soos beoog word in artikel 156(4) van die Grondwet.

- (3) 'n Ooreenkoms soos beoog in artikel 156(4) van die Grondwet moet voorsiening maak vir -

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- (a) die dienste wat deur die munisipaliteit gelewer moet word;

- (b) hulpbronne wat die LUR beskikbaar moet stel;

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- (c) werkverrigtingstandarde wat gebruik moet word om dienste te monitor wat deur die munisipaliteit gelewer word; en

- (d) voorwaardes waaronder die ooreenkoms beeindig kan word.

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Klinieke en gemeenskapsgesondheidsentrum-komitees

37. (1) Die LUR kan, na konsultasie met die distrikgesondheidsraad, 'n kliniekkomitee instel vir 'n wyk waarin 'n kliniek gelee is.

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- (2) Die kliniekkomitee moet bestaan uit -

- (a) 1 verteenwoordiger uit die wykkomitee wat verantwoordelik is vir gesondheidskwessies. Hy of sy sal optree as voorsitter van die komitee;

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- (b) 1 verteenwoordiger genomineer deur 'n organisasie vir mense met gestremdhede;

- (c) 1 verteenwoordiger genomineer deur die plaaslike sakegemeenskap;

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- (d) die bestuurder of senior amptenaar van die gesondheidsfasiliteit wat in die wyk gelee is;

- (e) 1 verteenwoordiger wat geregistreer is by die raad vir tradisionele gesondheidspraktisyne; en

45

- (f) 2 lede van 'n gemeenskap wat die kliniek gebruik.

- (2) The MEC must ensure that each health district develops and implements a district human resource plan in accordance with national guidelines issued by the Director-General.

5 Health services to be provided by municipalities

36. (1) Every district municipality must ensure that appropriate municipal health services are effectively and equitably provided in their respective areas.
- 10 (2) The MEC must assign such health services to a municipality in his or her province as are contemplated in section 156(4) of the Constitution.
- 15 (3) An agreement contemplated in section 156(4) of the Constitution must provide for -
- 20 (a) the services to be rendered by the municipality;
- (b) the resources that the MEC 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.

25 Clinics and community health centre committees

37. (1) The MEC may, after consultation with district health council, establish a clinic committee for a ward in which a clinic is situated.
- 30 (2) The clinic committee must consist of-
- 35 (a) 1 representative from the ward committee who is responsible for health issues, who will act as a chairperson of the committee;
- (b) 1 representative nominated by an organisation of people with disabilities;
- (c) 1 representative nominated by the local business community;
- 40 (d) the manager or senior official of the health facility which is situated in the ward;
- (e) 1 representative registered with the traditional health practitioners council; and
- 45 (f) 2 member of a community who uses the clinic.

- (g) nie meer as 3 lede met vaardigheidskennis in gesondheidsdienste deur die LUR of sy/haar benoemde aangestd.
- (3) Die kliniekkomitee moet -
- (a) die bestuur adviseer oor 'n gesondheidsfasiliteit binne sy area van jurisdiksie;
- (b) administratiewe klagtes ondersoek ten opsigte van 'n gesondheidsfasiliteit binne sy area van jurisdiksie en aanbevdings doen betreffende die oplossing van klagtes aan die distriksgesondheidsraad wat dit aan die LUR moet stuur indien eersgenoemde nie in staat is om die klagte te hanteer nie;
- (c) gebruikers help met die toepassing van die klagteprosedures;
- (d) planne vir dielewering van plaaslike gesondheidsdienste hersien en goedkeur;
- (e) probleme met dielewering van gesondheidsdienste ten opsigte van 'n gesondheidsfasiliteit binne sy jurisdiksie ondersoek en aanbevelings doen aan die distrikgesondheidsraad wat dit aan die LUR moet stuur indien eersgenoemde nie in staat is om die klagtes te hanteer nie;
- (f) skakel en inligting uitruil met ander gesondheidsorganisasies en fasiliteite wat binne die area van die plaaslike munisipaliteit geleë is;
- (4) (a) Die ampstermy van 'n kliniekkomitee is 3 jaar.
- (b) 'n Lid wie se ampstermy verstryk het kan in aanmerking kom vir her-aanstelling of herbenoeming.
- (c) Die LUR kan 'n lid se lidmaatskap beeindig indien 'n lid-
- (i) vir twee agtereenvolgende vergaderings afwesig is sonder 'n skriftdike verskoning
- (ii) onbevoeg deur 'n hof verklaar word om sy of haar eie sake te behartig;
- (iii) insolvent verklaar word en nie gerehabiliteer is nie; en
- (iv) bedank deur skriftdike kennis te gee en die LUR die bedanking aanvaar; en
- (v) skuldig bevind en gevangenisstraf opgele word sonder die keuse van 'n boete;

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(g) not more than 3 members who have expertise in health services appointed by the MEC or his/her nominee.

(3) The clinic committee must -

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(a) advise the management of a health facility within its area of jurisdiction;

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(b) investigate administrative complaints in respect of a health facility within its area of jurisdiction and make recommendations regarding the solutions of complaints to the district health council who must forward them to the MEC if the former is unable to address the complaints;

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(c) assist users in following the complaints procedures;

(d) review and approve local health delivery plans;

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(e) investigate health service delivery problems in respect of a health facility within its jurisdiction and make recommendations to the district health council who must forward them to the MEC if the former is unable to address the complaints and;

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(t) liaise with and share information with other health organisations and facilities that are situated within the area of local municipality.

(4) (a) The term of office of a clinic committee is 3 years.

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(b) A member whose term of office has expired is eligible for re-appointment or re-nomination.

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(c) The MEC may terminate a member's membership if a member-

(i) is absent from two consecutive meetings without a written apology;

(ii) is declared to be unable to manage his or her own affairs by a court of law;

(iii) is declared insolvent and is not rehabilitated;

(iv) resigns in writing and the MEC accepts the resignation;

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(v) is convicted and sentenced to a prison term without an option of a fine.

- (5) (a) Die kliniekkomitee moet minstens eenkeer per maand vergader.
- (b) Die kliniekkomitee moet die reëls bepaal wat die procedures van vergaderings reël.
- (c) Die voorsitter moet die plek en tye van vergaderings bepaal.
- (d) 'n Kworum van die kliniekkomitee bestaan uit die meerderheid van lede teenwoordig by die vergadering.

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Gesondhedsdienste by nie-gesondheidsinstansies en by openbare gesondheidsinstansies buiten hospitale

38. (1) Die LUR kan die volgende voorskryf-

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- (a) minimum standaarde en vereistes vir die voorsiening van gesondhedsdienste in ander plekke as gesondheidsinstansies, met inbegrip van skole en ander openbare plekke; en
- (b) boetes vir 'n oortreding van of versuum om sodanige standaarde of vereistes na te kom.

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- (2) Die LUR kan, by wyse van kennisgewing in die *Provinsiale Koerant*, voorsiening maak vir gesondhedsdienste by ander gesondheidsinstansies in die provinsie as hospitale.

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Betrekkinge tussen openbare en private gesondheidsinstansies

39. (1) Die LUR moet mechanismes vasstel wat 'n gekoördineerde verhouding tussen private en openbare gesondheidsinstansies moontlik maak in die lewering van gesondhedsdienste.

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- (2) Die provinsiale departement of 'n munisipaliteit kan 'n ooreenkoms aangaan met enige private praktisyne, private gesondheidsinstansie of nie-regeringsorganisasie ten einde enige oogmerk van hierdie Wet te bereik.

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- (3) 'n Ooreenkoms beoog in subartikel (2) moet voldoen aan die Wet op Openbare Finansiele Bestuur 1999 (Wet Nr. 1 van 1999), of die Wet op Munisipale Finansiele Bestuur (Wet Nr. 56 van 2003), watter een ookal van toepassing.

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Verpligtinge van private gesondheidsinstansies

40. Elke private gesondheidsinstansie moet genoeg versekeringsdekking in stand hou om 'n gebruiker te vergoed vir enige skade wat hy of sy mag ly as gevolg van 'n onregmatige handeling deur 'n lid van die inrigting se personeel.

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- (5) (a) The clinic committee must meet at least once a month.
- (b) The clinic committee must determine the rules governing the procedure at the meetings.
- 5 (c) The chairperson must determine the place and times of the meetings.
- 10 (d) Quorum of the clinic committee is the majority of members present at the meeting.

Health services at non-health establishments and at public health establishments other than hospitals

- 15 38. (1) The MEC may prescribe -
- (a) minimum standards and requirements for the provision of health services in locations other than health establishments, including schools and other public places; and
- 20 (b) penalties for a contravention of or failure to comply with such standards or requirements.
- (2) The MEC may, by notice in the *Provincial Gazette*, make provision for health services at health establishments in the province other than hospitals.

- 25 Relationship between public and private health establishments
- 30 39. (1) The MEC must determine mechanisms to enable a co-ordinated relationship between private and public health establishments in the delivery of health services.
- (2) The provincial department or a municipality may enter into an agreement with any private practitioner, private health establishment or nongovernmental organisation in order to achieve any object of this Act.
- 35 (3) An agreement contemplated in subsection (2) must comply with the Public Finance Management Act, 1999 (Act No. 1 of 1999), or Municipal Finance Management Act, 2003 (Act No. 56 of 2003), whichever is relevant.
- 40 Obligations of private health establishments
- 45 40. Every private health establishment must maintain insurance cover sufficient to indemnify a user for damages that he or she might suffer as a consequence of a wrongful act by a member of its staff or its employees.

HOOFSTUK6
PROVINSIALE GESONDHEIDSNAVORSING EN INLIGTING

Gesondheidsnavorsingskomitee

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41. (1) 'n Komitee wat bekend sal staan as die Proviniale Gesondheidsnavorsingskomitee word hiermee in die lewe geroep.

(2) (a) Die Proviniale Gesondheidsnavorsingskomitee bestaan uit hoogstens 10 persone, aangestel deur die LUR na konsultasie met die Proviniale Gesondheidsraad.

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(b) en Persoon aangestel is ingevolge paragraaf (a) -

(i) dien vir 'n termyn van hoogstens 3 jaar en kan heraangestel word en

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(ii) hou op om 'n lid te wees wanneer hy of sy bedank of om grondige redes deur die LUR versoek word om te bedank.

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(c) 'n Vakature in die Proviniale Gesondheidsnavorsingskomitee moet gevul word deur die aanstelling van 'n persoon vir die onverstrekke gedeelte van die armpstermy van die lid in wie se plek die persoon aangestel word, en op dieselfde wyse waarop die lid ingevolge paragraaf (a) aangestel was.

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(3) Die Proviniale Gesondheidsnavorsingskomitee moet -

(a) gesondheidsnavorsing bepaal wat in die provinsie uitgevoer moet word;

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(b) sorg dat die gesondheidsnavorsingsagendas en navorsingshulpbronne op prioriteit gesondheidsprobleme fokus;

(c) die LUR adviseer oor die toepassing en implementering van 'n geïntegreerde nasionale strategie vir gesondheidsnavorsing; en

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(d) die navorsingsaktiwiteite van openbare gesondheidswerkhede koordineer,

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(4) Die LUR moet die wyse voorskryf waarop die Proviniale Gesondheidsnavorsingskomitee sy sake moet bedryf en die prosedure wat gevolg moet word by vergaderings van die komitee, insluitende die wyse waarop die besluite geneem moet word.

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(5) 'n Lid van die Proviniale Gesondheidsnavorsingskomitee wat nie voltyds in diens is by die Staat nie moet ten opsigte van sy of haar diens as 'n lid sodanige reis- en verblyfuitgawes en -toelaes soos wat nodig is betaal word soos deur die LUR bepaal.

CHAPTER 6
PROVINCIAL HEALTH RESEARCH AND INFORMATION

Provincial Health Research Committee

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41. (1) A committee to be known as the Provincial Health Research Committee is hereby established.

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(2) (a) The Provincial Health Research Committee consists of not more than 10 persons, appointed by the MEC after consultation with the Provincial Health Council.

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(b) A person appointed in terms of paragraph (a) -

(i) serves for a term of not more than 3 years and may be reappointed and

(ii) ceases to be a member on resignation or if requested by the MEC on good cause shown to resign.

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(c) A vacancy in the Provincial Health Research Committee must be filled by the appointment of a person for the unexpired portion of the term of office of the member in whose place the person is appointed, and in the same manner in which the member was appointed in terms of paragraph (a).

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(3) The Provincial Health Research Committee must -

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(a) determine the health research to be carried out in the province;

(b) ensure that health research agendas and research resources focus on priority health problems;

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(c) develop and advise the MEC on the application and implementation of an integrated national strategy for health research; and

(d) coordinate the research activities of public health authorities.

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(4) The MEC must prescribe the manner in which the Provincial Health Research Committee must conduct its affairs and the procedure to be followed at meetings of the Committee, including the manner in which decisions must be taken.

45

(5) A member of the Provincial Health Research Committee who is not in the full-time employment of the State must in respect of his or her service as a member be paid such necessary travelling and subsistence expenses and allowances as determined by the MEC.

Identifisering van prioriteite vir gesondheidsnavorsing

42. (1) Die Proviniale Gesondheidsnavorsingskomitee moet pnoteite vir gesondheidsnavorsing identifiseer en die die LUR daaroor adviseer.

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(2) Wanneer voorkeure vir gesondheidsnavorsing geïdentifiseer word, moet die Proviniale Gesondheidsnavorsingskomitee die volgende in ag neem:

(a) die voorkoms en uitwerking van siektes;

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(b) die koste-effektiwiteit van ingrypings wat daarop gemik is om die voorkoms en uitwerking van siektes te verminder;

(c) die beskikbaarheid van menslike en institusionele hulpbronne vir die implementering van 'n ingryping op dievlak wat naaste is aan die gemeenskappe wat geraak word;

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(d) die gesondheidsbehoeftes van kwesbare groepe soos vroue, bejaardes, kinders en mense met gestremdhede; en

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(e) die gesondheidsbehoeftes van gemeenskappe.

Proviniale Komitee vir Gesondheidsinligtingstselsels

43. (1) 'n Raad bekend as die Proviniale Gesondheidsinligtingskomitee word hiermee in die lewe geroep.

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(2) Die Proviniale Gesondheidsinligtingskomitee sal bestaan uit -

(a) 1 lid van die provinsiale kantoor van die Staat se Inligting en Tegnologie Agentskap (SITA) of 'n verteenwoordiger aanbeveel deur SITA se hoofkantoor.

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(b) 1 verteenwoordiger van die Departement van Binnelandse sake;

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(c) 1 verteenwoordiger van die kantoor van Statistiek Suid-Afrika in die provinsie;

(d) 1 lid van die fakulteit van gesondheidswetenskappe;

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(e) die hoof van Inligtingsbestuur in die Departement;

(f) 1 verteenwoordiger van SALGA;

(g) 1 verteenwoordiger van 'n inrigting vir hoer onderwys;

45

(h) 1 verteenwoordiger uit die private gesondheidsektor;

Identification of health **research** priorities

42. (1) The Provincial Health Research Committee must identify and advise the MEC on health research priorities.
- 5 (2) In identifying health research priorities, the Provincial Health Research Committee must have regard to-
- 10 (a) the prevalence and effect of disease;
- 15 (b) the cost-effectiveness of interventions aimed at reducing the prevalence and effect of disease;
- (c) the availability of human and institutional resources for the implementation of an intervention at the level closest to the affected communities;
- 20 (d) the health needs of vulnerable groups such as woman, older persons, children and people with disabilities; and
- 25 (e) the health needs of communities.

Provincial Health Information Systems Committee

- 25 43. (1) A committee known as the Provincial Health Information Committee is hereby established.
- (2) The Provincial Health Information Committee shall consist of-
- 30 (a) 1 member from the provincial office of the State Information and Technology Agency or SITA or a representative recommended by SITA head office;
- 35 (b) 1 representative from the Department of Home Affairs;
- (c) 1 representative from the office of the Statistics South Africa in the province;
- (d) 1 member from the faculties of health sciences;
- 40 (e) the head of Information Management in the Department;
- (f) 1 representative from SALGA.
- 45 (g) 1 representative from an institution of higher learning.
- (h) 1 representative from the private health sector.

- (i) verteenwoordigers van die distrikgesondheidsinligtingskomitee.
 - (j) 3 verteenwoordigers wat programbestuurders is; en
 - (k) enige ander toepaslike lede. 5
- (3) Die Proviniale Gesondheidsinligtingskomitee moet -
- (a) die implementering van beleide en die aanbevelings van die Nasionale Gesondheidsinligtingstelsel op provinsiale en distrikvlak aanmoedig en fasiliteer; 10
 - (b) die gebruik van data in die provinsie vir gesondheidsbeplanning en gesondheidsbewustheid bevorder en aanmoedig; 15
 - (c) met die volgende instansies raadpleeg en skakel:
 - (i) provinsiale gesondheidsraad;
 - (ii) distrikgesondheidsrade; en 20
 - (iii) die munisipaliteit wat gesondheidsdienste in sy jurisdiksiegebied voorsien;
 - (d) met die volgende raadpleeg en skakel: 25
 - (i) akademiese navorsingsinrigtings;
 - (ii) gesondheidsorganisasies en -inrigtings wat verantwoordelik is vir gesondheidsverwante inligting voorsien; 30
 - (iii) openbare en private gesondheidsorgverskaffers; en
 - (iv) gemeenskaps- en ontwikkelingsorganisasies wat gesondheidsorg ontvang of wat deelneem aan gesondheidsorgdienste; 35
 - (e) sorg dat subkomitees gestig word in die distrikte wat die Proviniale Gesondheidsinligtingskomitee sal help en inlig. 40
- (4) (a) Die ampstermy van 'n Proviniale Gesondheidsinligtingskomitee is 3 jaar.
- (b) 'n Lid wie se ampstermy verstryk het kan in aanmerking kom vir her-aanstelling. 45

- (i) representatives from the district health information committee;
- (j) 3 representatives who are programme managers; and
- 5 (k) any other relevant members.
- (3) The Provincial Health Information Committee must -
- 10 (a) encourage and facilitate the implementation of policies and the recommendations of the National Health Information System at provincial and district level;
- (b) promote and encourage awareness of the use of data in the province for health planning and health awareness;
- 15 (c) consult and liaise with-
- 20 (i) provincial health council;
- (ii) district health councils; and
- (iii) the municipality which provide health services in its area of jurisdiction;
- 25 (d) consult and liaise with -
- (i) academic research institutions;
- (ii) health organisations and institutions responsible or providing health related information;
- 30 (iii) public and private health care providers; and
- (iv) community and development organisations that are receiving health care or participating in health care services.
- 35 (e) ensure the establishment of the subcommittees in the districts that will assist and inform the Provincial Health Information Committee.
- 40 (4) (a) The term of office of the Provincial Health Information Committee is 3 years.
- (b) A member whose term of office has expired is eligible for re-appointment.

- (c) Die LUR kan 'n lid se lidmaatskap beeindig indien-
- (i) 'n lid vir twee agtereenvolgende vergaderings afwesig is sonder 'n skriftelike verskoning 5
 - (ii) 'n lid deur 'n hof onbevoegd verklaar word om sy eie sake te behartig;
 - (iii) insolvent verklaar word en nie gerehabiliteer is nie; en 10
 - (iv) 'n lid bedank deur skriftelike kennis te gee en die LUR die bedanking aanvaar;
 - (v) 'n lid skuldig bevind is en gevangenisstraf opgele word sonder die keuse van 'n boete; 15
- (5) (a) Die Provinciale Gesondheidsinligtingskomitee moet minstens eenkeer elke drie maande vergader. 20
- (b) Die LUR moet die voorsitter uit lede van die Provinciale Gesondheidsinligtingskomitee aanstel.
- (c) Die voorsitter van die Provinciale Gesondheidsinligtingskomitee moet die plek en tye van die vergaderings vasstel. 25
- (c) Die Provinciale Gesondheidsinligtingskomitee moet die reëls vasstel vir die procedures vir vergaderings.
- (d) 'n Kворum van die Provinciale Gesondheidsinligtingskomitee bestaan uit die helfte van die lede teenwoordig plus een. 30
- (e) Die lede van die Provinciale Gesondheidsinligtingskomitee wat nie werknemers van die staat is nie moet reis- en verblyftoeaars ontvang wanneer hulle vergaderings van die komitee bywoon. 35

Plichte van distrikgesondheidsrade en munisipaliteit

44. Elke distrikgesondheidsraad en elke munisipaliteit wat 'n gesondheidsdiens voorsien moet 'n gesondheidsinligtingstelsel instel en in stand hou as deel van die nasionale gesondheidsinligtingstelsel beoog in artikel 43. 40

HOOFSTUK7 GESONDHEIDSBEAMPTES EN NAKOMINGSPROSEDURES

- Aanstelling van gesondheidsbeamptes 45
45. (1) Die LUR kan 'n persoon wat in diens van die departement is as 'n gesondheidsbeampte vir die provinsie aanstel.

- (c) The MEC may terminate a member's membership if-
- (i) a member is absent from two consecutive meetings without a written apology;
 - (ii) a member is declared to be unable to manage his or her own affairs;
 - (iii) a member is declared insolvent and is not rehabilitated;
 - (iv) a member resigns in writing and the MEC accepts the resignation; and
 - (v) a member is convicted and sentenced to a prison term without an option of a fine.
- (5) (a) The Provincial Health Information Committee must meet at least once in every 3 months.
- (b) The MEC must appoint the chairperson from the members of the Provincial Health Information Committee.
- (c) The chairperson of the Provincial Health Information Committee must determine the place and times of the meetings.
- (d) The Provincial Health Information Committee must determine the rules governing the procedures of its meetings.
- (e) A quorum of the Provincial Health Information Committee is half the members present plus one.
- (f) The members of the Provincial Health Information Committee who are not employees of the public service must be paid travelling and subsistence expenses or allowances for attending the meetings of the committee.

Duties of district health councils and municipalities

44. Every district health council and every municipality which provides a health service must establish and maintain a health information system as part of the national health information system contemplated in section 43.

CHAPTER 7 HEALTH OFFICERS AND COMPLIANCE PROCEDURES

Appointment of health officers

45. (1) The MEC may appoint a person in the employ of the Department as a health officer for the province.

(2)	Die burgemeester van 'n distriksraad kan 'n persoon wat in diens van die raad is as 'n gesondheidsbearnpte vir die distriksmunisipaliteit aanstel.	
(3)	'n Aanstelling kragtens subartikel (1) kan algemeen wees of vir 'n spesifieke dod.	5
(4)	Die LUR kan die Proviniale Kommissaris van die Suid-Afrikaanse Polisiediens vra om 'n lid van die diens aan te wys as gesondheidsbeampte vir die provinsie.	10
(5)	Die LUR moet aan elke gesondheidsbeampte 'n dokument in die voorgeskrewe vorm uitreik waarin gesertifiseer word dat hy of sy aangestel of aangewys is as 'n gesondheidsbeampte.	
	Pligte van gesondheidsbeamptes	15
46.	'n Gesondheidsbeampte moet die nakoming van hierdie Wet monitor en toepas.	
	Roetine inspeksies	20
47. (1)	'n Gesondheidsbeampte mag persele, behalwe 'n private woning, te enige redelike tyd betree en -	
(a)	sodanige persele inspekt eer ten einde nakoming van die Wet te verseker;	25
(b)	'n persoon ondervra wie hy of sy glo oor inligting beskik wat toepaslik is vir die inspeksie;	
(c)	van die persoon wat in beheer is van sodanige perseel te vereis dat 'n dokument gelewer word wat so 'n persoon ingevolge die wet verplig word om te hou, vir inspeksie of vir die doel om afskrifte of uittreksels daarvan te bekom; en	30
(d)	monsters te neem van 'n rniddel wat toepaslik is vir die inspeksie.	35
(2)	'n Gesondheidsbeampte kan vergesel word van 'n tolk en enige ander persoon wat redelikerwyse deur hom of haar benodig word om bystand te lewer met die inspeksie;	40
(3)	'n Gesondheidsbeampte kan 'n nakomingskennisgewing uitreik aan die persoon wat in beheer is van die perseel indien daar nie voldoen is aan enige bepaling van hierdie Wet nie;	
(4)	'n Nakomingskennisgewing bly van krag totdat daar voldoen is aan die toepaslike bepaling van die Wet en die gesondheidsbeampte 'n nakomingsertifikaat uitgereik het ten opsigte van daardie kennisgewing.	45

- (2) The mayor of a district council may appoint a person in the employ of the council as a health officer for the district municipality.
- 5 (3) An appointment under subsection (1) may be general or for a specific purpose.
- (4) The MEC may request the Provincial Commissioner of the South African Police Service to designate a member of the Service as a health officer for the province.
- 10 (5) The MEC must issue to every health officer a document in the prescribed form certifying that he or she has been appointed or designated as a health officer.

15 **Duty of health officers**

46. A health officer must monitor and enforce compliance with this Act.

20 **Routine inspections**

- 25 47. (1) A health officer may enter premises, excluding a private dwelling, at a reasonable time and -
- (a) inspect such premises in order to ensure compliance with this Act;
- (b) question a person who he or she believes may have information relevant to the inspection;
- 30 (c) require the person in charge of such premises to produce, for inspection or for the purpose of obtaining copies or extracts thereof or therefrom, a document that such person is required to maintain in terms of a law; and
- (d) take samples of a substance that is relevant to the inspection.
- 35 (2) A health officer may be accompanied by an interpreter and other person reasonably required to assist him or her in conducting the inspection.
- 40 (3) A health officer may issue a compliance notice to the person in charge of the premises if any provision of this Act has not been complied with.
- (4) A compliance notice remains in force until the relevant provision of the Act has been complied with and the health officer has issued a compliance certificate in respect of that notice.

(5) 'n Gesondheidsbeampte wat 'n artikel verwyder behalwe dit wat in subartikel (1)(d)beoog word moet-

(a) 'n kwitansie daarvoor uitreik aan die persoon in beheer van die perseel; en

5

(b) onderhewig aan die Strafproseswet, 1977 (Wet Nr. 51 van 1977), dit so gou as moontlik terugbesorg nadat die doel bereik is waarvoor dit verwyder is.

10

Omgewingsgesondheidsondersoeke

48. (1) Indien 'n gesondheidsbeampte grondige redes het om te glo dat 'n toestand bestaan wat -

15

(a) 'n skending uitmaak van die reg vervat in artikel 24(a) van die Grondwet;

(b) besoedeling uitmaak wat nadelig is vir gesondheid;

20

(c) 'n moontlike gesondheidswantoestand kan veroorsaak;

(d) 'n gesondheidswantoestand of gesondheidsgevaar uitmaak,

moet die gesondheidsbeampte sodanige toestand ondersoek.

25

(2) Indien die ondersoek wys dat 'n toestand betsaan soos beoog in subartikel (1), moet die gesondheidsbeampte poog om die identiteit vas te stel van die persoon wat verantwoordelik is vir sodanige toestand.

30

(3) Die gesondheidsbeampte moet 'n nakomingskennisgiving uitreik aan die persoon wat geïdentifiseer is as die persoon verantwoordelik vir die toestand soos beoog in subartikel (1) om die nodige regstellingsaksie te neem ten einde sodanige toestand te verminder, verwijder of reg te stel.

35

(4) 'n Persoon wat verontreg voel deur 'n bepaling of instruksie igevolge subartikel (2) of (3) kan, binne 'n tydperk van 14 dae vanaf die datum waarop hy of sy bewus geraak het van die bepaling of instruksie, appel aanteken by die Hoof van die Departement van Gesondheid.

40

(5) Die Hoof van die Departement van Gesondheid moet sy of haar besluit bekend maak binne 15 dae nadat kennis ontvang is van die appelkennisgiving.

(5) A health officer who removes an item other than that contemplated in subsection (l)(d) must-

5 (a) issue a receipt for it to the person in charge of the premises; and

(b) subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), return it as soon as practicable after achieving the purpose for which it was removed.

10 Environmental health investigations

48. (1) If a health officer has reasonable grounds to believe that a condition exists which -

15 (a) constitutes a violation of the right contained in section 24 (a) of the Constitution;

(b) constitutes pollution detrimental to health;

20 (c) is likely to cause a health nuisance; or

(d) constitutes a health nuisance or health hazard,

the health officer must investigate such condition.

25 (2) If the investigation reveals that a condition contemplated in subsection (1) exists, the health officer must endeavour to determine the identity of the person responsible for such condition.

30 (3) The health officer must issue a compliance notice to the person identified to be responsible for a condition contemplated in subsection (1) to take appropriate corrective action in order to minimise, remove or rectify such condition.

35 (4) A person aggrieved by a determination or instruction in terms of subsection (2) or (3) may, within a period of 14 days from the date on which he or she became aware of the determination or instruction, lodge an appeal with the Head of the Department of Health.

40 (5) The Head of the Department of Health must make his or her decision known within 15 days after receiving the notice of appeal.

Betreding en visintering van perseel met lasbrief

49. (1) 'n Gesondheidsbeampte wat deur 'n polisiebeampte vergesel word kan, op grond van die lasbrief uitgereik ingevolge subartikel (5) en onderhewig aan subartikel 45(5), 'n perseel, insluitende 'n private woning, wat in die lasbrief gespesifieer word, binnegaan, en - 5
- (a) enige dokument, rekord, voorwerp of materiaal inspekteer, fotografeer, kopieer, toets en nagaan, of laat inspekteer, fotografeer, kopieer, toets en nagaan; 10
 - (b) op 'n dokument, rekord, voorwerp of materiaal beslag lê indien hy of sy vennoed dat dit as getuenis in 'n strafsaak gebruik kan word; en 15
 - (c) 'n aktiwiteit, werkzaamheid of proses ondersoek wat op die perseel uitgevoer word.
- (2) 'n Gesondheidsbeampte wat 'n dokument, rekord, voorwerp of materiaal vanaf die perseel wat visintenter word verwyder, moet - 20
- (a) 'n kwitansie daarvoor uitreik aan die persoon in beheer van die perseel; en
 - (b) tensy dit 'n artikel is wat ingevolge die Wet verbied word, dit so spoedig moontlik terugbesorg nadat die doel bereik is waarvoor dit verwyder is. 25
- (3) Op versoek van die gesondheidsbeampte wat ingevolge 'n lasbrief optree wat ingevolge subartikel (5) uitgereik is, moet die bewoner en ander persoon aanwesig op die perseel 30
- (a) 'n dokument, rekord, voorwerp of materiaal aan die gesondheidsbeampte beskikbaar stel of toeganklik maak wat betrekking het op 'n ondersoek beoog in subartikel (1) en wat in besit is van of onder die beheer is van die bewoner of ander persoon; 35
 - (b) sodanige inligting verskaf soos wat hy of sy oor beskik met betrekking tot die aangeleentheid wat ondersoek word; en 40
 - (c) sodanige redelike hulp verleen soos wat die gesondheidsbeampte mag benodig om sy funksies ingevolge hierdie Wet uit te voer
- (4) Voordat 'n persoon ondervra word by die perseel wat ondersoek word, moet die gesondheidsbeampte of polisiebeampte die persoon inlig oor sy reg om te swyg en om deur 'n advokaat of prokureur bygestaan te word, en die persoon toelaat om hierdie reg uit te oefen. 45

Entry and search of premises with warrant

49. (1) A health officer accompanied by a police officer may, on the authority of a warrant issued in terms of subsection (5) and subject to subsection 45(5), enter a premises specified in the warrant, including a private dwelling, and -
- 5 (a) inspect, photograph, copy, test and examine any document, record, object or material, or cause it to be inspected, photographed, copied, tested and examined;
- 10 (b) seize a document, record, object or material if he or she has reason to suspect that it might be used as evidence in a criminal trial; and
- 15 (c) examine an activity, operation or process carried out on the premises.
- (2) A health officer who removes a document, record, object or material from the premises being searched must -
- 20 (a) issue a receipt for it to the owner or person in control of the premises; and
- 25 (b) unless it is an item prohibited in terms of this Act, return it as soon as practicable after achieving the purpose for which it was removed.
- (3) Upon the request of a health officer acting in terms of a warrant issued in terms of subsection (5), the occupant and other person present on the premises must -
- 30 (a) make available or accessible or deliver to the health officer a document, record, object or material which pertains to an investigation contemplated in subsection (1) and which is in the possession or under the control of the occupant or other person;
- 35 (b) furnish such information as he or she has with regard to the matter under investigation; and
- 40 (c) render such reasonable assistance as the health officer may require to perform his or her functions in terms of this Act efficiently.
- 45 (4) Before questioning a person at the premises that is being searched, the health officer or police officer must advise that person of his or her right to remain silent and to be assisted by an advocate or attorney and allow that person to exercise that right.

- (5) en Lasbrief soos beoog in subartikel (1) kan deur en regter of landdros uitgereik word -
- (a) met betrekking tot persele waarop of vanwaar dit vermoed word dat en oortreding van hierdie Wet begaan is of word; en 5
- (b) indien dit sou blyk uit inligting verkry uit beedigde verklarings of bevestigings dat daar redelike gronde bestaan om te glo dat getuenis beskikbaar is van en oortreding van hierdie Wet by of op sodanige persele. 10
- (6) Die lasbrief kan beperkings plaas op die bevoegdhede van die gesondheidsbeampte.
- en Lasbrief wat ingevolge hierdie artikel uitgereik word - 15
- (a) bly van krag totdat -
- (i) dit uitgevoer word; 20
- (ii) dit gekanselleer word deur die persoon wat dit uitgereik het of, indien sodanige persoon nie beskikbaar is nie, deur en persoon met wat met dieselfde gesag beklee is;
- (iii) een maand verstryk het vanaf die dag van uitreiking; of 25
- (iv) die doel waarvoor die lasbrief uitgereik is, verval het,
- wat ook al eerste plaasgevind het; en 30
- (b) moet deur die dag uitgevoer word tensy die persoon wat die lasbrief uitreik magtig gee dat dit in die aand uitgevoer kan word.
- (8) en Persoon is nie geregtig op vergoeding vir verlies of skade wat voortspruit uit en bona fide optrede deur en polisiebeampte of gesondheidsbeampte kragtens hierdie artikel nie. 35

Identifikasie voor betreding, en weerstand teen betreding

50. (1) en Gesondheidsbeampte wat en lasbrief ingevolge artikel 49(5) bekom het, of die polisiebeampte wat hom of haar vergesel het, moet onmiddellik voordat die betrokke perseel binnegegaan word - 40
- (a) hoorbaar aankondig dat hy of sy gemagtig is om die perseel te betree en aandring om tot die perseel toegelaat te word; en 45

- (5) A warrant contemplated in subsection (1) may be issued by a judge or a magistrate -
- 5 (a) in relation to premises on or from which there is reason to believe that a contravention of this Act has been or is being committed; and
- (b) if it appears from information on oath or affirmation that there are reasonable grounds to believe that there is evidence available in or upon such premises of a contravention of this Act.
- 10 (6) The warrant may impose restrictions on the powers of the health officer.
- (7) A warrant issued in terms of this section -
- 15 (a) remains in force until -
- (i) it is executed;
- 20 (ii) it is cancelled by the person who issued it or, if such person is not available, by a person with equal authority;
- (iii) the expiry of one month from the day of its issue; or
- (iv) the purpose for the issuing of the warrant has lapsed,
- 25 whichever occurs first; and
- (b) must be executed by day unless the person who issues the warrant authorises the execution thereof by night.
- 30 (8) A person is not entitled to compensation for a loss or damage arising out of a bona fide action by a police officer or health officer under this section.

- 35 Identification prior to entry, and resistance against entry
50. (1) A health officer who has obtained a warrant in terms of section 49(5) or the police officer accompanying him or her must immediately before entering the premises in question -
- 40 (a) audibly announce that he or she is authorised to enter the premises and demand admission to the premises; and

- (b) die persoon in beheer van die perseel in kennis te stel van die doel van die betreding,
tensy daar grondige redes bestaan om te glo dat sodanige aankondiging of kennisgewing die doel van die visintering kan verydel. 5
- (2) Die gesondheidsbeampte moet-
- (a) 'n afskrif van die lasbrief aan die persoon in beheer van die perseel oorhandig of, indien sodanige persoon nie aanwesig is nie, sodanige afskrif op 'n opsigtelike plek op die perseel aanbring; en 10
- (b) op versoek van die persoon in beheer van sodanige perseel, sy of haar aanstellingsertifikaat as gesondheidsbeampte aan die persoon toon. 15
- (3) 'n Gesondheidsbeampte of polisiebeampte soos beoog in subartikel (1) kan weerstand teen die betreding oorkom en die visintering doen deur van sodanige dwangmetodes gebruik te maak soos wat redelikerwys vereis word, onder meer deur 'n deur of venster van die perseel te breek. 20
- (4) Voordat enige dwang gebruik word, moet die gesondheidsbeampte of polisiebeampte op hoorbare wyse aandring op toegang en die doel van die betreding aankondig, tensy grondige redes bestaan om te glo dat sodanige optrede die doel van die visintering kan verydel. 25

Betreding en visintering van perseel sonder lasbrief

51. 'n Gesondheidsbeampte wat deur 'n polisiebeampte vergesel word kan sonder 'n lasbrief enige bevoegdheid uitoefen waarna verwys word in Artikel 49(1) indien 30
- (a) die persoon wat oor die bevoegdheid beskik, instem tot sodanige handeling; of
- (b) daar grondige redes bestaan om te glo dat 'n lasbrief ingevolge artikel 49(5) uitgereik sal word en dat die vertraging met die verkryging van die lasbrief die doel van die lasbrief kan verydel. 35

Beskikking van items waarop beslag **gelê** word deur gesondheidsbeampte

- 40
52. (1) Die gesondheidsbeampte moet die artikels waarop beslag **gelê** word ingevolge artikel 49 of 51 onverwyld aan 'n polisiebeampte oorhandig soos beoog in artikel 30 van die Strafproseswet, 1977 (Wet Nr. 51 van 1977), wat met die items waarop beslag gele word moet beskik op 'n wyse soos voorgeskryf in Hoofstuk 2 van daardie Wet. 45

- (b) notify the person in control of the premises of the purpose of the entry,

5 unless there are reasonable grounds to believe that such announcement or notification might defeat the purpose of the search.

- (2) The health officer must -

- 10 (a) hand to the person in control of the premises a copy of the warrant or, if such person is not present, affix such a copy to a prominent place on the premises; and
- (b) on request of the person in charge of such premises, show his or her certificate of appointment as health officer to that person.

15 (3) A health officer or police officer contemplated in subsection (1) may overcome resistance to the entry and search by using such force as is reasonably required, including the breaking of a door or window of the premises.

20 (4) Before using force, the health officer or police officer must audibly demand admission and must announce the purpose of the entry, unless there are reasonable grounds to believe that doing so might defeat the purpose of the search.

25 Entry and search of premises without warrant

51. A health officer accompanied by a police officer may without a warrant exercise any power referred to in section 49(1) if -

30 (a) the person who is competent to do so consents to such exercise; or

(b) there are reasonable grounds to believe that a warrant would be issued in terms of section 49(5) and that the delay in obtaining the warrant would defeat the object of the warrant.

35 Disposal of items seized by health officer

40 52. (1) The health officer must deliver items seized in terms of section 49 or 51 without delay to a police officer contemplated in section 30 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), who must deal with and dispose of the seized item in the manner provided for in Chapter 2 of that Act.

- (2) Wanneer 'n polisiebeampte optree ingevolge artikel 30 (a) of (b) van die Strafproseswet, 1977 (Wet Nr. 51 van 1977), ten opsigte van 'n artikel soos beoog in subartikel (1), moet hy of sy so doen slegs nadat hy 'n gesondheidsbeampte geraadpleeg het.

5

Diverse bepalings wat betrekking het op gesondheidsbeamptes, inspekteurs en nakomingsprosedures

53. Vir die doeleindes van hierdie Wet, word die Hoof van die Departement van Gesondheid, en die hoof van die afdeling verantwoordelik vir gesondheid in die munisipaliteit beskou as synde -

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- (a) die eienaar en okkupererder van 'n perseel wat die provinsiale departement of die munisipaliteit okkuppeer of gebruik; en

15

- (b) die werkgewer van persone in diens van daardie provinsiale departement of munisipaliteit indien, as 'n werkgewer, die provinsiale departement of munisipaliteit -

- (i) voer 'n plig uit wat aan die werkgewer opgedra word deur of kragtens hierdie Wet; of

20

- (ii) oefen bevoegdhede uit wat aan die werkgewer deur of kragtens hierdie Wet verleen word.

25

Misdrywe

54. (1) 'n Persoon is aan 'n misdryf skuldig indien hy of sy -

- (a) 'n gesondheidsbeampte wat 'n funksie kragtens hierdie Wet verrig, dwarsboom of strem;

30

- (b) weier om 'n gesondheidsbeampte met sodanige inligting te voorsien soos wat die Wet van die persoon vereis;

35

- (c) willens en wetens valse of misleidende inligting aan 'n gesondheidsbeampte verskaf;

- (d) onregmatig die eienaar van die perseel, of 'n persoon in diens van die eienaar, verhoed om die perseel te betree ten einde die vereistes van die Wet na te kom;

40

- (e) hom/haarself vooroer as 'n gesondheidsbeampte;

- (f) versuim om 'n nakomingskennisgwing na te kom wat aan hom of haar ingevolge hierdie Wet uitgereik word deur 'n gesondheidsbeampte; of

45

- (2) When a police officer acts in terms of section 30 (a) or (b) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in respect of an item contemplated in subsection (1), he or she must do so after consultation with a health officer.

5

Miscellaneous provisions relating to health officers, inspectors and compliance procedures

10 53. For the purposes of this Act, the Head of the Department of Health, and the head of the division responsible for health in the municipality are regarded as being -

- 15 (a) the owner and occupier of a premises that the provincial department or the municipality occupies or uses; and
- (b) the employer of persons in the service of that provincial department or municipality if, as an employer, the provincial department or municipality -
- (i) performs a duty imposed upon an employer by or under this Act; or
- 20 (ii) exercises power conferred upon an employer by or under this Act.

Offences

- 25 54. (1) A person is guilty of an offence if he or she -
- (a) obstructs or hinders a health officer who is performing a function under this Act;
- 30 (b) refuses to provide a health officer with such information as that person is required to provide under this Act;
- (c) knowingly gives false or misleading information to a health officer;
- 35 (d) unlawfully prevents the owner of premises, or a person working for the owner, from entering the premises in order to comply with a requirement of this Act;
- (e) impersonates a health officer;
- 40 (f) fails to comply with a compliance notice issued to him or her by a health officer in terms of this Act; or

- (g) inligtiog bekend maak, wat verkry is in die uitvoering van enige fuksie iogevolge hierdie Wet eo wat betrekkiog het op die finansiele of sake aangeleeotheude van enige persoon, aan enige ander persooo, behalwe in gevalle waar - 5
- (i) die ander persooo daardie inligtiog beoodig om eruge fuksie iogevolge hierdie Wet te verrig;
- (ii) die bekeodmaking deur 'n hof gelas word; of 10
- (iii) die bekendmaking ter oakoming is van die bepalings van enige wet.
- (2) 'o Persoon wat skuldig bevind word aan 'o misdryf ingevolge subartikel (1) is by skuldigbevioding blootgestel aan 'n boete of gevangenisstraf vir 'o tydperk van hoogsteos vyf jaar of beide 'n boete en gevangenisstraf. 15
- Instelling van Inspektoraat vir Gesondheidsinstansies**
55. (1) Die LUR moet 'o inspektoraat in die provinsie instel wat bekend sal staan as die Inspektoraat vir Gesondheidsinstansies, 20
- (2) 'o Iospektoraat vir Gesoodheidsiostansies moet -
- (a) die oakoming van hierdie Wet deur gesoodheidsiostansies en gesoodheidsagentskappe in die provinsie monitor en evalueer; en 25
- (b) 'o kwartaalverslag oor sy aktiwiteite en bevindings by die LUR indien.
- (3) Die LUR moet 'o jaarverslag aan die Minister indien oor die aktiwiteite en bevindiogs van die Iospektoraat van Gesondheidsinstansies wat in die provinsie tot stand gebring is. 30
- Toedeling van pligte en delegering van bevoegdhede** 35
56. (1) Die LUR kan 'o plig toedeel en bevoegdhede deleger wat aan hom of haar deur hierdie Wet opgedra is, behalwe die bevoegdheid om regulasies uit te vaardig, of bevoegdhede wat deur die Minister aan hom of haar toegdeel of gedelegeer is, aan enige amptenaar in die departemeot of 'o raad, direksie of komitee wat ingevolge hierdie Wet in die lewe geroep is. 40
- (2) Die hoof van die departemeot kan aan 'o ampteaar van die departemeot 'o plig toewys eo bevoegdhede deleger wat aan hom haar iogevolge hierdie Wet opgedra is. 45

- (g) discloses information, which was acquired in the performance of any function in terms of this Act and which relates to the financial or business affairs of any person, to any other person, except if -
- 5 (i) the other person requires that information in order to perform any function in terms of this Act;
- (ii) the disclosure is ordered by a court of law; or
- 10 (iii) the disclosure is in compliance with the provisions of any law.
- (2) A person convicted of an offence in terms of subsection (1) is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

Establishment of Inspectorate for Health Establishments

- 20 55. (1) The MEC must establish an inspectorate in the province to be known as the Inspectorate for Health Establishments.
- (2) An Inspectorate for Health Establishments must -
- 25 (a) monitor and evaluate compliance with this Act by health establishments and health agencies in the province for which it is established; and
- (b) submit a quarterly report on its activities and findings to the MEC.
- 30 (3) The MEC must submit an annual report to the Minister on the activities and findings of the Inspectorate for Health Establishments established in the province.

Assignment of duties and delegation of powers

- 35 56. (1) The MEC may assign a duty and delegate power imposed or conferred upon him or her by this Act, except the power to make regulations, or assigned or delegated to him or her by the Minister, to any officer in the Department or a council, board or committee established in terms of this Act.
- (2) The Head of the Department may assign a duty and delegate power imposed or conferred upon him or her in terms of this Act to an official of the Department.

Herroeping van wette

57. Die wette vermeld in die tweede kolom van die Bylae word hiermee herroep tot die mate soos uiteengesit in die derde kolom van die Bylae.

5

Oorgangsbeplings

58. Eniglets gedoen voor die inwerkingtreding van hierdie Wet kragtens 'n bepling van 'n wet wat deur artikel 57 herroep is en wat gedoen kon word kragtens 'n bepling van hierdie Wet moet beskou word as dat dit gedoen kon gewees het kragtens die ooreenkomsige bepling van hierdie Wet.

10

HOOFSTUK 8 REGULASIES

15

Regulasies

59. (1) Die LUR, na raadpleging met die Proviniale Gesondheidsraad, kan regulasies uitvaardig betreffende -

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(a) 'n aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan of mag word;

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(b) die norms en standarde vir 'n bepaalde soort beskermende kleredrag en die gebruik, skoonmaak en beskikking van sodanige kleredrag;

(c) menslike hulpbronontwikkeling;

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(d) samewerking en interaksie tussen private gesondheidsorgverskaffers en private gesondheidsinstansies aan die een kant en openbare gesondheidsorgverskaffers en openbare gesondheidsinstansies aan die ander kant;

(e) opgawes, registers, verslae, rekords, dokumente en vorms wat voltooi en gehou moet word deur provinsiale departemente, distrikgesondheidsrade, gesondheidsorgverskaffers, private gesondheidsinstansies en openbare gesondheidsinstansies;

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(f) die funksies van persone wat vrywillige, liefdadige of soortgelyke dienste lewer in verband met 'n openbare gesondheidsinstansie;

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(g) die lewering van forensies-patalogiese, forensiese geneeskundige en verwante laboratoriumdienste, met inbegrip van die lewering van medies-geregtelike lykhuiuse en medies-geregtelike dienste;

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(h) oordraagbare siektes;

(i) aanmeldbare mediese toestande;

Repeal of laws

- 5 **57.** The laws mentioned in the second column of the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

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Transitional provisions

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- 58.** Anything done before the commencement of this Act under a provision of a law repealed by section 57 and which could have been done under a provision of this Act must be regarded as having been done under the corresponding provision of this Act.

15

**CHAPTERS
REGULATIONS**

15

Regulations

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- 59.** (1) The MEC, after consultation with the Provincial Health Council, may make regulations regarding-
- (a) a matter which may be prescribed in terms of this Act;
- (b) the norms and standards for specified types of protective clothing and the use, cleaning and disposal of such clothing;
- (c) human resource development;
- (d) co-operation and interaction between private health care providers and private health establishments on the one hand and public health care providers and public health establishments on the other;
- (e) returns, registers, reports, records, documents and forms to be completed and kept by the provincial departments, district health councils, health care providers, private health establishments and public health establishments;
- (f) the functions of persons who render voluntary, charitable or similar services in connection with a public health establishment;
- (g) the rendering of forensic pathology, forensic medicine and related laboratory services, including the provision of medico-legal mortuaries and medico-legal services;
- (h) communicable diseases;
- (i) notifiable medical conditions;

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- (j) rehabilitasie;
- (k) mediese nooddienste en mediese noodbehandeling, beide binne en buite gesondheidsinstansies;
- (l) gesondheidswantoestante en mediese afval; 5
- (m) nie-oordraagbare siektes;
- (n) gesondheidstegnologie; 10
- (o) gesondheidsnavorsing;
- (P) die provinsiale gesondheidsinligtingstelsel soos beoog in artikel 43;
- (q) die prosesse en procedures wat deur die hoof van die departement geïnplenteer moet word ten einde voorgeskrewe inligting te verkry van betrokkenes wat betrekking het op gesondheidsfinansiering, die prysvasstelling van gesondheidsdienste, sakepraktyke binne of wat gesondheidsinstansies behels, gesondheidsagentskappe, gesondheidswerkers en gesondheidsorgverskaffers, en die fonnaat en omvang van die publikasie van verskeie soort inligtingstukke wat in die openbare belang is en wat ten doel het die verbetering van toegang tot en die doelmatige en doeltreffende aanwending van gesondheidsdienste; 15
- (r) die prosesse betreffende die bepaling en publikasie deur die hoof van die departement van een of meer verwysingspryslyste vir dienste gelewer, procedures uitgevoer en verbruikbare en wegdoenbare items wat aangewend word deur gesondheidsinstansies, gesondheidsorgverskaffers of gesondheidswerkers in die private gesondheidsektor wat gebruik kan word - 20
- (i) deur 'n mediese skema as 'n verwysing om sy eie voordele te bepaal; en 25
- (ii) deur gesondheidsinstansies, gesondheidsorgverskaffers of gesondheidswerkers in die privaatgesondheidsektor as 'n verwysing om hul eie fooie te bepaal;
- maar wat nie verpligtend is nie; en 40
- (s) in die algemeen, enige aangeleentheid wat nodig of raadsaam is om voor te skryf ten einde hierdie Wet te implementeer of te administreer.

- (j) rehabilitation;
- (k) emergency medical services and emergency medical treatment, both within and outside of health establishments;
- 5 (l) health nuisances and medical waste;
- (m) non-communicable diseases;
- 10 (n) health technology;
- (o) health research;
- 15 (P) the provincial health information system contemplated in section 43;
- (q) the processes and procedures to be implemented by the Head of Department 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;
- 20 (r) the processes of determination and publication by the Head of Department 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-
- 25 (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,
- 30 but which are not mandatory; and
- 35 (s) generally, any other matter which is necessary or expedient to prescribe in order to implement or administer this Act.

- (2) Die LUR moet aile regulasies wat kragtens hierdie Wet voorgestel word minstens 30 dae voor die datum wat vir die die inwerkingtreding daarvan beoog word, in die *Provinsiale Koerantvir* kommentaar publiseer.

Korttitel

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60. Hierdie Wet heet die Wet op Proviniale Gesondheid, 2007.

- (2) The MEC must publish all regulations proposed to be made under this Act in the *Provincial Gazette* for comments at least 30 days before the date contemplated for their commencement.

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Short tide

60. This Act is called the Provincial Health Act, 2007.

BYLAE

Wette wat herroep word

Nr. En jaar van Wet	Korttitel	Omvang van henoepin2
Wet Nr. 8 van 1999);	Vrystaatse Wet op Gesondheid, 1999	In geheel

SCHEDULE**Laws repealed**

No. and year of Act	Short title	Extent of repeal
Act No.8 of 1999	Free State Health Act, 1999	The whole

MEMORANDUM

DoeL

Daar bestaan en behoefte om gesondheidswetgewing in die provinsie te harmoniseer met die doel om gesondheidsbesheerstrukture en en gesondheidstelsel te vestig wat versoenbaar is met gestruktureerde nasionale standaarde.

Artikel1

Hierdie klousule handel oor definisies.

Artikel2

Hierdie klousule handel oor die doel van die Wet.

Artikel3

Hierdie klousule handel oor die interpretasie van die Wet.

Artikel4

Hierdie klousule handel oor noodbehandeling.

Artikel5

Hierdie artikel handel oar die gebruiker se kennis.

Artikel6

Hierdie artikel handel oar die gebruiker se toestemming.

Artikel7

Hierdie klousule handel oor die gebruiker se deelname in besluite wat sy gesondheid en behandeling raak.

Artikel8

Hierdie klousule handel oor die leweering van en gesondheidsdien sonder die gebruiker se toestemming.

Artikel9

Hierdie verslag handel oor ontslagverslae.

Artikel10

Hierdie klousule handel oor gesondheidsdienste vir eksperimentele of navorsingsdoeleindes.

MEMORANDUM

Purpose

There is a need to harmonise health legislation in the province with the purpose of establishing health governance structures and a health system that is compatible with structured uniform national standards.

Section 1

This clause deals with definitions.

Section 2

This clause deals with the purpose of the Act.

Section 3

This clause deals with the interpretation of the Act.

Section 4

This clause deals with emergency treatment.

Section 5

This clause deals with user's knowledge.

Section 6

This clause deals with user's consent.

Section 7

This clause deals with user's participation in decisions effecting his health and treatment.

Section 8

This clause deals with health service without user's consent.

Section 9

This clause deals with discharge reports.

Section 10

This clause deals with health services for experimental or research purpose.

Artikel11

Hierdie klousule handel oar die plig am inliging te versprei.

Artikel12

Hierdie klousule handel oar die verpligting am rekord te hou.

Artikel13

Hierdie klousule handel oar vertroulikheid met betrekking tot die gebruiker se gesondheidsinligting.

Artikel14

Hierdie klousule handel oar toegang tot gesondheidsrekords.

Artikel15

Hierdie klousule handel oar toegang tot gesondheidsrekords wat deur 'n gesondheidsorgverskaffer gehou word.

Artikel16

Hierdie artikel handel oar die beskerming van gesondheidsrekords.

Artikel17

Hierdie artikel handel oar die indien van klagtes.

Artikel18

Hierdie artikel bring die kantoor van die Ombudspersoon tot stand.

Artikel19

Hierdie artikel handel oar die pligte van gebruikers.

Artikel20

Hierdie artikel handel oar die regte van gesondheidsorgpersoneel.

Artikel21

Hierdie artikel handel oar verwysing van een openbare gesondheidsinrigting na 'n ander een.

Artikel22

Hierdie artikel handel oar Provinsiale Gesondheidsdienste en algemene funksies van die departement.

Section 11

This clause deals with duty to disseminate information.

Section 12

This clause deals with the obligation to keep record.

Section 13

This clause deals with confidentiality relating to user's health information.

Section 14

This clause deals with access to health records.

Section 15

This clause deals with access to health record held by health care provider.

Section 16

This section deals with protection of health records

Section 17

This section deals with laying of complaints.

Section 18

This section establishes the office of an Ombudsperson.

Section 19

This section deals with duties of the users.

Section 20

This section deals with rights of health care personnel.

Section 21

This section deals with the referral from one public health establishment to another.

Section 22

This section deals with Provincial Health Services and general functions of the department.

Artikel23

Hierdie artikel handel oor die stigting **en** samestelling van die provinsiale gesondheidsraad.

Artikel24

Hierdie artikel handel oor die funksies van die provinsiale gesondheidsraad.

Artikel25

Hierdie artikel handel oor die vergaderings van die provinsiale gesondheidsraad.

Artikel26

Hierdie artikel handel oor die ampstermyn van die provinsiale gesondheidsraad.

Artikel27

Hierdie artikel handel oor die stigting van die provinsiale raadplegende gesondheidsforum.

Artikel28

Hierdie artikel handel oor die samestelling van die provinsiale raadplegende gesondheidsforum.

Artikel29

Hierdie artikel handel oor die funksies van die provinsiale raadplegende gesondheidsforum.

Artikel30

Hierdie artikel handel oor die vergaderings van die provinsiale raadplegende gesondheidsforum.

Artikel31

Hierdie artikel handel oor die vestiging van die distrikgesondheidstelsel.

Artikel32

Hierdie artikel handel oor die verdeling van gesondheidsdistrikte in subdistrikte.

Artikel33

Hierdie artikel handel oor die stigting van distriksgesondheidsrade.

Artikel34

Hierdie artikel handel oor die amnpstermyne van lede van distriksgesondheidsrade.

Artikel35

Hierdie artikel handel oor die voorbereiding van gesondheidsdistrikplanne.

Artikel36

Hierdei artikel handel oor die gesondheidsdienste wat deur munisipaliteite verskaf word.

Artikel37

Hierdie artikel handel oor die stigting van klinieke en komitees vir gemeenskapsgesondheidsentrum.

Artikel38

Hierdie artikel handel oor gesondheidsdienste by nie-gesondheidsinrigtings en by openbare gesondheidsinrigtings buiten hospitale.

Artikel39

Hierdie artikel handel oor betrekkinge tussen openbare en private gesondheidsinrigtings.

Artikel40

Hierdie artikel handel oor die verpligtinge van private gesondheidsinrigtings.

Artikel41

Hierdie artikel vestig die provinsiale gesondheidsnavorsingskomitee.

Artikel42

Hierdie artikel handel oor die identifikasie van prioriteite van gesondheidsnavorsing.

Artikel43

Hierdie artikel vestig die provinsiale gesondheidsinligtingstelsel.

Artikel44

Hierdie artikel handel oor die pligte van die distriksgesondheidsraad en munisipaliteite.

Artikel45

Hierdie artikel handel oor die aanstelling van gesondheidsbeamptes.

Artikel46

Hierdie artikel handel oor die pligte van gesondheidsbeamptes.

Section 35

This section deals with the preparation of health district plans.

Section 36

This section deals with health services to be provided by municipalities.

Section 37

This section deals with the establishment of clinics and community health centre committees.

Section 38

This section deals with health services at non-health establishments and at public health establishments other than hospitals.

Section 39

This section deals with the relationship between public and private health establishments.

Section 40

This section deals with the obligations of private health establishments.

Section 41

This section establishes the provincial health research committee.

Section 42

This section deals with the identification of health research priorities.

Section 43

This section establishes the provincial health information system.

Section 44

This section deals with the duties of district health council and municipalities.

Section 45

This section deals with the appointment of health officers.

Section 46

This section deals with the duties of health officers.

Artikel47

Hierdie artikel handel oar roetine-inspeksies.

Artikel48

Hierdie artikel handel oar omgewingsgesondheidsondersoek.

Artikel49

Hierdie artikel handel oar die betreding en deursoeking van 'n perseel met 'n lasbrief.

Artikel50

Hierdie artikel handel oar identifikasie voor betreding, en weerstand teen betreding.

ArtikelS1

Hierdie artikel handel oar betreding en deursoeking van 'n perseel sander 'n lasbrief.

ArtikelS2

Hierdie artikel handel oar die beskikking van artikels waarop beslag gele is deur gesondheidsbeamptes.

ArtikelS3

Hierdie artikel handel oar diverse bepalings wat betrekking het op gesondheidsbeamptes, inspekteurs en nakomingsprosedures.

ArtikelS4

Hierdie artikel handel oar misdrywe.

ArtikelSS

Hierdie artikel vestig die inspекторaat vir gesondheidsinrigtings.

ArtikelS6

Hierdie artikel handel oar die toewysing van pligte en die delegering van bevoegdhede deur die LUR.

ArtikelS7

Hierdie artikel handel oar die herroepping van wette.

Section 47

This section deals with the routine inspections.

Section 48

This section deals with environmental health investigations.

Section 49

This section deals with entry and search of premises with a warrant.

Section 50

This section deals with identification prior to entry, and resistance against entry.

Section 51

This section deals with entry and search of premises without a warrant.

Section 52

This section deals with the disposal of items seized by health officers.

Section 53

This section deals with miscellaneous provisions relating to health officers, inspectors and compliance procedures.

Section 54

This section deals with offences.

Section 55

This section establishes the inspectorate for health establishment.

Section 56

This section deals with the assignment of duties and delegation of powers by the MEC.

Section 57

This section deals with the repeal of laws.

Artikel58

Hierdie artikel handel oor oorgangsbeplings.

Artikel59

Hierdie artikel bemagtig die LUR om regulasies uit te vaardig.

Artikel60

Hierdie artikel gee die korttitel.

Section 58

This section deals with transitional provisions.

Section 59

This section empowers the MEC to make regulations.

Section 60

This section gives the short title.