PROVINCE OF THE WESTERN CAPE

WESTERN CAPE HEALTH FACILITY BOARDS AND COMMITTEES BILL

(As amended by the Standing Committee on Community Development)

(MINISTER OF HEALTH)

[B 1B—2016]

PROVINSIE WES-KAAP

WES-KAAPSE WETSONTWERP OP RADE EN KOMITEES VIR GESONDHEIDSFASILITEITE

(Soos gewysig deur die Staande Komitee oor Gemeenskapsontwikkeling)

(MINISTER VAN GESONDHEID)

[W 1B—2016]

IPHONDO LENTSHONA KOLONI

UMTHETHO OSAYILWAYO WEEBHODI NEEKOMITI ZAMAZIKO EMPILO WENTSHONA KOLONI

(Njengoko ulungisiwe yiKomiti eSisigxina kwezoPhuhliso loLuntu)

(NGUMPHITHISWA WEZEMPILO)

[B 1B—2016]

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BILL

To provide for the establishment, functions and procedures of boards established for hospitals and committees established for primary health care facilities; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

"auditor" means a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005);

"Board" means a board established in terms of section 4(1);

"central hospital" means a hospital designated as such by the national Minister under the National Health Act;

"Committee" means a committee established in terms of section 4(4);

"Department" means the provincial department responsible for health matters in the Province;

"district health council" means a district health council as defined in section 1 of the Western Cape District Health Councils Act, 2010 (Act 5 of 2010);

"district health manager" means a district health manager as defined in section 1 of the Western Cape District Health Councils Act, 2010;

"existing central-hospital board" means a board appointed under the Western Cape Health Facility Boards Act for a central hospital and existing immediately before the commencement of this Act;

"Head of Department" means the head of the provincial department responsible for health matters in the Province;

"health facility" means a hospital or primary health care facility;

"hospital" means a building, institution or place designated as a hospital by the Provincial Minister in terms of section 3;

"member" means a member of a Board or Committee, as the case may be;

"National Health Act" means the National Health Act, 2003 (Act 61 of 2003);

"national Minister" means the national Minister responsible for health matters;

"prescribe" means prescribe by regulation;

"primary health care facility" means a building, institution or place designated as a primary health care facility by the Provincial Minister in terms of section 3;

"Province" means the Province of the Western Cape;

"Provincial Minister" means the Provincial Minister responsible for health matters in the Province;

"regulation" means a regulation made under this Act;

"representative central-hospital board" means a board appointed by the national Minister under section 41(4) of the National Health Act;

"this Act" includes the regulations;

"Western Cape Health Facility Boards Act" means the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001).

Objects of Act

2. The objects of this Act are to provide for—

(a) the establishment of representative and accountable Boards and Committees as statutory bodies;

(b) responsiveness of the management of health facilities to the community and the needs of patients and their families;

(c) community support for, and involvement in, health facilities and their programmes;

(d) a basic set of clearly defined functions for Boards and Committees, which may be incrementally expanded in the public interest as the capacity of a Board or Committee increases; and

(e) transitional provisions for existing central-hospital boards.

Designation of hospital or primary health care facility

3. (1) For the purposes of the establishment of a Board or Committee in terms of this Act, the Provincial Minister may designate as a hospital or primary health care facility any building, institution or place where persons receive treatment, diagnostic or therapeutic interventions or other health services.

(2) The Provincial Minister may so designate as a hospital or primary health care facility a building, institution or place that is administered by a municipality only with the concurrence of—

(a) the Provincial Minister responsible for local government; and

(b) the municipality concerned.

Establishment of Boards and Committees

4. (1) The Provincial Minister must establish a Board for each hospital or group of hospitals other than a central hospital or a group of central hospitals.

(2) Where a Board is established for a group of hospitals, the Provincial Minister must determine the group by having regard to—

(a) the geographic distance between the hospitals;

(b) the size and distribution of the population served by the hospitals; and

(c) the service volumes of the hospitals.

(3) A Board is a juristic person and is capable of suing and being sued and holding property in its own name.

(4) The Provincial Minister must establish a Committee for—

(a) every primary health care facility; or

(b) a group of primary health care facilities, determined by the Provincial Minister.

(5) The criteria and process for the clustering of primary health care facilities in the case of a Committee appointed for a group of primary health care facilities may be prescribed by the Provincial Minister.

(6) A Committee is not a juristic person and is not capable of suing or being sued or holding property in its own name.

Appointment of members of Board

5. (1) The Provincial Minister must appoint to a Board not more than 14 members, including—

(a) persons representing the community or communities served by the hospital for which the Board is established, nominated in terms of subsection (4);

(b) at least one person with technical expertise in business, law, finance or accounting or some other area relevant to the functions of the Board;

(c) the head of the hospital concerned or, in the case of a Board established for more than one hospital, at least one of the heads of those hospitals;

(d) at least one person representing the clinical staff of the hospital concerned, nominated by the clinical staff of the hospital, but in the case of a Board established for more than one hospital it is not necessary for a person representing the clinical staff of every hospital concerned to be appointed;

(e) at least one person representing the non-clinical staff of the hospital concerned, nominated by the non-clinical staff of the hospital, but in the case

of a Board established for more than one hospital it is not necessary for a person representing the non-clinical staff of every hospital concerned to be appointed; and

(f) in the case of a Board established for one or more hospitals where health professionals are trained, at least one person representing the academic interests of each hospital concerned, nominated by the Vice-Chancellor or Vice-Chancellors of the university or universities concerned.

(2) In addition to the members appointed in terms of subsection (1) the Provincial Minister may appoint to a Board—

(a) a member of the Provincial Parliament, nominated by the parliamentary committee concerned with health matters; and

(b) one or more councillors of the municipal council for the municipal area in which the hospital is situated, nominated by the municipal council or a health-related committee of the municipal council.

(3) The members appointed in terms of subsection (1)*(a)* must constitute at least fifty per cent of the total number of members of the Board.

(4) The members referred to in subsection (1)*(a)* must be nominated by a body that, in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned.

(5) A body referred to in subsection (4)—

(a) may not be a political party;

(b) may be, but need not be, a—

(i) community health committee or forum;

(ii) community development forum;

(iii) civic organisation;

(iv) welfare organisation;

(v) representative organisation of patients who use health services or health facilities;

(vi) community-based organisation;

(vii) non-governmental organisation; or

(viii) representative organisation of children, women, the elderly, persons with disabilities or persons granted asylum.

(6) The Provincial Minister must prescribe procedures for the invitation of nominations contemplated in subsections (1)*(a)* and (4).

(7) Where nominations are required in terms of this section, all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made.

(8) If the Provincial Minister receives no or insufficient nominations required in terms of this section, any suitably qualified person may be appointed a member from the relevant category stipulated in subsection (1) or (2).

(9) The appointments to the Board must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

Appointment of members of Committee

6. (1) The Provincial Minister must appoint to a Committee not more than 12 members, including—

(a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;

(b) members of the community or communities served by the primary health care facility for which the Committee is established, nominated in terms of subsection (3); and

(c) the head of the primary health care facility concerned or, in the case of a Committee appointed for more than one primary health care facility, a manager designated by the district health manager.

(2) The members appointed in terms of subsection (1)*(b)* must constitute at least fifty per cent of the total number of members of the Committee.

(3) The members referred to in subsection (1)*(b)* must be nominated by a body that—

(a) in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned;

(b) is not a political party, but may be, yet need not be, a body referred to in section 5(5)*(b)*.

(4) The Provincial Minister may prescribe procedures for the invitation of nominations contemplated in subsections (1)*(b)* and (3).

(5) Where nominations are required in terms of subsection (1)*(b)* and (3), all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made.

(6) If the Provincial Minister receives no or insufficient nominations required in terms of paragraph *(b)* of subsection (1), any suitably qualified persons may be appointed as members from the category stipulated in that paragraph.

(7) The appointments to the Committee must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

Eligibility for appointment as a member

7. (1) To be eligible for appointment as a member a person must—

(a) be a South African citizen;
(b) be older than 18 years;
(c) not be an unrehabilitated insolvent;
(d) not, at any time, have been convicted of—
  (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or
  (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element,

  whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
(e) demonstrate commitment to community service;
(f) demonstrate support for the mission and values of the health facility concerned; and
(g) demonstrate a high level of personal integrity and honesty.

Term of office of members

8. (1) Members are appointed for a period of three years.

(2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.

(3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.

(4) A member, other than a member appointed in terms of section 5(1)*(c)* or 6(1)*(c)*, may not serve on a Board or Committee for more than two consecutive terms.

(5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year.

Vacancies

9. (1) The chairperson of a Board or Committee must immediately in writing declare an office on the Board or Committee vacant if a member—

(a) dies;
(b) submits his or her resignation from office in writing to the chairperson;
(c) is declared insolvent by a court of the Republic;
(d) is during his or her term of office convicted of—
  (i) an offence and sentenced to imprisonment without the option of a fine; or
  (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element,

  whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
(e) is absent without leave of the chairperson of the Board or Committee from three consecutive ordinary meetings of the Board or Committee;
(f) is suspended or removed from office under section 24(12)*(b)*;

(g) ceases to hold any office by virtue of which that member was appointed to the Board or Committee; or

(h) fails to disclose to the Board or Committee any direct or indirect personal financial interest in a matter before the Board or Committee, and that member is present during, or participates in, the discussion of, or voting on, that matter.

(2) If a member of a Board or Committee continuously disrupts meetings of the Board or Committee or fails to perform his or her duties in good faith or honestly, the Provincial Minister may initiate an investigation into the matter and, if sufficient grounds are found to exist, remove that member and declare his or her office vacant.

(3) Within seven days of declaring an office vacant in terms of subsection (1), the chairperson must in writing inform the Provincial Minister of the vacancy.

(4) On receipt of notice of a vacancy in terms of subsection (3), or on the removal of a member under subsection (2), the Provincial Minister must appoint another person to fill the vacancy for the unexpired period of office of the previous incumbent and, for the purposes of section 8(4), the unexpired period constitutes a term of office.

(5) For the purposes of an appointment contemplated in subsection (4) the Provincial Minister must apply the same criteria used for the appointment of the vacating member.

(6) In the event that a Board or a Committee fails to hold four meetings in a calendar year, the Provincial Minister may declare the Board or Committee concerned dysfunctional and appoint a new Board in terms of section 5 or a new Committee in terms of section 6.

Duties of Boards

10. (1) A Board must, in respect of each hospital for which it is established—

(a) participate in strategic planning with a view to advising the hospital management;

(b) monitor the performance, effectiveness and efficiency of the hospital and measures taken by the hospital management to improve the performance and quality of service of the hospital;

(c) take measures to ensure that the needs, concerns and complaints of patients and the community are properly addressed by the hospital management;

(d) foster community support for the hospital;

(e) encourage volunteers to offer their services in performing general duties for the hospital in accordance with the applicable policy on volunteers;

(f) request and review at least once a year the financial statements and annual financial statements of the hospital;

(g) raise funds for the functioning of the Board; and

(h) at reasonable times and in cooperation with the hospital management conduct scheduled visits to the hospital, without impeding its functioning, and provide constructive written feedback on such visits to the management.

(2) A Board must take receipt of, administer and account for the funds raised by a Committee for which it is designated in terms of section 18(6) for the benefit of the primary health care facility concerned or the functioning of the Committee, in the manner prescribed by the Provincial Minister.

Powers of Boards

11. A Board may, in respect of a hospital for which it is established—

(a) advise and make recommendations to the Provincial Minister, the hospital management, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Board's functions;

(b) advise and make recommendations to the Provincial Minister or the municipality concerned, as the case may be, on the naming or renaming of the hospital or a part thereof, including a ward or theatre;

(c) obtain information it requires from the hospital management if the information does not violate the rights of a patient or staff member to privacy and confidentiality;

(d) request from the hospital management copies of routine progress reports that have been generated;

(e) conduct surveys, meetings and consultative workshops in the community or communities concerned;

(f) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the hospital;

(g) appoint staff on a contractual basis to serve the purposes of the Board;

(h) donate funds or movable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital, in the manner prescribed by the Provincial Minister; and

(i) raise and administer trust funds or Board funds for the purposes referred to in paragraph *(g)* or *(h)*, or to give effect to any other provision of this Act.

Duties of Committees

12. A Committee must, in respect of each primary health care facility for which it is established—

(a) request feedback on measures taken by the management of the primary health care facility to improve the quality of service at the facility;

(b) assist the community to effectively communicate its needs, concerns and complaints to the management of the primary health care facility so that the needs, concerns and complaints can be appropriately addressed;

(c) foster community support for the primary health care facility;

(d) at reasonable times and in cooperation with the management of the primary health care facility conduct scheduled visits to the facility, without impeding its functioning, and provide constructive written feedback on such visits to the management;

(e) encourage volunteers to offer their services in performing general duties in respect of the primary health care facility in accordance with the applicable policy on volunteers; and

(f) provide constructive feedback to the management of the primary health care facility in order to enhance service delivery.

Powers of Committees

13. (1) A Committee may, in respect of a primary health care facility for which it is established—

(a) conduct surveys, meetings and consultative workshops in the community or communities concerned;

(b) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the primary health care facility;

(c) advise and make recommendations to the Provincial Minister, the management of the primary health care facility, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Committee's functions;

(d) obtain information it requires from the management of the primary health care facility if the information does not violate the rights of a patient or staff member to privacy and confidentiality;

(e) request from the management of the primary health care facility copies of routine progress reports that have been generated; and

(f) conduct fundraising activities for the benefit of the primary health care facility and the functioning of the Committee.

(2) All funds raised by a Committee—

(a) must be paid to, administered by, and accounted for by, the Board designated by the Head of Department in terms of section 18(6), in the prescribed manner;

(b) may be used only for the benefit of the primary health care facility or facilities concerned or for the functioning of the Committee.

(3) Moveable property donated to the Committee must be allocated on receipt to the primary health care facility concerned and must be accounted for by that facility in accordance with the asset and inventory management policies applicable to the facility.

Alteration of functions of Board or Committee

14. (1) Subject to subsection (4) and any other law, the Provincial Minister may in consultation with a Board or Committee authorise that Board or Committee to perform additional duties or exercise additional powers if the Provincial Minister has reason to believe that—

(a) the Board or Committee has the capacity to perform those additional duties or exercise those additional powers; and

(b) it would be in the public interest for the Board or Committee to do so.

(2) The Provincial Minister may after consultation with a Board or Committee revoke the authority given to that Board or Committee in terms of subsection (1) to perform an additional duty or exercise an additional power if the Provincial Minister has reason to believe that—

(a) the Board or Committee no longer has the capacity to perform that additional duty or exercise that additional power; or

(b) it would be in the public interest for the Provincial Minister to do so.

(3) The Provincial Minister may after consultation with a Board or Committee—

(a) exempt that Board or Committee from performing a duty imposed by section 10 or 12; or

(b) revoke a power conferred on the Board or Committee by section 11 or 13.

(4) When exercising a power contemplated in subsection (1), (2) or (3), the Provincial Minister must act after consultation with the head or heads of the health facility or facilities concerned.

Performance of duties and exercise of powers

15. (1) In performing its duties or exercising its powers, a Board or Committee must act in accordance with the relevant and applicable laws and policy made by the national, provincial or local government.

(2) The Head of Department may request a Board or Committee to provide a quarterly report on its activities.

(3) The chairperson of a Board or Committee must, within two months of the end of each calendar year, submit a written report to the Provincial Minister on the activities of the Board or Committee during that year.

Measures for cooperation

16. (1) The Provincial Minister may take measures to ensure collaborative working relationships between Boards, Committees and district health councils.

(2) A Board or Committee must forge strong and cooperative relations with the management of the health facility it serves.

(3) The head of a health facility must—

(a) take measures to assist the Board or Committee concerned to perform its duties and exercise its powers; and

(b) forge strong and cooperative relations with the Board or Committee.

(4) If irreconcilable differences arise between the management of a health facility and the Board or Committee concerned, the Board or Committee or the head of the health facility may request mediation or arbitration by the Head of Department.

Chairperson and deputy chairperson

17. (1) A Board or Committee must, from among the members referred to in section 5(1)*(a)*, 5(1)*(b)* or 6(1)*(b)*, as the case may be, elect a chairperson and a deputy chairperson—

(a) at its first meeting; and

(b) subsequently, whenever either of those offices becomes vacant.

(2) An employee of the Department may not be the chairperson of a Board.

(3) The chairperson and the deputy chairperson are elected for the term of office of the member concerned.

(4) Within 14 days of the election of a chairperson or deputy chairperson in terms of subsection (1), the chairperson must notify the Head of Department in writing of the name and address of the office bearer concerned.

(5) When the chairperson is absent from a meeting of the Board or Committee or is not available, the deputy chairperson acts as chairperson.

(6) If both the chairperson and deputy chairperson are absent from a meeting of the Board or Committee, the members present must elect one of their number to act as chairperson for that meeting.

(7) The chairperson of a Board is the accounting officer for that Board and has the powers and duties prescribed by the Provincial Minister.

(8) The office of the chairperson or the deputy chairperson becomes vacant if the member concerned—

(a) resigns in writing; or

(b) is removed by a decision of the Board or Committee concerned.

General support

18. (1) The hospital for which a Board is established must provide a venue for the Board as well as secretarial, administrative and financial accounting support required by the Board.

(2) If a Board is established for more than one hospital, a venue and secretarial, administrative and financial accounting support required by the Board must be provided by one or more of the hospitals, as determined by—

(a) agreement between the heads of the hospitals concerned; or

(b) the Head of Department, in the absence of such agreement.

(3) Despite subsections (1) and (2), a Board may make alternative arrangements for the provision of a venue as well as secretarial, administrative and financial accounting support from its funds in the manner prescribed by the Provincial Minister.

(4) The primary health care facility or facilities for which a Committee is established must provide a venue for the Committee and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee.

(5) If a Committee is established for more than one primary health care facility, a venue and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee must be provided by one or more of the primary health care facilities, as determined by—

(a) agreement between the heads of the primary health care facilities concerned; or

(b) the Head of Department, in the absence of such agreement.

(6) The Head of Department must designate a Board for every Committee for the purposes of taking receipt of, administering and accounting for the funds raised by a Committee.

(7) A Board designated in terms of subsection (6) must receive, administer and account for the funds raised by the Committee in the manner prescribed.

(8) The Department must provide for the induction and training of members newly appointed to a first term of office and must provide additional training if considered necessary and appropriate.

Scheduling of meetings

19. (1) The Head of Department must determine the time and place for the first meeting of a Board or Committee.

(2) A Board or Committee must determine the time and place of subsequent ordinary meetings, which must take place at least once every three months and four times in a calendar year.

(3) The chairperson may at any time call a special meeting, and must do so if requested in writing by at least two members of the Board or Committee, as the case may be, and the chairperson is satisfied that the request is reasonable.

(4) The chairperson must notify members of the time, place and reason for a special meeting at least three working days in advance of the meeting, except where a shorter notice period is necessitated by the exceptional urgency of the circumstances.

(5) Notice of all meetings of a Board or Committee must be made public by the Board or Committee concerned.

Procedure at meetings

20. (1) The procedure at a meeting of a Board or Committee must, in so far as it has not been prescribed, be determined by the Board or Committee.

(2) A quorum of not less than one half of the members appointed in terms of section 5(1)*(a)* or 6(1)*(b)* and one half of the other members appointed in terms of section 5(1) and (2) or 6(1), as the case may be, must be present at a meeting at any time.

(3) A decision of a Board or Committee should be by consensus, but in the absence of consensus the decision of a majority of the members present at the meeting is the decision of the Board or Committee.

(4) In the event of an equality of votes on any matter, the chairperson at the meeting has a casting vote and a deliberative vote.

(5) A Board may request or permit any person to participate in a meeting of the Board in an advisory capacity.

(6) The chairperson must ensure that—

(a) a proper record is kept of attendance at, minutes of, and resolutions adopted at, every meeting; and

(b) a copy of a record referred to in paragraph *(a)*, signed by the chairperson, is sent to the Head of Department if the Head of Department requests it.

Public attendance at meetings

21. (1) Subject to subsection (2), all meetings of a Board or Committee are open to members of the public.

(2) If a Board or Committee decides on reasonable grounds that members of the public should not be present at a meeting while a particular issue is being discussed, the chairperson must exclude the public from the meeting for the duration of that discussion.

(3) A Board or Committee may use any reasonable means to inform members of the public of Board or Committee meetings.

Executive committee

22. (1) A Board or Committee may appoint an executive committee composed of members of the Board or Committee, at least half of whom must be members appointed in terms of section 5(1)*(a)* in the case of a Board and section 6(1)*(b)* in the case of a Committee.

(2) Subject to the directions of a Board or Committee and subsections (3) and (4), an executive committee may perform all the duties and exercise all the powers of the Board or Committee between meetings of the Board or Committee.

(3) An executive committee does not have the power to review or alter a decision of the Board or Committee, except in so far as the Board or Committee directs otherwise.

(4) Any action taken or decision made by an executive committee may at the first meeting of the Board or Committee following that action or decision be reviewed and altered by the Board or Committee, without prejudice to any person.

Specialist committees

23. (1) A Board or Committee may appoint specialist committees consisting of members of the Board or Committee to perform certain duties or exercise certain powers on behalf of the Board or Committee.

(2) Where executive power is delegated to a specialist committee, the mandate, terms of reference, procedure and quorums of the specialist committee must be agreed to and recorded by the Board or Committee.

(3) A specialist committee of a Board may co-opt a person or persons not serving on the Board to serve on the specialist committee in an advisory capacity.

(4) Any action taken or decision made by a specialist committee may, at the first meeting of the Board or Committee following that action or decision, be reviewed and altered by the Board or Committee, without prejudice to any person.

Raising and utilisation of Board funds

24. (1) A Board may receive services, funds or property for the purpose of performing its functions.

(2) A Board may use funds, property or equipment belonging to it for the purpose of performing its functions.

(3) A Board may establish a trust for the benefit of a hospital served by it and may accept and administer a trust already established for the benefit of a hospital served by it.

(4) A Board must keep records of all funds received and spent by it and of its assets, liabilities and transactions.

(5) A Board must annually, within two months of the end of its financial year, submit to the Head of Department its financial statements for that year, compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(6) An auditor appointed by the Board must, subject to subsection (7), audit the records and annual financial statements of the Board and must submit an audit report to the Head of Department and the Board within two months of receipt of the statements referred to in subsection (5).

(7) The Provincial Minister may, after consultation with the Head of Department, determine that a Board is exempted from being audited.

(8) The Provincial Minister must consider the following when making a determination in terms of subsection (7):

(a) whether the total asset value, including investments of the Board, exceeded R5 000 000 in the previous financial year, with such amount to be adjusted annualy on 1 March in accordance with the consumer price index;

(b) the financial statements of the Board in the previous financial year; and

(c) whether the Board complied with its duties in terms of this Act in the previous financial year.

(9) Where the Provincial Minister has exempted a Board in terms of subsection (7), the Board must nevertheless submit to the Head of Department financial statements compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(10) The Provincial Minister may require a Board that has been exempted in terms of subsection (7) to be audited as set out in subsection (6).

(11) The financial year of a Board is a year ending on 31 March.

(12) If a Board fails to comply with subsection (5) or (9), or in the event of any financial mismanagement by a Board, the Provincial Minister may take reasonable remedial steps that he or she considers necessary, including—

(a) the appointment of an administrator to administer the financial affairs or operational functions of the Board;

(b) the suspension or removal of Board members from office; and

(c) the alteration of the duties and powers of the Board, despite section 14.

(13) Before the Provincial Minister takes any remedial steps contemplated in subsection (12), the Head of Department must issue to the Board a compliance notice and copies thereof to its members setting out—

(a) a description of the transgression constituting the non-compliance;

(b) the steps that the Board is required to take and the period within which those steps must be taken to remedy the transgression; and

(c) a notification to the Board that if it fails to take any steps referred to in paragraph *(b)*, the Head of Department must refer the non-compliance to the Provincial Minister to take remedial steps in terms of subsection (12).

(14) If the Board complies with all the steps referred to in subsection (13)*(b)* within the period specified in the compliance notice, the Head of Department must notify the Board in writing of its compliance with the terms of the compliance notice.

(15) If the Board fails to comply with any or all of the steps referred to in subsection (13)*(b)* within the period specified in the compliance notice—

(a) the Head of Department must, on expiry of the period specified in the compliance notice, notify the Provincial Minister in writing of the non-compliance or partial compliance by the Board; and

(b) the Provincial Minister must within 30 days of receipt of a notification of non-compliance or partial compliance notify the Board in writing of its non-compliance or partial compliance with the terms of the compliance notice.

(16) The notice contemplated in subsection (15)*(b)* must state—

(a) the proposed remedial steps to be taken in terms of subsection (12); and

(b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed remedial steps.

(17) On expiry of the 14 days contemplated in subsection (16)*(b)*, whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including the partial compliance of the Board with the terms of the compliance notice and any written representations by the Board, take the proposed remedial steps.

(18) If an administrator is appointed in terms of subsection (12)*(a)*, he or she must—

(a) within six months of his or her appointment, furnish the Head of Department with a report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board;

(b) thereafter, in consultation with the Head of Department, prepare a recovery plan for the Board; and

(c) upon completion of the implementation of the recovery plan, or failure to implement the recovery plan—

(i) if necessary, recommend to the Provincial Minister and Head of Department an extension of the recovery plan for a period not exceeding six months; or

(ii) furnish the Provincial Minister and Head of Department with a final report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board.

(19) The Provincial Minister may, after consultation with the Head of Department and on receipt of the final report contemplated in subsection (18)*(c)*(ii), determine that—

(a) the Board is capable of administering its own financial affairs; or

(b) the Board is capable of administering its own financial affairs with the assistance of an administrator appointed by the Provincial Minister on such further terms and conditions as determined by the Provincial Minister.

(20) Before the Provincial Minister makes a determination in terms of subsection (19)*(b)*, he or she must notify the Board in writing of his or her intention to make such a determination.

(21) The notice contemplated in subsection (20) must state—

(a) the determination that the Provincial Minister intends to make; and

(b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed determination.

(22) On expiry of the 14 days contemplated in subsection (21)*(b)*, whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including any representations by the Board, make the proposed determination.

Travelling and other allowances

25. (1) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds reimburse a member of the Board appointed in terms of section 5(1)*(a)* and *(b)*, an advisor in terms of section 20(5) or any person co-opted to serve on a specialist committee in terms of section 23(3) for—

(a) transport expenses between that member's, advisor's or person's normal place of residence or business and the venue of a meeting of the Board or the specialist committee concerned; and

(b) travelling and subsistence expenses incurred as a result of attendance at conferences, seminars or training courses or other business of the Board, but in the case of conferences, seminars and training courses outside the Province, the Provincial Minister's prior written approval must be obtained.

(2)*(a)* A Board may not compensate its members for time spent on Board business.

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds compensate an advisor in terms of section 20(5) or a person co-opted to serve on a specialist committee of the Board in terms of section 23(3) for time spent on Board business.

(3)*(a)* A member of a Committee is not entitled to be compensated for time spent on Committee business.

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds compensate a member of a Committee appointed in terms of section 6(1)*(b)* for transport expenses incurred as a result of attendance at meetings of the Committee.

(4) In the event that the Board has insufficient available funds, and subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds reimburse a member of a Board appointed in terms of sections 5(1)*(a)* or *(b)* for the transport expenses contemplated in subsection (1)*(a)*.

Closure of health facility

26. (1) In the event of the closure of a health facility for which a Board or Committee has been established, the Head of Department must, at least three months prior to the closure and after consultation with that Board or Committee, instruct the Board or Committee in writing regarding—

(a) in the case of a Board or Committee established only for that health facility, the intended closure of that facility and the dissolution of the Board or Committee and, in the case of a Board, any trust that may have been established by the Board;

(b) in the case of a Board or Committee established for more than one health facility, any intended alteration of its composition necessitated by the closure of that facility; and

(c) in the case of a Board established only for that health facility, the disposal of the assets and liabilities of the Board and any trust which may have been established by the Board.

(2) On the closure of a health facility referred to in subsection (1)*(a)*, the Board or Committee serving that health facility and, in the case of a Board, any trust that may have been established by the Board are dissolved, and the Head of Department must, if necessary, take steps to give effect to the instructions contemplated in subsection (1)*(c)*.

Limitation of liability of members

27. A member is not liable for anything done in good faith in the performance of a function in terms of this Act.

Regulations

28. (1) Subject to subsection (3), the Provincial Minister must make regulations regarding—

(a) procedures for the nomination of members for appointment to Boards and Committees;

(b) the financial governance of Boards;

(c) the manner in which a Board may donate funds or other moveable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital;

(d) the powers and duties of the chairperson of a Board or Committee;

(e) the manner in which a Board may make arrangements for the provision of a venue, as well as secretarial, administrative and financial accounting support;

(f) the manner in which a Committee must pay funds raised for the benefit of the primary health care facility and the functioning of the Committee to the Board designated by the Head of Department in terms of section 18(6);

(g) the manner in which a Board designated in terms of section 18(6) must take receipt of, administer and account for the funds raised by a Committee;

(h) travelling and other allowances payable in terms of this Act;

(i) the establishment of trusts by Boards; and

(j) the criteria and process for the clustering of primary health care facilities for the purposes of the establishment of a Committee for a group of primary health care facilities.

(2) Subject to subsection (3), the Provincial Minister may make regulations regarding—

(a) procedures for meetings of a Board or Committee; and

(b) any other matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(3) In the case of regulations that have financial implications for the state, the Provincial Minister must make the regulations with the concurrence of the Provincial Minister responsible for finance.

Delegation

29. (1) The Provincial Minister may delegate or assign any of his or her powers or duties in terms of this Act, except the power to make regulations, to the Head of Department.

(2) The Head of Department may delegate or assign any of his or her powers or duties in terms of this Act to—

(a) an employee in the Department; or

(b) the holder of a specific office or position in the Department.

(3) Despite subsection (2), the Head of Department may not delegate a power or assign a duty to a member.

(4) A delegation or assignment referred to in subsection (1) or (2)—

(a) must be in writing;

(b) may be made subject to conditions;

(c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;

(d) may permit the further delegation of that power or further assignment of that duty;

(e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and

(f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

Transitional provisions in respect of central hospitals

30. (1) Despite the repeal of the Western Cape Health Facility Boards Act by this Act, an existing central-hospital board in the Province continues to function in accordance with the provisions of that Act until the national Minister has appointed a representative central-hospital board for the hospital concerned.

(2) Notwithstanding section 7 of the Western Cape Health Facility Boards Act, when the term of office of a member of an existing central-hospital board lapses prior to the appointment by the national Minister of a representative central-hospital board for the hospital concerned, that member may remain in office until the appointment has been made by the national Minister.

(3) On the appointment of a representative central-hospital board by the national Minister—

(a) the assets and liabilities of the existing central-hospital board vest in the representative central-hospital board, on condition that the assets must be utilised by the representative central-hospital board for the benefit of that board or the central hospital it serves; and

(b) the Provincial Minister may, after consultation with the existing central-hospital board, make a determination in writing regarding any matter that may be necessary to ensure the effective functioning of the representative central-hospital board.

Repeals and savings

31. (1) The Western Cape Health Facility Boards Act is repealed.

(2) Subject to section 30—

(a) a Board established under section 5 of the Western Cape Health Facilities Board Act and in existence immediately before the commencement of this Act continues to function and is regarded as having been established under section 4(1) of this Act;

(b) the juristic identity and the rights and obligations of such a Board are not affected by the repeal of that Act; and

(c) any person holding an office in accordance with that Act immediately before the commencement of this Act continues in office for the term of that person's appointment and is regarded as duly appointed in terms of this Act for the unexpired portion of his or her term of office.

(3) Any proclamation, regulation, notice, order, authority, permission or document issued, promulgated, given or granted and any other action taken under the Western Cape Health Facility Boards Act is, if not inconsistent with this Act, deemed to have been issued, promulgated, given, granted or taken under this Act.

Short title and commencement

32. This Act is called the Western Cape Health Facility Boards and Committees Act, 2016, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

MEMORANDUM ON THE OBJECTS OF THE WESTERN CAPE HEALTH FACILITY BOARDS AND COMMITTEES BILL, 2016

1. BACKGROUND

1.1. Several sections of the National Health Act, 2003 (Act 61 of 2003) (the NHA), came into operation on 27 February 2012 in terms of Proclamation 11/2012, published in *Government Gazette* 35081. The relevant sections for the purposes of the Western Cape Health Facility Boards and Committees Bill, 2016 (the Bill) are sections 41 and 42, which govern boards to be appointed for hospitals and committees to be appointed for clinics and community health care centres.

1.2. Section 41(1) of the NHA makes provision for the national Minister of Health (the national Minister) to determine, inter alia, the range of health services, the procedures and criteria for admission and referral, and the schedule of fees for central hospitals. Section 41(2) of the NHA makes provision for the relevant member of the Executive Council (the MEC) to perform these functions in respect of all other public health establishments classified as a hospital other than central hospitals.

1.3. In line with these provisions, section 41(4) provides that the national Minister must appoint a representative board for a central hospital or group of central hospitals and prescribe the functions of these boards. Section 41(6)*(a)* provides that the relevant MEC must appoint a representative board for all public health establishments classified as a hospital or for groups of such public health establishments. The MEC must also prescribe the functions and procedures for meetings of these boards. The public health establishments referred to in section 41(6)*(a)* do not include central hospitals. Section 42 provides that provincial legislation must at least provide for the establishment in the province in question of committees for clinics and community health care centres or groups thereof.

1.4. Currently, the boards of all hospitals in the Western Cape, including the Boards of central hospitals, are appointed by the Provincial Minister of Health (the Provincial Minister) under the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001). No specific provision is made for the appointment of committees for clinics and community health care centres.

1.5. The Bill is necessary to comply with the abovementioned sections of the NHA. The Bill accordingly makes provision for the appointment of boards for hospitals in the Province other than central hospitals, and the appointment of committees for clinics and community health care centres. Clinics and community health care centres are categorised in the Bill as ‘‘primary health care facilities’’. Hospitals and primary health care facilities are referred to collectively in the Bill as ‘‘health facilities’’.

2. OBJECTS OF BILL

2.1 The objects of the Bill are to make provision for the appointment of boards for hospitals in the Province other than central hospitals, and for the appointment of committees for primary health care facilities in the Province, and to provide for the functioning of these boards and committees.

2.2 The objects of the Bill are to provide for—

(a) the establishment of representative and accountable health facility boards and committees as statutory bodies;

(b) responsiveness of the management of health facilities to the community and the needs of patients and their families;

(c) community support for, and involvement in, health facilities and their programmes;

(*d*) a basic set of clearly defined functions and powers for boards and committees, which may be incrementally expanded in the public interest as the capacity of a board or committee increases; and
(*e*) transitional provisions for existing central-hospital boards.

3. CONTENTS OF THE BILL

Clause 1 provides for certain definitions.

Clause 2 sets out the objects of the Bill.

Clause 3 provides for the designation of health facilities for the purposes of the appointment of a board or committee by the Provincial Minister.

Clause 4 provides for the Provincial Minister to establish boards and committees.

Clause 5 provides for the appointment of board members.

Clause 6 provides for the appointment of committee members.

Clause 7 sets out the eligibility criteria for appointment as a board or committee member.

Clause 8 provides for the term of office of board and committee members.

Clause 9 provides for the declaration and filling of vacancies on boards and committees.

Clause 10 sets out the duties of hospital boards.

Clause 11 sets out the powers of hospital boards.

Clause 12 sets out the duties of primary health care facility committees.

Clause 13 sets out the powers of primary health care facility committees.

Clause 14 provides for the alteration of the functions of a board or committee.

Clause 15 provides for the manner in which boards and committees must perform their duties and exercise their powers.

Clause 16 provides for measures for cooperation.

Clause 17 provides for the election of a chairperson and deputy chairperson of a board or committee.

Clause 18 provides for the secretarial, administrative and financial accounting support required by boards and committees and for the induction of members of boards and committees newly appointed to a first term of office.

Clause 19 provides for the scheduling of meetings of boards and committees.

Clause 20 provides for the procedure at meetings of boards and committees.

Clause 21 provides for the attendance of the public at meetings of boards and committees.

Clause 22 provides for the appointment of executive committees of boards and committees.

Clause 23 provides for the appointment of specialist committees of boards and committees.

Clause 24 provides for the raising and utilisation of funds by boards.

Clause 25 provides for travelling and other allowances in respect of board and committee members.

Clause 26 provides for the closure of a health facility.

Clause 27 provides for the limitation of liability of members.

Clause 28 provides for the making of regulations by the Provincial Minister.

Clause 29 provides for the delegation of powers and the assignment of duties.

Clause 30 provides for transitional provisions in respect of central hospitals.

Clause 31 provides for the repeal of the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001), and contains savings provisions.

Clause 32 provides for the short title and date of commencement.

4. FINANCIAL IMPLICATIONS

By nature, facility boards and committee members are volunteers. The Bill provides that the Department may from its funds reimburse members of a committee for travelling expenses as a result of attendance at meetings of the committee. In addition, the Bill provides that, where a hospital board has insufficient funds available, the Department may from its funds reimburse members of a board for travelling expenses incurred as a result of attendance at meetings of the board.

5. PERSONNEL IMPLICATIONS

The Department will be responsible for providing administrative support to the boards and committees. Considering the number of boards and committees, there is a likelihood that there will be significant additional demands placed on the administrative capacity of health facilities and their management.

6. CONSULTATION

The Department of the Premier: Legal Services

The Bill was advertised for public comment in *Provincial Gazette Extraordinary* 7392 on 15 May 2015, with a closing date for the submission of comments of 15 June 2015. A notice was subsequently published in the *Provincial Gazette* 7397 extending the closing date for the submission of comments until 31 July 2015.

7. LEGISLATIVE COMPETENCE

The Provincial Minister is satisfied that all the provisions of the Bill fall within the legislative competence of the Province.

WETSONTWERP

Om voorsiening te maak vir die instelling, werksaamhede en prosedures van rade wat vir hospitale ingestel is en komitees wat vir primêregesondheidsorg-fasiliteite ingestel is; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—

"bestaande sentralehospitaal-raad" 'n raad wat kragtens die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade vir 'n sentrale hospitaal aangestel is en onmiddellik voor die inwerkingtreding van hierdie Wet bestaan;

"Departement" die provinsiale departement verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;

"Departementshoof" die hoof van die provinsiale departement verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;

"distriksgesondheidsbestuurder" 'n distriksgesondheidsbestuurder soos omskryf in artikel 1 van die Wes-Kaapse Wet op Distriksgesondheidsrade, 2010 (Wet 5 van 2010);

"distriksgesondheidsraad" 'n distriksgesondheidsraad soos omskryf in artikel 1 van die Wes-Kaapse Wet op Distriksgesondheidsrade, 2010;

"gesondheidsfasiliteit" 'n hospitaal of 'n primêregesondheidsorg-fasiliteit;

"hierdie Wet" ook die regulasies;

"hospitaal" 'n gebou, inrigting of plek wat deur die Provinsiale Minister ingevolge artikel 3 as 'n hospitaal aangewys is;

"Komitee" 'n komitee wat ingevolge artikel 4(4) ingestel is;

"lid" 'n lid van 'n Raad of Komitee, na gelang van die geval;

"Nasionale Gesondheidswet" die "National Health Act, 2003" (Wet 61 van 2003);

"nasionale Minister" die nasionale Minister verantwoordelik vir gesondheidsaangeleenthede;

"ouditeur" 'n persoon geregistreer as 'n ouditeur ingevolge die "Auditing Profession Act, 2005" (Wet 26 van 2005);

"primêregesondheidsorg-fasiliteit" 'n gebou, inrigting of plek wat deur die Provinsiale Minister ingevolge artikel 3 as 'n primêregesondheidsorg-fasiliteit aangewys is;

"Provinsiale Minister" die Provinsiale Minister verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;

"Provinsie" die Provinsie van die Wes-Kaap;

"Raad" 'n raad wat ingevolge artikel 4(1) ingestel is;

"regulasie" 'n regulasie wat kragtens hierdie Wet gemaak is;

"sentrale hospitaal" 'n hospitaal wat as sodanig aangewys is deur die nasionale Minister kragtens die Nasionale Gesondheidswet;

"verteenwoordigende sentralehospitaal-raad" 'n raad wat deur die nasionale Minister kragtens artikel 41(4) van die Nasionale Gesondheidswet aangestel is;

"voorskryf" voorskryf by regulasie;

"Wes-Kaapse Wet op Gesondheidsfasiliteitsrade" die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001).

Oogmerke van Wet

2. Die oogmerke van hierdie Wet is om voorsiening te maak vir—

(a) die instelling van verteenwoordigende en rekenpligtige Rade en Komitees as statutêre liggame;

(b) responsiwiteit van die bestuur van gesondheidsfasiliteite teenoor die gemeenskap en die behoeftes van pasiënte en hul gesinne;

(c) gemeenskapsteun vir, en -betrokkenheid by, gesondheidsfasiliteite en hul programme;

(d) 'n basiese stel duidelik omskrewe werksaamhede vir Rade en Komitees, wat toenemend uitgebrei kan word in die openbare belang namate die vermoë van 'n Raad of Komitee toeneem; en

(e) oorgangsbepalings vir bestaande sentralehospitaal-rade.

Aanwysing van hospitaal of primêregesondheidsorg-fasiliteit

3. (1) Met die doel van die instelling van 'n Raad of Komitee ingevolge hierdie Wet kan die Provinsiale Minister enige gebou, inrigting of plek waar persone behandeling, diagnostiese of terapeutiese ingrypings of ander gesondheidsdienste ontvang, aanwys as 'n hospitaal of primêregesondheidsorg-fasiliteit.

(2) Die Provinsiale Minister kan 'n gebou, inrigting of plek wat deur 'n munisipaliteit geadministreer word aldus aanwys as 'n hospitaal of primêregesondheidsorg-fasiliteit slegs met die instemming van—

(a) die Provinsiale Minister verantwoordelik vir plaaslike regering; en

(b) die betrokke munisipaliteit.

Instelling van Rade en Komitees

4. (1) Die Provinsiale Minister moet 'n Raad instel vir elke hospitaal of groep hospitale behalwe 'n sentrale hospitaal of 'n groep sentrale hospitale.

(2) Waar 'n Raad vir 'n groep hospitale ingestel word, moet die Provinsiale Minister die groep bepaal deur die volgende in ag te neem:

(a) die geografiese afstand tussen die hospitale;

(b) die grootte en verspreiding van die bevolking wat deur die hospitale bedien word; en

(c) die diensvolumes van die hospitale.

(3) 'n Raad is 'n regspersoon en is bevoeg om te dagvaar en gedagvaar te word en eiendom in sy eie naam te besit.

(4) Die Provinsiale Minister moet 'n Komitee instel vir—

(a) elke primêregesondheidsorg-fasiliteit; of

(b) 'n groep primêregesondheidsorg-fasiliteite, bepaal deur die Provinsiale Minister.

(5) Die maatstawwe en proses vir die groepering van primêregesondheidsorg-fasiliteite in die geval van 'n Komitee wat vir 'n groep primêregesondheidsorg-fasiliteite aangestel word, kan deur die Provinsiale Minister voorgeskryf word.

(6) 'n Komitee is nie 'n regspersoon nie en is nie bevoeg om te dagvaar of gedagvaar te word of eiendom te besit nie.

Aanstelling van lede van Raad

5. (1) Die Provinsiale Minister moet hoogstens 14 lede in 'n Raad aanstel, met inbegrip van—

(a) persone wat die gemeenskap of gemeenskappe verteenwoordig wat bedien word deur die hospitaal waarvoor die Raad ingestel is, benoem ingevolge subartikel (4);

(b) minstens een persoon met tegniese kundigheid oor die sakewêreld, die reg, finansies of rekeningkunde of 'n ander vakgebied van toepassing op die werksaamhede van die Raad;

(c) die hoof van die betrokke hospitaal of, in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, minstens een van die hoofde van daardie hospitale;

(d) minstens een persoon wat die kliniese personeel van die betrokke hospitaal verteenwoordig, benoem deur die kliniese personeel van die hospitaal, maar in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, is dit nie

nodig dat 'n persoon wat die kliniese personeel van elke betrokke hospitaal verteenwoordig, aangestel word nie;

(e) minstens een persoon wat die niekliniese personeel van die betrokke hospitaal verteenwoordig, benoem deur die niekliniese personeel van die hospitaal, maar in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, is dit nie nodig dat 'n persoon wat die niekliniese personeel van elke betrokke hospitaal verteenwoordig, aangestel word nie; en

(f) in die geval van 'n Raad wat vir een of meer hospitale ingestel is waar gesondheidsberoepslui opgelei word, minstens een persoon wat die akademiese belange van elke betrokke hospitaal verteenwoordig, benoem deur die Visekanselier of Visekanseliers van die betrokke universiteit of universiteite.

(2) Buiten die lede aangestel ingevolge subartikel (1) kan die Provinsiale Minister die volgende persone in 'n Raad aanstel—

(a) 'n lid van die Provinsiale Parlement, benoem deur die parlementêre komitee betrokke by gesondheidsaangeleenthede; en

(b) een of meer raadslede van die munisipale raad vir die munisipale gebied waarin die hospitaal geleë is, benoem deur die munisipale raad of 'n gesondheidsverwante komitee van die munisipale raad.

(3) Die lede wat ingevolge subartikel (1)*(a)* aangestel word, moet minstens vyftig persent van die totale getal lede van die Raad uitmaak.

(4) Die lede bedoel in subartikel (1)*(a)* moet deur 'n liggaam benoem word wat, na die mening van die Provinsiale Minister, verteenwoordigend genoeg van die belange van die betrokke gemeenskap of gemeenskappe is.

(5) 'n Liggaam bedoel in subartikel (4)—

(a) mag nie 'n politieke party wees nie;

(b) kan die volgende wees, maar hoef dit nie te wees nie:

(i) 'n gemeenskapsgesondheidskomitee of -forum;

(ii) 'n gemeenskapsontwikkelingsforum;

(iii) 'n burgerlike organisasie;

(iv) 'n welsynsorganisasie;

(v) 'n verteenwoordigende organisasie van pasiënte wat gesondheidsdienste of gesondheidsfasiliteite gebruik;

(vi) 'n gemeenskapsgebaseerde organisasie;

(vii) 'n nieregeringsorganisasie; of

(viii) 'n verteenwoordigende organisasie van kinders, vroue, bejaardes, persone met gestremdhede of persone aan wie asiel verleen is.

(6) Die Provinsiale Minister moet prosedures voorskryf vir die uitnodiging van benoemings beoog in subartikels (1)*(a)* en (4).

(7) Waar benoemings ingevolge hierdie artikel vereis word, moet alle benoemings ontvang binne die voorgeskrewe tydperk deur die Provinsiale Minister oorweeg word voordat die tersaaklike aanstellings gemaak word.

(8) Indien die Provinsiale Minister geen, of nie die vereiste hoeveelheid, benoemings ingevolge hierdie artikel ontvang nie, kan enige toepaslik gekwalifiseerde persoon as 'n lid aangestel word uit die tersaaklike kategorie vermeld in subartikel (1) of (2).

(9) Die aanstellings in 'n Raad moet gedoen word met ras- en geslagsensitiwiteit en sensitiwiteit teenoor bejaardes, die jeug en persone met gestremdhede.

Aanstelling van lede van Komitee

6. (1) Die Provinsiale Minister moet hoogstens 12 lede in 'n Komitee aanstel, met inbegrip van—

(a) een of meer raadslede van die munisipale raad vir die munisipale gebied waarin die primêregesondheidsorg-fasiliteit geleë is, benoem deur die munisipale raad of 'n gesondheidsverwante komitee van die munisipale raad;

(b) lede van die gemeenskap of gemeenskappe wat bedien word deur die primêregesondheidsorg-fasiliteit waarvoor die Komitee ingestel is, benoem ingevolge subartikel (3);

(c) die hoof van die betrokke primêregesondheidsorg-fasiliteit of, in die geval van 'n Komitee wat vir meer as een primêregesondheidsorg-fasiliteit aangestel is, 'n bestuurder aangewys deur die distriksgesondheidsbestuurder.

(2) Die lede wat ingevolge subartikel (1)*(b)* aangestel word, moet minstens vyftig persent van die totale getal lede van die Komitee uitmaak.

(3) Die lede bedoel in subartikel (1)*(b)* moet deur 'n liggaam benoem word wat—

(a) na die mening van die Provinsiale Minister, voldoende verteenwoordigend van die belange van die betrokke gemeenskap of gemeenskappe is;

(b) nie 'n politieke party is nie, maar 'n liggaam bedoel in artikel 5(5)*(b)* kan wees, maar hoef nie te wees nie.

(4) Die Provinsiale Minister kan prosedures voorskryf vir die uitnodiging van benoemings beoog in subartikels (1)*(b)* en (3).

(5) Waar benoemings ingevolge subartikel (1)*(b)* en (3) vereis word, moet alle benoemings ontvang binne die voorgeskrewe tydperk deur die Provinsiale Minister oorweeg word voordat die tersaaklike aanstellings gemaak word.

(6) Indien die Provinsiale Minister geen, of nie die vereiste hoeveelheid, benoemings ingevolge paragraaf *(b)* van subartikel (1) ontvang nie, kan enige toepaslik gekwalifiseerde persone as lede aangestel word uit die kategorie vermeld in daardie paragraaf.

(7) Die aanstellings in die Komittee moet gedoen word met ras- en geslagsensitiwiteit en sensitiwiteit teenor bejaardes, die jeug en persone met gestremdhede.

Benoembaarheid vir aanstelling as 'n lid

7. (1) Om vir aanstelling as 'n lid te kwalifiseer, moet 'n persoon—

(a) 'n Suid-Afrikaanse burger wees;

(b) ouer as 18 jaar wees;

(c) nie 'n ongerehabiliteerde insolvent wees nie;

(d) nie, te eniger tyd, skuldig bevind gewees het nie aan—

(i) 'n oortreding waarvoor hy of sy tot gevangenisstraf sonder die keuse van 'n boete gevonnis is; of

(ii) diefstal, bedrog, vervalsing, die in omloop bring van 'n vervalste dokument, meineed, enige misdryf ingevolge die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), of enige misdryf waarvan oneerlikheid 'n element is,

hetsy in die Republiek of elders indien die optrede wat die oortreding uitmaak 'n oortreding in die Republiek sal wees;

(e) toewyding tot gemeenskapsdiens toon;

(f) steun vir die missie en waardes van die betrokke gesondheidsfasiliteit toon; en

(g) 'n hoë vlak van persoonlike integriteit en eerlikheid toon.

Ampstermyn van lede

8. (1) Lede word vir 'n tydperk van drie jaar aangestel.

(2) By verstryking van die ampstermyn van 'n lid, kan daardie lid in die amp bly totdat 'n opvolger aangestel is, maar nie vir langer as ses maande nie.

(3) Behoudens subartikel (4) is 'n lid by verstryking van sy of haar ampstermyn heraanstelbaar in 'n Raad of Komitee.

(4) 'n Lid, behalwe 'n lid wat ingevolge artikel 5(1)*(c)* of 6(1)*(c)* aangestel is, mag nie vir langer as twee opeenvolgende termyne in 'n Raad of Komitee dien nie.

(5) Ondanks subartikel (4) kan 'n lid wat vir twee opeenvolgende termyne gedien het, heraangestel word indien daar, na die mening van die Provinsiale Minister, buitengewone omstandighede vir heraanstelling bestaan of, in die afwesigheid van buitengewone omstandighede, na 'n onderbreking van nie minder as een jaar nie.

Vakatures

9. (1) Die voorsitter van 'n Raad of Komitee moet 'n amp in die Raad of Komitee onmiddellik op skrif vakant verklaar indien 'n lid—

(a) sterf;

(b) sy of haar bedanking uit die amp skriftelik by die voorsitter indien;

(c) insolvent verklaar word deur 'n hof van die Republiek;

(d) gedurende sy of haar ampstermyn skuldig bevind word aan—

(i) 'n oortreding en gevonnis word tot gevangenisstraf sonder die keuse van 'n boete; of

(ii) diefstal, bedrog, vervalsing, die in omloop bring van 'n vervalste dokument, meineed, enige misdryf ingevolge die Wet op die Voorkoming

en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), of enige misdryf waarvan oneerlikheid 'n element is,

hetsy in die Republiek of elders indien die optrede wat die oortreding uitmaak 'n oortreding in die Republiek sal wees;

(e) sonder verlof van die voorsitter van die Raad of Komitee afwesig is van drie opeenvolgende gewone vergaderings van die Raad of Komitee;

(f) geskors of uit die amp verwyder is kragtens artikel 24(12)*(b)*;

(g) ophou om enige amp te beklee uit hoofde waarvan daardie lid in die Raad of Komitee aangestel is; of

(h) versuim om aan die Raad of Komitee enige direkte of indirekte persoonlike finansiële belang in 'n aangeleentheid voor die Raad of Komitee bekend te maak, en daardie lid teenwoordig is gedurende, of deelneem aan, die bespreking van of stemmery oor, daardie aangeleentheid.

(2) Indien 'n lid van 'n Raad of Komitee voortdurend vergaderings van die Raad of Komitee ontwrig of versuim om sy of haar pligte te goeder trou of eerlik uit te voer, kan die Provinsiale Minister 'n ondersoek instel na die aangeleentheid en, indien daar voldoende gronde gevind word, daardie lid uit sy of haar amp verwyder en sy of haar amp vakant verklaar.

(3) Die voorsitter moet binne sewe dae vandat 'n amp ingevolge subartikel (1) vakant verklaar is die Provinsiale Minister skriftelik van die vakature in kennis stel.

(4) By ontvangs van kennisgewing van 'n vakature ingevolge subartikel (3) of by die verwydering van 'n lid kragtens subartikel (2) moet die Provinsiale Minister 'n ander persoon aanstel om die vakature te vul vir die onverstreke ampstermyn van die vorige ampsbekleër en, vir die toepassing van artikel 8(4), maak die onverstreke termyn 'n ampstermyn uit.

(5) Vir 'n aanstelling beoog in subartikel (4) moet die Provinsiale Minister dieselfde maatstawwe toepas wat vir die aanstelling van die uittredende lid gebruik is.

(6) In die geval dat 'n Raad of 'n Komitee versuim om vier vergaderings in 'n kalenderjaar te hou, kan die Provinsiale Minister die betrokke Raad of Komitee wanfunksioneel verklaar en 'n nuwe Raad ingevolge artikel 5 of 'n nuwe Komitee ingevolge artikel 6 aanstel.

Pligte van Rade

10. (1) 'n Raad moet, ten opsigte van elke hospitaal waarvoor hy ingestel is—

(a) deelneem aan strategiese beplanning met die doel om die hospitaalbestuur van raad te bedien;

(b) die prestasie, doeltreffendheid en doelmatigheid van die hospitaal en maatreëls wat deur die hospitaalbestuur getref word om die prestasie en gehalte van diens van die hospitaal te verbeter, monitor;

(c) maatreëls tref om toe te sien dat die behoeftes, kwellinge en klagtes van pasiënte en die gemeenskap behoorlik deur die hospitaalbestuur aangepak word;

(d) gemeenskapsteun vir die hospitaal bevorder;

(e) vrywilligers aanmoedig om hul dienste aan te bied om algemene pligte vir die hospitaal uit te voer ooreenkomstig die toepaslike beleid oor vrywilligers;

(f) minstens een keer 'n jaar die finansiële state en jaarlikse finansiële state van die hospitaal aanvra en hersien;

(g) fondse vir die funksionering van die Raad insamel; en

(h) op redelike tye en in samewerking met die hospitaalbestuur, geskeduleerde besoeke aan die hospitaal aflê, sonder om die funksionering daarvan te belemmer, en konstruktiewe skriftelike terugvoering oor sodanige besoeke aan die bestuur verskaf.

(2) 'n Raad moet fondse ingesamel deur 'n Komitee waarvoor hy ingevolge artikel 18(6) aangewys is tot voordeel van die betrokke primêregesondheidsorg-fasiliteit of die funksionering van die Komitee in ontvangs neem, administreer en van rekenskap gee, op die wyse voorgeskryf deur die Provinsiale Minister.

Bevoegdhede van Rade

11. 'n Raad kan, ten opsigte van 'n hospitaal waarvoor hy ingestel is—

(a) raad gee en aanbevelings maak aan die Provinsiale Minister, die hospitaalbestuur, die Departementshoof of die betrokke munisipaliteit, na

gelang van die geval, oor enige aangeleentheid wat met die verrigting van die Raad se werksaamhede verband hou;

(b) raad gee en aanbevelings maak aan die Provinsiale Minister of die betrokke munisipaliteit, na gelang van die geval, oor die benaming of herbenaming van die hospitaal of 'n deel daarvan, met inbegrip van 'n saal of teater;

(c) inligting bekom wat hy van die hospitaalbestuur benodig, indien die inligting nie die regte van 'n pasiënt of personeellid tot privaatheid en vertroulikheid skend nie;

(d) afskrifte van gegenereerde roetine-vorderingsverslae by die hospitaalbestuur aanvra;

(e) opnames, vergaderings en raadplegende werkswinkels in die betrokke gemeenskap of gemeenskappe hou;

(f) inligting aan die betrokke gemeenskap of gemeenskappe versprei oor die missie, visie, waardes, dienste, prestasie, standaarde, beleide, strategieë, behoeftes en finansiële status van die hospitaal;

(g) personeel op kontrak aanstel om die doeleindes van die Raad te dien;

(h) fondse of roerende eiendom skenk vir die verskaffing, verbetering of uitbreiding van dienste en geriewe, of fondse skenk vir die verkryging van roerende of onroerende bates tot voordeel van die hospitaal, op die wyse voorgeskryf deur die Provinsiale Minister; en

(i) trustfondse of Raadfondse insamel en administreer vir die doeleindes bedoel in paragraaf *(g)* of *(h)*, of om uitvoering te gee aan enige ander bepaling van hierdie Wet.

Pligte van Komitees

12. 'n Komitee moet, ten opsigte van elke primêregesondheidsorg-fasiliteit waarvoor hy ingestel is—

(a) terugvoering versoek oor maatreëls wat deur die bestuur van die primêregesondheidsorg-fasiliteit getref is om die gehalte van diens by die fasiliteit te verbeter;

(b) die gemeenskap bystaan om sy behoeftes, kwellinge en klagtes doeltreffend aan die bestuur van die primêregesondheidsorg-fasiliteit te kommunikeer sodat die behoeftes, kwellinge en klagtes toepaslik aangepak kan word;

(c) gemeenskapsteun vir die primêregesondheidsorg-fasiliteit bevorder;

(d) op redelike tye en in samewerking met die bestuur van die primêregesondheidsorg-fasiliteit geskeduleerde besoeke aan die fasiliteit aflê, sonder om die funksionering daarvan te belemmer, en konstruktiewe skriftelike terugvoer op sodanige besoeke aan die bestuur verskaf;

(e) vrywilligers aanmoedig om hul dienste aan te bied om algemene pligte uit te voer ten opsigte van die primêregesondheidsorg-fasiliteit ooreenkomstig die toepaslike beleid oor vrywilligers; en

(f) konstruktiewe terugvoer verskaf aan die bestuur van die primêregesondheidsorg-fasiliteit ten einde dienslewering te verbeter.

Bevoegdhede van Komitees

13. (1) 'n Komitee kan, ten opsigte van 'n primêregesondheidsorg-fasiliteit waarvoor hy ingestel is—

(a) opnames maak en vergaderings en raadplegende werkswinkels in die betrokke gemeenskap of gemeenskappe hou;

(b) inligting aan die betrokke gemeenskap of gemeenskappe versprei oor die missie, visie, waardes, dienste, prestasie, standaarde, beleide, strategieë, behoeftes en finansiële status van die primêregesondheidsorg-fasiliteit;

(c) raad gee en aanbevelings maak aan die Provinsiale Minister, die bestuur van die primêregesondheidsorg-fasiliteit, die Departementshoof of die betrokke munisipaliteit, na gelang van die geval, oor enige aangeleentheid wat met die verrigting van die Komitee se werksaamhede verband hou;

(d) inligting bekom wat hy van die bestuur van die primêregesondheidsorg-fasiliteit benodig indien die inligting nie die regte van 'n pasiënt of personeellid tot privaatheid en vertroulikheid skend nie;

(e) afskrifte van gegenereerde roetine-vorderingsverslae by die bestuur van die primêregesondheidsorg-fasiliteit aanvra; en

(f) fondsinsamelingsbedrywighede tot voordeel van die primêregesondheidsorg-fasiliteit en die funksionering van die Komitee hou.

(2) Alle fondse wat deur 'n Komitee ingesamel is—

(a) moet betaal word aan, en geadministreer word en van rekenskap gegee word deur, die Raad wat ingevolge artikel 18(6) deur die Departementshoof aangewys is, op die voorgeskrewe wyse;

(b) kan gebruik word slegs tot voordeel van die betrokke primêregesondheidsorg-fasiliteit of -fasiliteite of vir die funksionering van die Komitee.

(3) Roerende eiendom wat aan die Komitee geskenk is, moet by ontvangs aan die betrokke primêregesondheidsorg-fasiliteit toegewys word, en die fasiliteit moet daarvan rekenskap gee ooreenkomstig die bate- en inventarisbestuursbeleid van toepassing op die fasiliteit.

Verandering van werksaamhede van Raad of Komitee

14. (1) Behoudens subartikel (4) en enige ander wet kan die Provinsiale Minister in oorleg met 'n Raad of Komitee daardie Raad of Komitee magtig om bykomende pligte uit te voer of bykomende bevoegdhede uit te oefen indien die Provinsiale Minister rede het om te glo dat—

(a) die Raad of Komitee die vermoë het om daardie bykomende pligte uit te voer of daardie bykomende bevoegdhede uit te oefen; en

(b) dit in die openbare belang sal wees vir die Raad of Komitee om dit te doen.

(2) Die Provinsiale Minister kan na oorleg met 'n Raad of Komitee die gesag wat ingevolge subartikel (1) aan daardie Raad of Komitee gegee is om 'n bykomende plig uit te voer of 'n bykomende bevoegdheid uit te oefen, intrek indien die Provinsiale Minister rede het om te glo dat—

(a) die Raad of Komitee nie meer die vermoë het om daardie bykomende plig uit te voer of daardie bykomende bevoegdheid uit te oefen nie; of

(b) dit in die openbare belang sal wees vir die Provinsiale Minister om dit te doen.

(3) Die Provinsiale Minister kan na oorleg met 'n Raad of Komitee—

(a) daardie Raad of Komitee vrystel van die uitvoering van 'n plig wat by artikel 10 of 12 opgelê is; of

(b) 'n bevoegdheid intrek wat by artikel 11 of 13 aan die Raad of Komitee verleen is.

(4) Wanneer die Provinsiale Minister 'n bevoegdheid beoog in subartikel (1), (2) of (3) uitoefen, moet die Provinsiale Minister na oorleg met die hoof of hoofde van die betrokke gesondheidsfasiliteit of -fasiliteite handel.

Uitvoering van pligte en uitoefening van bevoegdhede

15. (1) By die uitvoering van sy pligte of uitoefening van sy bevoegdhede moet 'n Raad of Komitee handel ooreenkomstig die tersaaklike en toepaslike wette en beleid wat deur die nasionale, provinsiale of plaaslike regering gemaak is.

(2) Die Departementshoof kan 'n Raad of Komitee versoek om 'n kwartaallikse verslag van sy bedrywighede te verskaf.

(3) Die voorsitter van 'n Raad of Komitee moet binne twee maande voor die einde van elke kalenderjaar 'n skriftelik verslag by die Provinsiale Minister indien oor die bedrywighede van die Raad of Komitee gedurende daardie jaar.

Maatreëls vir samewerking

16. (1) Die Provinsiale Minister kan maatreëls tref om samewerkende werksbetrekkinge tussen Rade, Komitees en distriksgesondheidsrade te verseker.

(2) 'n Raad of Komitee moet sterk en samewerkende betrekkinge smee met die bestuur van die gesondheidsfasiliteit wat hy bedien.

(3) Die hoof van 'n gesondheidsfasiliteit moet—

(a) maatreëls tref om die Raad of Komitee by te staan in die uitvoering van sy pligte en die uitoefening van sy bevoegdhede; en

(b) sterk en samewerkende betrekkinge met die Raad of Komitee smee.

(4) Indien onversoenlike verskille tussen die bestuur van 'n gesondheidsfasiliteit en die betrokke Raad of Komitee ontstaan, kan die Raad of Komitee of die hoof van die gesondheidsfasiliteit bemiddeling of arbitrasie deur die Departementshoof aanvra.

Voorsitter en ondervoorsitter

17. (1) ’n Raad of Komitee moet, vanuit die lede bedoel in artikel 5(1)*(a)*, 5(1)*(b)* of 6(1)*(b)*, na gelang van die geval, ’n voorsitter en ’n ondervoorsitter verkies—

(a) by sy eerste vergadering; en

(b) daarna, wanneer ook al die een of die ander amp vakant word.

(2) ’n Werknemer van die Departement mag nie die voorsitter van ’n Raad wees nie.

(3) Die voorsitter en die ondervoorsitter word vir die ampstermyn van die betrokke lid verkies.

(4) Binne 14 dae vanaf die verkiesing van ’n voorsitter of ondervoorsitter ingevolge subartikel (1) moet die voorsitter die Departementshoof skriftelik in kennis stel van die naam en adres van die betrokke ampsbekleër.

(5) Wanneer die voorsitter afwesig is van ’n vergadering van die Raad of Komitee of nie beskikbaar is nie, neem die ondervoorsitter as voorsitter waar.

(6) Indien beide die voorsitter en ondervoorsitter afwesig is van ’n vergadering van die Raad of Komitee moet die teenwoordige lede een onder hulle verkies om as voorsitter vir daardie vergadering waar te neem.

(7) Die voorsitter van ’n Raad is die rekenpligtige beampte vir daardie Raad en het die bevoegdhede en pligte voorgeskryf deur die Provinsiale Minister.

(8) Die amp van die voorsitter of die ondervoorsitter word vakant indien die betrokke lid—

(a) skriftelik bedank; of

(b) verwyder word deur ’n besluit van die betrokke Raad of Komitee.

Algemene steun

18. (1) Die hospitaal waarvoor ’n Raad ingestel is, moet ’n lokaal vir die Raad asook die sekretariële, administratiewe en finansieel rekeningkundige steun verskaf wat die Raad benodig.

(2) Indien ’n Raad vir meer as een hospitaal ingestel word, moet ’n lokaal en die sekretariële, administratiewe en finansieel rekeningkundige steun wat die Raad benodig deur een of meer van die hospitale verskaf word, soos bepaal—

(a) by ooreenkoms tussen die hoofde van die betrokke hospitale; of

(b) deur die Departementshoof, in die afwesigheid van sodanige ooreenkoms.

(3) Ondanks subartikels (1) en (2) kan ’n Raad uit sy fondse op die wyse voorgeskryf deur die Provinsiale Minister alternatiewe reëlings tref vir die verskaffing van ’n lokaal asook sekretariële, administratiewe en finansieel rekeningkundige steun.

(4) Die primêregesondheidsorg-fasiliteit of -fasiliteite waarvoor ’n Komitee ingestel is, moet ’n lokaal vir die Komitee en, so ver as moontlik, die sekretariële, administratiewe en finansieel rekeningkundige steun wat die Komitee benodig, verskaf.

(5) Indien ’n Komitee vir meer as een primêregesondheidsorg-fasiliteit ingestel is, moet ’n lokaal en, so ver as moontlik, sekretariële, administratiewe en finansieel rekeningkundige steun benodig deur die Komitee deur een of meer van die primêregesondheidsorg-fasiliteite verskaf word, soos bepaal—

(a) by ooreenkoms tussen die hoofde van die betrokke primêregesondheidsorg-fasiliteite; of

(b) deur die Departementshoof, in die afwesigheid van sodanige ooreenkoms.

(6) Die Departementshoof moet ’n Raad vir elke Komitee aanwys met die doel om die fondse ingesamel deur ’n Komitee in ontvangs te neem, te administreer en van rekenskap te gee.

(7) ’n Raad aangewys ingevolge subartikel (6) moet die fondse ingesamel deur die Komitee ontvang, administreer en van rekenskap gee op die voorgeskrewe wyse.

(8) Die Departement moet voorsiening maak vir die inlywing en opleiding van lede wat nuut aangestel is in ’n eerste ampstermyn en moet bykomende opleiding verskaf, indien nodig en toepaslik geag.

Skedulering van vergaderings

19. (1) Die Departementshoof moet die tyd en plek vir die eerste vergadering van ’n Raad of Komitee bepaal.

(2) ’n Raad of Komitee moet die tyd en plek van daaropvolgende gewone vergaderings bepaal, wat minstens een keer elke drie maande en vier keer per kalenderjaar moet plaasvind.

(3) Die voorsitter kan te eniger tyd 'n spesiale vergadering belê en moet dit doen indien skriftelik versoek deur minstens twee lede van die Raad of Komitee en die voorsitter tevrede is dat die versoek redelik is.

(4) Die voorsitter moet lede van die tyd, plek en rede vir 'n spesiale vergadering in kennis stel minstens drie werksdae voor die vergadering, behalwe waar 'n korter kennisgewingtydperk genoodsaak word deur die uitsonderlike dringendheid van die omstandighede.

(5) Kennisgewing van alle vergaderings van 'n Raad of Komitee moet aan die publiek bekendgemaak word.

Prosedure by vergaderings

20. (1) Die prosedure by 'n vergadering van 'n Raad of Komitee moet, vir sover dit nie voorgeskryf is nie, deur die Raad of Komitee bepaal word.

(2) 'n Kworum van minstens een helfte van die lede aangestel ingevolge artikel 5(1)*(a)* of 6(1)*(b)* en een helfte van die ander lede aangestel ingevolge artikel 5(1) en (2) of 6(1), na gelang van die geval, moet te eniger tyd by 'n vergadering teenwoordig wees.

(3) 'n Besluit van 'n Raad of Komitee behoort deur eenparigheid te wees, maar by gebrek aan eenparigheid is die besluit van 'n meerderheid van die lede teenwoordig by die vergadering die besluit van die Raad of Komitee.

(4) In die geval van 'n staking van stemme oor enige aangeleentheid het die voorsitter by die vergadering 'n beslissende stem en 'n beraadslagende stem.

(5) 'n Raad kan enige persoon versoek of toelaat om in 'n raadgewende hoedanigheid aan 'n vergadering van die Raad deel te neem.

(6) Die voorsitter moet toesien dat—

(a) daar behoorlike rekord gehou word van bywoning van, die notule van, en besluite aangeneem by, elke vergadering; en

(b) 'n afskrif van 'n rekord bedoel in paragraaf *(a)*, onderteken deur die voorsitter, na die Departementshoof gestuur word indien die Departementshoof dit versoek.

Openbare bywoning by vergaderings

21. (1) Behoudens subartikel (2) is alle vergaderings van 'n Raad of Komitee oop vir lede van die publiek.

(2) Indien 'n Raad of Komitee op redelike gronde besluit dat lede van die publiek nie teenwoordig behoort te wees by 'n vergadering terwyl 'n bepaalde kwessie bespreek word nie moet die voorsitter die publiek vir die duur van daardie bespreking uit die vergadering uitsluit.

(3) 'n Raad of Komitee kan enige redelike middele gebruik om lede van die publiek van vergaderings van Rade of Komitees in kennis te stel.

Uitvoerende komitee

22. (1) 'n Raad of Komitee kan 'n uitvoerende komitee aanstel wat uit lede van die Raad of Komitee bestaan, waarvan minstens die helfte lede moet wees wat ingevolge artikel 5(1)*(a)* aangestel is in die geval van 'n Raad en artikel 6(1)*(b)* in die geval van 'n Komitee.

(2) Behoudens die opdragte van 'n Raad of Komitee en subartikels (3) en (4), kan 'n uitvoerende komitee tussen vergaderings van die Raad of Komitee alle pligte uitvoer en bevoegdhede uitoefen van die Raad of Komitee.

(3) 'n Uitvoerende komitee het nie die bevoegdheid om 'n besluit van die Raad of Komitee te hersien of te verander nie, behalwe vir sover die Raad of Komitee anders opdrag gee.

(4) Enige handeling wat verrig of besluit wat geneem is deur 'n uitvoerende komitee kan by die eerste vergadering van die Raad of Komitee wat volg op die handeling of besluit hersien en verander word deur die Raad of Komitee, sonder benadeling van enige persoon.

Spesialiskomitees

23. (1) ’n Raad of Komitee kan spesialiskomitees aanstel wat uit lede van die Raad of Komitee bestaan om namens die Raad of Komitee sekere pligte uit te voer of sekere bevoegdhede uit te oefen.

(2) Waar uitvoerende bevoegdheid aan ’n spesialiskomitee gedelegeer word, moet daar oor die mandaat, opdrag, prosedure en kworums van die spesialiskomitee ooreengekom word en moet dit deur die Raad of Komitee aangeteken word.

(3) ’n Spesialiskomitee van ’n Raad kan ’n persoon of persone wat nie in die Raad dien nie koöpteer om in ’n raadgewende hoedanigheid in die spesialiskomitee te dien.

(4) Enige handeling verrig of besluit geneem deur ’n spesialiskomitee kan by die eerste vergadering van die Raad of Komitee na daardie handeling of besluit deur die Raad of Komitee hersien en verander word, sonder benadeling van enige persoon.

Insameling en aanwending van fondse van Raad

24. (1) ’n Raad kan dienste, fondse, of eiendom ontvang met die doel om sy werksaamhede te verrig.

(2) ’n Raad kan fondse, eiendom of toerusting wat aan hom behoort, aanwend vir die doel om sy werksaamhede te verrig.

(3) ’n Raad kan ’n trust instel tot voordeel van ’n hospitaal wat deur hom bedien word en kan ’n trust aanvaar en administreer wat reeds ingestel is tot voordeel van ’n hospitaal wat deur hom bedien word.

(4) ’n Raad moet rekord hou van alle fondse deur hom ontvang en bestee en van sy bates, laste en transaksies.

(5) ’n Raad moet jaarliks, binne twee maande voor die einde van sy boekjaar, sy finansiële state vir daardie jaar by die Departementshoof indien, saamgestel volgens die verslagdoeningsraamwerk bepaal deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies.

(6) ’n Ouditeur wat deur die Raad aangestel is, moet, behoudens subartikel (7), die rekords en jaarlikse finansiële state van die Raad ouditeer en moet binne twee maande vanaf ontvangs van die state bedoel in subartikel (5) ’n ouditverslag by die Departementshoof en die Raad indien.

(7) Die Provinsiale Minister kan, na oorleg met die Departementshoof, bepaal dat ’n Raad daarvan vrygestel is om geouditeer te word.

(8) Die Provinsiale Minister moet die volgende oorweeg wanneer ’n bepaling ingevolge subartikel (7) gemaak word:

(a) of die totale batewaarde, met inbegrip van beleggings van die Raad, in die vorige boekjaar R5 000 000 oorskry het, met sodanige bedrag wat jaarliks op 1 Maart ooreenkomstig die verbruikersprysindeks aangepas moet word;

(b) die finansiële state van die Raad in die vorige boekjaar; en

(c) of die Raad in die vorige boekjaar aan sy pligte ingevolge hierdie Wet voldoen het.

(9) Waar die Provinsiale Minister ’n Raad ingevolge subartikel (7) vrygestel het, moet die Raad nietemin finansiële state by die Departementshoof indien wat saamgestel is volgens die verslagdoeningsraamwerk bepaal deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies.

(10) Die Provinsiale Minister kan vereis dat ’n Raad wat ingevolge subartikel (7) vrygestel is, geouditeer word soos uiteengesit in subartikel (6).

(11) Die boekjaar van ’n Raad is ’n jaar wat op 31 Maart eindig.

(12) Indien ’n Raad versuim om aan subartikel (5) of (9) te voldoen, of in die geval van enige finansiële wanbestuur deur ’n Raad, kan die Provinsiale Minister redelike regstellende stappe doen wat hy of sy nodig ag, met inbegrip van—

(a) die aanstelling van ’n administrateur om die finansiële sake of bedryfsfunksies van die Raad te administreer;

(b) die skorsing of verwydering van Raadslede uit hul amp; en

(c) die verandering van die pligte en bevoegdhede van die Raad, ondanks artikel 14.

(13) Voordat die Provinsiale Minister enige regstellende stappe beoog in subartikel (12) doen, moet die Departementshoof aan die Raad ’n voldoenings-kennisgewing, en afskrifte daarvan aan sy lede, uitreik wat die volgende uiteensit:

(a) ’n beskrywing van die oortreding wat die nievoldoening uitmaak;

(b) die stappe wat die Raad moet doen en die tydperk waarbinne daardie stappe gedoen moet word om die oortreding reg te stel; en

(c) 'n kennisgewing aan die Raad dat indien hy versuim om enige stappe bedoel in paragraaf *(b)* te doen, die Departementshoof die nievoldoening na die Provinsiale Minister moet verwys om ingevolge subartikel (12) regstellende stappe te doen.

(14) Indien die Raad binne die tydperk vermeld in die voldoeningskennisgewing aan die stappe bedoel in subartikel (13)*(b)* voldoen, moet die Departementshoof die Raad skriftelik in kennis stel van sy voldoening aan die bepalings van die voldoeningskennisgewing.

(15) Indien die Raad versuim om binne die tydperk vermeld in die voldoeningskennisgewing aan enige of alle stappe bedoel in subartikel (13)*(b)* te voldoen—

(a) moet die Departementshoof, by verstryking van die tydperk vermeld in die voldoeningskennisgewing, die Provinsiale Minister skriftelik in kennis stel van die nievoldoening of gedeeltelike voldoening deur die Raad; en

(b) moet die Provinsiale Minister binne 30 dae van ontvangs van 'n mededeling oor nievoldoening of gedeeltelike voldoening die Raad skriftelik in kennis stel van sy nievoldoening of gedeeltelike voldoening aan die bepalings van die voldoeningskennisgewing.

(16) Die kennisgewing beoog in subartikel (15)*(b)* moet die volgende vermeld:

(a) die voorgestelde regstellende stappe wat ingevolge subartikel (12) gedoen moet word; en

(b) dat die Raad daarop geregtig is om binne 14 dae van ontvangs van die kennisgewing rakende die voorgestelde regstellende stappe skriftelike vertoë aan die Provinsiale Minister te rig.

(17) By verstryking van die 14 dae beoog in subartikel (16)*(b)*, of die Provinsiale Minister enige skriftelike vertoë van die Raad ontvang het al dan nie, kan die Provinsiale Minister, na behoorlike oorweging van alle tersaaklike feite, met inbegrip van die Raad se gedeeltelike voldoening aan die bepalings van die voldoeningskennisgewing en enige skriftelike vertoë deur die Raad, die voorgestelde regstellende stappe doen.

(18) Indien 'n administrateur ingevolge subartikel (12)*(a)* aangestel word, moet hy of sy—

(a) binne ses maande van sy of haar aanstelling die Departementshoof voorsien van 'n verslag van die finansiële sake van die Raad en enige vermoedelike oortreding van 'n wetlike bepaling of onwettige handeling wat deur die Raad gepleeg is;

(b) daarna, in oorleg met die Departementshoof, 'n herstelplan vir die Raad voorberei; en

(c) by voltooiing van die implementering van die herstelplan, of by versuim om die herstelplan te implementeer—

(i) indien nodig, aan die Provinsiale Minister en Departementshoof 'n verlenging van die herstelplan vir 'n tydperk van hoogstens ses maande aanbeveel; of

(ii) die Provinsiale Minister en Departementshoof voorsien van 'n finale verslag van die finansiële sake van die Raad en enige vermoedelike oortreding van 'n wetlike bepaling of onwettige handeling wat deur die Raad gepleeg is.

(19) Die Provinsiale Minister kan, na oorleg met die Departementshoof en by ontvangs van die finale verslag beoog in subartikel (18)*(c)*(ii), bepaal dat—

(a) die Raad in staat is om sy eie finansiële sake te administreer; of

(b) die Raad in staat is om sy eie finansiële sake te administreer met die bystand van 'n administrateur aangestel deur die Provinsiale Minister op sodanige verdere bepalings en voorwaardes soos bepaal deur die Provinsiale Minister.

(20) Voordat die Provinsiale Minister 'n bepaling ingevolge subartikel (19)*(b)* maak, moet hy of sy die Raad skriftelik in kennis stel van sy of haar voorneme om so 'n bepaling te maak.

(21) Die kennisgewing beoog in subartikel (20) moet die volgende vermeld:

(a) die bepaling wat die Provinsiale Minister van voorneme is om te maak; en

(b) dat die Raad daarop geregtig is om binne 14 dae van ontvangs van die kennisgewing skriftelike vertoë rakende die voorgestelde bepaling aan die Provinsiale Minister te rig.

(22) By verstryking van die 14 dae beoog in subartikel (21)*(b)*, of die Provinsiale Minister enige skriftelike vertoë van die Raad ontvang het al dan nie, kan die Provinsiale Minister, na behoorlike oorweging van alle tersaaklike feite, met inbegrip van enige vertoë deur die Raad, die voorgestelde bepaling maak.

Reis- en ander toelae

25. (1) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan 'n Raad uit sy fondse 'n lid van die Raad wat ingevolge artikel 5(1)*(a)* en *(b)* aangestel is, 'n raadgewer ingevolge artikel 20(5) of enige persoon wat gekoöpteer is om ingevolge artikel 23(3) in 'n spesialiskomitee te dien, vergoed vir—

(a) vervoeruitgawes tussen daardie lid, raadgewer of persoon se normale woon- of werkplek en die plek van 'n vergadering van die Raad of die betrokke spesialiskomitee; en

(b) reis- en verblyfuitgawes wat aangegaan is as gevolg van bywoning van konferensies, seminare of opleidingskursusse of ander sake van die Raad, maar in die geval van konferensies, seminare en opleidingskursusse buite die Provinsie moet die skriftelike goedkeuring van die Provinsiale Minister vooraf bekom word.

(2)*(a)* 'n Raad mag nie sy lede vergoed vir tyd wat aan Raadsake bestee is nie.

(b) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan 'n Raad uit sy fondse 'n raadgewer ingevolge artikel 20(5) of 'n persoon wat gekoöpteer is om ingevolge artikel 23(3) in 'n spesialiskomitee van die Raad te dien, vergoed vir tyd wat aan Raadsake bestee is.

(3)*(a)* 'n Lid van 'n Komitee is nie geregtig op vergoeding vir tyd wat op Komiteesake bestee is nie.

(b) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan die Departement uit sy fondse 'n lid van 'n Komitee wat ingevolge artikel 6(1)*(b)* aangestel is, vergoed vir reisuitgawes wat as gevolg van bywoning van vergaderings van die Komitee aangegaan is.

(4) In die geval dat die Raad onvoldoende beskikbare fondse het, en behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan die Departement uit sy fondse 'n lid van 'n Raad wat ingevolge artikels 5(1)*(a)* of *(b)* aangestel is, vergoed vir die vervoeruitgawes beoog in subartikel (1)*(a)*.

Sluiting van gesondheidsfasiliteit

26. (1) In die geval van die sluiting van 'n gesondheidsfasiliteit waarvoor 'n Raad of Komitee ingestel is, moet die Departementshoof minstens drie maande voor die sluiting en na oorleg met daardie Raad of Komitee, die Raad of Komitee skriftelik opdrag gee rakende—

(a) in die geval van 'n Raad of Komitee wat slegs vir daardie gesondheidsfasiliteit ingestel is, die voorgenome sluiting van daardie fasiliteit en die ontbinding van die Raad of Komitee en, in die geval van 'n Raad, enige trust wat moontlik deur die Raad ingestel is;

(b) in die geval van 'n Raad of Komitee wat vir meer as een gesondheidsfasiliteit ingestel is, enige voorgenome aanpassing van sy samestelling wat deur die sluiting van daardie gesondheidsfasiliteit genoodsaak word; en

(c) in die geval van 'n Raad wat slegs vir daardie gesondheidsfasiliteit ingestel is, die beskikking oor die bates en laste van die Raad, en enige trust wat moontlik deur die Raad ingestel is.

(2) By die sluiting van 'n gesondheidsfasiliteit bedoel in subartikel (1)*(a)* word die Raad of Komitee wat daardie gesondheidsfasiliteit bedien en, in die geval van 'n Raad, enige trust wat moontlik deur die Raad ingestel is, ontbind, en die Departementshoof moet, indien nodig, stappe doen om uitvoering te gee aan die instruksies beoog in subartikel (1)*(c)*.

Beperking van aanspreeklikheid van lede

27. 'n Lid is nie aanspreeklik vir enigiets wat te goeder trou gedoen is in die uitvoering van 'n werksaamheid ingevolge hierdie Wet nie.

Regulasies

28. (1) Behoudens subartikel (3) moet die Provinsiale Minister regulasies maak rakende—

(a) prosedures vir die benoeming van lede vir aanstelling in Rade en Komitees;
(b) die finansiële bestuur van Rade;
(c) die wyse waarop 'n Raad fondse of ander roerende eiendom kan skenk vir die verskaffing, verbetering of uitbreiding van dienste en geriewe, of fondse kan skenk vir die verkryging van roerende of onroerende bates tot voordeel van die hospitaal;
(d) die bevoegdhede en pligte van die voorsitter van 'n Raad of Komitee;
(e) die wyse waarop 'n Raad reëlings kan tref vir die verskaffing van 'n lokaal, asook sekretariële, administratiewe en finansieel rekeningkundige steun;
(f) die wyse waarop 'n Komitee fondse wat ingesamel is tot voordeel van die primêregesondheidsorg-fasiliteit en vir die funksionering van die Komitee moet betaal aan die Raad wat ingevolge artikel 18(6) deur die Departementshoof aangewys is;
(g) die wyse waarop 'n Raad wat ingevolge artikel 18(6) aangewys is die fondse wat deur 'n Komitee ingesamel is in ontvangs moet neem, moet administreer en van rekenskap gee;
(h) reis- en ander toelae wat ingevolge hierdie Wet betaalbaar is;
(i) die instelling van trusts deur Rade; en
(j) die maatstawwe en proses vir die groepering van primêregesondheidsorg-fasiliteite met die doel om 'n Komitee vir 'n groep primêregesondheidsorg-fasiliteite in te stel.

(2) Behoudens subartikel (3) kan die Provinsiale Minister regulasies maak rakende—

(a) prosedures vir vergaderings van 'n Raad of Komitee; en
(b) enige ander aangeleentheid wat nodig of raadsaam kan wees om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

(3) In die geval van regulasies wat finansiële implikasies vir die staat inhou, moet die Provinsiale Minister die regulasies maak met die instemming van die Provinsiale Minister verantwoordelik vir finansies.

Delegering

29. (1) Die Provinsiale Minister kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan die Departementshoof delegeer of opdra, behalwe die bevoegdheid om regulasies te maak.

(2) Die Departementshoof kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet delegeer of opdra aan—

(a) 'n werknemer in die Departement; of
(b) die bekleër van 'n spesifieke amp of posisie in die Departement.

(3) Ondanks subartikel (2) mag die Departementshoof nie aan 'n lid 'n bevoegdheid delegeer of 'n plig opdra nie.

(4) 'n Delegasie of opdrag bedoel in subartikel (1) of (2)—

(a) moet op skrif wees;
(b) kan behoudens voorwaardes gemaak word;
(c) kan skriftelik deur die Provinsiale Minister of die Departementshoof, na gelang van die geval, ingetrek of gewysig word;
(d) kan die verdere delegasie van daardie bevoegdheid of verdere opdrag van daardie plig toelaat;
(e) verhoed nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en
(f) ontneem nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die opgedraagde plig nie.

Oorgangsbepalings ten opsigte van sentrale hospitale

30. (1) Ondanks die herroeping by hierdie Wet van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, gaan 'n bestaande sentralehospitaal-raad in die Provinsie voort om te funksioneer ooreenkomstig die bepalings van daardie Wet totdat die nasionale Minister 'n verteenwoordigende sentralehospitaal-raad vir die betrokke hospitaal aangestel het.

(2) Ondanks artikel 7 van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, wanneer die ampstermyn van 'n lid van 'n bestaande sentralehospitaal-raad verval voor die aanstelling deur die nasionale Minister van 'n verteenwoordigende sentrale-hospitaal-raad vir die betrokke hospitaal, kan daardie lid in die amp bly totdat die aanstelling deur die nasionale Minister gemaak is.

(3) By die aanstelling van 'n verteenwoordigende sentralehospitaal-raad deur die nasionale Minister—

(a) vestig die bates en laste van die bestaande sentralehospitaal-raad in die verteenwoordigende sentralehospitaal-raad op voorwaarde dat die bates deur die verteenwoordigende sentralehospitaal-raad aangewend moet word tot voordeel van daardie raad of die sentrale hospitaal wat hy bedien; en

(b) kan die Provinsiale Minister na oorleg met die bestaande sentralehospitaal-raad 'n skriftelike bepaling maak rakende enige aangeleentheid wat nodig kan wees om die doeltreffende funksionering van die verteenwoordigende sentralehospitaal-raad te verseker.

Herroeping en voorbehoude

31. (1) Die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade word herroep.

(2) Behoudens artikel 30—

(a) gaan 'n Raad ingestel kragtens artikel 5 van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, voort om te funksioneer en word die Raad geag ingestel te wees kragtens artikel 4(1) van hierdie Wet;

(b) word die regsidentiteit en die regte en verpligtinge van so 'n Raad nie deur die herroeping van daardie Wet geraak nie; en

(c) gaan enige persoon wat ooreenkomstig daardie Wet onmiddellik voor die inwerkingtreding van hierdie Wet 'n amp beklee, voort in die amp vir die termyn van daardie persoon se aanstelling en word die persoon geag behoorlik aangestel te wees ingevolge hierdie Wet vir die onverstreke gedeelte van sy of haar ampstermyn.

(3) Enige proklamasie, regulasie, kennisgewing, bevel, magtiging, toestemming of dokument wat uitgereik, gepromulgeer, gegee of verleen en enige ander handeling verrig kragtens die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade word geag, indien nie onbestaanbaar met hierdie Wet nie, kragtens hierdie Wet uitgereik, gepromulgeer, gegee, verleen of verrig te wees.

Kort titel en inwerkingtreding

32. Hierdie Wet heet die Wes-Kaapse Wet op Rade en Komitees vir Gesondheidsfasiliteite, 2016, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE WETSONTWERP OP RADE EN KOMITEES VIR GESONDHEIDSFASILITEITE, 2016

1. AGTERGROND

1.1. Verskeie artikels van die "National Health Act, 2003" (Wet 61 van 2003) (die NHA), het op 27 Februarie 2012 ingevolge Proklamasie 11/2012, gepubliseer in *Staatskoerant* 35081, in werking getree. Die tersaaklike artikels vir die toepassing van die Wes-Kaapse Wetsontwerp op Rade en Komitees vir Gesondheidsfasiliteite, 2016 (die Wetsontwerp) is artikels 41 en 42, wat bepaal dat rade vir hospitale aangestel word en komitees vir klinieke en gemeenskapsgesondheidsorg-sentrums aangestel word.

1.2. Artikel 41(1) van die NHA maak voorsiening vir die nasionale Minister van Gesondheid (die nasionale Minister) om onder meer die omvang van gesondheidsdienste, die prosedures en maatstawwe vir toelating en verwysing, en die skedule van tariewe vir sentrale hospitale te bepaal. Artikel 41(2) van die NHA maak voorsiening vir die tersaaklike lid van die Uitvoerende Raad (die LUR) om hierdie werksaamhede ten opsigte van alle ander openbare gesondsheidsinrigtings wat as 'n hospitaal geklassifiseer word te verrig, buiten sentrale hospitale.

1.3. In ooreenstemming met hierdie bepalings, bepaal artikel 41(4) dat die nasionale Minister 'n verteenwoordigende raad vir 'n sentrale hospitaal of groep sentrale hospitale moet aanstel en die werksaamhede van hierdie rade moet voorskryf. Artikel 41(6)*(a)* bepaal dat die tersaaklike LUR 'n verteenwoordigende raad moet aanstel vir alle openbare gesondheids-inrigtings wat as 'n hospitaal geklassifiseer word of vir groepe sodanige openbaregesondheid-inrigtings. Die LUR moet ook die werksaamhede en prosedures voorskryf vir vergaderings van hierdie rade. Die openbare gesondheidsinrigtings bedoel in artikel 41(6)*(a)* sluit nie sentrale hospitale in nie. Artikel 42 bepaal dat provinsiale wetgewing voorsiening moet maak vir minstens die instelling in die betrokke provinsie van komitees vir klinieke en gemeenkapsgesondheidsorg-sentrums of groepe daarvan.

1.4. Tans word die rade van alle hospitale in die Wes-Kaap, met inbegrip van die rade van sentrale hospitale, deur die Provinsiale Minister van Gesondheid (die Provinsiale Minister) aangestel kragtens die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001). Geen spesifieke voorsiening word daarin vir die aanstelling van komitees vir klinieke en gemeenskapsgesondheidsorg-sentrums gemaak nie.

1.5. Die Wetsontwerp is nodig om aan die bogenoemde artikels van die NHA te voldoen. Die Wetsontwerp maak dienooreenkomstig voorsiening vir die aanstellings van rade vir hospitale in die Provinsie buiten sentrale hospitale, en die aanstelling van komitees vir klinieke en gemeenskapsgesondheidsorg-sentrums. Klinieke en gemeenskapsgesondheidsorg-sentrums word in die Wetsontwerp as "primêregesondheidsorg-fasiliteite" gekategoriseer. Hospitale en primêregesondheidsorg-fasiliteite word in die Wetsontwerp gesamentlik na verwys as "gesondheidsfasiliteite".

2. OOGMERKE VAN WETSONTWERP

2.1 Die oogmerke van die Wetsontwerp is om voorsiening te maak vir die aanstelling van rade vir hospitale in die Provinsie buiten sentrale hospitale, en vir die aanstelling van komitees vir primêregesondheidsorg-fasiliteite, en om voorsiening te maak vir die funksionering van hierdie rade en komitees.

2.2 Die oogmerke van die Wetsontwerp is om voorsiening te maak vir—
- *(a)* die instelling van verteenwoordigende en aanspreeklike rade en komitees vir gesondheidsfasiliteite as statutêre liggame;
- *(b)* responsiwiteit van die bestuur van gesondheidsfasiliteite teenoor die gemeenskap en die behoeftes van pasiënte en hul gesinne;
- *(c)* gemeenskapsteun vir, en -betrokkenheid by, gesondheidsfasiliteite en hul programme;
- *(d)* 'n basiese stel duidelik omskrewe werksaamhede en bevoegdhede vir rade en komitees wat toenemend uitgebrei kan word in die openbare belang namate die vermoë van 'n raad of komitee toeneem; en
- *(e)* oorgangsbepalings vir bestaande sentralehospitaal-rade.

3. INHOUD VAN WETSONTWERP

Klousule 1 maak voorsiening vir sekere woordomskrywings.

Klousule 2 sit die oogmerke van die Wetsontwerp uiteen.

Klousule 3 maak voorsiening vir die aanwysing van gesondheidsfasiliteite vir die doeleindes van die aanstelling van 'n raad of komitee deur die Provinsiale Minister.

Klousule 4 maak voorsiening vir die Provinsiale Minister om rade en komitees in te stel.

Klousule 5 maak voorsiening vir die aanstelling van raadslede.

Klousule 6 maak voorsiening vir die aanstelling van komiteelede.

Klousule 7 sit die benoembaarheidsmaatstawwe vir aanstelling as 'n lid van 'n raad of komitee uiteen.

Klousule 8 maak voorsiening vir die ampstermyn van lede van rade en komitees.

Klousule 9 maak voorsiening vir die verklaring en vul van vakatures op rade en komitees.

Klousule 10 sit die pligte van hospitaalrade uiteen.

Klousule 11 sit die bevoegdhede van hospitaalrade uiteen.

Klousule 12 sit die pligte van komitees vir primêregesondheidsorg-fasiliteite uiteen.

Klousule 13 sit die bevoegdhede van komitees vir primêregesondheidsorg-fasiliteite uiteen.

Klousule 14 maak voorsiening vir die verandering van die werksaamhede van 'n raad of komitee.

Klousule 15 maak voorsiening vir die wyse waarop rade en komitees hul pligte moet verrig en bevoegdhede moet uitoefen.

Klousule 16 maak voorsiening vir maatreëls vir samewerking.

Klousule 17 maak voorsiening vir die verkiesing van 'n voorsitter en ondervoorsitter van 'n raad of komitee.

Klousule 18 maak voorsiening vir die sekretariële, administratiewe en finansieel rekeningkundige steun wat deur rade en komitees benodig word en vir die inlywing van lede van rade en komitees wat nuut aangestel is in 'n eerste ampstermyn.

Klousule 19 maak voorsiening vir die skedulering van vergaderings van rade en komitees.

Klousule 20 maak voorsiening vir die prosedure by vergaderings van rade en komitees.

Klousule 21 maak voorsiening vir die bywoning van die publiek van vergaderings van rade en komitees.

Klousule 22 maak voorsiening vir die aanstelling van uitvoerende komitees van rade en komitees.

Klousule 23 maak voorsiening vir die aanstelling van spesialiskomitees van rade en komitees.

Klousule 24 maak voorsiening vir die insameling en aanwending van fondse deur rade.

Klousule 25 maak voorsiening vir reis- en ander toelae ten opsigte van lede van rade en komitees.

Klousule 26 maak voorsiening vir die sluiting van 'n gesondheidsfasiliteit.

Klousule 27 maak voorsiening vir die beperking van aanspreeklikheid van lede.

Klousule 28 maak voorsiening vir die maak van regulasies deur die Provinsiale Minister.

Klousule 29 maak voorsiening vir die delegering van bevoegdhede en opdrag van pligte.

Klousule 30 maak voorsiening vir oorgangsbepalings ten opsigte van sentrale hospitale.

Klousule 31 maak voorsiening vir die herroeping van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001), en bevat voorbehoudsbepalings.

Klousule 32 maak voorsiening vir die kort titel en datum van inwerkingtreding.

4. FINANSIËLE IMPLIKASIES

Lede van fasiliteitsrade en -komitees is uiteraard vrywilligers. Die Wetsontwerp bepaal dat die Departement komiteelede uit sy fondse kan vergoed vir reisuitgawes as gevolg van bywoning van komiteevergaderings. Daarbenewens bepaal die Wetsontwerp dat, waar 'n hospitaalraad onvoldoende fondse beskikbaar het, die Departement raadslede uit sy fondse kan vergoed vir reisuitgawes wat aangegaan is as gevolg van bywoning van raadsvergaderings.

5. PERSONEELIMPLIKASIES

Die Departement sal verantwoordelik wees vir die verskaffing van administratiewe steun aan die rade en komitees. Gelet op die aantal rade en komitees, is daar 'n waarskynlikheid dat daar beduidende bykomende eise geplaas sal word op die administratiewe kapasiteit van gesondheidsfasiliteite en hul bestuur.

6. OORLEGPLEGING

Die Departement van die Premier: Regsdienste

Die Konsepwetsontwerp is op 15 Mei 2015 in die *Buitengewone Provinsiale Koerant* 7392 vir openbare kommentaar gepubliseer, met 'n sluitingsdatum van 15 Junie 2015 vir die indiening van kommentaar. 'n Kennisgewing is daaropvolgend in die *Provinsiale Koerant* 7397 gepubliseer wat die sluitingsdatum vir die indiening van kommentaar tot 31 Julie 2015 uitgestel het.

7. WETGEWENDE BEVOEGDHEID

Die Provinsiale Minister is tevrede dat al die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie ressorteer.

UMTHETHO OSAYILWAYO

Lo mthetho uyilwayo ulungiselelwe ukuseka, imisebenzi, amagunya neenkqubo zeebhodi ezimiselwe izibhedlele neekomiti ezimiselweyo zamaziko ezempilo onyango olusisiseko; kunye nokulungiselela imiba enxulumene noko.

NGOKO KE KUWISWA UMTHETHO yiPalamente yeNtshona Koloni, ngolu hlobo lulandelayo:—

Inkcazo-magama

1. Kulo Mthetho naliphi na igama elinikwe intsingiselo lihlala linaloo ntsingiselo liyinikiweyo ngaphandle kwalapho indlela elisetyenziswe ngayo igama linika enye intsingiselo—

"umphicothi" uthetha umntu obhalise njengomphicothi ngokoMthetho i-*Auditing Profession Act, 2005* (uMthetho 26 ka-2005);

"iBhodi" ithetha iBhodi yesibhedlele esekwe ngokwecandelo 4(1);

"isibhedlele esikhulu" sithetha isibhedlele esibalelwa ukuba sisibhedlele esikhulu ngokwecandelo lama-35 lomthetho i*National Health Act* nguMphathiswa wesizwe onoxanduva lwemicimbi yezempilo;

"IKomiti" ithetha iKomiti yeziko lempilo leenkonzo zonyango olusisiseko esekwe ngokwecandelo (4);

"ISebe" lithetha isebe lephondo elinoxanduva lwemicimbi yezempilo kwiPhondo;

"IBhunga lezeMpilo leSithili" lithetha iBhunga leMpilo leSithili ngokwendlela echazwe kwicandelo 1 lomthetho i*Western Cape District Health Councils Act, 2010* (uMthetho 5 ka-2010);

"umphathi wezempilo wesithili" uthetha umphathiswa wezempilo wesithili njengeko kuchaziwe kwicandelo 1 lomthetho i*Western Cape District Health Councils Act, 2010*;

"ibhodi emileyo yesibhedlele esikhulu" ithetha ibhodi ngokwendlela echazwe phantsi kwecandelo 5 lomthetho i*Western Cape Health Facility Boards Act* yesibhedlele esikhulu;

"INtloko yeSebe" ithetha intloko yesebe enoxanduva lwemicimbi yezempilo kwiPhondo;

"iziko lempilo" lithetha isibhedlele okanye iziko lempilo elineenkonzo zonyango olusisiseko;

"isibhedlele" sithetha isakhiwo, iziko okanye indawo emiselwe njengesibhedlele nguMphathiswa wePhondo ngokwecandelo 3;

"ilungu" lithetha ilungu leBhodi okanye leKomiti, njengoko kunjalo;

"I*National Health Act*" ithetha i*National Health Act, 2003* (uMthetho 61 ka-2003);

"uMphathiswa wesizwe" uthetha uMphathiswa wesizwe onoxanduva lwemicimbi yezempilo;

"ukumisela" kuthetha ukumisela ngokommiselo;

"iziko lempilo leenkonzo ezisisiseko" lithetha isakhiwo, iziko okanye indawo emiselwe njengeziko lempilo nguMphathiswa wePhondo ngokwecandelo 3;

"IPhondo" lithetha iPhondo leNtshona Koloni;

"UMphathiswa wePhondo" uthetha uMphathiswa wePhondo onoxanduva lwemicimbi yezempilo kwiPhondo;

"ummiselo" uthetha ummiselo owenzwe phantsi kwalo mthetho;

"ibhodi yabameli yesibhedlele esikhulu" ithetha ibhodi enyulwe nguMphathiswa wesizwe phantsi kwecandelo 41(4) lomthetho i*National Health Act*;

"lo Mthetho" uquka nemimiselo;

"*iWestern Cape Health Facility Boards Act*" ithetha i*Western Cape Health Facility Boards Act, 2001* (uMthetho 7 ka-2001).

Injongo yalo Mthetho

2. Iinjongo zalo mthetho kukulungiselela—

(a) ukumisela abameli neeBhodi kunye neeKomiti njengamaqumrhu omthetho;

(b) ukukwazi kwabaphathi bamaziko empilo ukukhawulelana noluntu kunye neemfuno zezigulane neentsapho zazo;

(c) inkxaso yoluntu, ukubandakanyeka kwalo kumaziko empilo kunye neenkqubo zawo;

(d) iiBhodi zempilo neKomiti inikwe imisebenzi esisiseko ecacisiweyo, enokumana isandiswa ngokwezinto eziphambili ezifunwa luluntu njengoko umsebenzi weBhodi okanye oweKomiti uya usanda; kunye

(e) nemimiselo yethutyana yeebhodi esezikho zezibhedlele ezikhulu.

UkuChongwa kwesibhedlele okanye iziko lempilo leenkonzo ezisisiseko

3. (1) Ngokweenjongo zokumiselwa kweBhodi okanye kweKomiti ngokwalo Mthetho, uMphathiswa wePhondo uya kuchonga njengesibhedlele okanye iziko lempilo nasiphi isakhiwo, iziko okanye indawo apho abantu baye bafumane unyango khona, apho kukho iinkqubo zohlolo ukufumanisa ngezigulo nangonyango okanye kwenziwe nezinye iinkonzo zonyango.

(2) UMphathiswa wePhondo uya kuchonga njengesibhedlele okanye iziko lempilo elineenkonzo ezisisiseko isakhiwo, iziko okanye indawo emiselwe ngumasipala ekwenza oko kuphela ngokwesivumelwano—

(a) noMphathiswa wePhondo ojongene norhulumente wommandla; kunye

(b) nomasipala ochaphazelekayo.

Ukusekwa kweeBhodi neeKomiti

4. (1) UMphathiswa wePhondo uya kumisela iBhodi yesibhedlele okanye iqela lezibhedlele ngaphandle kwezibhedlele ezikhulu okanye iqela lezibhedlele ezikhulu.

(2) Apho iBhodi yeqela lezibhedlele iya kumiselwa khona, uMphathiswa wePhondo uya kumisela iqela enike ingqalelo—

(a) umgama ophakathi kwezibhedlele ngokweendawo ezimi kuzo;

(b) ubukhulu nobungakanani babantu abancedwa kwezi zibhedlele; kunye

(c) nobungakanani beenkonzo ezenziwa ezibhedlele.

(3) IBhodi ngumntu osemthethweni onokufaka isimangalo okanye amangalelwe ngegama layo.

(4) UMphathiswa wePhondo uya kumisela iKomiti—

(a) iziko lempilo elineenkonzo zonyango olusisiseko; kunye

(b) neqela lamaziko empilo aneenkonzo zonyango olusisiseko, amiselwe nguMphathiswa wePhondo.

(5) Imigaqo neenkqubo ezilandelwayo zokuhlanganisa amaziko empilo aneenkonzo zonyango olusisiseko kwimeko apho iKomiti ithe yatyunjelwa ukujongana namaziko empilo aneenkonzo zonyango olusisiseko iya kumiselwa nguMphathiswa wePhondo.

(6) IKomiti asingomntu womthetho kwaye akanako ukumangalela okanye amangalelwe okanye onepropathi egameni lakhe.

Ukutyunjwa kwamalungu eBhodi

5. (1) UMphathiswa wePhondo kufuneka amisele iBhodi enamalungu angekho ngaphezu kwesine kodwa angadluli kumalungu ali-14, kuqukwa—

(a) abantu abamele uluntu okanye iindawo ezahlukeneyo zoluntu oluncedwa kwesi sibhedlele emiselwe sona iBhodi, etyunjwe ngokwecandelwana (4);

(b) ubuncinane ibe ngumntu omnye onobungcali kwezomsebenzi, kwezomthetho, ezemali okanye kwezinye iindawo ezinxulumene nemisebenzi yeBhodi;

(c) intloko yesibhedlele esichaphazelekayo okanye, kwimeko apho iBhodi imiselwe ukujongana nezibhedlele eziliqela, makuphume intloko ibenye kwiintlo kwezo zibhedlele ubuncinane;

(d) ubuncinane mayibe ngumntu omnye omele abasebenzi bezonyango emiselwe bona iBhodi, atyunjwe ngabasebenzi bezonyango besibhedlele, kodwa kwimeko apho iBhodi imiselwe ukujongana bezibhedlele eziliqela, kodwa akukho mfuneko yokuba kutyunjwe umntu omele abasebenzi bezempilo kwisibhedlele ngasinye esichaphazelekayo;

(e) ubuncinane ngumntu omnye omele abasebenzi abangengobanyangi abasebenza esibhedlele esimiselwe sona iBhodi, okhethwa ngabasebenzi abangengobanyangi, kodwa kwimeko yokumiselwa kweBhodi ejongene nezibhedlele eziliqela akukho mfuneko yokuba kutyunjwe umntu omele abasebenzi abangengobanyangi kwisibhedlele ngasinye; kunye

(f) nakwimeko apho iBhodi imiselwe isibhedlele esinye okanye izibhedlele eziliqela iingcali zabasebenzi ziye ziqeqeshwe, ubuncinane umntu omnye omele iimfuno eziphambili ezinxulumene nemfundo kwisibhedlele ngasinye esichaphazelekayo, otyunjwe liSeleka-Ngqonyela okanye ngaMasekela-Ngqonyela eyunivesithi okanye eeyunivesithi ezichaphazelekayo.

(2) Ukwangeza kumalungu atyunjwe ngokwecandelwana (1) uMphathiswa wePhondo uya kunyulela kwiBhodi—

(a) ilungu lePalamente yePhondo limisele ikomiti yepalamente ejongene nemiba yempilo; kunye

(b) uceba omnye okanye ooceba abaninzi bebhunga likamasipala lendawo kamasipala enesibhedlele, amiselwa libhunga likamasipala okanye ikomiti echaphazelekayo yezempilo yebhunga laloo masipala.

(3) Amalungu amiselwe ngokwecandelwana (1)*(a)* aya kuba namalungu eBhodi akumlinganiselo wamashumi amahlanu eepesenti ewonke.

(4) Amalungu ekubhekiselelwa kuwo kwicandelwana (1)*(a)* aya kumiselwa liqumrhu eliya kuthi ngokwembono yoMphathiswa wePhondo libe nabameli abaya kuzifezekisa ngokupheleleyo iimfuno eziphambili zoluntu okanye zeendawo zoluntu oluchaphazelekayo

(5) Iqumrhu ekubhekiselelwa kulo kwicandelwana (4)—

(a) aliyi kuba ngumbutho wezopolitiko;

(b) liya kuthi, nangani kunganyanzelekanga ukuba libe—

(i) yikomiti okanye iforam yezempilo yoluntu;

(ii) yiforam yophuhliso loluntu;

(iii) ngumbutho wezokuhlala;

(iv) ngumbutho wezentlatlontle;

(v) ngumbutho omele izigulane ezisebenzisa inkonzo yezempilo okanye amaziko empilo;

(vi) ngumbutho osekwe eluntwini;

(vii) ngumbutho ongekho kurhulumente; okanye

(viii) ngumbutho omele abantwana, amabhinqa, abantu abadala, abantu abakhubazekileyo okanye iimbacu.

(6) UMphathiswa wePhondo uya kukhupha imigaqo eyalelayo yokwenziwa kwezimemelelo zokutyumba njengoko kuchaziwe kumacandelwana (1)*(a)* no-(4).

(7) Apho kufuneka kutyunjwe khona ngokweli candelo, onke amagama aphakanyiselwe ukutyunjwa afumanekileyo kwisithuba esimiselweyo aya kunikwa ingqalelo nguMphathiswa wePhondo ngaphambi kokuba kwenziwe inkqubo efanelekileyo yokutyumba.

(8) Ukuba uMphathiswa wePhondo uthe akafumana magama aphakanyiselwe ukutyunjwa okanye angonelanga afunekayo ngokweli candelo, nawuphi umntu oselungelweni nofanelekileyo uya kutyunjwa njengelungu etyunjwa kwisigaba esimiselweyo nesichazwe kwicandelwana (1) okanye (2).

(9) Ukutyunjelwa ukuba kwiBhodi kuya kwenziwa kuthatyathelwe ingqalelo uhlanga nesini kwanabantu abadala, ulutsha kwanabantu abakhubazekileyo.

Ukumiselwa kwamalungu ekomiti

6. (1) UMphathiswa wePhondo uya kumisela iKomiti engayi kuba namalungu angaphantsi kwamathathu kodwa angabi ngaphezu kwali-12, kuqukwa—

(a) uceba omnye okanye ooceba abaninzi bebhunga likamasipala lendawo kamasipala enesibhedlele, amiselwa libhunga likamasiapala okanye ikomiti echaphazelekayo yezempilo yebhunga laloo masipala;
(b) amalungu oluntu okanye eendawo zoluntu oluncedwa liziko lempilo elineenkonzo zonyango olusisiseko ngokubhekiselele kwindawo elikulo iziko lempilo elineenkonzo zonyango oluphambili elimiselwe lona uluntu, atyunjwe ngokwecandelwana (3); kunye
(c) nentloko yeziko elichaphazelekayo lempilo elineenkonzo zonyango oluphambili okanye, kwimeko apho iKomiti imiselwe ukujongana neziko lempilo elineenkonzo zonyango oluphambili, umanejala wesithilana sezonyango apho limi khona iziko lempilo elineenkonzo zonyango olusisiseko.

(2) Amalungu atyunjwe ngokwecandelwana (1)*(b)* aya kuba namalungu eKomiti akumlinganiselo wamashumi amahlanu eepesenti ewonke.

(3) Amalungu ekubhekiselelwa kuwo kwicandelwana (1)*(b)* aya kutyunjwa liqumrhu elithe—
(a) ngokwembono yoMphathiswa wePhondo libe nabameli abaya kuzifezekisa ngokupheleleyo iimfuno eziphambili zoluntu okanye zeendawo zoluntu oluchaphazelekayo;
(b) aliyi kuba ngumbutho wezopolitiko, kodwa lingalilo, nangani kunganyanzelekanga ukuba libe liqumrhu ekubhekiselelwe kulo kwicandelo 5(5)*(b)*. (4) UMphathiswa wePhondo uya kukhupha imigaqo eyalelayo yokwenziwa kwezimemelelo zokutyumba njengoko kuchaziwe kumacandelwana (1)*(b)* nele (3).

(5) Apho kufuneka kutyunjwe khona ngokwecandelo (1)*(b)*, onke amagama aphakanyiselwe ukutyunjwa afumanekileyo kwisithuba esimiselweyo aya kunikwa ingqalelo nguMphathiswa wePhondo ngaphambi kokuba kwenziwe inkqubo efanelekileyo yokutyumba.

(6) Ukuba uMphathiswa wePhondo uthe akafumana magama aphakanyiselwe ukutyunjwa okanye angenelanga afunekayo ngokwecandelo *(b)* wecandelwana (1), nabaphi na abantu abafanelekileyo baya kutyunjwa njengamalungu, betyunjwa kwisigaba esimiselweyo nesichazwe kula mhlathi.

(7) Ukonyulelwa kwiKomiti makwenziwe ngokukekelele kwisini nohlanga kwakunye nokukekelele kwabadala, ulutsha nabantu abakhubazekileyo.

Ukulungela ukuba sesikhundleni kwelungu

7. (1) Ukuze abe umntu ukulungele ukuba sesikhundleni njengelungu kufuneka abe—
(a) ungummi waseMzantsi Afrika;
(b) ngaphezulu kwiminyaka eli-18 ubudala;
(c) akakho matyaleni angahlawulekiyo;
(d) akazange, nangaliphi na ixesha, afunyaniswe—
  (i) enetyala awakhe waligwetyelwa ngokuvalelwa entolongweni engasinikwanga isohlwayo; okanye
  (ii) ebuseleni, ubuqhetseba, ukukhohlisa, lithethe inkohliso ngamaxwebhu, lifunge ubuxoki, libe likwanalo naliphi na ityala ngokwe*Prevention and Combating of Corrupt Activities Act, 2004* (uMthetho 12 ka-2004), okanye linalo naliphi ityala ngenxa yokungathembeki kwalo, nokuba kukwiRiphablikhi yoMzantsi Afrika okanye ngaphandle kwiRiphablikhi, ukuba oku kuziphatha bekuya kuba lityala kwiRiphablikhi;
(e) ubonakalisa ukuzinikela kwinkonzo yoluntu;
(f) ubonakalisa inkxaso kumnqophiso neempawu zentsulungeko zeziko lezempilo elichaphazelekayo; kunye
(g) nokubonakalisa imfezeko nentembeko enkulu.

Ixesha lokuba sesikhundleni kwamalungu

8. (1) Amalungu atyunjelwa ukuba sesikhundleni isithuba seminyaka emithathu

(2) Lakuba liphelile ixesha lokuba sesikhundleni kwelungu, elo lungu liya kuba sesikhundleni kude kutyunjwe umntu oya kungena esikhundleni salo, kodwa zingedluli iinyanga ezinthandathu.

(3) Ngokuxhomekeke kwicandelwana (4), ilungu linako ukutyunjelwa kwiBhodi okanye kwiKomiti lakuba liphelile ixesha lalo lokuba libe sesikhundleni.

(4) Ilungu, ngaphandle kwelungu elityunjwe ngokwecandelo 5(1)*(c)* okanye 6(1)*(c)*, liya kusebenza kwiBhodi okanye kwiKomiti izihlandlo ezilandelelanyo eziya kuba ngaphezulu kezibini.

(5) Nangona kuchazwa kwicandelwana (4), ilungu elisebenze izihlandlo ezilandelelanayo ezibini liya kuphinda lityunjwe kwakhona ukuba kuthe ngokwembono yoMphathiswa wePhondo kubekho iimeko ezibaluleke ngokukodwa ukuba lityunjwe kwakhona okanye, xa kungekho meko zibaluleke ngokukodwa, emva kokuba likhe lanqumama ixesha elingabanga ngaphantsi konyaka omnye.

Izikhundla

9. (1) USihlalo weBhodi okanye weKomiti uya kuthi ngokukhawuleza abhalele iBhodi okanye kwiKomiti isibhengezo esichaza ukuba isikhundla njengesingenamntu xa lithe ilungu—

(a) lasweleka;

(b) lithe lakwazisa ukurhoxa kwalo kusihlalo ngembalelwano;

(c) lisematyaleni angahlawulekiyo yinkundla yeRiphablikhi;

(d) lithe ngexesha lisesikhundleni lachaphazeleka—

  (i) lafunyaniswa linetyala lize ligwetyelwe intolongo lingasinikwanga sohlwayo; okanye

  (ii) ebuseleni, ubuqhetseba, ukukhohlisa, lithethe inkohliso ngamaxwebhu, lifunge ubuxoki, libe likwanalo naliphi na ityala ngokwe*Prevention and Combating of Corrupt Activities Act, 2004*, (uMthetho 12 ka-2004), okanye linalo naliphi ityala ngenxa yokungathembeki kwalo, nokuba kukwiRiphablikhi yoMzantsi Afrika okanye ngaphandle kwiRiphablikhi, ukuba oku kuziphatha bekuya kuba lityala kwiRiphablikhi;

(e) alibangakho kwiintlanganiso ezintathu zilandelelana libe lingekho kwikhefu elimiselwe yiBhodi okanye yiKomiti;

(f) linqunyanyisiwe okanye lirhoxisiwe kwisikhundla salo phantsi kwecandelo 24(12)*(b)*;

(g) liyayeka esikhundleni elalinyulelwe sona yiBhodi okanye kwiKomiti; okanye

(h) lisilele ukuchaza kwiBhodi okanye kwiKomiti layo nayiphi indlela eliyingenisa ngayo imali, aliwandlalanga umcimbi onjalo ngokungqalileyo okanye ngokungangqalanga kwiBhodi okanye kwiKomiti, kwaye elo lungu kufuneka libekho xa, okanye lithathe inxaxheba kwiingxoxo, okanye xa kuvotelwa lo mcimbi.

(2) Ukuba ilungu leBhodi okanye leKomiti liziphazamisa rhoqo iintlanganiso zeBhodi okanye ezeKomiti, okanye liyasilela ukwenza umsebenzi walo ngokuzimisela nangokuthembeka, uMphathiswa wePhondo uya kuqhuba uphando ngaloo mcimbi kwaye, ukuba akho amagunya afanelekileyo, uya kulirhoxisa elo lungu esikhundleni aze asibhengeze njengesingenamntu isikhundla salo.

(3) Kwisithuba seentsuku ezisixhenxe zokubhengeza isithuba ngokwecandelwana (1), usihlalo uya kubhalela uMphathiswa wePhondo amazise ngesithuba eso.

(4) Uya kuthi akuba esifumene isaziso ngesithuba ngokwecandelwana (3), okanye ngokurhoxiswa kwelungu ngokwecandelo (2), uMphathiswa wePhondo uya kunyula omnye umntu, elandela kwinkqubo efanayo naleyo yayilandelwe xa kwakunyulwa eli lungu likhutshwayo, lungu elo liya kuba sesikhundleni selungu elimkileyo ixesha elingayi kuphelelwa, kwaye ngokweenjongo zecandelo 8(4), kwakukho isithuba ngexesha ebelingene ngalo esikhundleni.

(5) Ngokweenjongo zokutyumba okuchazwe kwicandelwana (4) uMphathiswa wePhondo uya kusebenzisa imigaqo efanayo eyayisetyenzisiwe yokutyumba ilungu elingena kwisikhundla selungu elirhoxisiweyo.

(6) Xa iBhodi okanye iKomiti ithe yasilela ukuya kwiintlanganiso ezine ngokwekhalenda yonyaka, uMphathiswa wePhondo uya kuyibhengeza iBhodi okanye iKomiti echaphazelekayo njengengasebenzi kakuhle aze amisele iBhodi entsha ngokwecandelo 5 okanye iKomiti entsha ngokwecandelo 6.

Imisebenzi yeeBhodi

10. (1) IBhodi iya kuthi ngokuphathelele kwisibhedlele ngasinye emiselwe sona—

(a) ithathe inxaxheba kucwangciso-qhinga ngenjongo yokunika abalawuli besibhedlele iingcebiso;

(b) ikhangele ukuba ingaba isibhedlele sisebenza ngokufanelekileyo, ngokukuko namanyathelo athatyathwa ngabalawui besibhedlele ukuphucula indlela yokusebenza nomgangatho wenkonzo yesibhedlele;

(c) ithabathe amanyathelo okuqinisekisa ukuba iimfuno, izinto ezixhalabisayo nezikhalazo zezigulane nezoluntu ziqwalaselwa ngokukuko ngabalawuli besibhedlele;

(d) ukumilisela inkxaso yesibhedlele luluntu;

(e) ukukhuthaza amavoluntiya ukuba anikele ngeenkonzo zawo zokwenza imisebenzi ngokubanzi esenzela isibhedlele, oko ekwenza ngokomgaqo-nkqubo ophathelelene namavolontiya;

(f) ukwenza isicelo nokuphononongа kube kanye ngonyaka iingxelo zemali neengxomali-zemali zonyaka zesibhedlele;

(g) ukunyusa ingxowa-mali yokusebenza yeBhodi; nokuba

(h) ithi ngokusebenzisana nabalawuli besibhedlele indwendwele isibhedlele, kodwa kungabikho luphazamiseko kwimisebenzi yaso, kwaye inike ingxelo ebhaliweyo eyakhayo ngondwendwelo olo kubalawuli.

(2) IBhodi inokwamkela, ilawule kwaye iphendule ngengxowa-mali eyenziwe yiKomiti emiselelwe yona ngokwecandelo 18(6) elungiselelwe unyango olusisiseko lweziko elichaphazelekayo okanye ukusebenza kweKomiti, ngendlela emiselwe nguMphathiswa wePhondo.

Amagunya eeBhodi

11. IBhodi iya kuthi, ngokubhekiselele kwisibhedlele emiselwe sona—

(a) icebise yenze iziphakamiso kuMphathiswa wePhondo, kulawulo lwesibhedlele, kwiNtloko yeSebe, okanye kumasipala ochaphazelekayo, ngokwaloo meko, ngayo nayiphi indlela ewenza ngayo imisebenzi yayo iBhodi;

(b) icebise yenze iziphakamiso kuMphathiswa wePhondo okanye kumasipala ochapazelekayo, ngokwaloo meko, malunga nokuthiywa okanye ukuthiywa ngokutsha kwesibhedlele okanye inxalenye kuqukwa iwodi okanye ithiyetha;

(c) ifumana nayiphi into efuna ukuyazi kubalawuli besibhedlele, ukuba ngaba olo lwazi lufunekayo aluwanyhashi amalungele ezigulane okanye awabasebenzi okugcinwa kwengcombolo zabo ziyimfihlelo zikhuselekile;

(e) yenza iinkqubo zophando, iintlanganiso neendibano ezixhobisa ngolwazi kuluntu okanye kwiindawo zoluntu oluchaphazelekayo;

(f) ihambisa ulwazi eluntwini okanye kwiindawo zoluntu oluchaphazelekayo, umnqophiso, umbono, iimpawu zentsulungeko, iinkonzo, umsebenzi, umgangatho, imigaqo-nkqubo, iimfuno nobume bezimali zesibhedlele;

(g) iqesha abasebenzi ngokwekhontrakthi ukuze baphumeze iinjongo zeBhodi;

(h) inikele ngemali okanye ngempahla enokuphakamiseka ukubonelela, ukuphucula, okanye ukwandisa iinkonzo nezinto zolonwabo, okanye ukunikela ngemali ukuze kuthengwe iimpahla ezinokuphakamiseka okanye ezingenakuphakamiseka eziya kunceda isibhedlele, oko kusenzeka ngokwendlela emiselwe nguMphathiswa wePhondo;

(i) yenze ingxowa-mali ize ilawule imali yetrasti okanye imali yeBhodi ngeenjongo ekubhekiselelwa kuzo kumhlathi *(h)* okanye *(i)*, okanye yenze isebenze nayiphi imimiselo yalo Mthetho;

Imisebenzi yeeKomiti

12. IKomiti iya kuthi, ngokubhekiselele kwiziko ngalinye emiselwe lona—

(a) icele ingxelo malunga namanyathelo athatyathiweyo ngabalawuli beziko lonyango olusisisseko okuphucula umgangatho wenkonzo kwiziko;

(b) incedise uluntu ukuba luzichaze iimfuno, inkxalabo nezikhalazo zalo kwabezolawulo lweziko lezempilo elineenkonzo zonyango olusisiseko ukuze ezo mfuno, inkxalabo nezikhalazo ziqwalaselwe ngokufanelekileyo;

(c) imilisele ukuxhaswa kweziko lezempilo elineenkonzo zonyango ezisisiseko;

(d) ithi ngokusebenzisana nabalawuli besibhedlele indwendwele isibhedlele, kodwa kungabikho luphazamiseko kwimisebenzi yaso, kwaye inike ingxelo ebhaliweyo eyakhayo ngondwendwelo olo kubalawuli;

(e) amavolontiya ukuba anikele ngeenkonzo zawo zokwenza imisebenzi ngokubanzi esenzela isibhedlele, oko ekwenza ngokomgaqo-nkqubo ophathelelene namavolontiya; kunye

(f) nokunika ingxelo esulungekileyo kubalawuli beziko lezempilo elineenkonzo ezisisiseko ukuphucula ukwenziwa kweenkonzo.

Amagunya eeKomiti zeziko lonyango olusisiseko

13. (1) IKomiti iya kuthi ngokuphathelelene neziko lonyango olusisiseko emiselwe lona—

(a) yenze uphando, ihlale iintlanganiso yenze neendibano zokuxhobisana ngolwazi kuluntu okanye kwiindawo zoluntu oluchaphazelekayo;

(b) ihambise ulwazi oluphethelelene nomnqophiso, umbono, iimpawu zentsulungeko, iinkonzo, umsebenzi, imigangatho, imigaqo-nkqubo, izicwangcisoqhinga, iimfuno nobume bezezimali zeziko lezempilo elineenkonzo zonyango olusisiseko kuluntu okanye kwiindawo zoluntu oluchaphazelekayo;

(c) icebise kwaye yenze iziphakamiso kuMphathiswa wePhondo, kubalawuli beziko lonyango olusisiseko, kwiNtloko yeSebe okanye kumasipala ochaphazelekayo, ngokwaloo meko, ngawo nawuphi umba ophathelelene nendlela yokwenziwa kwemisebenzi yeKomiti;

(d) ifumane naluphi ulwazi olufunwa lulawulo okanye abalawuli beziko lempilo elineenkonzo zonyango olusisiseko, ukuba olo lwazi aluwanyhashi amalungelo ezigulane okanye awabasebenzi ngokugcina imicimbi yabo iyimfihlo kwaye isekhusini;

(e) iyalele abalawuli beziko lonyango olusisiseko ukuba likhuphe iikopi eziphathelelene neengxela ngenkqubela yemisebenzi eyenziwayo neyathi yasungulwa; kunye

(f) inyuse ingxowa-mali eya kusetyenziswa liziko lonyango olusisiseko nasekusebenzeni kweKomiti.

(2) Yonke imali eyenziwe yiKomiti—

(a) iya kuhlawulwa, ilawulwe kwaye kuphendule ngemali kwiBhodi emiselwe yiNtloko yeSebe ngokwecandelo 18(6), ngendlela emiselweyo;

(b) iya kusetyenziswa kuphela ukunceda iziko okanye amaziko onyango olusisiseko achaphazelekayo okanye ekusebenzeni kweKomiti.

(3) Impahla enokuphakamiseka engumnikelo kwiKomiti iya kwabiwa yakufunyanwa liziko lonyango olusisiseko elichaphazelekayo kwaye liziko elo eliya kuphendula, oko likwenza ngokwemigaqo-nkqubo emiselwe ukulawulwa kweempahla noluhlu lwezinto kwiziko.

Ukutshintsha-tshintshwa kwemisebenzi yeBhodi okanye yeKomiti

14. (1) Ngokuxhomekeke kwicandelwana (4) nawo nawiphi omnye umthetho, uMphathiswa wePhondo uya kuthi akuba ebonisene neBhodi okanye neKomiti agunyazise iBhodi okanye iKomiti ukuba yenze imisebenzi eyongezelelweyo okanye isebenzise amagunya ongezelelweyo, xa kuthe ngokwesizathu athe uMphathiswa wePhondo wabona ukuba—

(a) iBhodi okanye iKomiti ukuba inako ukuyenza loo imisebenzi yongezelelweyo okanye ukusebenzisa loo magunya ongezelelweyo; kunye

(b) nokuba kuya kuxhomekeka kumdla wabantu wokuba uMphathiswa wePhondo angakwenze oko.

(2) UMphathiswa wePhondo uya kuthi emva kokubonisana neBhodi okanye neKomiti, alirhoxise igunya ebelinikwe iBhodi okanye iKomiti ngokwecandelwana (1) lokuba yenze imisebenzi eyongezelelweyo okanye isebenzise igunya elongezelelweyo, xa kuthe ngokwesizathu athe uMphathiswa wePhondo wabona ukuba—

(a) iBhodi okanye iKomiti ayinakuwenza umsebenzi owongezelelweyo okanye ayinakulisebenzisa igunya; okanye

(b) nokuba kuya kuxhomekeka kumdla wabantu wokuba uMphathiswa wePhondo angakwenze oko.

(3) UMphathiswa wePhondo uya kuthi akuba ebonisene neBhodi okanye neKomiti—

(a) ayikhulule iBhodi okanye iKomiti ekubeni yenze imisebenzi ibimiselwe ukuba iyenze ngokwecandelo 10 okanye 12; okanye

(b) arhoxise igunya ekubhekiselelwe kulo kwicandelo 11 okanye 13 ngokumayela neBhodi okanye neKomiti.

(4) Xa esebenzisa igunya elichazwe kwicandelwana (1), (2) okanye (3), uMphathiswa wePhondo uya kuwasebenzisa emva kokubonisana nentloko okanye neentloko zeziko okanye zamaziko achaphazelekayo empilo.

Ukwenziwa kwemisebenzi nokusetyenziswa kwamagunya

15. (1) Xa kusenziwa imisebenzi okanye xa kusetyenziswa amagunya, iBhodi okanye iKomiti iya kusebenza ngokwemithetho echaphazelekayo nesetyenziswayo yezempilo kunye nomgaqo-siseko owenziwe ngurhulumente wesizwe, owephondo okanye owommandla.

(2) INtloko yeSebe iya kucela iBhodi okanye iKomiti ukuba ingenise ingxelo ephathelelene neenkqubo zayo.

(3) Usihlalo weBhodi okanye weKomiti uya kwisithuba seenyanga ezimbini ekupheleni konyaka ngamnye wekhalenda, angenise ingxelo ebhaliweyo kuMphathiswa wePhondo ngemisebenzi yeBhodi okanye yeKomiti ngaloo nyaka.

Amanyathelo eNtsebenziswano

16. (1) UMphathiswa wePhondo uya kuthabatha amanyathelo okuqinisekisa ubudlelane bentsebenziswano phakathi kweeBhodi, iiKomiti namabhunga ezithili zempilo.

(2) IBhodi okanye iKomiti iya kwenza kubekho ubudlelane bentsebenziswano eluqilima kunye nolawulo lwelo ziko lempilo ilisebenzelayo.

(3) INtloko yeziko lempilo iya—

(a) kuthabathela amanyathelo iBhodi okanye iKomiti echaphazelekayo ukuba yenze imisebenzi yayo okanye isebenzise amagunya ayo; kunye

(b) nokuqinisa ubudlelane bentsebenziswano kunye neBhodi okanye neKomiti echaphazelekayo.

(4) Ukuba isonjululwe iyantlukwano ethe yakho phakathi kwabalawulo beziko lezempilo kunye neBhodi okanye neKomiti echaphazelekayo, iBhodi okanye iKomiti okanye intloko yeziko lezempilo iya kucela iNtloko yeSebe ukuba ingenelele okanye ilamle.

USihlalo nesekela sihlalo

17. (1) IBhodi okanye iKomiti iya kuthi phakathi kwamalungu ekubhekiselelwe kuwo kwicandelo 5(1)*(a)* okanye 6(1)*(b)*, ngokwaloo meko, inyule usihlalo kunye nosekela sihlalo—

(a) kwintlanganiso yokuqala; kunye

(b) nokuya kuthi kwenziwe, nokuba sesiphi kwezo zikhundla esishiyeka singenamntu.

(2) Umsebenzi weSebe akayi kunyulwa njengosihlalo weBhodi.

(3) Usihlalo kunye nosekela sihlalo batyunjelwa esikhundleni ixesha le-ofisi lelungu ekuthethwa ngalo.

(4) Kwisithuba seentsuku ezili-14 zenkqubo yokutyumba usihlalo okanye usekela sihlalo ngokwecandelwana (1), usihlalo uya kuyazisa iNtloko yeSebe ngembalelwano ngegama nedilesi yegosa elichaphazelekayo elichaphazelekayo.

(5) Ukuba usihlalo akakho entlanganisweni yeBhodi okanye eyeKomiti okanye akafumaneki, usekela sihlalo uya kubamba njengosihlalo.

(6) Ukuba usihlalo kunye nosekela sihlalo abakho entlanganisweni yeBhodi okanye eKomiti, amalungu akhoyo aya kunyula omnye kwelo nani alilo ukuba abambe njengosihlalo kuloo ntlanganiso.

(7) Usihlalo weBhodi ligosa lengxelo laloo Bhodi kwaye uya kuba namagunya nemisebenzi emiselwe nguMphathiswa wePhondo.

(8) I-ofisi kasihlalo okanye usekela sihlalo ayibinamntu ukuba ilungu ekuthethawa nagalo—

(a) libeka phantsi iintambo ngembalelwano; okanye

(b) liyasuswa ngesigqibo seBhodi okanye iKomiti ekuthethwa ngayo.

Inkxaso ngokubanzi

18. (1) Isibhedlele emiselwe sona iBhodi siya kwalatha indawo, iofisi yonobhala, inkxaso kwezolawulo nakwezemali ezimiselwe yiBhodi.

(2) Ukuba iBhodi iye yamiselwa ukuba ijongane nezibhedlele eziliqela, indawo neofisi yonobhala, inkxaso kwezolawulo nakwezemali iya kunikwa sisibhedlele okanye zizibhedlele eziliqela njengoko kumiselwe—

(a) ngokwesivumelwano esiphakathi kweentloko ezibhedlele ezichaphazelekayo; okanye

(b) iNtloko yeSebe, xa singekho isivumelwano esinjalo.

(3) Nangona ngokwamacandelwana (1) nele-(2), iBhodi iya kwenza amanye amalungiselelo aphathelelene nendawo, iofisi yonobhala, inkxaso kwezolawulo nakwimali evela engxoweni yayo oko kusenziwa ngendlela emiselwe nguMphathiswa wePhondo.

(4) Iziko lonyango olusisiseko emiselwe kulo iKomiti liya kukunika indawo eya kusetyenziswa yiKomiti kwaye kukho imfuneko enkulu yokuba iKomiti ibe ne-ofisi yonobhala, inkxaso yezolawulo nokuphendula ngemali.

(5) Ukuba iKomiti imiselwe ukujongana namaziko empilo aneenkonzo zonyango oluphambili aliqela, indawo kukho imfuneko enkulu yokuba kubekhona unobhala, inkxaso kwezolawulo nophicotho zincwadi efunwa yiKomiti neya kwenziwa liziko elinye okanye amaziko aliqela ezempilo aneenkonzo zonyango oluphambili, njengoko kumiselwe—

(a) ngokwesivulwano esiphakathi kweentloko zamaziko onyango olusisiseko achaphazelekayo; okanye

(b) iNtloko yeSebe, xa singekho eso sivumelwano.

(6) INtloko yeSebe iya kumisela iBhodi yeKomiti nganye ngokweenjongo zokwamkela, ilawule kwaye iphendule ngemali eyenziwe yiKomiti.

(7) IBhodi emiselwe ngokwecandelwana (6) iya kwamkela, ilawule kwaye iphendule ngemali eyenziwe yiKomiti ngendlela emiselweyo.

(8) ISebe liya kuqeqesha lifundise amalungu alo amatsha aqeshiweyo kwisigaba sokuqala sokuba sesikhundleni eofisini kwaye makubonelelwe ngoqeqesho olongezelelweyo ukuba luthatyathwa luyimfuneko kwaye lufanelekile.

Ukumisela iintlanganiso

19. (1) INtloko yeSebe iya kumisela ixesha nendawo yentlanganiso yokuqala yeBhodi okanye yeKomiti.

(2) IBhodi okanye iKomiti iya kumisela ixesha nendawo yentlanganiso yezinye iintlanganiso zesiqhelo ezilandelayo eziya kuhlala kube kanye kwinyanga ezintathu kanye ngonyaka.

(3) Usihlalo uya kuthi nangaliphi na ixesha abize intlanganiso yesikhawu, kwaye uya kukwenza oko xa eceliwe ngembalelwano ngamalungu eBhodi okanye eKomiti amabini ubuncinane, xa athe wakubona oko kufanelekile.

(4) Usihlalo uya kuwazisa amalungu ngexesha, indawo nesizathu sokubizwa kwentlanganiso yesikhawu ubuncinane kwisithuba seentsuku ezintathu zomsebenzi ngaphambi kokuba ihlale kwintlanganiso leyo, ngaphandle kwaxa kufuneka ibizwe ngesiquphe intlanganiso ngokubangelwa ziimeko ezingxamisekileyo.

(5) Isaziso sazo zonke iintlanganiso zeBhodi okanye iKomiti mazenziwe zivuleleke eluntwini yiBhodi okanye iKomiti ekuthethwa ngayo.

Inkqubo elandelwayo ezintlanganisweni

20. (1) Inkqubo elandelwayo entlanganisweni yeBhodi kufuneka ithi, njengoko ingagunyaziswanga, imiselwe yiBhodi okanye yiKomiti.

(2) Ikhoram enamalungu angayi kuba ngaphantsi kwesiqingatha samalungu amiselwe ngokwecandelwana 5(1)*(a)* okanye 6(1)*(b)* kwaye esinye isiqingatha samanye amalungu atyunjwa ngokwecandelo 5(1) no (2) lecandelo 6(1), njengoko kunjalo, kulindeleke ukuba abekho entlanganisweni nangaliphi ixesha.

(3) Isigqibo seBhodi okanye seKomiti siya kwenziwa ngokufikelela kwisivumelwano, kodwa xa singafikelelanga isininzi samalungu ebekho entlanganisweni kwisivumelwano, eso sivumelwano kufikelelwe kuso iya kuba sisigqibo seBhodi okanye seKomiti.

(4) Xa kuye kwakho ukulingana ngokweevoti kuwo nawuphi umbandela, usihlalo kuloo ntlanganiso uya kongeza eyakhe ivoti ukuze kuthathwe isigqibo.

(5) IBhodi iya kunika umyalelo okanye inike imvume nawuphi na umntu osesikhundleni sokuba ngumcebisi athabathe inxaxheba kwiintlanganiso.

(6) Usihlalo uya kuqinisekisa ukuba—

(a) iyagcinwa irekhodi egqibeleleyo yamalungu abekho entlanganisweni, amanqaku entlanganiso nezisombululo ekugqitywe ngazo, kuzo zonke iintlanganiso; kunye

(b) nekopi yerekhodi ekubhekiselwe kuyo kumhlathi *(a)*, ityikitywe ngusihlalo, ithunyelwe kwiNtloko yeSebe, ukuba iNtloko yeSebe ithe yayifuna.

Iintlanganiso ezivulelekele noluntu

21. (1) Ngokuxhomekeke kwicandelwana (2), zonke iintlanganiso zeBhodi zivulelekile eluntwini.

(2) Ukuba iBhodi okanye iKomiti ithe ngezizathu ezifanelekileyo yagqiba ekubeni uluntu malungathabathi nxaxheba kwintlanganiso xa kuxoxwa ngomba othile, usihlalo akayi kulubandakanya uluntu entlanganisweni ngexesha laloo ngxoxo.

(3) IBhodi okanye iKomiti iya kusebenzisa nayiphi na into ebona ifanelekile, ukwazisa uluntu ngeentlanganiso zeBhodi okanye zeKomiti

Ikomiti elawulayo

22. (1) IBhodi okanye iKomiti iya kuseka ikomiti elawulayo enamalungu eBhodi okanye eKomiti, ekuya kubakho kuwo ubuncinane isiqingatha samalungu anyulwe ngokwecandelo 5(1)*(a)* xa iyiBhodi nangokwecandelo 6(1*)(b)*.

(2) Ngokuxhomekeke kwimigaqo yeBhodi okanye yeKomiti kunye necandelwana (3) nele (4), ikomiti elawulayo iya kwenza yonke imisebenzi kwaye isebenzise onke amagunya eBhodi okanye eKomiti phakathi kweentlanganiso zeBhodi okanye zeKomiti.

(3) IKomiti elawulayo ayinawo amagunya okumisela okanye okwenza nasiphi na isigqibo seBhodi okanye seKomiti, ngaphandle kwaxa iBhodi okanye iKomiti ikwalathile oko.

(4) Naliphi inyathelo okanye isigqibo esithatyathiweyo yikomiti elawulayo siya kuthi kwintlanganiso yokuqala yeBhodi okanye yeKomiti elandela emva kwelo nyathelo okanye eso sigqibo, siphononongwe yiBhodi okanye yiKomiti size silungiswe kungagatywanga nawuphi na umntu.

IiKomiti ezizodwa

23. (1) IBhodi okanye iKomiti iya kuseka iikomiti ezizodwa eziya kuba namalungu eBhodi okanye eKomiti aya kwenza imisebenzi ethile okanye asebenzise amagunya athile egameni leBhodi okanye leKomiti.

(2) Xa igunya lolawulo linikwe ikomiti eyodwa, umyalelo, imimiselo ekubhekiselelwa kuyo, inkqubo neekhoram zekomiti eyodwa kufuneka kuya kuvunyelwana ngazo zishicilelwe yiBhodi okanye yiKomiti.

(3) Ikomiti eyodwa yeBhodi iya kutyumba umntu okanye abantu abangasebenzi kwiBhodi ukuba basebenze kwikomiti njengabacebisi.

(4) Naliphi inyathelo elithatyathiweyo okanye isigqibo esithatyathiweyo yikomiti eyodwa, siya kuthi kwintlanganiso yokuqala yeBhodi okanye iKomiti emva kwelo nyathelo kweso sigqibo, kuphononongwa okanye sitshintshwe yiBhodi okanye iKomiti kungakhethwanga mntu utheni.

Ukunyusa ingxowa-mali yeBhodi nokusetyenziswa kwayo

24. (1) IBhodi iya kufumana iinkonzo, imali, oovimba bokugcina okanye izixhobo ngeenjongo zokufezekisa imisebenzi yayo.

(2) IBhodi iya kuyisebenza imali, oovimba okanye izixhobo ezinikwe ngeenjongo zokwenza imisebenzi yayo.

(3) IBhodi iya kuseka iqumrhu eliya kujongana nemali eya kuba luncedo kwiziko lempilo esebenzela lona kwaye iya kwamkela ize ilawule elo qumrhu lakuba lisekiwe ukuze lincede iziko lempilo esebenzela lona.

(4) IBhodi iya kugcina zonke iirekhodi zemali ezifumeneyo nezichithileyo neempahla.

(5) IBhodi iya kuthi rhoqo kwisithuba seenyanga ezimbini zokuphela konyaka-mali, ingenise kwiNtloko yeSebe iingxelo zemali zonyaka ezihlanganiswe ngokwesikhokelo soniko-ngxelo esimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali.

(6) UMphicothi zincwadi onyulwe yiBhodi uya kuthi ngokwecandelwana (7), enze uphicotho kwiirekhodi nakwiingxelo zonyaka zemali zeBhodi athumele ingxelo yophicotho kwiNtloko yeSebe nakwiBhodi echaphazelekayo kwisithuba seenyanga ezimbini zifumanekile iingxelo ekubhekiselelwa kuzo kwicandelwana (5).

(7) UMphathiswa wePhondo uya kuthi emva kokubonisana neNtloko yeSebe amisele ukuba iBhodi ixolelwe ekuphicothweni.

(8) UMphathiswa wePhondo uya kuqwalasela oku kulandelayo kuba iBhodi xa esenza isindululo ngokwecwandelwana (7):

(a) ukuba ngaba lilonke ixabiso lee-asethi kuqukwa nemali eselugcinweni yeBhodi egqithileyo kuma-R5 000 000 kumnyaka-mali odlulileyo, kunye nesixamali esinjalo siza kuhlengahlengiswa rhoqo ngonyaka ngowo-1 Matshi ngokuhambelana neSalathisi seXabiso loMthengi;

(b) iingxelo zemali zeBhodi zomnyaka-mali odlulileyo; kunye

(c) nokuba iBhodi yayenza imisebenzi yayo ngokwalo Mthetho kumnyaka-mali odlulileyo.

(9) Apho uMphathiswa wePhondo aye wayixolela iBhodi ngokwecandelwana (7), iBhodi iya kuthi nokuba kunjalo ingenise kwiNtloko yeSebe iingxelo zemali ezenziwe ngokwesikhokelo soniko ngxelo esimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wemali.

(10) UMphathiswa wePhondo uya kumisela iBhodi exolelweyo ngokwecandelwana (7) kuba iphicothwe njengoko kuchaziwe kwicandelwana (6).

(11) Unyaka-mali weBhodi ngunyaka ophela ngomhla wama-31 kuMatshi.

(12) Ukuba iBhodi iyasilela ukuthobela icandelwana (5) okanye (9), okanye apho iBhodi iye yanamagingxigingxi ekuphatheni imali, uMphathiswa wePhondo uya kumisela amanyathelo olungiso awabona efanelekile, aquka—

(a) ukuqeshwa komlawuli ukuze alawule imicimbi yemali okanye imisebenzi eyenziwayo yiBhodi;

(b) ukunqunyanyiswa okanye ukurhoxiswa kwamalungu eBhodi esikhundleni; kunye

(c) nokutshintshwa kwemisebenzi namagunya eBhodi, nangona kumiselwe kwicandelo 14.

(13) Ngaphambi kokuba athabathe amanyathelo olungiso akhankanywe kwicandelwana (12), uMphathiswa wePhondo, iNtloko yeSebe iya kukhuphela amalungu eBhodi isaziso neekopi ezigunyazisa ukufezekiswa kwemisebenzi njengoko inikiwe—

(a) inkcazelo ephathelele ekunxaxheni kwimimiselo kuqukwa nokusilela ukwenza imisebenzi ngemfezeko;

(b) amanyathelo amiselwe iBhodi ukuba iwalandele kwanexesha apho la manyathelo aya kuthi alungise oko kunxaxhwe kuko; kunye

(c) nokwazisa iBhodi ukuba isilele ekuthabatheni amanyathelo akhankanywe kumhlathi *(b)* iNtloko yeSebe iya kugqithisela kuMphathiswa wePhondo olo nxaxho ukuze ibe nguye othabatha amanyathelo olungiso ngokwecandelwana (12).

(14) IBhodi iyakhawulelana nawo onke amanyathelo akhankanyiweyo kwicandelwana (13)*(b)* kwisithuba esikhankanyiweyo kwisaziso sothobelo, iNtloko yeSebe iya kuyazisa iBhodi ngembalelwano malunga nokuthobela kwayo ngokwesaziso sokuthobela.

(15) Ukuba iBhodi iyasilela ukuthobela naliphi na inyathelo kumanyathelo onke ekubhekiselelwa kuwo kwicandelwana (13)*(b)* kwisithuba esikhankanywe kwisaziso sothobelo—

(a) iNtloko yeSebe iya kuthi ekupheleni kwexesha elichazwe kwisaziso sothobelo, imazise uMphathiswa wePhondo ngembalelwano ngesizathu sokunxaxha okanye ukungathobeli ngokupheleleyo kweBhodi; kunye

(b) nokuthi uMphathiswa wePhondo athi kwiintsuku ezingama-30 esifumene isaziso sonxaxho okanye ukungathobeli ngokupheleleyo kweBhodi ngembalelwano malunga nokunxaxha okanye ukungathobeli ngokupheleleyo ngokwendlela ekhankanywe kwisaziso sothobelo.

(16) Isaziso esikhankanywe kwicandelwana (15)*(b)* iya kuchaza—

(a) amanyathelo aphakanyisiweyo olungiso aya kuthatyathwa ngokwecandelwana (12); kwaye

(b) ukuba iBhodi inelungelo lokwenza ulwandlalo phambi koMphathiswa wePhondo kwisithuba seentsuku ezi-14 sifunyenwe isaziso esiphathelele kumanyathelo aphakanyisiweyo olungiso.

(17) Zakuphela iintsuku ezili-14 ezichazwe kwicandelwana (16)*(b)*, ukuba uMphathiswa wePhondo uyifumene akayifumana ingcaciso ngembalelwano evela kwiBhodi, uMphathiswa wePhondo uya kuthi emva kokuqwalasela onke amanqaku afanelekileyo kuquka nokungathobeli ngokupheleleyo kweBhodi, athabathe amanyathelo olungiso aphakanyisiweyo

(18) Ukuba umlawuli uye waqeshwa ngokwecandelwana (12)*(a)*, uya kuthi—

(a) kwisithuba seenyanga ezintandathu eqeshiwe, angenise kwiNtloko yeSebe ingxelo emalunga nemicimbi yemali yeBhodi nazo naziphi na izenzo ezikrokrelwayo zonxaxho kwimimiselo esemthethweni okanye ukwenza isenzo solwaphulo-mthetho seBhodi echaphazelekayo

(b) emva koko, iya kuthi ibonisene neNtloko yeSebe, yenze isicwangciso sokulungisa seBhodi echaphazelekayo; kunye

(c) nokuthi sakuba sigqityiwe isicwangciso sokulungisa, okanye ukuphumeza isicwangciso sokulungisa—

(i) ukuba kufanelekile, kungenziwa isiphakamiso kuMphathiswa wePhondo neNtloko yeSebe sokuba kwandiswe isicwangciso sokulungisa esiya kuthatha isithuba seenyanga ezintandathu; okanye

(ii) kungeniswe kuMphathiswa wePhondo nakwiNtloko yeSebe ingxelo egqibeleleyo yemicimbi yemali yeBhodi kunye nalo naluphi na unxaxho kummiselo womthetho okanye isenzo esingekho mthethweni esenziwe yiBhodi.

(19) UMphathiswa wePhondo uya kuthi emva kokubonisana neNtloko yeSebe akufumana ingxelo egqibeleleyo echazwe kwicandelwana (18)*(c)(ii)*, nguye oya kubona ukuba—

(a) iBhodi inako ukulawula imicimbi yayo yemali; okanye

(b) iBhodi inako ukulawula imicimbi yayo yemali ngoncedo lomlawuli omiselwe nguMphathiswa wePhondo ngokuphathelelene ngemiqathango nemimiselo njengoko kumiselwe nguMphathiswa wePhondo.

(20) Ngaphambi kokuba uMphathiswa wePhondo enze isindululo ngokwecandelwana (19)*(b)*, uya kuyazisa iBhodi ngembalelwano ngeenjongo zakhe zokuba enze eso sindululo.

(21) Isaziso esikhankanywe kwicandelwana (20) siya kuchaza—

(a) isindululo sokuba uMphathiswa wePhondo abe nenjongo yokwenza; kunye

(b) nokuba iBhodi inelungelo lokwenza ingcaciso ebhaliweyo kuMphathiswa wePhondo kwisithuba seentsuku ezili-14 isifumene isaziso esimalunga nesindululo esenziweyo.

(22) Ukuphela kweentsuku ezili-14 ezikhankanywe kwicandelwana (21)*(b)*, ukuba ingaba uMphathiswa wePhondo uyifumene okanye akayifumananga ingcaciso ebhaliweyo evela kwiBhodi, uMphathiswa wePhondo uya kuthu emva kokuqwalasela onke amanqaku afanalekileyo kuquka nayo nayiphi na ingcaciso eyenziwe yiBhodi, enze isindululo

Iimfanelo zohambo nezimayela noko

25. (1) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo, ebonisene noMphathiswa wePhondo wezemali, iBhodi ingathatha kwimali yayo ibuyekeze ilungu leBhodi, elatyunjwa ngokwecandelo 5(1)*(a)* no*(b)*, umcebisi ngokwecandelo 20(5), okanye nawuphi na umntu owatyunjwa njengelungu eliya kusebenza kwikomiti eyodwa ngokwecandelo 23(3) mayela—

(a) neendleko zothutho phakathi kwendawo elihlala, okanye elisebenza kuyo ilungu, umcebisi okanye umntu kunye nendawo ebanjelwe kuyo intlanganiso yeBhodi okanye yekomiti echaphazelekayo; kunye

(b) neendleko zohambo neemfanelo zokuphila ezithe zadaleka ngenxa yokuya kwiinkomfa, iisemina okanye kwiinkqubo zoqeqesho zeBhodi, kodwa xa iinkomfa, iisemina neenkqubo zoqeqesho zingaphaya kwemida yePhondo yoMzantsi Afrika, kuya kufumaneka imvume kuMphathiswa wePhondo.

(2) *(a)* IBhodi ayiyi kuwabuyekeza amalungu ayo ngexesha elichithelwe kwizinto zomsebenzi weBhodi.

(b) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali, iBhodi ingathatha kwimali yayo ibuyekeze umcebisi ngokwecandelo 20(5) okanye nawuphi na umntu owatyunjwa njengelungu eliya kusebenza kwikomiti eyodwa ngokwecandelo 23(3), ngexesha elichithwe emsebenzini weBhodi.

(3) *(a)* Ilungu leKomiti alinalungelo lokubuyekezwa ngexesha elilichithele emsebenzini weKomiti.

(b) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali, iSebe lingathatha kwingxowamali yalo libuyekeza ilungu leKomiti elatyunjwa ngokwecandelo 6(1)*(b)* iindleko zohambo ezenzeke ngokuya ezintlanganisweni zeKomiti.

(4) Xa iBhodi ingenamali yaneleyo, ize ithi ngokuxhomekeke kwixabiso elimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wezemali, iSebe lingathatha kwingxowamali yalo libuyekeza ilungu leBhodi elingekabikho lungelweni lokubuyekezwa ngeendleko zalo liSebe ngenxa yokuba sesikhundleni ekubhekiselelwa kuso kumacandelo 5(1)*(c)*, *(d)*, *(e)* okanye *(f)*, zohambo ezikhankanyiweyo kwicandelwana (1)*(a)*.

Ukuvalwa kweziko lempilo

26. (1) Xa lithe lavalwa iziko lempilo yiBhodi okanye yiKomiti emiselwe lona, iNtloko yeSebe iya kuthi kwisithuba seenyanga ezintathu ubuncinane ngaphambi kokuvalwa kwalo nasemva kokuba ibonisene neBhodi okanye neKomiti, iyalele iBhodi okanye iKomiti ngembalelwano malunga—

(a) nemeko apho ithe iBhodi okanye iKomiti eyayimiselwe ukujongana nelo ziko lempilo kuphela, kuthe injongo yokuvalwa kwalo ziko nokuchithwa kweBhodi okanye iKomiti kunye, naxa iBhodi yayisungule nayiphi na itrasti;

(b) naxa iBhodi okanye iKomiti eyayimiselwe ukujongana namaziko empilo angaphezulu kwelinye, nakuphi na ukutshintshwa okucetywayo ngolwakhiwo lwayo olubangelwa kukuvalwa kwelo ziko; kunye

(c) naxa iBhodi eyayimiselwe kuphela elo ziko lempilo, ukutshithsiswa kweempahla namatyala eBhodi, okanye nayiphi na itrasti eyayisungulwe yiBhodi.

(2) Xa kuvalwa iziko lempilo ekubhekiselelwa kulo kwicandelwana (1)*(a)*, iBhodi okanye iKomiti ejongene nelo ziko lempilo, apho itrasti eyayisungulwe yiBhodi ithe yatshitshiswa, iNtloko yeSebe iya kuthi, xa kukho imfuneko, ithabathe amanyathelo okuba kuqaliswe ukusetyenziswa imiyalelo echazwe kwicandelwana (1)*(c)*.

Imimiselo yexeshana ngokubhekiselele kwizibhedlele ezikhulu

27. Ilungu alinaxanduva layo nayiphi na into ethe yenziwa ngentembeko ekwenzeni umsebenzi ngokwalo Mthetho.

Imimiselo

28. (1) Ngokuxhomekeke kwicandelo (3), uMphathiswa wePhondo uya kwenza imimiselo ephathelele—

(a) neenkqubo zokutyunjwa kwamalungu aya kunyulwa asebenze kwiiBhodi nakwiiKomiti;

(b) nolawulo lwemali yeeBhodi;

(c) indlela ethi iBhodi yenze isibonelelo ngayo okanye enye iimpahla enokushukumiseka yokubonelela, ukuphucula okanye ukwandisa iinkonzo ukuphucula, okanye ukwandisa iinkonzo nezinto zolonwabo, okanye ukunikela ngemali ukuze kuthengwe iimpahla ezinokuphakamiseka okanye ezingenakuphakamiseka eziya kunceda isibhedlele;

(d) amagunya nemisebenzi kasihlalo weBhodi okanye weKomiti;

(e) indlela ethi iBhodi enokuthi yenze ngayo amalungiselelo endawo, kunye nenkxaso kwi-ofisi yonobhala, ulawulo nakwezemali;

(f) indlela emiselwe iKomiti ekuhlawuleni imali eyenzelwe ukuxhasa iziko lonyango olusisiseko nokusebenza kweKomiti kwiBhodi emiselwe yiNtloko yeSebe ngokwecandelo 18(6);

(g) indlela ethi imiselwe ngayo iBhodi ngokwecandelo 18(6) ukuba yamkele, ilawule iphendule ngemali eyenziwe yiKomiti;

(h) iindleko zokuhamba neemfanelo ezihlawulwayo ngokwalo Mthetho;

(i) ukusungulwa kwetrasti yiBhodi; kunye

(j) inkqubo elandelwayo inkqubo yokuhlanganiswa kwamaziko onyango olusisiseko nokumiselwa kweKomiti yamaziko aliqela onyango.

(2) Ngokuxhomekeke kwicandelwana (3), uMphathiswa wePhondo wenza imimiselo malunga—

(a) iinkqubo ezilandelwayo zentlanganiso zeBhodi okanye zeKomiti; kunye

(b) nawo nawuphi na omnye umba oyimfuneko okanye ungxamiseko lokukhupha umyalelo ukuze kufezekiswe iinjongo zalo Mthetho.

(3) Xa imimiselo ifuna kubekho imali kurhulumente, uMphathiswa wePhondo uya kwenza imimiselo ngokwesivumelwano soMphathiswa wePhondo wezemali.

Ulwabiwo-msebenzi

29. (1) UMphathiswa wePhondo uya kumisela nawaphi na amagunya okanye imisebenzi ayinikwe ngokwemimiselo yalo Mthetho, ngaphandle kwegunya lokwenza imimiselo, kwiNtloko yeSebe.

(2) INtloko yeSebe iya kumisela okanye inike naliphi na igunya ngokwemimisela yalo Mthetho—

(a) umsebenzi weSebe; okanye

(b) umntu osesikhundleni okanye kwisihlalo esithile kwiSebe.

(3) Ngaphandle kwe candelwana (2), iNtloko yeSebe iya kumisela amagunya okanye inike ilungu umsebenzi.

(4) Ukumiselwa magunya okanye imisebenzi ekubhekiselelwa kulo kwicandelwana (1) okanye (2)—

(a) kuya kubhalwa phantsi;

(b) kuyaa kwenziwa ngokwemiqathango;

(c) kuya kurhoxiswa okanye kulunguswe ngokubhalwa phantsi nguMphathiswa wePhondo okanye yiNtloko yeSebe, njengoko kunjalo;

(d) kunika imvume yokumiselwa kwamanye amagunya okanye oko kwenziwayo kula msebenzi;

(e) akumthinteli uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunjalo, ekubeni asebenzise amagunya akhe okanye enze la msebenzi; kunye

(f) nokuba akumhluthi uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunjalo, uxanduva lwakhe malunga namagunya amiselweyo okanye ukwenza umsebenzi omiselweyo.

Imimiselo yethutyana ephathelele nezibhedlele ezikhulu

30. (1) Nangona ubhangiso lwe*Western Cape Health Facility Boards Act* lalo Mthetho, ibhodi ekhoyo yesibhedlele esikhulu iqhuba nokusebenza ngokwemimiselo yala Mthetho ade uMphathiswa wesizwe atyumbe ibhodi engummeli wesibhedlele esikhulu yesibhedlele esichaphazelekayo.

(2) Lingatyeshelwanga nje icandelo 7 lomthetho i*Western Cape Health Facility Boards Act*, ukuba ixesha lokuba sesikhundleni kwelungu lebhodi lesibhedlele esikhulu elikhoyo liyaphela ngaphambi kokuba uMphathiswa wesizwe amisele isibhedlele esichaphazelekayo ibhodi engummeli wesibhedlele esikhulu, elo lungu liya kuhlala esikhundleni ade uMphathiswa wesizwe alimisele.

(3) Yakuba imiselwe ibhodi engummeli yesibhedlele esikhulu nguMphathiswa wesizwe—

(a) iimpahla namatyala ebhodi ekhoyo kwisibhedlele esikhulu, ezinikwe ibhodi engummelo wesibhedlele esikhulu ngokomqathango ezo mpahla ziya kusetyenziswa yibhodi engummeli wesibhedlele esikhulu ixhase le bhodi okanye isibhedlele esikhulu esebenzela sona; kunye

(b) nokuba uMphathiswa wePhondo uya kuthi emva kokubonisana nebhodi ekhoyo yesibhedlele esikhulu enze ummiselo obhaliweyo ophathelelene nawo nawuphi na umba oyimfuneko ukuqinisekisa ngokusebenza ngokufanalekileyo kwebhodi engummeli wesibhedlele esikhulu.

UBhangiso noLondolozo

31. (1) UMthetho weeBhodi zamaZiko eMpilo weNtshona Koloni uyabhangiswa.

(2) Ngokwecandelo 30—

(a) iBhodi emiselwe phantsi kwecandelo 5 le*Western Cape Health Facilities Board Act* kunye nokubakho kwayo ngaphambi kokuqalisa kokusebenza kwalo Mthetho iyaqhuba nokusebenza kwaye ithathwa njengemiselwe phantsi kwecandelo 4(1) lalo Mthetho;

(b) ukuchongwa kwegunya lolawulo lomthetho namalungelo nezimiselo zaloo Bhodi azichaphazeleki ngenxa yokubhangiswa kwala Mthetho; kunye

(c) nawuphi na umntu osesikhundleni ngokwala Mthetho othi ngaphambi kokuqalisa ukusebenza kwalo Mthetho aqhubeke esesikhundleni ixesha elisikelwe ukuba abe sesikhundleni loo mntu kwaye oku kuthathwa njengokuba watyunjelwa kweso sikhundla ngokwalo Mthetho ngokwenxa-lenye yexesha elingaphelelwayo lokuba sesikhundleni.

(3) Nawuphi na umpoposho, umgaqo, umyalelo, isigunyaziso, imvume okanye uxwebhu oluthe lwakhutshwa, lwapapashwa, lwanikelwa okanye lwavunywa kunye naso nasiphi na esinye isenzo esenziwe phantsi komthetho i*Western Cape Health Facility Boards Act*, ukuba oko akuhambi ngokwalo Mthetho, uthatyathwa njengopapashwe, wanikelwa, wavunywa okanye wenziwa phantsi kwalo Mthetho.

Isihloko esifutshane nokuqala kokusebenza komthetho

32. Lo Mthetho ubizwa ngokuba ngu uMthetho weeBhodi neeKomiti zamaZiko eMpilo weNtshona Koloni, 2016 noya kuqala ukusebenza ngomhla oya kumiselwa yiNkulumbuso ngokwenza umpoposho kwi*Gazethi yePhondo.*

IMEMORANDAM EPHATHELENE NEENJONGO YOMTHETHO OYILWAYO WEEBHODI NEEKOMITI ZAMAZIKO EMPILO WENTSHONA KOLONI KA-2016

1. INGCACISO

1.1. Amacandelo aliqela kumgaqo weNational Health Act, 2003 (uMthetho 61 ka-2003) (iNHA), aqale ukusebenza ngowama-27 kaFebruwari 2012 ngokweSibhengezo 11/2012, eyayipapashwe kwi*Gazethi kaRhulumente* 35081. Amacandelo aneenjongo ezifanayo noMthetho oYilwayo weeBhodi neeKomiti zamaZiko eMpilo weNtshona Koloni ka-2015 (uMthetho oSayilwayo) ngamacandelo 41 kunye no-42, alawula iibhodi zezibhedlele ezizakonyulwa neekomiti eziza konyulwa kulungiselelwa iikliniki mamaziko empilo oluntu ngokubanzi.

1.2. Icandelo lama-41(1) leNHA lenzele uMphathiswa weSebe lezeMpilo lesizwe amalungiselelo okuqonda phakathi kwezinto kuhlengahlengiswe iinkonzo zempilo, neenkqubo nendlela yokungeniswa kwezigulane esibhedlele nokuthunyelwa kwazo, neendlela yokuhlawula iimali zezibhedlele ezikhulu. Icandelo lama-41(2) leNHA lenza amalungiselelo amalungu abandakanyekayo eBhunga leSigqeba (uMphathiswa) ukuba enze le misebenzi egameni lawo onke amaziko empilo oluntu achazwe njengesibhedlele kunezibhedlele ezikhulu.

1.3. Ngokwalamalungiselelo, icandelo 41(4) lenza ukuba uMphathiswa wesizwe anyule ibhodi yomelo yezibhedlele ezikhulu okanye iqela lezibhedlele ezikhulu anike imvume ebhalwe phantsi yemisebenzi yezibhodi. Icandelo 41(6)*(a)* linika uMphathiswa onelungelo igunya lokuchonga ibhodi eyakumela onke amaziko empilo abizwa ngokuba zizibhedlele okanye amaqela alo maziko empilo. UMphathiswa makacebise ngemisebenzi neenkqubo zeentlanganiso zebhodi. Amaziko empilo oluntu ekubhekiswa kuwo kwicandelo 41(6)*(a)* ungazifaki izibhedlele ezikhulu. Icandelo 42 libangela ukuba umthetho wasephondweni ukwazi ukunceda amaziko akwiphondo kuxoxwe ngeekomiti zeekliniki namaziko empilo oluntu okanye ezinto ezikhankanyiweyo.

1.4. Kutsha nje, zonke iibhodi zazo zonke izibhedlele eNtshona Koloni, kuquka iiBhodi zezibhedlele ezikhulu, zinyuliwe nguMphathiswa wePhondo, kuquka iiBhodi zezibhedlele ezikhulu, zonyulwe nguMphathiswa wezeMpilo (UMphathiswa wePhondo) phantsi kweWestern Cape Health Facility Boards Act, 2001 (uMthetho 7 ka-2001). Akukho malungiselelo enziweyo ukulungiselela ukunyulwa kweekomiti zeekliniki namaziko empilo oluntu.

1.5. uMthetho oSayilwayo kufuneka uvumelane nalamacandelo eNHA akhankanyiweyo apha ngentla. uMthetho oSayilwayo wenza amalungiselelo okunyulwa kweebhodi zezibhedlele kwiPhondo kunakwizibhedlele ezikhulu, nokunyulwa kweekomiti zeekliniki namaziko empilo oluntu. Iikliniki namaziko empilo ahlula-hluliwe kuMthetho oSayilwayo njenge ‘‘primary healthcare facilities’’. Izibhedlele namaziko empilo asisiseko kuthethwa ngawo njengahlangeneyo kuMthetho oSayilwayo njenga ‘‘maziko empilo’’.

2. IINJONGO ZOMTHETHO OYILWAYO

2.1 Iinjongo yoMthetho oSayilwayo kukulungiselela ukunyulwa kweebhodi zesibhedlele kwiPhondo kunezibhedlele ezikhulu, namalungiselelo okunyulwa kweekomiti zamaziko empilo asisiseko, nokwenza amalungiselelo okusebenza kwezibhodi kunye neekomiti.

2.2 Iinjongo zoMthetho oSayilwayo kukubonelela—

(a) ukuseka iibhodi zamaziko empilo neekomiti ezimele uluntu ezingumzekelo nezonoxanduva;

(b) ukuba noxanduva kwabolawulo lwamaziko empilo eluntwini kwakunye neemfuno zezigulane neentsapho zazo;

(c) ukufumana inkxaso yabahlali nokuzibandakanya kwabo, kumaziko empilo kunye neenkqubo zabo;
(d) iqela elichazwe ngokucacileyo lemisebenzi namandla eeBhodi neekomiti, nelingathi lande kakhulu kwizinto ezinqwenelwa luluntu njengoko ibhodi okanye ikomiti ikhula; kunye
(e) namalungiselelo exeshana eebhodi zezibhedlele ezikhulu.

3. IZIQULATHO ZOMXHOLO WOMTHETHO OSAYILWAYO

Isolotya 1 lenza amalungiselelo eenkcazelo ezithile.

Isolotya 2 libeka iinjongo zomthetho osayilwayo.

Isolotya 3 linika inkcazelo yamaziko empilo nangeenjongo zokunyula ibhodi okanye ikomiti oko kusenziwa nguMphathiswa wePhondo.

Isolotya 4 lilungiselela uMphathiswa wePhondo aseke iibhodi neekomiti.

Isolotya 5 lilungiselela ukonyulwa kwamalungu ebhodi.

Isolotya 6 lilungiselela ukonyulwa kwamalungu ekomiti.

Isolotya 7 ukuseka inkqubo efanelekileyo yokonyulwa kwamalungu ebhodi nawekomiti.

Isolotya 8 lenza amalungiselelo obude bexesha ibhodi namalungu ekomiti exhuzula imikhala.

Isolotya 9 lilungiselela ukwaziswa nokugcwaliswa kwezithuba ezikwibhodi nezekomiti.

Isolotya 10 kukuseka imisebenzi ebhodi yesibhedlele.

Isolotya 11 ukubeka amagunya ebhodi yesibhedlele.

Isolotya 12 ukwaba imisebenzi yekomiti yamaziko empilo asisiseko.

Isolotya 13 liseka amandla olawulo ekomiti yeziko elisisiseko.

Isolotya 14 lijongene nezinto ezilungiswayo kwimisebenzi yebhodi okanye ikomiti.

Isolotya 15 linikezela ngendlela iibhodi neekomiti emaziyenze ngayo imisebenzi yazo nendlela yokusebenzisa sebenzisa amagunya azo.

Isolotya 16 lithetha ngezinto ezenziwayo ukuze kubekho intsebenziswano.

Isolotya 17 linika iinkcukacha ngokonyulwa kukamhlali ngaphambili webhodi okanye ikomiti neseka lakhe.

Isolotya 18 linika inkxaso efunwa ngamalungu ebhodi nekomiti nokufundiswa kwamalungu umsebenzi nekomiti entsha eqalayo e-ofisini.

Isolotya 19 linika ngendlela yokwaba amaxesha eentlanganiso zebhodi nekomiti.

Isolotya 20 libonisa iinkqubo elandelwayo kwiintlanganiso zebhodi nekomiti.

Isolotya 21 lenza amalungiselelo oluntu oluze kwiintlanganiso zebhodi nekomiti.

Isolotya 22 lenza amalungiselelo okonyula amalungu ekomiti yebhodo kunye nekomiti.

Isolotya 23 lenza amalungiseleo okonyulwa kweengcali kwikomiti yebhodi nekomiti.

Isolotya 24 lenza amalungiselelo okungenisa imali kwanokusetyenziswa kwayo yibhodi.

Isolotya 25 lenza amalungiselelo ohambo nezinye izinto ezifuna imali egameni lebhodi namalungu ekomiti.

Isolotya 26 lenza amalungiselelo okohlulwa kwaziko ezimpilo.

Isolotya 27 lenza ukulawulwa koxanduva lwamalungu.

Isolotya 28 lenza amalungiselelo okwenziwa kwemiqathango nguMphathiswa wePhondo.

Isolotya 29 lenza amalungiselelo okwabiwa kwamagunya nomsebenzi. **Isolotya 30** lenza amalungiselelo ethutyana egameni lezibhedlele ezikhulu.

Isolotya 31 lenza amalungiselelo okurhoxiswa kwe*Western Cape Health Facility Boards Act, 2001* (Umthetho 7 ka-2001) nequka iimali eziselugcinweni.

Isolotya 32 lenza amalungiselelo esihloko esifutshane nomhla esiya kuqala ngawo.

4. UKUCHAPHAZELEKA NGOKWEZIMALI

Ngokomthetho, amalungu ebhodi nawekomiti ngamavolontiya. UMthetho oSayilwayo wenzelwa ukuba iSebe kwiimali zalo libuyekeze amalungu ekomiti iindleko zohambo zokuya ezintlanganisweni zekomiti. Ukongeza, uMthetho oSayilwayo uyanceda xa ibhodi yesibhedlele ingenamali yoneleyo, iSebe liya kuthi kwiimali zalo libuyekeze amalungu ebhodi iindleko zokuya ezintlanganisweni.

5. UKUCHAPHAZELEKA KWABASEBENZI

ISebe liya kuba noxanduva lokunikezela inkxaso yolawulo kwiibhodi neekomiti. Xa sijonga inani leebhodi neekomiti, kuyathanda ukuba into yokuba kubekho amabango abalulekileyo abekwe kwinqanaba lolawulo lwamaziko empilo kunye nolawulo lwabo.

6. UKUBONISANA

ISebe leNkulumbuso: Icandelo leenkonzo zoMthetho UMthetho oSayilwayo wapapashwa ukuze uluntu luphawule kwi*Songezelelo kwiGazethi yePhondo* 7392 ngomhla we-15 kuMeyi 2015, umhla wokuvala ukungeniswa kwezimvo zabo ngowe-15 Juni 2015. Isaziso sathi kamva sapapashwa kwi*Gazethi yePhondo* 7397 kusongezwa ixesha lokuba abantu bafake izimvo zabo kude kuyokuba ngumhla wama-31 kweyeKhala 2015.

7. UMTHETHO WEPHONDO

UMphathiswa wePhondo wanelisekile kukuba onke amalungiselelo oMthetho oSayilwayo angene kuMthetho wePhondo.

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