

PROVINCE OF WESTERN CAPE

**WESTERN CAPE
HEALTH SERVICES
FEES BILL**

(As introduced)

(MINISTER OF HEALTH)

[B 4—2008]

PROVINSIE WES-KAAP

**WES-KAAPSE
WETSONTWERP OP
GESONDHEIDSDIENSTEGELDE**

(Soos ingedien)

(MINISTER VAN GESONDHEID)

[W 4—2008]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OYILWAYO
WEMIRHUMO YEENKONZO
ZEMPILO WENTSHONA KOLONI**

(Njengoko wazisiwe)

(UMPHATHISWA WEZEMPILO)

[B 4—2008]

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BILL

To provide for a schedule of fees to be prescribed for health services rendered in the Western Cape Province by the Department; to repeal the Hospital Ordinance, 1946; and to provide for incidental matters.

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

Definitions

1. In this Act, unless the context indicates otherwise:
 - “**Department**” means the provincial department responsible for health matters in the Province; 5
 - “**forensic pathology services**” means the service rendered by the Department, including, but not limited to—
 - (a) the examination of a dead human body or the remains thereof with the purpose of establishing the cause of death and factors associated with death; and 10
 - (b) laboratory or mortuary services used for post mortem examinations and medico-legal autopsies;
 - “**health care provider**” means a person providing health services in terms of any law, including the—
 - (a) Allied Health Professions Act, 1982 (Act 63 of 1982); 15
 - (b) Health Professions Act, 1974 (Act 56 of 1974);
 - (c) Nursing Act, 2005 (Act 33 of 2005);
 - (d) Pharmacy Act, 1974 (Act 53 of 1974); and
 - (e) Dental Technicians Act, 1979 (Act 19 of 1979);
 - “**health services**” means any health care services rendered by the Department, including reproductive health care, emergency medical treatment, basic nutrition and basic health care services, medical treatment, mortuary services and forensic pathology services; 20
 - “**Minister**” means the provincial Minister responsible for health matters in the Province; 25
 - “**mortuary services**” means the service rendered relating to the storage of a corpse by the Department;
 - “**Province**” means the Province of the Western Cape;
 - “**provincial public health establishment**” means a health establishment that is owned or controlled by the Department; and 30
 - “**user**” means a person receiving health services.

Schedule of fees for health services

2. (1) The Minister may by regulation prescribe—
 - (a) a schedule of fees to be paid for health services, rendered by the Department; and 35
 - (b) the conditions on which and circumstances under which a user is eligible for free health services.
- (2) In framing a schedule of fees, the Minister may vary the fees according to different—
 - (a) categories of users; 40
 - (b) forms of treatment;

- (c) categories of health services; or
- (d) categories of provincial public health establishments.

(3) The Minister may reduce or waive the fees payable for health services in respect of a user if the Minister is satisfied that the user is not able to pay the fee in full or at all.

Declaration by user

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3. (1) A user who receives health services from the Department, or the person responsible for fees for the health services in respect of a user, must complete a declaration stating his or her income, and the other particulars which the Head of the Department determines.

(2) A person who is required to complete a declaration in terms of subsection (1), but refuses or fails to complete the declaration, is liable for the maximum fee prescribed for the health services rendered. 10

User's own practitioner

4. When a user in a provincial public health establishment selects and engages his or her own health care provider, the Department is not liable for the fees payable to the health care provider. 15

Offences and penalties

5. A person who knowingly furnishes false or misleading information in a declaration referred to in section 3(1) commits an offence and upon conviction is liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment. 20

Transitional provisions

6. The Regulations prescribing the uniform patient fee schedule for health care services rendered by the Department for externally funded and subsidised patients issued in terms of the Hospital Ordinance, 1946 (Ordinance 18 of 1946) and in force at the commencement of this Act, are regarded as regulations made under this Act. 25

Repeal of law

7. The Hospital Ordinance, 1946 (Ordinance 18 of 1946), is repealed.

Short Title

8. This Act is called the Western Cape Health Services Fees Act, 2008. 30

EXPLANATORY MEMORANDUM

WESTERN CAPE HEALTH SERVICES FEES BILL

Introduction

The purpose of the Bill is to repeal the Hospital Ordinance, 1946 (Ordinance 18 of 1946), (“the Ordinance”), and to fill the lacuna left by the repeal, by enacting the Western Cape Health Services Fees Act.

1. The Ordinance has become outdated as other legislation is now regulating matters, which were regulated by the Ordinance.
2. The only provision in the Ordinance that is still of importance is section 40, which empowers the Minister for Health in the Province of the Western Cape to set tariffs of fees for the rendering of health care services in provincial public health establishments.
3. The Minister has issued regulations under section 40 of the Ordinance that currently governs the fees structure at public health establishments.
4. Repealing section 40 of the Ordinance would leave a lacuna in the law.

Clause 2 (1)

This clause empowers the Minister to prescribe by way of regulation:

- (a) a schedule of fees; and
- (b) conditions and circumstances under which a user is eligible for free health services.

Clause 2 (2)

This clause provides for a schedule of fees to be paid for health services rendered by the Department according to:

- (a) different categories of users;
- (b) forms of treatment;
- (c) categories of health services; or
- (d) categories of provincial public health establishments.

Clause 2 (3)

This clause provides for a discretionary power that the Minister has in order to reduce or waive the fees payable if the user is not able to pay the fees in full or at all.

Clause 3

This clause provides for a declaration to be made by the user stating his or her income and other particulars.

Clause 4

This clause provides for a user to select his or her own health care provider at his or her own cost.

Clause 5

This clause provides that a person who misleads or furnishes false information commits an offence.

Clause 6

This clause contains a transitional provision that provides that regulations prescribing the uniform patient fee schedule, issued under the Ordinance, be regarded as regulations issued under the Western Cape Health Services Fees Act, 2008.

Clause 7

This clause repeals the Hospital Ordinance, 1946.

Clause 8

Short title of the Act.

WETSONTWERP

Om voorsiening te maak dat 'n geldelys voorgeskryf word vir gesondheidsdienste deur die Departement in die Provinsie Wes-Kaap gelewer; om die Ordonnansie op Hospitale, 1946 te herroep; en om voorsiening te maak vir verwante sake.

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

Woordomskrywings

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - “**Departement**” die provinsiale departement verantwoordelik vir gesondheidsake in die Provinsie; 5
 - “**forensiese patologiesdienste**” die dienste deur die Departement gelewer, insluitende maar nie beperk nie tot—
 - (a) die ondersoek van die liggaam van 'n dooie mens of die oorblyfsels daarvan met die doel om die doodsoorsaak en faktore wat met die dood verbind word, te bepaal; en 10
 - (b) laboratorium- of lykshuisdienste wat vir lykskouings en regsgeneeskundige nadoodse ondersoeke gebruik word;
 - “**gebruiker**” 'n persoon wat gesondheidsdienste ontvang;
 - “**gesondheidsdienste**” enige gesondheidsorgdienste deur die Departement gelewer, insluitende reprodktiewe gesondheidsorg, mediese noodbehandeling, basiese voedingsorgdienste en basiese gesondheidsorgdienste, mediese behandeling, lykshuisdienste en forensiese patologiesdienste;
 - “**gesondheidsorgverskaffer**” 'n persoon wat gesondheidsdienste ingevolge enige wet verskaf, insluitende die— 20
 - (a) Wet op Verwante Gesondheidsdiensberoep, 1982 (Wet 63 van 1982);
 - (b) Wet op Gesondheidsberoep, 1974 (Wet 56 van 1974);
 - (c) Wet op Verpleging (Wet 33 van 2005);
 - (d) Wet op Aptekers, 1974 (Wet 53 van 1974); en
 - (e) Wet op Tandtegnici, 1979 (Wet 19 van 1979); 25
 - “**lykshuisdienste**” die dienste deur die Departement gelewer om 'n lyk tydelik te hou;
 - “**Minister**” die provinsiale Minister verantwoordelik vir gesondheidsake in die Provinsie;
 - “**provinsiale openbare gesondheidsinstelling**” 'n gesondheidsinstelling in besit en onder beheer van die Departement; en 30
 - “**Provinsie**” die Provinsie Wes-Kaap.

Geldelys vir gesondheidsdienste

2. (1) Die Minister kan die volgende by regulasie voorskryf—
 - (a) 'n lys gelde wat betaal moet word vir gesondheidsdienste deur die Departement gelewer; en 35
 - (b) die voorwaardes waarop en omstandighede waarin 'n gebruiker in aanmerking kom vir gratis gesondheidsdienste.
- (2) By die opstel van 'n geldelys kan die Minister die gelde wissel na gelang van verskillende— 40
 - (a) kategorieë van gebruikers;

- (b) vorms van behandeling;
- (c) kategorieë van gesondheidsdienste; of
- (d) kategorieë van provinsiale openbare gesondheidsinstellings.

(3) Die Minister kan die gelde wat vir gesondheidsdienste ten opsigte van 'n gebruiker betaalbaar is, verminder of vryskeld indien die Minister tevrede is dat die gebruiker nie die gelde ten volle of enigsins kan betaal nie. 5

Verklaring deur gebruiker

3. (1) 'n Gebruiker wat gesondheidsdienste van die Departement ontvang, of die persoon wat verantwoordelik is vir die gesondheidsdienstegelde ten opsigte van 'n gebruiker, moet 'n verklaring voltooi deur sy of haar inkomste en die ander besonderhede wat die Departementshoof bepaal te verstrek. 10

(2) 'n Persoon wat 'n verklaring ingevolge subartikel (1) moet voltooi, maar weier of versuim om dit te doen, is aanspreeklik vir die maksimum gelde voorgeskryf vir die gesondheidsdienste wat gelewer word.

Gebruikers se eie praktisyns 15

4. Wanneer 'n gebruiker in 'n provinsiale openbare gesondheidsinstelling sy of haar eie gesondheidsorgverskaffer kies en gebruik, is die Departement nie aanspreeklik vir die gelde wat aan die gesondheidsorgverskaffer betaalbaar is nie.

Misdrywe en strawwe

5. 'n Persoon wat opsetlik onjuiste of misleidende inligting verstrek in 'n verklaring in artikel 3(1) bedoel, begaan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met daardie boete sowel as daardie gevangenisstraf. 20

Oorgangsbepalings

6. Die Regulasies wat die eenvormige pasiëntgeldelys voorskryf vir gesondheidsorgdienste wat die Departement lewer aan ekstern befondsde of gesubsidieerde pasiënte, uitgereik ingevolge die Ordonnansie op Hospitale, 1946 (Ordonnansie 18 van 1946) en van krag by die inwerkingtreding van hierdie Wet, word geag regulasies kragtens hierdie Wet gemaak te wees. 25

Herroeping van wet 30

7. Die Ordonnansie op Hospitale, 1946 (Ordonnansie 18 van 1946) word herroep.

Kort titel

8. Hierdie Wet heet die Wes-Kaapse Wet op Gesondheidsdienstegelde, 2008.

VERKLARENDE MEMORANDUM

WES-KAAPSE WETSONTWERP OP GESONDHEIDSDIENSTEGELDE

Inleiding

Die doel van hierdie Wetsontwerp is om die Hospitaal Ordonnansie, 1946 (Ordonnansie 18 van 1946), (“die Ordonnansie”), te herroep en die regsleemte geskep deur herroeping te vul deur die uitvaardiging van die Wes-Kaap Gesondheidsdienstegelde Wet.

1. Die Ordonnansie het verouderd geraak en ander wetgewing reguleer nou sake wat deur die Ordonnansie gereguleer is.
2. Die enigste bepaling in die Ordonnansie wat steeds van belang is, is artikel 40, wat die Minister van Gesondheid in die Provinsie van die Wes-Kaap bemaatig om die tariewe van gelde vir die lewering van gesondheidsorgdienste in provinsiale openbare gesondheidsinstellings vas te stel.
3. Die Minister het regulasies onder artikel 40 van die Ordonnansie uitgevaardig wat tans die geldestruktuur by openbare gesondheidsinstellings voorskryf.
4. Die herroeping van artikel 40 van die Ordonnansie sal ’n regsleemte daar laat.

Klousule 2 (1)

Hierdie klousule bemaatig die Minister om voor te skryf by wyse van regulasie:

- (a) ’n skedule van gelde; en
- (b) voorwaardes en omstandighede waaronder ’n gebruiker in aanmerking kom vir gratis gesondheidsdienste.

Klousule 2 (2)

Hierdie klousule maak voorsiening vir ’n skedule van gelde betaalbaar vir gesondheidsdienste gelewer deur die Departement in ooreenstemming met:

- (a) verskillende kategorieë van gebruikers;
- (b) vorme van behandeling;
- (c) kategorieë van gesondheidsdienste; of
- (d) kategorieë van provinsiale openbare gesondheidsinstellings.

Klousule 2 (3)

Hierdie klousule maak voorsiening vir die diskresionêre mag van die Minister om gelde betaalbaar te verminder of kwyt te skeld indien dit vir die gebruiker onmoontlik is om die gelde ten volle te betaal of glad nie in staat is om te betaal nie.

Klousule 3

Hierdie klousule maak voorsiening vir ’n verklaring wat deur die gebruiker gemaak word waarin sy of haar inkomste en ander besonderhede te kenne gegee word.

Klousule 4

Hierdie klousule maak voorsiening vir die gebruiker om sy of haar eie gesondheidsorgvoorsiener vir sy of haar eie rekening te kies.

Klousule 5

Hierdie klousule maak voorsiening daarvoor dat ’n persoon wat mislei of vals inligting verskaf, ’n oortreding begaan.

Klousule 6

Hierdie klousule bevat 'n oorgangsbepaling wat bepaal dat regulasies wat die eenvormige pasiëntegeldelys voorskryf uitgevaardig onder die Ordonnansie beskou word as regulasies uitgevaardig onder die Wes-Kaap Gesondheidsdienstegelde Wet, 2008.

Klousule 7

Hierdie klousule herroep die Ordonnansie op Hospitale, 1946.

Klousule 8

Kort titel van die Wet.

UMTHETHO OSAYILWAYO

Ukulungiselela isicwangciso sentlawulo eza kumiselwa iinkonzo zempilo ezibonelelwa liSebe kwiNtshona Koloni; ukuphelisa umthetho, i-Hospital Ordinance, 1946; ukulungiselela imiba eyayamene noko.

XA LO MTHETHO UTHE WAPHUNYEZWA yiPalamente yePhondo leNtshona Koloni, uya kuma ngolu hlobo lulandelayo:—

Inkcazelo

1. Kulo Mthetho, ngaphandle kokuba umxholo usibonisa okunye:
 - “**ISebe**” oko kuthetha isebe lephondo elijongene nemicimbi yezempilo kwiPhondo; 5
 - “**Iinkonzo ezisemthethweni zoxilongo-zidumbu**” zithetha iinkonzo ezihanjiswa liSebe kubandakanywa, kodwa kungaphelelanga—
 - (a) Kuvavanyo lwezidumbu okanye amasuntsu omzimba ashiyekeleyo ngexesha ebekuphandwa ngesizathu sokufa nezinto ezinxulumene nokufa; kananjalo 10
 - (b) nelebhu okanye iinkonzo zogcino-zidumbu ezisetyenziswa ngexesha lovavanyo lonobangela wokufa novavanyo lwesidumbu ngokusemthethweni emva kokufa;
 - “**Umntu obonelela ngeenkonzo zempilo**” kuthethwa umntu obonelela ngeenkonzo zempilo ngokubhekiselele kuwo nawuphi na umthetho, okuhlanganisa umthetho i—
 - (a) Allied Health Professions Act, 1982 (Act 63 ka 1982);
 - (b) Health Professions Act, 1974 (Act 56 ka 1974);
 - (c) Nursing Act, 2005 (Act 33 ka 2005);
 - (d) Pharmacy Act, 1974 (Act 53 ka 1974); ne 20
 - (e) Dental Technicians Act, 1979 (Act 19 ka 1979);
 - “**Iinkonzo zempilo**” kuthethwa naziphi na iinkonzo ezinikezelwa lisebe, ezihlanganisa iinkonzo zokubekisa, unyango olukhawulezileyo, iinkonzo ezijolise kwizondlo neenkonzo ezinonophela abantu, iinkonzo zonyango, iinkonzo zezidumbu neenkonzo ezisemthethweni zoxilongo-zidumbu; 25
 - “**UMphathiswa**” uthetha uMphathiswa wephondo onoxanduva lwemicimbi yezempilo kwiPhondo;
 - “**Iinkonzo zogcino-zidumbu**” zithetha iinkonzo ezihanjisiwayo ezininto yokwenza nogcino lwezidumbu liSebe;
 - “**IPhondo**” kuthethwa iPhondo leNtshona Koloni; 30
 - “**amaziko ezempilo oluntu kwiphondo**” kuthetha amaziko ezempilo ephondo okanye alawulwa liSebe; aze
 - “**umxhamli**” uthetha umntu ofumana iinkonzo ezo.

Isicwangciso sentlawulo ngeenkonzo zempilo

2. (1) UMphathiswa unako ukumisela ngokwemigaqo— 35
 - (a) isicwangciso sentlawulo ekufuneka ihlawulelwe iinkonzo zempilo, ezenziwa liSebe eli; kunye
 - (b) nemiqathango neemeko apho umxhamli anokulungela ukufumana iinkonzo zempilo ezingahlawulelwayo.

- (2) Ekwenzeni isicwangciso sentlawulo, uMphathiswa angawohlula amatyala ngokohluka—
- (a) kwezigaba zabasebenzisi;
 - (b) kweendlela zonyango;
 - (c) kwezahlulo zeenkondo zezempilo; okanye 5
 - (d) kwezahlulo zokumiselwa kwempilo yoluntu kwiphondo.
- (3) UMphathiswa angacutha okanye abekele bucala amatyala ahlawulelwe iinkondo zezempilo ngokubhekiselele kulowo uzisebenzisayo xa uMphathiswa esaneliseka kukuba akanakho ukuyihlawula imali yonke okanye ukuyihlawula kwaphela.

Izibhambathiso ezenziwa ngabaxhamli 10

3. (1) Umntu ofumana iinkondo zempilo kwiSebe, okanye umntu ofanele ukuba ahlawulele lowo ngokubhekiselele kulowo usebenzise iinkondo, makenze isibhambathiso esicacisa ngomvuzo wakhe, nezinye iinkcukacha njengoko zifunwa liSebe.
- (2) Umntu kufuneka enze isibhambathiso ngokwecandelo (1), ukuba uyala okanye 15 akakwazi ukusenza isibhambathiso eso kufanele enze intlawulo ngeenkondo ezixhanyuliweyo.

ABasebenzi bezeMpilo abatyunjwe ngumntu ngokwakhe

4. Xa umntu okwiziko lezempilo lephondo ekhetha okanye esebenzisa owakhe umnonopheli wezempilo, iSebe alinanto yakwenza nokuhlawulwa komnonopheli 20 wezempilo lowo.

Ulwaphulo-mthetho neZigwebo

5. Umntu onikezela ngeenkukacha zobuxoki okanye ezilahlekisayo kwisifungo secandelo 3(1) waphula umthetho, xa egwetyiwe kuza kufuneka enze intlawulo okanye 25 avellewe kangangexesha elingagqithanga kwiinyanga ezintandathu.

AMalungiselelo eNguqu

6. IMimiselo egunyazisa intlawulo efanayo yezigulane ngeenkondo zonyango ezizenziwe liSebe eli kwizigulana ezixhaswa bucala kwanezo zifumana inkxaso-mali, ikhutshwe ngokomthetho i-Hospital Ordinance, 1946 (Ordinance 18 of 1946) eqalise ukusebenza ekuqaleni kwalo Mthetho, ithatyathwa njengemimiselo eyenziwa phantsi 30 kwalo Mthetho.

Ukurhoxiswa komthetho

7. UMthetho woMiselo weZibhedlele, 1946 (uMiselo 18 luka 1946) irhoxisiwe.

ISihloko eSifutshane

8. Lo Mthetho ubizwa ngokuba nguMthetho weMirhumo yeeNkonzo zeMpilo 35 weNtshona Koloni, 2008.

IMEMORANDAM ECACISAYO

UMTHETHO OSAYILWAYO WEZEMPILO WOKUHLAWULWA KWEENKONZO WENTSHONA KOLONI

Intshayelelo

Injongo yoMthetho oSayilwayo kukuphelisa umthetho, i-Hospital Ordinance, 1946; (Ordinance 18 of 1946), (“i-Ordinance”), kuze kusalwe isikhewu esishiyekileyo ngokuphelisa lomthetho, nangokuphumeza umthetho i-Western Cape Health Services Fees Act.

1. I-Ordinance iphelelwe lixesha njengoko eminye imithetho iyiyo elawula imicimbi eyayisakulawulwa yi-Ordinance.
2. Licandelo 40 kuphela indawo esabalulekileyo kwi-Ordinance, elinika uMphathiswa wezeMpilo wePhondo igunya lokumisela isicwangciso sentlawulo ngeenkonzo zempilo ekubonelelwa ngazo kumaziko ezempilo oluntu kwiphondo.
3. UMphathiswa ukhuphe imiqathango phantsi kwecandelo 40 ye-Ordinance elawula isicwangciso sentlawulo kwiinkonzo yamaziko ezempilo oluntu.
4. Ukuguzulwa kwecandelo 40 le-Ordinance kuya kushiya isikhewu emthethweni.

IGatya (1)

Igatya (1) linika uMphathiswa igunya lokumisela ngokwemigaqo:

- (a) isicwangciso sentlawulo ekufuneka ihlawulelwe; kunye
- (b) nemiqathango neemeko apho umxhamli anokulungela ukufumana iinkonzo zempilo ezingahlawulelwayo.

IGatya 2 (2)

Eli gatya licacisa ngesicwangciso sentlawulo eza kumiselwa iinkonzo zempilo ezibonelelwa liSebe ngo—

- (a) kwezigaba zabasebenzisi;
- (b) kweendlela zonyango;
- (c) kwezahlulo zeenkonzo zezempilo; okanye
- (d) kwezahlulo zokumiselwa kwempilo yoluntu kwiphondo.

IGatya 2

Eli gatya licacisa ukuba uMphathiswa angacutha okanye abekele bucala amatyala ahlawulelwe iinkonzo zezempilo ngokubhekiselele kulowo uzisebenzisayo xa uMphathiswa esaneliseka kukuba akanakho ukuyihlawula imali yonke okanye ukuyihlawula kwaphela.

IGatya 3 (1)

Eli gatya licacisa ukuba umntu ofumana iinkonzo zempilo kwiSebe, okanye umntu ofanele ukuba ahlawulele lowo ngokubhekiselele kulowo usebenzise iinkonzo, makenze isibhambathiso esicacisa ngomvuzo wakhe, nezinye iinkcukacha.

IGatya 4

Eli gatya licacisa ukuba umxhamli angazityumbela owakhe umnonopheli-mpilo ngeendleko zakhe.

IGatya 5

Eli gatya licacisa ukuba umntu onika iinkcukacha ezilahlekisayo okanye ezibubuxoki waphula umthetho.

IGatya 6

Eli gatya linamalungiselelo exeshana aqulathe imiqathango ekhutshwe phantsi kwe-Ordinance kufuneka lithathwe njengemiqathango ekhutshwe phantsi komthetho i-Western Cape Health Services Fees Act, 2008.

IGatya 7

Eli gatya liphelisa i- Hospital Ordinance, 1946.

IGatya 8

Isihloko somthetho esifutshane.

