



## **WESTERN CAPE HEALTH FACILITY BOARDS – MANUAL: 2007**



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## **PREFACE**

These Explanatory Notes should not be considered in isolation and should be read in conjunction with the *Western Cape Health Facility Boards Act, No. 7 of 2001, Regulations governing the submission of nominations for membership of Health facility Boards (PG 5797 of 26 November 2001)* and the Department's *Policy on the Financial Management of Health Facility Boards*.

It is not the intention of this manual to provide users with legal advice on the interpretation of the Act and it should be regarded as an explanatory guide to the Act, with the purpose to assist Board members and other interested parties.

In these Explanatory Notes, unless the context indicates otherwise, terms defined in the Act, said Regulations and the Department's policy on the Financial Management, which are used herein; have the corresponding meaning given to them in the Act, Regulations and the said Policy.

This Document contains 5 chapters namely:

- Chapter 1: Legislative background to the Act
- Chapter 2: Analysis of the Act
- Chapter 3: The Department's Policy on the Financial Management
- Chapter 4: Frequently asked questions and answers
- Chapter 5: Conclusion and contact details

The above-mentioned chapters set out the establishment, functions, powers and procedures and mechanisms to be followed by Health Facility Boards to implement, manage, enforce, monitor and report on the activities of the Board.

**PURPOSE OF DOCUMENT:**

The purpose of these Explanatory Notes is to:

- a) assist the Board in establishing an accountable statutory body responsible for the financial and other resource management activities at the health facility;
- b) provide Board members and other interested parties with a management tool to guide them in their activities that they would need to undertake during their term of appointment;
- c) provide clarity on and explanations to the Act and associated Departmental policy on the financial management;
- d) set out clearly defined functions and powers of the Board members;
- e) highlight the Boards accountability to the community and to the patients and their families.
- f) provide answers to frequently asked questions.

**CHAPTER 1: LEGISLATIVE BACKGROUND TO THE ACT**Legislation used prior to the current promulgated Act:

Prior to the promulgation of the Act, the establishment, constitution, appointment, composition, powers and functions of the then called "*Western Cape Hospital Boards*" were regulated by a mixture of national statutes, provincial Ordinances (chapter IV of the Hospitals Ordinance, No.18 of 1946), and associated Regulations.

The Hospital Ordinances outlined the Board's duties, powers and meeting procedures. In addition, Hospital Boards established in terms of this Ordinance were subject to the provisions of the Local Authorities (Investment

of funds) Ordinance, 1935 (Ordinance No. 23 of 1935) and the Local Authorities (Audit) Ordinance, 1938 (Ordinance No.17 of 1938).

These Ordinances were in many respects outdated. Ordinance No. 23 of 1935, for instance still referred to loans to the Union Government, and the cash amounts referred to in the Ordinance were still in *pounds*.

The provisions of the various Ordinances and regulations described above were encapsulated and expanded upon in a procedure manual for the constitution of Hospital Boards and the Administration of Hospital Board matters, which was approved in 1992 by the Cape Provincial Administration Executive committee (Resolution No.216/1992, dated 27 March 1992).

On 1 December 2001, the Western Cape Health Facilities Board Act, 7 of 2001, ("the Act") came into operation, which effectively replaced the hospital boards as established in terms of the Hospital Ordinance of 1946.

#### Background to current regulatory framework:

Internationally, community participation in hospital settings has been through the presence of hospital Boards. South Africa still carried the legacy of an archaic legislation on hospital Boards, who have not always acted in the interest of communities. The Department of Health, as part of its broader commitment to increase community participation, improve equity and efficiency in the health care sector, identified the need to revise the then current legislation.

The 1995 Provincial health plan of the Western Cape committed the provincial Health Department to creating structures at all levels to ensure that "services are accountable to local communities and that communities have meaningful input into management."

Similarly, it is stated in the "White Paper for the Transformation of the Health System" in South Africa ("the White Paper") that:

*"[t]here is a great need to bring hospital managers closer to the communities they serve. This will include greater accountability of managers to the local communities, and greater understanding and support of them by communities."*

In line with this policy, the White Paper draws attention to some of the major problems, which have been experienced with hospital Boards in the past: -

*"Most members of existing hospital Boards were appointed before any vision of an integrated health care system existed. These Boards exercise very little power and do not represent the community served by that hospital. Some do assist the hospital by raising funds for particular projects and/or providing hospital managers with advice, but most fulfil a largely ceremonial role. Few, if any, have structured mechanisms for listening or accounting to the local community. Despite, close interaction with patients and their relatives, most hospital management is relatively isolated from representative community structures"*

The White Paper therefore proposes the establishment by statute of Boards with advisory, representative and oversight functions, with appropriate powers to perform these functions. These Boards will perform three primary objectives namely:

- (i) to support hospital management in bearing the greater burden of responsibility attached to increased delegation of powers;
- (ii) to ensure that hospital management meets its obligations in terms of its "performance agreement" with the province; and
- (iii) to ensure that hospital management is responsive to community needs and views.

The Act was drafted with a view to implementing these main objectives. At the same time the Act was drafted with an awareness of the conceptual debate surrounding the creation of Boards with mere advisory powers and little effective say in management versus Boards with effective and substantial

powers of governance. In the consultative process, which was undertaken by the Western Cape Health Department in the development of this Act, strongly divergent views have been voiced on this issue.

The approach to this issue adopted in this Act has been to provide Health Facility Boards with a basic set of powers and functions, which combine advisory powers and functions which enable Boards to substantively impact on decisions with medium and long term implications for patients and the community, without interfering unduly in the day to day management of the health facility.

At the same time, there is recognition of the need for flexibility in powers and functions according to local circumstances and differing capacities of the Boards. Mechanisms are therefore put in place for the incremental expansion or contraction of powers and functions of the Board in the public interest, according to the capacity of each individual Board.

## **CHAPTER 2: ANALYSIS OF THE ACT**

### **Purpose and Spirit of the Act:**

The main purpose of the Act is to establish Health Facility Boards that are representative of the communities, which a particular health facility serves. By achieving this objective the Department can improve co-operation between communities and the health facility and specifically address the needs of the community.

In addition to the above, the Act is meant to ensure that the management of health facilities is accountable to the community and also responsive to the needs of patients and their families. The Act also promotes community involvement in health facilities so that health services are supported better and implemented more effectively.

### **Section 1: Definitions**

This section sets out the definition of key terms contained in the Act.

It should be noted that in terms of this Act Health Facility Boards should be established for all “public sector health facilities” which includes: clinics, Community Health Centres, Hospitals, maternity homes, midwife obstetric units, convalescent homes and any building, institution or place where persons receive treatment, diagnostic or therapeutic interventions or other health services.

It is important to note that the Act does not apply to private health facilities.

### **Section 2: Administration of Act**

The Provincial Minister for Health (“the Minister”) is ultimately responsible for the administration of this Act. The Minister is the only authorised person to appoint Board members and issue regulations to the Act.

### **Section 3: Legislative purpose**

The section sets out the legislative purpose of the Act, with a view to providing an aid to overall interpretation of the provisions of this Act.

It indicates that the Act regulates:

- The establishment of representative Boards;
- The accountability to the community, patients and their families;
- Community support and involvement in the facilities;
- Responsible financial management;
- Effective and efficient resource management;
- Clearly defined functions and powers of members to exercise the abovementioned activities.

### **Section 4: Designation of health facilities**

This section effectively allows the Minister to expand on the definition of a “Health Facility” as set out in section 1. The Minister may also designate any

*other public sector* health facility as a “health facility” for the purposes of this Act.

In addition to the above, the provisions of this Act may also apply to health facilities, which are administered by a local authority subject to the consent of the Minister responsible for local government in the Western Cape and concurrence of the local government concerned.

This restriction is included so as to avoid undue interference of the Health Department with the relative autonomy of local government, particularly in so far as it applies to facilities such as primary health care clinics currently run by local government.

#### **Section 5: Establishment of Boards**

Once a Health facility has been designated in terms of section 4, the Minister may establish a Board for that health facility.

Provision is also made for a Board to be established for more than one health facility. This would occur, for example, when there are insufficient skills and capacity in an area to provide a Board for each health facility, where a single health facility is too small to require its own Board, or where a cluster of facilities are confronted with similar issues which would be best addressed by a co-ordinated approach.

This section also indicates that the legal status of the Board is that of a “juristic person”, which means that it is a separate legal entity (statutory body), other than a natural person. It also means that the Board may be sued and may sue in its own name and is able to attract rights and obligations independently.

#### **Section 6: Appointment of members**

This section makes provision for the nomination and the appointment of members representing a variety of constituencies with an interest in the functioning of the health facility.

*Nominations:*

The Minister must prescribe the procedures for the invitation of nominations for membership of a Board. The Provincial Minister has issued draft *Regulations governing the submission of nominations for membership of Health Facility Boards*, in 2001, which outline the procedure for nominating community members to serve on Boards.

A body / group which is representative of the interests of the community for example: welfare organisations, religious organisation, youth structure, civic organisation, women's organisation, must nominate the persons making up at least 50% of the Board.

It is expressly stated that a political party may not be included in the above-mentioned body / group. The restriction placed on such nominations is to avoid Health Facility Board structures being used for party political interests.

It should also be stated that the Minister has the sole discretion as to whether a body / group is representative of the community.

*Appointments:*

It is important to note from this section that the Provincial Minister is the only person authorised to appoint the members of the Board.

The Minister must appoint a minimum of 8 (eight) and a maximum of 14 (fourteen) members to serve on the Board.

Board members would be appointed from the following categories:

- A person representing the **community**;
- A person with **technical expertise** for example: business, law, finance or accounting;
- The **Head of the Health facility**;
- A person representing the **clinical staff** of the health facility;

- A person representing the **non-clinical staff** of the health facility;
- At facilities where health professionals are trained, at least one person representing academic interests.

Within broad parameters, the Minister is given a fair degree of discretion regarding the make up of the Board so as to allow the composition of the Board to be adapted to the particular needs of the health facility or facilities concerned.

The Minister may therefore, in addition to the above, appoint to the Board:

- a member of the Provincial Parliament;
- local councillors;
- a representative from the Department.

#### **Section 7: Terms of office of members**

Unlimited terms of office may allow certain members of the Board to dominate the business of the Board, and prevent the injection of renewed energy into the Board by new members.

At the same time, there is merit in ensuring that valuable experience gained by members can be imparted to the new incumbents and continuity in the work of the Board can be maintained.

#### **Term of appointment:**

By addressing the above concern, the Act determines that members are appointed for a term of 3 (three) years.

At the end of the said term (three years), the members may remain in office for another 6 (six) months until a successor has been appointed.

#### **Re-appointment of members:**

Members may however be re-appointed after their first term, but may not be in office for longer than 3 (three) terms of 3 (three) years. (This prohibition is not applicable to the Head of the Institution).

Members that have served for 3 (three) terms of 3 (three) years, may be re appointed subject to an interval of at least 1 (one) year.

### **Section: 8 Vacancies**

The Chairperson of the Board must declare a vacancy on the Board in instances where a member:

- dies;
- resigns;
- becomes insolvent;
- is of unsound mind;
- is convicted of any crime for which the member is sentenced to imprisonment without an option of a fine;
- is absent, without leave of the Board, for (3) three consecutive ordinary meetings;
- ceases to hold office by virtue of which that member was appointed;
- fails to declare a financial interest on a matter on which he/she has voted.

The Chairperson must then within 7 (seven) days inform the Minister of the said vacancy, whereafter the Provincial Minister must appoint another member to the Board in accordance with the normal appointment procedure (as described in Chapter 4 of this document).

It is important to note that the member appointed in the vacancy will only be appointed for the “remaining period” of the initial member’s term.

*For example: If Mr X resigned after serving 2 (two) years, the newly appointed member’s term would only be 1 (one) year.*

### **Section 9 and 10: Functions and Powers**

These sections outline the functions and powers of Health facility Boards. The following is a brief overview of some of the powers and functions:

Functions:

- **Approve the mission, vision and values of the health facility** concerned. The Board must ensure that this mission, values and vision is in line with approved laws and policies.
- **Advise** the management of the health facility on the **formulation of health facility policies and strategies**. This is an important function as the Board can ensure that the policies adopted will benefit the community, which the health facility serves as well as the staff working at such a health facility.
- Participate in the **strategic planning** and operational processes of the health facility. This will ensure that the Board plays an active role in determining the direction in which the health facility will move in terms of strategic and operational matters.
- Ensure that specific measures are taken by the health facility to **improve its quality of care and performance standards**. This ultimately results in a better service been rendered to the communities utilizing the health facility.
- **Monitor the performance, effectiveness and efficiency** of the health facility. By performing this function the Board can make proposals or recommendations about how certain deficiencies may be addressed and improved by the health facility management. This ultimately benefits the users of the health facility.
- Take measures to ensure that the management of the health facility addresses the needs, concerns and complaints of patients. As can be

seen the Board can act as a “watchdog” to protect the interests of patients at the health facility.

- **Foster support within the community** for the health facility concerned. This can be done by way of exercising some of the functions as stated above and also by strengthening links with the broader community and make them aware of the role which the Board plays in protecting their interests.
- **Raise funds** for the Board. The funds can be utilized for the improvement of the health facility concerned.
- The Boards will be consulted when the **head of the health facility** is either **appointed** or evaluated.
- **Inspect the health facility** concerned (at reasonable times without interfering with service delivery) and report on their findings to the Head of Department.

Powers:

- The Board has the power to make **recommendations** to the health facility management and the Head of Department or the Minister on any matter relating to the performance of the Boards functions. The Board could therefore recommend to the Head of Department that they need to be given additional powers to perform their functions effectively. The Head of Department and the Minister would then be able to evaluate the matter and decide whether the increase in powers was justified or not.
- The Board may also recommend to the Minister of Health that the **name of a particular health facility be changed**. This recommendation may be made after the Board has consulted on the proposed name with the community concerned. The final decision however rests with the Provincial Minister.

- The Board also has the power to **obtain information** from the health facility, which it requires when considering a specific issue. This is however subject to and within the rights of privacy and confidentiality e.g. the contents of a patients file may not be disclosed to the Board unless the patient has consented.
- The Board is authorized to **request progress reports** from the management of the health facility concerned. These reports could relate to a variety of issues e.g. the implementation of a specific policy at the health facility or the facilities response to complaints submitted by patients.
- The Boards may also **request and review financial statements** and annual financial statements of the health facility. This will ensure that open and transparent governance of the health facility occurs. The Board would also be able to notify the Head of Department of any discrepancies in the statements, which they might detect.
- As emphasis is placed on community participation and awareness, Boards have the power to **conduct surveys, meetings and consultative workshops in the communities** the health facility serves. This will enable the Board to make people aware of the role of the Boards and also how the Boards can assist the community with problems they have with the health facility.
- The Board has the power to **appoint its own staff** on a contract basis to assist with Board related business. These persons will not be public servants employees and will be remunerated by the Board out of Board funds. The Board will oversee all aspects relating to the employment of the person.

- The Board may **finance** the provision, improvement or expansion of services, amenities and movable and immovable assets. This is however subject to the condition that Treasury approval must be obtained if so required. The Board may therefore purchase equipment or land out of its funds for the benefit of the health facility.
- An important power, which vests with the Board, is the **right to raise and administer trust funds**. The Board is therefore capable of raising funds so as to improve conditions at a health facility.

### **Section 11: Alteration of function and powers of Board**

#### *Authorising additional powers:*

After consulting with the Head of the health facility and following the prescribed procedures as determined by the Minister, the Head of the Department may authorise the Board to perform additional functions or exercise additional powers, if the Head of the Department has reason to believe that the Board has the necessary capacity and that it would be in the public interest.

#### *Revoking the granted additional powers:*

The above mentioned additional functions and/ or additional powers can also be revoked by the Head of the Department after consultation with the head of the Health facility and after following the prescribed procedures as determined by the Provincial Minister, if the Head of the Department is of the opinion that the Board no longer has the capacity and or that it would not longer be in the interest of the public.

#### *Exemption from certain functions and powers:*

The Head of the Department may after consultation with the head of the health facility exempt the Board from performing certain powers and functions.

### **Section 12: Performance of functions and exercise of powers**

The Board is obliged to exercise its functions and powers in accordance with relevant and applicable health legislation and policies made either by National, Provincial or Local Government.

The Head of the Department may request quarterly reports in respect of the Board's activities.

### **Section 13: Co-operation between Boards and Health facility management**

This section is included in recognition of the fact that a strong relationship between the head of the relevant health facility and the Board is crucial to the successful functioning of the Board. It emphasises that there is a responsibility on both the head of the health facility as well as on the Board to make sure that a strong and co-operative relationship is forged.

It also points out that there is a responsibility on the head of the health facility to take measures to assist the Board in performing their functions and exercising their powers.

Provision is also made for mediation or arbitration by the Head of Department, provided that this mediation/arbitration is done at the request of either the Board or the head of the relevant health facility, and only in the event of irreconcilable differences between the parties. This will create a channel for resolving conflict while avoiding unnecessary interference by the Head of Department in the affairs of the Board and management of the health facility concerned.

### **Section 14: Chairperson and vice chairperson**

At the first meeting of a Board after its appointment and at its first meeting in every subsequent calendar year thereafter, the Board shall elect one of its members to be chairperson and one to be a vice-chairperson.

It should be noted that the chairperson and the vice chairperson may only be elected from among the community representatives of the Board and the term

of office is limited to (1) one calendar year. (In this instance, a calendar year is regarded a period starting on any day of a given month and lasting for the following twelve months.)

The chairperson of the Board is also the accounting officer of the Board. This is an important function as the chairperson will ultimately be responsible for ensuring that all financial matters of the Board are dealt with effectively and efficiently.

The chairperson must also ensure that proper record keeping relating to all financial matters is kept. This is essential, as the financial statements of the Board would have to be audited on a regular basis.

In the absence of both the chairperson and the vice chairperson at meeting of the Board, a chairperson elected from its community members must act as chairperson at that meeting.

### **Section 15: General support**

Secretarial, administrative and financial accounting support are to be provided by staff of the health facilities served by Boards.

The Act expressly records that the Health facility may not appoint additional staff to provide the secretarial, administrative and or financial accounting support to the Board.

The Board may at its own cost appoint secretarial, administrative and financial accounting support to the Board.

### **Section 16: Scheduling of meetings**

Meetings would take place in accordance with the following:

#### **First Meeting:**

The Head of the Department must determine the time and place for the first meeting.

Ordinary meetings:

The Board must determine the time and place of ordinary meetings that must take place at least once every 2 (two) months.

Special meetings:

The Chairperson may at any time, if requested in writing convene a special meeting subject to him / her informing members of date, time and place at least 3 (three) working days prior to such meeting taking place, except in instances where a shorter notice period is necessitated due to the exceptional urgency of the matter.

**Section 17: Procedures at meetings**

While Board procedures are in general left to determination by Boards themselves, this section prescribes certain procedures relating to:

Quorum:

At least one half of the members should be present for a quorum.

Decisions:

Decision will be taken by means of consensus.

If consensus cannot be reached a decision will be made in accordance with a majority vote.

In the event of equality of votes, the chairperson has the casting vote in addition to a deliberative vote.

Invitation / attendance by third parties:

The Board may request / permit third parties to attend a meeting in an advisory capacity.

General record keeping:

Proper records should be kept of minutes, attendance and resolutions adopted.

A copy of the above-mentioned records should be signed and must be submitted to the Head of the Department upon request.

### **Section 18: Public attendance at meetings**

To promote transparency in the functioning of Boards, provision is made for all meetings to be open to the public except in exceptional circumstances where there is "good and sufficient grounds" to exclude members of the public from discussion of a particular issue.

### **Section 19: Executive committee**

To increase efficiency and productivity of Boards, provision is made for the establishment of an executive committee comprised of members of the Board.

The Act expressly states that the committee does not have the power to set aside or vary any decision that has been taken by the Board, unless so directed by the Board.

Furthermore, the Board may at the first meeting following the said action or decision by the executive committee, review the executive committee's decision and or actions.

### **Section 20: Committees**

This section allows the Board to appoint specialist committees consisting of Board members to perform certain functions or exercise certain powers on behalf of the Board.

The committee's mandate, terms of reference, procedures and quorum must be determined and recorded by the Board.

Provision is also made for the subcommittee's to appoint a person who is not a Board member (co-opted member) to serve in an advisory capacity. This is

an important provision as it enables the Board to appoint persons with specific expertise (and who were either not nominated or appointed as fully fledged Board members) to provide the Board with valuable insight and assistance.

It is also important to note that any action and or decision taken by the committee may at the first meeting of the Board be reviewed and or altered by the Board.

### **Section 21: Raising and utilisation of funds**

In terms of this section, a Board may receive services, account for and dispose of money and assets "for the purpose of performing functions or exercising its powers in terms of this Act.

No restrictions are placed on the ability of a Board to accept and administer trusts established for the benefit of the health facilities served by the Board.

This section indicates that the Boards financial year commences on 1 April and ends on 31 March. It also contains certain requirements relating to financial records and reporting and states that the Board must compile records and annual financial statements that would need to be audit by the Auditor general.

In the event that the Board does not compile and submit their annual financial statements, or in the event of any financial mismanagement, the Head of the Department may take whatever remedial steps are considered necessary.

### **Section 22: Travelling and other allowances**

The Board may from its funds reimburse: a member, an advisor and / or a co-opted member of the Board or its sub-committee for:

- transport expenses; and or
- travelling and subsistence expenses

subject to the tariffs set by the Provincial Minister.

Furthermore it is stated that the Board may not compensate members for time spent on Board business, the Board may however compensate advisors and co-opted members for time spent on Board business, subject to the tariffs as determined by the Minister and provided that the said compensation is paid from the Board's funds.

### **Section 23: Dissolution of Health facility**

This provision allows for appropriate measures to be taken in the event of closure of a health facility.

3 (Three) months prior to the intended closure of a health facility, the Head of the Department must after consultation with the Board, instruct the Board regarding:

- its intended dissolution (if only one health facility is affected);
- its intended alteration of its composition if the Board managed more than 1 (one) health facility;
- the disposal of assets and liabilities which vests in the Board.

### **Section 24: Vesting of immovable property**

This provision states that all immovable property at the commencement of the Act (1 December 2001), which is registered in the name of the hospital trustees, will now vest in the name of the Provincial Government of the Western Cape and that the Head of the Department must take the necessary steps to transfer the said property to the Provincial Government of the Western Cape.

### **Section 25: Regulations**

Provision is made for the Minister to issue regulations in terms of the Act.

The Minister may issue regulations relating to:

- formulation and approval of the Board's budget;
- procedures associated with the authorisation of expenditure;

- handling of unauthorised, fruitless, wasteful and or irregular expenditure;
- audit reports;
- investment of funds and
- any other matter which may be necessary in order to achieve the objective of the Act.

### **Section 26: Delegation**

To facilitate effective implementation of the provisions of this Act, certain powers of the Minister may be delegated to the Head of the Department who may in turn delegate the said powers to officials within the department.

This however excludes the authority to make regulations, which will remain vested with the Provincial Minister.

### **Section 27: Hospital Trustees**

This provision abolishes the office of a hospital trustee as well as any concomitant trust.

### **Section 28: Transitional provisions**

The provisions in this section are intended to facilitate the smooth and uninterrupted transition between Hospital Boards established in terms of the Hospital Ordinances, and the Health Facility Boards as established in terms of the Act.

Notwithstanding the repeal of certain sections of the Hospital Ordinance (1946), Hospital Boards remain in existence until formally replaced by the Health Facility Board.

In order to facilitate the above, the Head of the Department must issue a written notice to the Hospital Board (after due consultation with the said Hospital Board) giving it 3 (three) months notice of:

- its intended replacement; and

- a determination on how the assets and liabilities of the said Hospital Board should be disposed of. (Provision is made that the said assets and liabilities may be transferred to a Trust).

**Section 29: Repeals, amendments, conflict of laws and savings**

The whole of chapters II and IV of the Hospitals Ordinance, 1946, are repealed by this section with the consequence that Hospital Boards will no longer be established or function in terms of the provisions of Chapters II and IV of the Ordinance.

Furthermore, apart from the change to the definition of "Board" (which is now interpreted as a "Health Facility Board" in this Act), the remainder of the Ordinance remains intact.

The Local Authorities (Investment of Funds) Ordinance, 1935, is repealed in so far as it relates to Hospital Boards.

**Section 30: Short title and date of commencement**

This section contains the short title of the Act, namely: "Western Cape Health facility Boards Act, 2001" and allows for its commencement on a date determined by the Premier. The Act commenced on the 1<sup>st</sup> of December 2001.

## **CHAPTER 3: GENERAL FINANCIAL MANAGEMENT OF BOARDS**

### **Purpose and Spirit of the Draft Regulations:**

The main purpose of the draft Regulations is to give effect to Section 25 of the Western Cape Health Facility Boards Act 7 of 2001 and amendments, which provides for the Minister to make regulations. The regulations are, primarily, to establish sound financial governance in terms of managing the financial aspects of the Board.

Whilst it is not intended to be onerous, the detail should be seen as a clear guidance when faced with actual decisions of a financial nature. This is especially relevant to Boards with substantial financial reserves or where Board members have not had adequate financial management exposure.

The draft regulations have since been reviewed in certain respects and will be promulgated in due course. Below is a cursory overview of the revised regulations. The overview is intended as an interim guide and must be read, where applicable, with the draft regulations.

### **Section 1: General Definitions**

This section sets out the definition of key terms contained in the draft regulations.

### **Section 2: Finance Committee**

In terms of section 20 of the Act, a committee must be formed.

Per the regulations a specialist finance committee, one of whom must be the chairperson, must be elected.

The mandate of the finance committee is to make recommendations to the Board amongst others on:

- procurement of services to best advantage,
- obtaining of most advantageous interest on investments of funds,

- receiving applications for funding and grants, and the approving or rejecting of such applications,
- scrutinise all financial transactions of the Board and advise the Board of its findings,
- render advice to the Board on financial matters pertaining to its activities.

### **Section 3: Audit reports and related matters**

Prepare Annual Financial Statements of the Board.

A Board may be subjected to an investigation or an ad hoc audit, if deemed necessary by the Head of Department or by officials of the Department.

### **Section 4: Financial Misconduct by Board and Members, Employees and Officials of the Department.**

Financial misconduct is defined as:

- wilfully or negligently fails to comply with the requirements of the regulations
- unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure, and
- failure to exercise delegated duty.

The Chairperson must immediately inform the Head of the facility concerned.

A charge of financial misconduct against a member, employee or official must be investigated, heard and disposed of in terms of the statutory or other conditions of appointment.

The financial regulations prescribe the disciplinary and misconduct procedures to be followed and the reporting thereon.

The chairperson must advise the Minister, the Head of Department and the Auditor-General of any criminal charges it has laid against any employee, official or member.

The Head of Department must advise the Minister and the Auditor-General of any criminal charges it has laid against any chairperson.

The Minister may direct a Board to lay criminal charges against any employee, official or member should a chairperson fail to take appropriate action.

## **Section 5: Budgeting and Related matters**

### **Annual Budget**

The chairperson of the Board must table annually an operational budget for a financial year.

An annual budget must be in sufficient detail, but, should at least contain:

- (a) Estimates of all revenue expected to be raised during the financial year;
- (b) Estimates of current expenditure for that financial year (e.g. commitments brought forward, salaries, honorariums, bank fees and operational costs);
- (c) Estimates of capital expenditure (e.g. office equipment) for that financial year and the projected financial implications of that expenditure for future financial years;
- (d) Proposals for financing any anticipated deficit for that financial year;
- (e) The projected:
  - (i) revenue for the previous financial year;
  - (ii) expenditure for the previous financial year; and
- (f) any other information as may be prescribed.

The annual budget will need to be agreed to and signed off by the Accounting Officer prior to the start of the financial year.

If an annual operational budget is not approved before the start of the financial year to which it relates, funds to be withdrawn may not exceed the appropriation of the previous financial year until the budget is approved.

All expenditure should be recommended by the finance committee and approved by the Board, and if not approved such expenditure will be deemed unauthorised until approved by the Board.

### **Section 6: Revenue Management**

The chairperson must ensure that revenue is managed efficiently and effectively by instituting amongst other items a tariff register that provides for the identification, collection, safeguarding, recording and reconciliation of information about revenue.

The tariff register should also describe the service, the current tariff, date of last review and how the tariff was determined.

All tariffs must be reviewed at least annually by the Board.

### **Section 7: Expenditure Management**

#### **Responsibility of the Chairperson**

The chairperson and the Board must ensure that internal procedures and internal control measures are in place for payment approval and processing.

#### **Approval and Payment of Expenditure**

As public funds are involved and to promote transparency and accountability, similar procurement procedures as followed at provincial health facilities, where possible, is recommended.

Funds may not be spent nor committed without the recommendation of the Finance Committee. In exceptional circumstances the chairperson of the Board may give authorisation for purchases. Such purchases must be presented for authorisation at the following Board meeting.

#### **Payment and Vouchers**

Suitable arrangements must be made to ensure that all claims payable are received within a reasonable period to prevent claims being submitted long

after services have been rendered. Every effort must be made to ensure that any permissible discounts are taken advantage of.

Monthly accounts and statements of outstanding balances rendered by suppliers to a Board must be verified with the records of the Board. Any discrepancies must immediately be taken up in writing with the supplier concerned.

Prior to a payment being made, the voucher for payment must be in order.

This will include that items are:

- (a) a proper charge against Board moneys and has not already been paid;
- (b) in accordance with a law, regulation, tariff or agreement or that it is fair and reasonable;
- (c) covered by competent authority;
- (d) correct in respect of the period covered by the claim;
- (e) correct with regard to computations;
- (f) supported, where applicable, by the necessary documents or an explanation of the absence thereof; and
- (g) in general order.

### **Orders and Order Forms**

Orders for the purchase of goods and requisitions for the supply of services should be made on consecutively numbered forms approved by the Board, and which bear the name of the Board. Such forms constitute an essential part of any vouchers submitted in support of payment.

### **Personnel Costs**

Activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same person.

The chairperson must ensure that the personnel cost of all appointees, as well as promotion, salary increases, bonuses and merit awards can be met within the budgetary allocation of the Board.

For all employees, the chairperson must certify on the date of payment that all persons listed on the payroll report are entitled to payment. Employees paid by cheque must sign the payroll report when collecting their cheques.

Suitable records must be maintained to avoid the double payment of claims or portions thereof.

All subsistence costs must be borne by the Health Facility Board.

## **Section 8: Unauthorised, Irregular, Fruitless and Wasteful Expenditure**

### **General**

Board members must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.

The chairperson must immediately be informed when unauthorised, irregular or fruitless and wasteful expenditure is discovered. Such expenditure must also be reported in the minutes of the next ordinary meeting of the Board.

Unauthorised, irregular or fruitless and wasteful expenditure when reported must be considered by the Board on whether the expense should be justified or not. If the expenditure can be justified the Board can authorise the expenditure.

The chairperson must take the following into account when determining the appropriateness of disciplinary steps for the financial misconduct:

- (a) the circumstances of the transgression;
- (b) the extent of the expenditure involved; and
- (c) the nature and seriousness of the transgression.

Losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be recovered from the responsible official or employee or Board member. Regulation 11 deals with the recovery of losses or damages.

The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the Board.

## **Section 9: Asset Management**

### **Responsibility for asset management**

The chairperson of a Board must ensure that proper control systems exist for assets and that preventative mechanisms are in place to eliminate theft, losses, wastage and misuse.

The chairperson must ensure that processes (whether manual or electronic) and procedures are in place for the effective, efficient, economical and transparent use of the Board's assets.

### **Recording of assets**

A register of all assets under a Board's control, must be maintained and be readily available for audit and inspection purposes.

### **Marking of Board Property**

All equipment that is capable of being marked must be clearly marked to indicate ownership by the particular Board.

### **Handing over**

Where a change in personnel takes place (in direct control of equipment / resources) a handing-over regulation, should be adhered to at all times.

### **Unauthorised use and transactions**

During the requisitioning, consideration, acceptance or allocation of quotations or any offer, no person employed by the Board or any person who

acts on behalf of the Board may exercise or use his/her discretion, official powers or position in such a manner as to obtain for himself/herself or for any other person or legal person an unlawful or unauthorised advantage or an advantage that serves to unlawfully prejudice the interests of the Board or any other person or legal person.

Equipment must only be kept in the accommodation as designated.

Equipment must only be used for official purposes.

**Disposal and letting of assets**

Disposal and letting of assets must be at market-related value or by quotation or auction, whichever is most advantageous to the Board.

### **Assets bequeathed or donated to the Board**

All assets bequeathed or donated to a Board must on receipt be taken up in the inventory asset register and such bequest and its terms and conditions must be minuted.

## **Section 10: Management of Debtors**

### **Application**

This regulation applies to all debts accruing to a Board and includes any amount owing to or receivable by the Board.

### **Responsibility for management of debtors**

The chairperson of a Board must take effective and appropriate steps to timeously collect all money due including maintenance of proper accounts and records for all debtors.

The matter, where required, may be referred to an attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.

### **Recovery of debts by instalments**

Debts owing to the Board may, at the discretion of the chairperson, be recovered in instalments unless otherwise determined by agreement.

### **Writing off of debts owing to the Board**

A chairperson may only write off a debt owed to a Board if he or she is satisfied that—

- (a) all reasonable steps have been taken to recover the debt and the debt is irrecoverable, or
- (b) he or she is convinced that—
  - (i) recovery of the debt would be uneconomical;
  - (ii) recovery would cause undue hardship to the debtor or his or her dependants; or
  - (iii) it would be to the advantage of the Board to effect a settlement of its claim or to waive the claim.

(iv) and the write-off is approved by the Board and is accordingly minuted.

All debts written off must be disclosed in the annual financial statements.

### **Interest payable on debts to the Board**

Interest may be charged on debts to the Board at the interest rate decided upon by the Board provided it does not exceed the interest charged by the Department.

## **Section 11: Management of Losses and Claims**

### **General**

The Board will bear its own damages and accident risks and be responsible for all claims and losses of property where these arise from Board activities by a member, official or employee who is liable in law and who is or was employed by a Board. However, the Board may acquire the necessary insurance on properties and liabilities.

### **Claims against the Board through acts or omissions**

A Board must accept liability for any loss or damage suffered by a third party which arose from an act or omission of a member, official or employee, and does not recover compensation from such member, official or employee, provided the member, official or employee shall forfeit this cover if he or she, with regard to the act or omission, is liable in law and—

- (a) intentionally exceeded his or her powers;
- (b) made use of alcohol or drugs;
- (c) did not act in the course and scope of his or her membership or employment;
- (d) acted recklessly or intentionally;
- (e) without prior consultation with the Board, made an admission that was detrimental to the Board; or
- (f) failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim.

A claim against a member, official or employee must be waived if the provisions of (a) to (f) above are not applicable.

If in doubt, the chairperson may approach the Branch: Legal Services of the Administration on whether an attorney must be consulted on questions of law.

Except when a Board has accepted liability, an amount paid by the Board for losses, damages or claims must be recovered from the member, official or employee concerned.

An attorney may only obligate the funds of a Board with the prior written approval of the chairperson.

#### **Claims by the Board against other persons**

If the Board suffers a loss or damage and the other person denies liability, the chairperson may request the assistance of the Branch: Legal Services of the Administration before referring the matter to an attorney for legal action, including the recovery of the value of the loss or damage.

#### **Claims by members, officials or employees against the Board**

If a member, official or employee sustains a loss or damage in the execution of official duties and is not compensated, the Board may make good the loss or damage provided that the member, official or employee can prove such loss or damage.

#### **Losses or damages through criminal acts or omissions**

When it appears that the Board has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the Head of the Department and the South African Police Service. Whether or not the member, official or employee is still a member or in the employ of the Board or the health facility, the chairperson must attempt to recover the value of the loss or damage from the member, official or employee responsible.

The Board may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.

When movable assets are written off, this must be noted in the asset register and minuted.

### **Losses and damages through vis major and other unavoidable causes**

The Board may write off losses and damages that result from vis major and other unavoidable causes.

### **Recovery of losses and damages**

Losses or damages suffered by a Board because of an act or omission by a member, official or employee must be recovered from such a member, official or employee if that member, official or employee is liable in law.

The chairperson must determine the amount of the loss or damage and, in writing, request that member, official or employee to pay the amount within 30 days or in reasonable instalments. If the member, official or employee fails to comply with the request, the matter must be handed to an attorney for the recovery of the loss or damage. The Board may request the assistance of the Branch: Legal Services before such hand-over.

### **Writing-off of losses or damage**

When considering writing off any loss or damage, the Board must take full cognisance of all facts regarding the matter and their decision must be fully minuted.

## **Section 12: Loans, Guarantees, Leases and other Commitments**

### **General**

The Board may not issue a guarantee, security or indemnity that may bind the Board, except with the prior approval of all members of the Board, provided

such guarantee, security or indemnity does not exceed 50% of the Board's total assets.

The chairperson of a Board must ensure that no member, official or employee of the Board or any other person borrows money on behalf of that Board, or issues an unauthorised guarantee, security or indemnity. Appropriate misconduct or criminal proceedings must be instituted against any person responsible for transgressions in this regard.

Should the chairperson be responsible for transgressions with regard to borrowings, guarantees, securities or indemnities, the Minister must initiate appropriate misconduct or criminal proceedings against the chairperson as soon as he/she becomes aware of the transgression.

The chairperson must report on all known contingent liabilities of the Board in its annual report.

A Board may not borrow funds and may not run overdrafts.

### **Lease transactions**

For the purpose of this regulation, an operating lease is regarded as a contract that gives the lessee (the renter) the right to the use of property, plant or equipment for a fixed period of time with a fixed schedule of payments to the lessor (the owner).

The Chairperson of a Board may, for the purpose of conducting the Board's business, enter into lease transactions provided that such transactions are limited to operating leases.

The Chairperson may under no circumstances enter into finance leases. The regulations clearly define when a lease is considered to be a finance lease.

## **Section 13: Money and Property held in Trust**

### **Responsibility for trust money and property**

For purposes of this regulation, trust money or property (bequeathed to a Board) is money or property to be administered by a Board as executor, tutor or curator in terms of the provisions of the Administration of Estates Act, 1965 (Act No. 66 of 1965).

The Board, through the chairperson or a duly authorised agent, is responsible for the safekeeping and proper use of trust money and property, in accordance with the relevant deed of trust or equivalent instrument.

The Board or its duly authorised agent may charge a fee for the administration of a trust account at rates approved by the Board of trustees or, in its absence, as agreed with the trustee. Such fees are payable from the trust account and are revenue accruing to the relevant revenue fund of the Board.

### **Money must be kept in a trust account**

The Board must, for each separate portion of trust money maintain proper records to identify funds separately.

### **Investment of trust money**

The Board may, provided that it does not conflict with the terms of the trust arrangement, invest any trust money on such terms and conditions as may be appropriate.

The proceeds of an investment, including interest and realised capital gains, and all money received from the realisation, sale or conversion of securities, must be treated as money of the trust on whose behalf the money was invested.

### **Asset register**

A separate asset register must be kept for all property held in trust.

## **Section 14: Banking and Cash Management**

### **General**

The chairperson is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.

Sound cash management includes

- (a) collecting revenue when it is due and banking it promptly;
- (b) making payments, no earlier than necessary, with due regard for efficient, effective and economical delivery and the normal terms for account payments;
- (c) avoiding prepayments for goods or services (i.e. payments in advance of the receipt of the goods or services), unless required by the contractual arrangements with the supplier;
- (d) accepting discounts to effect early payment;

- (e) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable by the Board are collected and banked promptly;
- (f) accurately forecasting the Board's cash flow requirements to optimise its cash management responsibilities.
- (g) timing the in- and outflow of cash;
- (h) recognising the time value of money, i.e. economically, efficiently and effectively managing cash;
- (i) taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery, and selling surplus or under-utilised assets;
- (j) performing bank reconciliations on a regular basis to detect any unauthorised entries;
- (k) ensuring that dishonoured warrant vouchers and cheques are followed-up immediately; and
- (l) the separation of duties to minimise the incidence of fraud.

### **Current account and responsible persons**

The Board must have a single current account at a commercial bank approved by the Head of the Department in which all funds must be deposited immediately upon receipt.

The chairperson of the Board must assign in writing the duties of persons responsible for the collection, receipt and banking of Board moneys and such persons are responsible for the safe custody of all such moneys under their control.

If a person entrusted with the receipt, payment or collection of Board moneys is relieved of his/her duties, either temporarily or permanently, his/her receipts and payments and cash books, or in the case of computerised systems the corresponding control accounts, must be checked and balanced and the correctness of the balances and cash on hand certified by the signatures of the person being relieved, the person taking over and the supervisor. If the

person being relieved is for any reason not able to so certify, a third person must, where possible, be called upon to certify the correctness of the balance by appending his/her signature.

When a person is relieved, a list must be compiled of the contents of any safe or deposit box within a safe handed over and this list must be certified by the respective persons.

### **Private money, private bank accounts and cashing private cheques**

Private money may not be deposited into the Board's bank account nor may Board money be paid into a private bank account.

The safekeeping of private money or personal possessions in a Board's safe or strong room is prohibited.

A Board's money may not be used to cash private cheques.

### **Receipts**

Every Board must have at its disposal a receipt book.

### **Direct deposits into bank account of Board**

Donations and payments directly into the bank account of the Board must be identified on receipt of the current account statement from the bank.

### **Depositing of Board moneys**

All amounts received must be banked regularly, at least weekly or preferably on the date of receipt. However all cash must be banked by the last working day of the month.

### **Cash withdrawals from and deposits at a bank**

The duty of drawing cash from a bank or of depositing cash must be assigned in writing by the chairperson of the Board to an employee of the Board or by the head of the health facility (in consultation with the chairperson) in the case of an official.

### **Checking of moneys and face-value instruments**

The chairperson or a responsible person designated by him/her in writing must at least once a month carry out a check of all moneys and face-value instruments to ensure that the amount on hand is correct, that moneys which should have been banked have not been withheld and that the instructions regarding the receipt, custody and disposal of Board moneys have been carried out.

### **Use of safes**

Except where required for immediate use or temporarily held in the course of collection under the direct control of the person handling it, money must be kept in a safe and not be left in tills or drawers, even though locked. In no circumstances must anyone in charge of a safe leave it unlocked in his/her absence.

### **Cheques**

Cheques issued manually must be prepared in permanent black ink. The amount in words and in figures must be neatly written or printed, with the figures as near as possible and to the left-hand margin of the space provided, and the unused portion crossed out. A hyphen must separate the rands from the cents, and not a comma. The issuing of cheques, whether manual, mechanical or by computer, must be done in such a manner that any subsequent alteration will be noticed immediately.

All cheques must be crossed "NOT TRANSFERABLE" between parallel lines (cash cheques excluded). The cancellation of crossings is not permitted.

Alterations to the name of the payee, the amount in figures and the amount in words must not be made on any cheque and no erasures of any nature must be permitted.

Any cheque incorrectly filled in must be cancelled by endorsing the word "CANCELLED" by means of a rubber stamp or in bold writing in ink across

the face of the cheque, as well as the counterfoil and must be preserved for inspection and audit purposes.

Before signing a cheque by hand, each signatory must make a proper check of the documents or vouchers supporting a payment and satisfy himself/herself that—

- (a) the payment is a correct charge against the account concerned;
- (b) the payment has been duly authorised;
- (c) the cheque has been correctly prepared as indicated above.
- (d) the cheque bears the correct date, and the banking account number is clearly stated.

Subject to Regulation 2, only authorised members may sign cheques.

### **Paid cheques received from the relevant bank and reconciliation statements**

Paid cheques must be dealt with as follows:

- (a) The cheques received from the banks must be marked off physically, and it must be established without a doubt that all paid cheques reflected in the debit lists have in fact been received.
- (b) The cheques must be carefully checked against the lists of debits and credits.
- (c) These lists must be signed and dated as evidence that the checking has been carried out and together with the paid cheques and account advices, must be kept until the reconciliation has been completed.
- (d) Thereafter the paid cheques must be filed with the expenditure vouchers.

### **Re-issue of cheques**

The re-issue of a cheque that has been lost, destroyed or stolen and of which the validity has not expired, is left to the discretion of the responsible person, subject to due consideration being given to such factors as the lapse of time from the date of issue, the integrity and financial status of the payee.

In the event of a payee having reported in writing that a cheque was not received or that it has been lost, destroyed or stolen, the responsible person must provide full details of such cheque direct to the branch of the bank on which the cheque has been drawn, with the request that payment thereof be stopped.

If the payment of a cheque is to be stopped and an acknowledgement of receipt of the notice of stoppage has been obtained from the bank concerned, a replacement cheque may be issued.

In terms of the Bills of Exchange Act, 1964 (No. 34 of 1964) a cheque must be presented for payment within a reasonable time, which the banking sector considers as a best practice to be six months.

The time period where after the placement of stop payments on outstanding cheques are done is six months. The prevention of cheque fraud must however be taken into consideration.

The loss of an unused cheque form must immediately be reported in writing to the chairperson, who must immediately take remedial steps.

Should a payee of a cheque issued by a Board report in writing that payment has not been received, and it transpires that the cheques has been negotiated the following steps must be taken:

- (i) An affidavit must be obtained from the payee that he/she has not negotiated the cheque.
- (ii) The matter must be reported to the South African Police Services.
- (iii) Another cheque must be issued against disallowance.

### **Petty cash**

Where sufficient need exists to have cash available for the immediate payment of petty expenditure, the approval of the Board must be obtained for the establishment of petty cash facilities. Such approval must be minuted.

Funds for petty cash are deemed to be advances, which must be accounted for to the chairperson. Until such an advance has been accounted for, a petty cash payment must not be treated as a final charge.

The following instructions must be complied with:

- (a) The keeping of a petty cash register must be entrusted to a responsible person in writing by the chairperson and the said person must immediately enter all payments and replenishments in the petty cash register.
- (b) A supporting voucher must be obtained for each payment.
- (c) Private cheques may not be cashed from petty cash.
- (d) Petty cash moneys must be kept apart from other Board moneys, but not necessarily in separate safes.
- (e) The petty cash register must be balanced monthly and verified by the chairperson or a person nominated by him/her in writing, and verified with the actual cash on hand.

### **Electronic payments and transfers**

Should a Board decide to effect payments by means of electronic payments, such decision must be minuted.

The chairperson must assign authority in writing to employees/officials to approve electronic payments.

No electronic payment may be effected unless a payment voucher consisting of the following has been compiled:

- (a) an authorised order/payments form, signed by two members of the finance committee;
- (b) an authorised requisition form containing a signature that the goods/services have been delivered;
- (c) a duly signed delivery note, if applicable;
- (d) an invoice, and
- (e) a copy of the minuted Boards' authority for the purchase/payment.

Once the electronic payment has been effected the hard copy of the transaction must be affixed to the payment voucher.

On receipt of the bank statement the payment debits must be controlled with the payment vouchers in respect of amounts and names of payees. Any discrepancies must be cleared immediately with the bank.

The password allowing officials/employees to effect transactions electronically must be safely guarded and may not be divulged to unauthorised officials/employees.

Electronic transfers of Board funds for investment purposes may only be effected on due authority of the Board or its Finance committee, provided such decision by the committee is approved by the Board at its following meeting. The hard copies of such transfers must be affixed with a copy of the Board's decision to the bank statement and kept for record and audited purposes.

When an electronic transfer of Board funds occurs between accounts of the Board at the same bank by an authorised official, the hard copy of such transfer must be endorsed with the reason for the transfer and it should be affixed to the bank statement and kept for record and audited purposes.

## **Section 15: Basic accounting Records and related issues**

### **Use of clearing and suspense accounts**

All the transactions of a Board must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.

### **Availability of financial information**

A Chairperson of a Board must retain all financial information in its original form as follows:

- (a) information relating to one financial year for one year after the audit report for the financial year in question has been tabled in the provincial legislature; or

(b) information relating to more than one financial year for one year after the date of the audit report for the last of the financial years to which the information relates.

After the expiry of the above retention periods, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, if necessary, as permissible evidence in a court of law.

Irrespective of the latter regulation, the following standards apply to the retention of certain types of records:

<b>Type of Record</b>	<b>Years after which records can be disposed of</b>
General ledger and cash books or similar records	15
Main transaction summary records, including general journals and transaction summaries  Internal audit reports  System appraisals	10
Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques, invoices and similar records associated with the receipt or payment of money.  Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged.	5

Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets	5
General and incidental source documents not included above, including stock issue and receivable notes, copies of orders (other than copies for substantiating payments or for unperformed contracts), bank deposit books and post registers.	5

When financial information is required as evidence in proceedings before a court, Parliament, a provincial legislature, an official inquiry or otherwise, or for purposes of an audit, it must be secured in its then current form until no longer required, even if the National Archivist has authorised its disposal.

### **Changes to financial systems**

Boards must ensure that when amending existing or instituting new computerised systems that will affect financial administration that it is in order.

### **Maintenance of certain basic accounting records**

Boards must maintain a Main Ledger for all moneys under their control.

The Main Ledger should contain at least the following:

- (a) General Account;
- (b) Ledger Account;
- (c) Control Account for Claims, Debt and Disallowances.

### **Control accounts and bookkeeping**

#### Written Notification of Duties:

The duties attached to each post in an accounting division or other office where accounting duties of the Board are performed must be notified in writing by the chairperson to the persons occupying such posts. In the case of officials, the head of the health facility in consultation with the chairperson must notify them in writing of their duties. Care must be taken to ensure that

the allocation of such duties is aimed to ensure the maximum safety of Board moneys and property.

The entrusting of various duties relating to the handling of cheques, whether used or unused, to one person only must be avoided where possible.

### **Basic Ledger Accounts and the Closing thereof**

The following basic ledger accounts must be kept by the Board:

- (a) General Account to be the account of the approved services;
- (b) Ledger Account to which must be
  - (i) credited every receipt issued and every credit appearing in the bank statement.
  - (ii) debited each individual cheque paid and every direct debit appearing in the bank statement.

At the end of a financial year, the individual main division accounts must be closed off by transferring the final total expenditure on these accounts to the "Revenue Statement". A credit or debit balance will be reflected on the General Account as a surplus or debit.

Where computerised accounting systems are used, the closing off accounting procedures will be transacted automatically and where these procedures deviate from these instructions or a computer systems user manual, the systems closing off accounting procedures will apply, provided that the accounting system has been approved.

In addition to the accounts referred to in the preceding regulations, such disallowance and suspense accounts as may be necessary must be kept.

### **Method of dealing with costs, penalties, fines, exchange transactions, legal costs and recoveries**

All costs in connection with the purchase or hire of property, which form a legitimate charge against Board moneys, must be defrayed out of the account which provides for such purchase or hiring of property.

### **Date of payment is date of charge**

The date of payment is the date of charge and must be strictly observed and all payments made must be accounted for in the financial year in which the payments were made.

A payment made after the last day of the financial year in which authorised services are provided or supplies were received must not be charged in the accounts of that financial year and this must be strictly adhered to.

Amounts received after the last day of a financial year must not be brought into account in that (completed) financial year.

Every effort must be made to ensure that payments are made before the end of the financial year for all authorised services provided and supplies received in the financial year of supply and reception.

### **Recovery, disallowance and adjustment of payments**

If at any time it is found, whether in the course of audit or otherwise, that a payment is not authorised, such payment must immediately be removed from the relative account and charged to a disallowance account or suspense account until such time as the amount is recovered or an adjustment is authorised.

A chairperson must recover or adjust disallowances in his/her accounts and must ensure that priority attention is continuously given to such recoveries or adjustments to finalise them as soon as possible after the disallowances have been raised.

### **Examination of records**

Persons assigned in writing to examine records, must sign and date the relevant books and records as evidence that these have been examined.

### **Erasers and use of ink**

Erasers must not be permitted in books of account. Any alterations must be made by the ruling out of the incorrect amount, with a single line and inserting the correct amount above it. The person who made the entry as well as the person verifying the entry, must initial such correction or alteration.

All hand-written entries in accounting books and records must be made with black permanent ink. Green ink must not be used.

### **Safe custody**

Adequate precautions must be taken to safeguard all accounting books and records against loss by fire and unauthorised access or removal.

The person responsible for the control over and care of used records must ensure that—

- (a) the records are clearly labelled and also stating the date of disposal;
- (b) the records are neatly and orderly arranged in order to facilitate reference thereto, and
- (c) no records are removed without proper authority.

### **Section 16: Annual Financial Statements**

The annual financial statements must at least consist of the following:

- (a) a balance sheet;
- (b) an income statement,
- (c) a cash flow statement
- (d) any other statements that may be required, and
- (e) any notes to these statements

The format of the statements required as well as any other related matters, will be established by the Head of Department. Guideline templates will be supplied where required.

The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the Board.

The annual financial statements must include a report, which amongst others deals with the state of the financial affairs and the activities of the Board. The information in this report is historic in nature and must allow the Board to give an indication of future prospects.

### **Section 17: Gifts, Donations and Sponsorships**

#### **Granting of gifts, donations and sponsorships by the Board**

The Board may approve gifts, donations and sponsorships of Board money and other movable property or services in the interest of the health facility.

When equipment is to be donated to a facility the head of the facility must first give his/her recommendation before such gifts or donations is made. This recommendation may be submitted to the equipment advisor of the Department for a recommendation before the donation is accepted.

When a Board intends utilising its funds for capital works on buildings including the erection of new building for the health facility, the alteration of and/or extension to buildings or major landscaping, it must approach the Regional Director/head of facility/head of academic institution in order to obtain authority from the Head of Department before building is commenced. Decisions by the Head of Department will be taken in conjunction with the Chief Director of Works in the relevant component of the Administration.

For day to day maintenance and minor works/alterations the Board only requires the agreement of the Head of the facility to utilize its funds for such purpose. The same holds for minor landscaping of the grounds.

The Board may grant moneys for the provision of amenities including prizes, cups, shields, medallions and merit certificates for competitions or special achievements. Also included are celebrations, honorariums, functions or receptions for special occasions.

The Board may award amounts not exceeding R1000,00 to employees, officials and hospital staff as it deems fit e.g. long service awards, meritorious suggestions for savings etc.

The Board may defray the costs of employees or officials attending local conferences, seminars, courses, congresses and similar venues provided that the costs does not exceed the maximum amount payable by the Department to its officials.

The Board may institute a Samaritan fund in the form of a petty cash fund additional to the General Fund to assist indigent patients in defraying transport costs and the acquiring of small essentials whilst hospitalised. When instituting the fund the Board must minute the specific purpose and circumstances where it will assist, the maximum amount per case and who will administer such fund.

The control measures applicable to the Samaritan fund are the same as that for the control of petty cash as envisaged in regulation 14.

### **Acceptance of gifts, bequests, donations and sponsor ships to the Board**

The Board may approve the acceptance of any gift, bequest, donation or sponsorship to the Board, whether such gifts, bequests, donations or sponsorships are in cash or kind.

All cash gifts, bequests, donations or sponsorships must immediately be paid into the current account of the Board, or any other account as provided for in Regulation 14.

Where it is not apparent for what purpose a gift, bequest, donation or sponsorship should be applied, the Board must decide how it may be utilised.

The head of the facility or facilities which will utilise equipment donated must first give his/her or their recommendation before any such donation is accepted.

Where a gift, bequest, donation or sponsorship is for a specific purpose the head or heads of the facility/facilities must be informed thereof in order to give his/her recommendation regarding the acceptance thereof.

### **Identity of donors and sponsors**

When a donor or sponsor requests to remain anonymous, the Board must submit to the Head of the Department a certificate, which states that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.

The above provision in no way limits the Auditor-General or the Public Protector from supplying this information to their staff, and where they deem it in the public interest, to report on this.

### **Raising of funds**

No person, private organisation, voluntary service organisation, club, association, charitable institution, non-government organisation, registered trust, officials or any other body may raise funds or solicit sponsorships for the direct or indirect benefit of a health facility, officials, patients or the Board without the express written approval of the Board.

The Board in granting approval may impose any condition necessary including inspection of financial records or forensic audit of funds raised to ensure regularity and transparency.

Fund raising or sponsorship solicitation without approval will result in criminal or civil litigation against the party involved.

### **Affiliated bodies linked to health facilities**

No person, private organisation, voluntary service organisation, club, association, charitable institution, non-government organisation, registered trust, officials, academic institution or any other body which by affiliation with or direct use of the registered name of the health facility in its official title/articles of association may be formed or continue to exist without the written approval of the Board.

The Board in granting approval may impose any condition necessary including inspection of financial records to ensure regularity and transparency.

Where approval is not given or is withdrawn such body shall immediately dissolve or de-link itself from the health facility.

Failure to obtain the Board's approval will result in civil litigation against the affiliated body.

## **Section 18: Investment of Funds**

### **General**

Funds not immediately required for defraying the expenses of a Board must be invested at financial institutions which are approved by the Department at the most advantageous current interest rate, taking into account all related risks, for a period not exceeding 24 months.

The period of investment in a normal savings account at an approved financial institution may not exceed 11 months.

If funds received in terms of a bequest have to be invested in terms of that particular bequest, and which terms are not provided for in these regulations, then approval must be obtained for such investment from the Head of the Department.

A Board is not allowed to speculate with funds by investing for example in shares, participation bonds etcetera, except if it is in terms of a bequest.

Every investment must be deliberated and decided upon at the Finance Committee meeting and ratified at the subsequent Board meeting and minute as follows:

DECIDED that an amount of R..... from the General Fund or a re-investment, be invested in a savings account/fixed deposit at .....for a period of .....months at an interest rate of .....% with effect from .....

If after an inquiry it has been established that a Board had invested funds contrary to the provisions of regulation 18, then in terms of Section 21 (8) of the Act, the Head of Department may delegate this function to the Regional Director or the Head of an Academic Health Facility.

During the obtaining, consideration and acceptance of quotations for investment or re-investment of funds no member of the Board or any person who acts on behalf of the Board may exercise or use his or her discretion, official powers or position in such a manner as to obtain for himself/herself or for any other person or member an unlawful or unauthorised advantage or an advantage that serves to unlawfully prejudice the interest of the Board or any other person or legal person.

Within 2 months after the end of the financial year a certificate must be obtained from every financial institution at which investments were made during the year, declaring that no commission in any form was paid to any person or agent in respect of such investments and indicating the balance of each investment and undistributed interest gained as at 31 March. The certificate must be retained for audit purposes.

The format of the certificate is as follows:

Name of financial institution:.....

Account/Investment number	Balance
1.....	.....

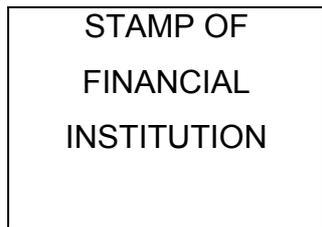
2.....

It is hereby certified that no commission in any form or fee was paid directly or indirectly to any person or agent in respect of the above investments made by the ..... Health Facility Board.

Signed:

.....Date:.....

Capacity: .....



**Certificate of investment compliance**

A Board must annually within two months of the end of its financial year submit to the Head of Department a certificate of investment compliance signed by all members of the finance committee of the Board at its final general meeting for the financial year or it's first subsequent meeting.

The format of the declaration is as follows:

**DECLARATION OF INTEREST: INVESTMENTS**

Name of the Health Facility Board:

.....

Period:

.....

We the undersigned, hereby declare that our actions with regard to the consideration of investments of the Board were at all times in line with regulation 18.1.7 of the Act.

1.....

.....

2.....

3.....

4.....  
PRINT NAME SIGNATURE DATE

**Section 19: Trusts**

**General**

Before a trust can be established in terms of section 21(3) of the Act, the Head of the Department must be informed of the intention and also the reason thereof.

A trust established for the direct or indirect benefit of a health facility may only be founded and registered in terms of the Trust Property Control Act 1988, (No. 57 of 1988) once the Head of Department and Board has indicated its approval. The following minimum conditions must be irrevocably stipulated in the trust instrument (deed of donation and trust):

- (i) The minuted resolution of the Board detailing the objectives for which the trust is established.
- (ii) The required nature of the financial records.
- (iii) The intervals at which an income and expenditure statement, reflecting to what extent the applicable health facility had benefited from the proceeds of the trust, is to be submitted to the Board.
- (iv) Annual audit, where requested, to be conducted by the Auditor-General or other approved body, and the trust to bear the cost of such audit. That officials assigned by the Department or Treasury may also conduct audits of the trust.
- (v) That financial statements are to be submitted annually to the Board in the format envisaged in regulation 16.
- (vi) The compulsory dissolution of the trust, should the Board withdraw its recognition/accreditation of the trust where it is no longer deemed to be credible, viable or of limited merit to the health facility.
- (vii) Fifty percent (50 %) of the appointed trustees must at all times be Board members nominated for such purpose by the Board and their continued membership is dependent on their membership of the Board. At least two trustees must be Board members where the number of trustees is less than four.

## **Section 20: Travelling and other Allowances**

### **Transport expenses**

A Board may reimburse a member, an advisor in terms of section 17(5) of the Act or any person co-opted to serve on a committee of the Board for use of a private motor vehicle to attend a meeting of the Board or the committee concerned or any other official Board business.

The tariff applicable for the return journey is that which apply to officials utilising privately owned vehicles on official business as amended by the National Department of Transport. The engine swept volume cm<sup>3</sup> for the type of vehicle will determine the tariff and if two or more members, advisors or persons use the same private motor vehicle, only one will be entitled to the transport expenses.

The names and addresses of every member of the Board, the distance between the normal home or place of business and the meeting place, as well as, the type of motor vehicle, its description, model, make and engine swept volume in cm<sup>3</sup> must be minuted. Any permanent change of the above particulars must be minuted at the next meeting. Transport expenses must be paid according to the particulars noted. The same holds for advisors or persons entitled to transport expenses.

If a member of a Board also serves on the Board of a local authority or school Board and undertakes only one journey from the member's home or place of business to attend two or more meetings of such Boards, and the member is entitled to a travel allowance by such Boards, the member must inform the Board accordingly. The member is then only entitled to the highest transport expenses payable by the relevant Board. This highest transport expense is paid in equal parts by the Boards whose meetings were attended by the member.

When a member has given notice as contemplated in the latter regulation, the particular Board's secretariat is to be approached to determine the transport

allowance. The member must accordingly be informed in writing of the amount payable by the Board.

### **Travelling and subsistence expenses**

The travelling and subsistence expenses payable by the Board to a member, an advisor in terms of section 17(5) of the Act or any person co-opted to serve on a committee of the Board, may not exceed the maximum amount payable by the Department to its officials.

## **Section 21: General Financial Matters**

### **21.1. Stamps, face-value and other forms having a potential value**

#### **Stocks**

Stocks of postage stamps, receipts, cheques, face-value or other forms having a potential value must be kept in strong rooms or safes under the control of persons appointed in writing for the purpose of distributing such.

The persons referred to in the latter regulation must keep a stock book or register in which must be entered, under each denomination, the number and value of stamps or face-value forms received and issued and such information as may be necessary with regard to forms having a potential value. On each occasion of either a receipt or issue, such stock book must be signed by the persons in charge and by any other persons appointed to have joint charge with them. Such stock or register must be balanced and verified regularly by the person in charge of the office or by a person delegated for this duty. The stock book or register must be signed and dated to indicate that this has been done.

Stamps, face-value forms and forms having a potential value must be issued by the designated persons on requisition by duly authorised persons. Receipt must be acknowledged by all persons to whom issues are made.

All advices of issue of stamps, face-value forms or forms having a potential value received and all receipts for issues of such stamps and forms must be retained for inspection and audit purposes.

All used receipts must be kept neatly and in the same sequence as recorded in the stock register, for audit purposes. The used receipts must be checked regularly and at least once a year they must be verified by the head of the office or his/her delegate. A certificate of such verification must be recorded in the stock book or register.

Receipt, cheque, face-value or other forms having a potential value must be numbered and supplied in such manner as may be approved and such forms must be used in consecutive numerical order and the originals, copies and/or counterfoil of cancelled forms and the copies and/or counterfoils of used forms must not be removed from the relevant books but kept for inspection purposes.

Whenever a person, entrusted with the safe-keeping or use of stamps, receipts, cheques, face-value or other forms having potential value, is relieved of his/her duties, such person's stock of stamps and forms must be verified by the person taking over the duties. Both the 'relieved' person and the person taking over from him/her, must certify in writing and sign their names and ranks, on a handing-over certificate, verifying that the stock of stamps and forms are in order.

### **Deficiencies and Losses**

Any deficiency in or destruction of, or damage to or loss of stamps and unused or cancelled receipts, cheques, face-value or other forms having a potential value must immediately be reported by the responsible person to the chairperson for possible action. Written proof of the action of the chairperson must be available for audit purposes.

A loss of any used receipt, cheque, counterfoil, face-value or other form having a potential value or copies thereof must be reported to the chairperson for further action.

Any loss of Board moneys resulting from the misuse of an unused or cancelled receipt, cheque, face-value or other form having a potential value and any loss of stamps or postal orders must be dealt with in terms of regulation 10.

### **Disposals, Cancellations and Returns**

Where for any reason it becomes necessary to cancel a receipt, cheque, face-value or other form having a potential value, the word “CANCELLED” must be endorsed by means of a rubber stamp or in bold writing in ink across the face of the original form, and the copies or counterfoils of the form, and all such cancelled original forms, copies and counterfoils must be kept for inspection.

All obsolete cheque books, receipts, face-value or other forms having a potential value must be destroyed by an official or employee, in the presence of a member of the Finance Committee.

## **21.2. Securities to the Board**

### **Definition**

For the purpose of the regulations, the word “security” means any cash or document which is given as a security or guarantee in respect of the fulfilment of a contract or for any other purpose.

### **Safe Custody**

All securities held by a Board must, unless physically impractical, be kept in a safe or strong room.

### **Designation of Responsible Person and the Register of Securities**

A person responsible for the custody of securities must keep a register containing the following minimum particulars:

- (a) Consecutive number (which must also be endorsed on the security);
- (b) date of issue of the security;
- (c) date of receipt;
- (d) period of validity of security given;
- (e) period for which security is required;
- (f) nature of the security;
- (g) purpose of security;
- (h) by whom given and in whose favour;
- (i) under what law, regulation or authority given;
- (j) amount or estimated value of security;
- (k) names and addresses of sureties;
- (l) date and particulars of release, substitution, amendment or cancellation;
- (m) Board references.

### **Examination of Securities**

The chairperson or his/her nominee(s) must ensure that the securities under the control of the Board are examined at least once in each financial year and satisfy himself/themselves that:

- (a) all securities are correctly recorded in the register of securities;
- (b) the amount or value of each security is adequate in each case;
- (c) no security is in danger of prescription;
- (d) no issuer of a document of security or guarantee has died or is legally incompetent;
- (e) the securities in general are in order.

A certificate in confirmation of such examination must be given, signed and dated in the register of securities.

### **21.3. Postal and delivered articles**

#### **Receipt of Post**

All postal articles must be collected from the post office by a responsible official or employee, and in the case of:

(a) Boards renting private bags, conveyed in a bag sealed or locked by postal officials;

(b) Boards renting post boxes, be removed directly from the post boxes into a case or bag, supplied by the Board, for conveyance.

Upon receipt of the post in the office of the Board, the designated or persons must establish whether the private bag is still properly sealed or locked before the postal articles are removed.

A list or slip in respect of registered or certified postal articles is prepared in triplicate by the post office, and the original and one copy are placed in the postal bag or post box of the Board concerned.

Upon receipt of the list or slip the designated person or persons must enter the number of every registered or certified article and the name of the office of dispatch in the register of registered and certified post, sign the original of the list or slip and collect the articles at the post office or arrange for them to be collected by a trustworthy person. All registered or certified articles must be conveyed in locked containers.

The articles received must be compared to the list or slip to verify that all the articles signed for have been received.

The articles must then be examined to ascertain whether or not they have been tampered with. If they have been tampered with, the post office's attention must immediately be drawn to the fact, and he/she will arrange for his/her supervisor to be present at the opening of an article which has been tampered with to establish its contents, whether anything is missing and what further action is necessary.

The designated person or persons must open the articles and record the name of the sender and details of the contents of the envelope or package in the register opposite the numbers which have already been recorded therein. If the articles contain remittances or negotiable instruments they must be entered in the remittance register.

## **Remittance Register and Opening of Post**

All moneys and other negotiable instruments received through the post or by hand delivery, must immediately be entered into an approved remittance register, and brought into account. An acknowledgement of receipt must be obtained in the relative column of the remittance register.

Before a remittance register is brought into use, the head of the office or a person designated by him/her in writing must ensure that all pages are consecutively numbered throughout and verify that pages have not been removed from the register.

The following detail in respect of each separate item must be recorded in the remittance register: provided that, where the number of entries per day number more than one, the signatures in accordance with (h) and (i) to be affixed at line entry, while the signature in accordance with (k) need, in all cases, only be affixed once per page:

- (a) Date of receipt;
- (b) how received (by ordinary, certified or registered post or by delivery book);
- (c) from whom received;
- (d) address of sender;
- (e) nature of remittance;
- (f) the purpose for which received;
- (g) amount of the remittance (where applicable);
- (h) signatures of persons present at the opening of the mail;
- (i) signature of person to whom handed over;
- (j) number of receipts issued or other manner of disposal; and
- (k) signature of person responsible for the verification of the register and date on which the verifying thereof took place.

The duty of receiving and opening mail and recording in the remittance register details of all remittances and other negotiable instruments received through the post or by delivery book must be assigned, in writing, to a

responsible official or employee by the chairperson of the Board. Where possible a second person should be nominated in writing to assist in this duty.

The chairperson of the Board or a responsible person designated by him/her in writing must verify the approved remittance register at least once a week and satisfy himself/herself that all the items recorded therein were immediately and properly dealt with and, where applicable, brought into account, and must sign and date the register in the last column thereof to indicate that all instructions were complied with. In addition, the Chairperson or the responsible person must verify that pages have not been removed from the register.

Persons receiving remittances or negotiable instruments delivered by hand must verify the contents of the letter or package and if entered in a delivery book must sign the entry in that book in acknowledgement of receipt and enter or cause the remittance or negotiable instruments to be entered in the remittance register.

## **21.4. Shares**

### **Shareholding by the Board**

Details of shares held by a Board, excluding those managed by trusts, must be recorded in a register under the following headings:

- (a) Name of institution in which shares are held;
- (b) Authorised share capital of the institution;
- (c) Total share capital issued;
- (d) Shares held by the Board under the following headings
  - (i) Number of shares;
  - (ii) Issue price; and
  - (iii) Total value as at 31 March .....
- (e) Amounts paid for shares yet to be issued to the Board;
- (f) Dividends/profits received during the year; and
- (g) Dividends/profits converted or capitalised into shares during the year.

### **21.5. Legal advice regarding contract implications**

Legal advice must first be obtained before executing on behalf of the Board any contract, or any standard contract that is materially altered, which has financial implications or implied financial implications.

## **CHAPTER 4: FREQUENTLY ASKED QUESTIONS AND ANSWERS:**

Question 1: Can a Board appoint support staff to assist it in executing the prescribed functions and powers as set out in the Act?

Answer: Section 15 of the Act determines that the health facility is responsible for the provision of secretarial, administrative and financial accounting support required by the Board. It does however also state that the health facility may not appoint a person(s) to specifically render these services. Support staff would therefore be employees already in the service of the health facility.

Notwithstanding the above, Boards may appoint an additional person(s) as full- or part-time support staff to undertake the administrative work of the Board should the volume justify this. The expense in such a case must be borne by the Board concerned.

Question 2: What is the relationship between Boards and Community Organizations?

Answer: As 50% of Board Members will come from community organizations members, it is evident that close links will be established. These types of organizations will therefore play

an integral part in representing the interest of the community in the functioning of the Boards. (See section 6(4) of the Act.)

Questions 3: What is the relationship between Boards and the Hospital Management?

Answer: The spirit of the Act is for all stakeholders to work closely in the best interests of the community, which would lead to improved service delivery. The Act does however draw a clear distinction between powers of the Board and the day-to-day management of the health facility.

See section 13 of the Act, which clearly stipulates that the Board must forge strong and co-operative relations with the relevant health facility management. The head of the particular health facility will also be a member of the Board. He / she will therefore be in a position to liaise closely with the Board on issues affecting the particular health facility.

The aim of the Act is to ensure that the Boards and management work in a co-operative manner in the best interest of the patients and the community.

Question 4: Are Political Parties allowed to nominate members for the Board?

Answer: The Act specifically states that this cannot be done. See section 6 (6) (a).

Question 5: Can Board members make a real difference?

Answer: Most definitely. Board members have a great role to play in the functioning of facilities situated in their respective communities. These members can now ensure that the needs of the community are seen as paramount and are ultimately addressed. The members can now actively participate in solving problems which communities experience at facilities.

Question 6: Board members have the right to inspect the health facility, is this right absolute and what are the restrictions on this right?

Answer: See section 9 (j) of the Act. In terms of the said section, the Board has the right to inspect the health facilities to which it is appointed. A Board shall therefore be entitled to have reasonable access to the said health facility. This right is however not absolute and these visits / inspections must be done at reasonable times and must not impede the proper performance of work at the health facility.

The Board does however have the right to report on the findings of the said visits to the Head of the Department.

Question 7: What role does the Board play in terms of complaints received by patients or family of patients?

Answer: See section 9(f) of the Act. A Board must handle complaints from the public, in the performance of their duty to liaise with the community, but need not necessarily be involved directly in solving them beyond making recommendations.

Complaints about clinical aspects of the treatment of patients, and complaints concerning the possible questioning of ethical norms or codes of conduct of any registered professional health care worker, must be passed on to the head of the health facility for further handling.

Question 8: Does the Board have the right to acknowledge bequests and donations on behalf of the Department?

Answer: Should a benefactor insist on the acknowledgement of a gift and or donation it is important to remember that such recognition and acknowledgement should be done in accordance with the Department's so called Naming Rights Policy, which clearly sets the various forms of recognition. The Board does not have the right or the discretion to affix plaques and other forms, which is not in line with the Departmental policy.

Questions 9: What process should be followed if there are irreconcilable differences between the Board and the health facility management?

Answer: See section 13 (3) of the Act. If irreconcilable differences arise between any Health facility management and a Board, the Board or the head of the relevant health facility may request mediation or arbitration by the Head of the Department.

Question 10: What is the process for nominations and appointment of Board members, with specific reference to community members and clinical and non-clinical members?

Answer:

Community Members:

*(See Regulations governing the submission of nominations for membership of Health facility Boards – Provincial Gazette: 5797 of 26 November 2001)*

Step 1: The Chairperson of the Board must declare an office vacant and inform the Minister within 7 (seven) days of such vacancy;

Step 2: The Minister must publish a notice requesting community organizations (as defined in the Act) to submit a nomination(s) for the membership of the Board.

The said notice must be published in the Provincial Gazette and at least 2 (two) newspapers within the area, which the health facility is situated.

The notice should set out the following:

- a) the name of the health facility concerned;
- b) the closing date for the submissions;
- c) the following information should be included:
  - ✓ full name and address of community organization;
  - ✓ full name and address of nominee;
  - ✓ indicate whether the nominated individual is a member of the said organization is so, length of membership. If not, why the organization nominates the said individual;
  - ✓ reasons why the nominated individual is suitable to be a member of the Board;
- d) the following documents would need to be attached as annexures:
  - ✓ the constitution or founding document of the community organization;

- ✓ a signed copy of the nominees curriculum vitae
- ✓ a declaration by the nominee of his / her willingness to be a member of the Board.

Step 3: Upon receipt of the said nominations, the relevant Departmental Regional office will forward it to the Minister's for further consideration and appointment;

Step 4: The Minister will consider the said nominations and appoint the most suitable candidate(s).

Clinical and Non Clinical Members:

In accordance with the Act, the staff of the affected health facility should nominate the *clinical and non-clinical members*.

Each health facility has the prerogative to establish its own process for such nominations.

The nomination(s) would be forwarded to the Minister for further consideration and appointment, should he / she be of the opinion that the nominated candidate is suitable for the said office.

Question 11: What happens in instances where the Minister does not receive any nominations for vacant positions?

Answer: See section 6 (9) of the Act. The Minister may appoint any suitably qualified person to fill the said vacancy. There is no obligation on the Minister to re-advertise or publish the name and details of the appointed individual.

Question 12: Raised funds: Which funds should be deposited into the Provincial Revenue Fund and which funds may be retained by the Board and deposited into the Board's bank account?

Answer: In accordance with the Land Administration Act, funds raised as a result of or by using any provincial land, buildings and or assets, should be deposited into the Provincial Revenue Fund, for example: monies received as a result of renting out parking at the health facility, renting out a portion of the building for whatever purpose, rental received for bill Boards that are used on the site by private companies etc.

The Board may retain all other funds raised in accordance with other initiatives.

Question 13: If a Board originally had 8 members in year 1 (one) and in year 3 (three) the number of Board members has dropped to 4 (four); does it still constitute a legal Board as established in terms of the Act?

Answer: No, in accordance with section 6 (1) of the Act, the Board must consist of a minimum of 8 (eight) members. In the above mentioned example, the said vacancies should have been filled in accordance with section 8 of the Act in terms of which the Minister would have been informed of the said vacancies and subsequent appointments would have been made on the same criteria used when the vacating member was appointed, to fill the "unexpired" period of office of the previous incumbent.

Question 14: Prior to purchasing or accepting a donation for equipment and or furniture, which factors should be taken into consideration?

Answer: *Please note that the following factors are not exhaustive:*

- Potential maintenance expenditure;
- Remaining lifespan on equipment and or furniture;
- That it conforms to the norms and standard as set by the Department;
- That there is a clear need for such equipment and or furniture;
- That no extra staff will be required to operate it;
- The impact of such a donation or procurement on other contractual obligations that the Department might have for example a Public Private Partnership.

In addition to the above, it should be noted that the accounting officer is the only duly authorised individual to accept any donations.

Question 15: Who may sign cheques on behalf of the Board? If the Chairperson or the ordinary member is not available to sign the said cheques, may such cheques be signed by any other Board members?

Answer: In terms of the current draft regulations, two members of the finance committee, one who must be the Chairperson of the Board and the other an ordinary member of the Board must be appointed by the Board to sign cheques.

The current draft regulation makes provision for a *deputy* to be appointed with the necessary power to sign cheques as a second signatory on behalf of the ordinary member should the said member not be available.

The current draft regulation does not however make provision for a deputy to sign on behalf of the chairperson, should the said member not be available.

The abovementioned scenario has created problems and the Department would address this issue when reviewing the current draft regulations.

Question 16: May the Board use their own discretion and invest funds that have been raised?

Answer: Funds may only be invested at financial institutions that are approved by the Department and as communicated periodically to the Boards. Provincial Treasury guides the Department in terms of the banks and their credit rating.

A Board is not allowed to speculate with funds by investing in shares, participation bonds etc, except where funds are received as a bequest which stipulates this condition, in which instance the approval of the Head of the Department must be obtained prior to acceptance of the bequest.

Question 17: May raised funds be used for all and any maintenance, construction or refurbishment of buildings and landscaping of grounds.

Answer: Construction / refurbishment of buildings:  
The Act provides no legal basis for the procurement of supplies and services by the Board for the upgrading, refurbishing or expanding of health facilities. Such decisions can only be taken by the Head of the Department in

conjunction with the Chief Director of Works in the relevant component.

Day-to day maintenance:

For day-to-day maintenance and minor works / alterations, the Board only requires the agreement of the head of the facility to utilize its funds for such purpose. The same holds for minor landscaping of the grounds.

Question 18: Mr Joe is a Board member who represents a community organization. He is an accountant by profession and has indicated to the Board that he is unhappy about the fact that he is not receiving any monetary compensation for all his time spent on compiling statements and reconciliation of financial records for the Board. He has now requested compensation for the said time spent. May the Board compensate Mr Joe?

Answer: In accordance with section 22 (3) of the Act, the Board may out of its funds, only compensate, an advisor(s) (as described in section 17 (5) of the Act) or a person co-opted to serve on a committee of the Board for "time" spent on Board business.

"Time" will only be compensated in accordance with tariffs set by the Minister. The Minister has not yet published these tariffs and requests for such payments should be directed to the Minister's office for authorization, prior to any commitment being made.

Mr Joe is not an advisor or a co-opted member and can therefore not claim for compensation in his capacity as Board member.

In accordance with section 22 (1) (b) of the Act, the Board may however compensate their members, advisors and co-opted members in respect of transport expenses for traveling from home to the venue of the meeting and back. Provision is also made for compensating members for traveling and subsistence expenses incurred as a result of attendance at conferences, seminars and training courses or other business of the Board.

Question 19: May the Board appoint Public Service Staff by funding the individual's salary or a portion thereof?

Answer: See section 9 and 10 of the Act, which clearly sets out the functions and powers of the Board. The Board may only perform particular functions assigned to it in accordance with the Act. The appointment of full – or part – time staff has not been assigned to the Board.

Although the Board may, in the course of their duties appoint persons at its own cost, for instance for the purposes of gardening, or carrying out administrative duties, no funds may be allocated for the remuneration of staff appointed on the establishment and conditions of the service of the Provincial Government.

## **CHAPTER 5: CONCLUSION AND CONTACT DETAILS**

### **Conclusion:**

As set out in the Act, the Board has specific powers and functions, which enables it to play a more active role in the advancement and improvement of

the facilities. It is however important to note that the day-to-day management of the facility remains a function of the respective institutional manager.

The Act also makes provision for greater community participation by specifying that community organizations must comprise at least 50% (fifty percent) of the total number of Board members. Community participation is further entrenched by the Act, as most meetings of the Board are open to members of the public.

The Act also imposes greater responsibility on Boards to not only manage but also report on its financial and other activities to the Department.

**Contact details:**

All queries and requests for assistance should be directed to:

*Sub Directorate: Policy and Planning*

For attention:

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