

A SIMPLE GUIDE TO THE FREE STATE PROVINCIAL HEALTH ACT, 1999



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Introduction

What does the Act aim to do and what does it cover?

The Act aims to help establish appropriate and effective district and provincial Health Authorities within the Free State and to spell out the rights and duties of health care service providers and health care users.

Some of the principles upon which the Act is based:

- The constitutional right for everyone to have access to health care services;
- The requirement for provincial health services to be part of an integrated National Health System;
- The Free State Provincial Government's commitment to providing acceptable, affordable, effective, integrated and comprehensive health care to the people the Free State;
- The organisation of health services according to the District Health System (DHS) model, which includes the participation of communities and inter-sectoral collaboration;
- The constitutional principle of co-operative governance.

The Act also makes clear that the population of the Free State will be provided access to Primary Health Care that is accessible, acceptable, affordable and efficient, and with promotive, preventative, curative and rehabilitative services being provided in an integrated manner.

The Department shall also endeavour to avoid and remove any duplication and fragmentation of health services; improve and maintain the quality of health services within the available resources; and remove all barriers to access to health services where possible.

THE ESTABLISHMENT OF A PROVINCIAL HEALTH AUTHORITY

The Act says that the Free State will establish a Provincial Health Authority (PHA) to:

- manage the implementation of national and provincial health policies;
- co-ordinate the functioning of the District Health Authorities (see later) and give direction to their plans;
- review or look at requests and recommendations made by the District Health Authorities;
- recommend provincial health policies to the MEC;
- review or look at all health legislation before it is introduced in the Provincial Legislature;
- review and give direction to the plans of regional and central hospitals;
- perform any provincial function as may be designated by this Act or any other legislation.

Composition of the PHA

- *The MEC*
- *Five representative elected councillor from each District Health Authority*
- *The head of the provincial Department of Health*
- *One representative of the Provincial Health Advisory Board (see page 4).*

Meetings

Meetings will occur at least once in every three months. They will be chaired by the MEC. If the MEC is absent, it will be chaired by a designated member of the PHA.

Rules and Principles

Decision-making will be made on the basis of a general agreement. If there is no agreement about a particular issue, a decision will be taken on the basis of support from two-thirds of its members.

Members of the PHA shall hold office for a period not exceeding 5 years but be eligible for reappointment at the termination of his/her term of office, up to a maximum of two terms. Members who are not employed by the State, may be paid for his or her subsistence and travelling expenses.

The MEC may, after he or she has allowed a member the opportunity to state his or her case, terminate the term of office of a member if there are good reasons for doing so and if it is in the interest of the PHA. Members of the PHA will also be replaced if they have been absent from more than 2 consecutive meetings without prior notice.

PROVINCIAL HEALTH ADVISORY BOARD

In addition to the PHA, a Provincial Health Advisory Board (PHAB) will be established to:

- facilitate forums for public discussions on health;
- initiate reviews on any matter relating to health;
- take appropriate steps to promote the objectives of this Act;
- advise the MEC on any matter referred to it by the MEC.

Composition of PHAB

Not more than 25 members appointed by the MEC as representatives of non-government organisations, tertiary institutions, statutory bodies, community based organisations and the private sector.

Meetings

PHAB will meet at least twice a year. A chairperson will be appointed by the MEC and the Department of Health (DoH) will provide the administrative support for the Advisory Board.

In carrying out its functions, PHAB will have the authority to establish sub-committees to consider any matter referred to it by the Advisory Board.

Rules and Principles

Members of PHAB shall hold office for a maximum of two consecutive terms, with each term of office not exceeding 5 years. Members who are not employed by the State, may be paid for his or her subsistence and travelling expenses.

The MEC may, after he or she has allowed a member the opportunity to state his or her case, at terminate the term of office of a member if there are good reasons for doing so and if it is in the interest of the PHAB. Members of the PHAB will also be replaced if they have been absent from more than 2 consecutive meetings without prior notice.

DISTRICT HEALTH AUTHORITIES

The Act calls for the establishment of a District Health Authority (DHA) for each of the 5 District Council areas in the province. The DHA will be authorised to govern the affairs of a health district in compliance with national and provincial policies. Its purpose will be to:

- make sure that health services are provided to all people living within the health district;
- manage its resources in line with the needs of the people in the health district;
- develop strategic health plans and annual operational plans for consideration by the PHA;

The DHAs will be authorised to perform functions assigned to it by the Provincial Health Authority under the terms of this Act, or, perform any function relating to national health legislation if the MEC believes that a DHA has the ability to do so. The DHA will be able to enter into agreements with any person or body in order to effectively do its work and fulfil its obligations after consulting the MEC.

Composition of a DHA

The DHA will be headed by a District Manager with a suitable management structure. This management structure will be established with the support of the PHA. Staff will be appointed with the agreement of the District Health Council.

Meetings

The PHA and the Local Government authorities will be expected to provide the DHAs with the resources to enable them to do their work.

HEALTH DISTRICTS

The demarcation of health districts

The MEC for Health, after consultation with the provincial Executive Council and the MEC for Local Government, may:

- divide the province into a number of “health districts” and determine establish a ‘district council’ for each health district;
- change the boundaries of a health district at any time after consulting the DHA or local government authorities that will be affected by the proposed changes.

DISTRICT HEALTH COUNCILS

The Act makes provision for the establishment of District Health Councils whose functions and duties will be to:

- review and approve District health plans and the District health budget;
- approve the appointment of a District Manager;
- address problems related to health services in the health district;
- promote sound labour relations and assist with unresolved labour matters in the health district;
- ensure the implementation of health policies in line with national and provincial policies;
- promote inter-sectoral collaboration;
- address the complaints of the community.

The DHC will be accountable to the Provincial Health Authority and submit an annual report to it. The Act also says that the MEC may discontinue or break up a DHC if he or she has reasons to believe that it is not doing its work effectively, or if it is no longer cost-effective or efficient to continue with its existence.

Composition

- *A councillor from every municipality within a given "health district"*
- *The chairperson of every District Hospital Board within a given "health district"*
- *A representative from each Community Health Committee in the "health district"*
- *One representative of organised private health care providers*
- *One representative of non-governmental health organisations in the health district*
- *The District Manager (as an ex-officio).*

Meetings

The DHC will be chaired by a member appointed by the MEC, and meet at least once every three months. It will carry out its functions on the basis general agreement or common understanding. If there is no consensus on a matter, decisions will be made on the basis of a simple majority of its members. However, members shall not vote upon, take part in or be present during discussions of any matter before the Council in which he or she has any financial or other personal interest.

The District Health management teams will be tasked with providing the secretariat for the DHCs.

Terms of office

A member of a DHC, except the District Manager, shall hold office for a maximum of two consecutive terms of office. The MEC may, after he or she has allowed a member the opportunity to state his or her case, at terminate the term of office of a member if there are good reasons for doing so and if it is in the interest of the PHA. Members of the PHA will also be replaced if they have been absent from more than 2 consecutive meetings without prior notice.

INTER-SECTORAL COLLABORATION

Chapter 5 of the Act refers to the issue of inter-sectoral collaboration and is designed to promote co-operation between of different sectors and departments of government, and other interested stakeholders and/or parties.

The Department of Health shall make sure that there is co-operation at the provincial level on matters impacting on health by:

- taking part in an Inter-Departmental Management Committee of the Provincial Administration;
- developing programmes around health problems by involving non-governmental health organisations, community-based organisations and the private health sector;
- working with tertiary academic institutions to promote research and health systems development.

Agreements with Tertiary Education Institutions

The MEC may enter into an agreement with any tertiary institution involved in the education and training of health professionals if it is deemed to benefit the Province. The agreement may include matters such as:

- *The availability of health facilities for practical training*
- *The appropriateness of the curriculum to meet the basic health needs of the Province*
- *The provincial needs for health professionals*
- *The funding of expenses created by the agreement*
- *The establishment, composition and functions of an Advisory Liaison Committee; and*
- *Staffing requirements.*

THE RIGHTS HEALTH CARE USERS AND THE OBLIGATIONS OF HEALTH CARE SERVICE PROVIDERS

Information on services

The Act deems that all health facilities in the province must display in a visible place a list of all services that are available for the information of the general public. Appropriate information must also be provided on where health services that are not provided in a health facility can be accessed. This information shall be made available where possible in the language of the health care user, including those health care users who are visually and hearing impaired.

Respect

The Act says that every health care user is entitled to respect, their human dignity and privacy. Furthermore, health care users cannot be discriminated against on the basis of their: Race; Gender; Ethnic or social origin; Colour; Sexual orientation; Age; Disability; Health status (e.g. pregnancy); Marital status; Religion or conscience; Belief, or culture; and Language or place of birth.

Participation in decisions

The Act says that every health care user is entitled to understand and willingly agree to any decision affecting his or her health, unless it is not reasonably practical to do so. The Department of Health shall develop and put into place patient agreement or consent forms in the language of the health care user, as far as it is possible. Health providers must also assist health care users to understand all information relating to the treatment of the user.

Health records

The head of a health facility must make sure that a permanent health record of every user of health services at that health facility is kept.

Furthermore, every user is entitled to confidentiality of all information concerning his or her health, including information relating to any treatment, or stay in a health facility. Only the following persons can receive permission from the head of any health facility to access the health records of a health care user: (a) the health care user, or if the health care user is under the age prescribed, the guardian or parent of the user; (b) the administrative staff and health care providers at the health facility for any purpose within the ordinary course of their duties; (c) a health care provider for the purposes of teaching or research, with the permission of the health care user and the head of the health facility, or an ethics committee as required by international ethical standards; and (d) any person who has been given written agreement or consent by the health care user, or a person authorised by law or court order to have access.

The head of a health facility, after consultation may, temporarily deny a health care user access to information contained in the health care user's health record, if disclosure of that information, is likely to be seriously prejudicial to the user's health.

Right to complain

Every health care user is entitled to complain about the manner in which he or she was or is being treated, and to be fully informed in writing of the effect and outcome of the complaint. The MEC shall outline procedures and establish ways and means for lodging complaints.

Duties of health care providers

The Act says that health care providers shall fulfil every duty owed to each patient, including the duty to:

- treat all patients with dignity and respect;
- provide the best quality care appropriate;
- involve patients in making the choice important or necessary to their treatment.

OBLIGATIONS OF USERS

The Act also says that health care users have obligations to:

- care for, protect and promote their own health;
- respect the rights of other health care users;
- observe the rules concerning the organisation and operation of services and health facilities, without taking away the right to submit complaints against the service rendering authority;
- be responsible for the proper use of the benefits provided by the health system;
- make sure that they do not endanger the lives of other health care users and health care providers;
- co-operate with health care providers in connection with their situation;
- treat health care providers with dignity and respect;
- co-operate in maintaining health facilities in habitable condition;
- pay the stipulated health care user fees;
- sign a discharge certificate if they refuse to accept recommended treatment;
- abstain from tobacco products, non-prescribed alcohol products or any illegal substance in the health facility.

PATIENT, TRANSPORT, REFERRAL AND EMERGENCY SERVICES

Patient transport and referrals

The Department of Health shall make sure that there is an efficient and appropriate referral system between the health facilities, taking into consideration the following factors:

- The health of the user;
- The services available;
- The competency of the health care provider;
- Appropriate technological and personnel support;
- Barriers to health.

Emergency medical services

The Department of Health shall establish and maintain an adequate ambulance service for the transport of patients to and from health facilities within the Province.

In doing so, the DoH may enter into an agreement with a municipality or any private sector entity to provide an ambulance service on an agency basis. No person shall establish, conduct or maintain a private ambulance service unless it has been registered. The MEC may refuse to register a private ambulance service or cancel such registration if:

- the vehicles and equipment of such private ambulance service are not suitable and adequate;
- the private ambulance service does not have adequate and suitable staff;
- the service is conducted in a way that is detrimental to the well-being of patients;

- the conditions for the registration of the private ambulance service are not complied with; or
- it is not in the public interest.

The MEC may set or recommend ambulance fees and establish and maintain training facilities for the training of emergency medical services personnel.

The DoH shall also make sure that they are ready to handle any disaster and emergency health care needs.

HEALTH INFORMATION AND RESEARCH

The Department of Health is also expected to take steps to make sure that health research and system development takes place.

In addition, the Department of Health shall develop and maintain a reliable Provincial Health Information System that:

- complies with the conditions of the National Health Information System;
- promotes the use of data in planning, programming, provisioning, budget evaluation and improvement of public and other health services;
- promotes collaboration with academic research institutions, private health care providers, community based organisations or any organ of society involved with health related research;
- promote efficient and effective communication in the Department;
- will make information accessible to the community, health providers and other interested parties;
- is accurate, timeous and complete.

In doing so, the DOH will consult with communities and encourage and develop community identification of health problems and appropriate solutions.

HEALTH PROMOTION, EDUCATION AND DISEASE PREVENTION

Health promotion

The Act also says that the Department of Health will contribute towards the development and implementation of programs to improve social, mental and physical well-being of the community and the attainment of a healthy environment in the Province.

In doing so, the DoH shall:

- set priorities for health promotion in the Province;
- support health promotion measures initiated by District Health Authorities;
- provide training for health providers on matters relating to health promotion;
- promote and implement inter-sectoral collaboration on health promotion;
- develop health promotion material that is accessible to the people by using appropriate languages and other forms of communication.

Disease prevention

The Department of Health shall also:

- support the District Health Authority in combating epidemics;
- make sure that prevention measures are done on time to minimize the occurrence of epidemics;
- provide facilities for the isolation of patients with highly contagious diseases.

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