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No. 26595

THE PRESIDENCY

No. 869

23 July 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 61 of 2003: National Health Act, 2003.

MO-PRESIDENTE

No. 869

23 July 2004

Mo go tsebiswa gore Mo-Presidente o dumetse Molao wo o latelago, wona o tla gatiswa e le tsebiso ya kakaretso:—

Nmro. 61 ya 2003: Molao wa Bosetšhaba wa Boitekanelo, 2003.



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

*(English text signed by the President.)
(Assented to 18 July 2004.)*

ACT

To provide a framework for a structured uniform health system within the Republic, taking into account the obligations imposed by the Constitution and other laws on the national, provincial and local governments with regard to health services; and to provide for matters connected therewith.

PREAMBLE

RECOGNISING—

- * the socio-economic injustices, imbalances and inequities of health services of the past;
- * the need to heal the divisions of the past and to establish a society based on democratic values, social justice and fundamental human rights;
- * the need to improve the quality of life of all citizens and to free the potential of each person;

BEARING IN MIND THAT—

- * the State must, in compliance with section 7(2) of the Constitution, respect, protect, promote and fulfil the rights enshrined in the Bill of Rights, which is a cornerstone of democracy in South Africa;
- * in terms of section 27(2) of the Constitution the State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the right of the people of South Africa to have access to health care services, including reproductive health care;
- * section 27(3) of the Constitution provides that no one may be refused emergency medical treatment;
- * in terms of section 28(1)(c) of the Constitution every child has the right to basic health care services;
- * in terms of section 24(a) of the Constitution everyone has the right to an environment that is not harmful to their health or well-being;

AND IN ORDER TO—

- * unite the various elements of the national health system in a common goal to actively promote and improve the national health system in South Africa;
- * provide for a system of co-operative governance and management of health services, within national guidelines, norms and standards, in which each province, municipality and health district must address questions of health policy and delivery of quality health care services;

*(English text signed by the President.)
(Assented to 18 July 2004.)*

MOLAO

Go tlamela ka letlhomeso la thulaganyo e e rulaganeng sentle le e e tshwanang ya boitekanelo mo Rephaboliking, go ntse go etswe tlhoko maikarabelo a a pegwang ke Molaotheo le melao e mengwe mo pusong ya bosetshaba, porofense le ya selegae malebana le ditirelo tsa boitekanelo; le go dira tlamelo ya merero e e amanang le tseno.

MATSENO

GO LEMOGWA—

- * go tlhoka tekatekano ga ikonomi ya loago le kgobeletlo ya ditirelo tsa boitekanelo ya maloba;
- * bothokwa jwa go fodisa dikgaogano tsa maloba le go dira gore go nne le baagi ba ba ikaegileng ka temokerasi, tekatekano ya loago le ditshwanelo tsa bothokwa tsa botho;
- * bothokwa jwa go tokafatsa boleng jwa botshelo jwa baagi botlhe le go golola bokgoni jwa motho mongwe le mongwe;

GO ETSWE TLHOKO GORE—

- * Mmuso o tshwanetse, e le go ikobela karolo ya 7(2) ya Molaotheo, go tlotla, go sireletsa, go tswelletsa le go diragatsa ditshwanelo tse di fitlhelwang mo Lekwalong la Ditshwanelo, le e leng lona motheo wa temokerasi mo Aforika Borwa;
- * go ya ka karolo ya 27(2) ya Molaotheo, Mmuso o tshwanetse go tsaya dikgato tsa molao le tse dingwe tse di ka kgonegang ka ditlamelo tse o nang natso, gore go fitlhelwe ditshwanelo tsa batho ba Aforika Borwa tsa go nna le phitlhelelo ya ditirelo tsa tlhokomelo ya boitekanelo, go akarediwa tlhokomelo ya boitekanelo ya tsalo;
- * karolo ya 27(3) ya Molaotheo e dira tlamelo ya gore ga go ope yo o tshwanetseng go ganelwa ka kalafi ya tshoganyetso;
- * go ya ka karolo ya 28(1)(c) ya Molaotheo, ngwana yo mongwe le yo mongwe o na le tshwanelo ya go amogela ditirelo tsa ntlha tsa tlhokomelo ya boitekanelo;
- * go ya ka karolo ya 24(a) ya Molaotheo, mongwe le mongwe o na le tshwanelo ya tikologo e e seng kotsi mo boitekanelong jwa gagwe;

MME GORE GO—

- * kopanngwe dikarolo tse di farologaneng tsa thulaganyo ya bosetshaba ya boitekanelo mo maikemisetsong a a tshwanang a go tswelletsa le go tokafatsa thulaganyo ya bosetshaba ya boitekanelo mo Aforika Borwa;
- * tlamelwe ka thulaganyo ya tsamaiso e e kopanetsweng ya ditirelo tsa boitekanelo, go latelwa kaedi ya bosetshaba, ditekanyetso le seemo, se mo go sona porofense e nngwe le e nngwe, lekgotlatoropo le kgaolo nngwe le nngwe ya boitekanelo e ka samaganang le dintlha tsa pholesi ya boitekanelo le go tlamela ka ditirelo tsa boleng tsa tlhokomelo ya boitekanelo;

- * establish a health system based on decentralised management, principles of equity, efficiency, sound governance, internationally recognised standards of research and a spirit of enquiry and advocacy which encourages participation;
- * promote a spirit of co-operation and shared responsibility among public and private health professionals and providers and other relevant sectors within the context of national, provincial and district health plans,

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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- * tlhamiwe thulaganyo ya boitekanelo e e ikaegileng ka gore tsamaiso e phasaladiwe go ya kwa dikgaolong, dintlhatheo tsa tekatekano, bokgoni, tsamaiso e e lolameng, seemo se se lemogwang boditšhabatšhaba sa patlisiso gammogo le mowa wa potsisiso le go buelela dintlha dingwe, tse di rotloetsang go nna le seabe;
- * tswelediwe mowa wa tirisanommogo le go amogana maikarabelo magareng ga setšhaba le baporofešenale ba poraefete ba boitekanelo le batlamedi le maphata a mangwe a a maleba go ntse go lebeletswe maano a boitekanelo a bosetšhaba, porofense, le dikgaolo,

JAANONG GO DIRILWE MOLAO ke Palamente ya Rephaboliki ya Aforika Borwa ka tsela e e latelang:—

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Dikarolo

1. Ditlhaloso 5

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MAIKEMISITSO A MOLAO, MAIKARABELO A BOITEKANELO LE GO NNA LE DITSHIAMELO TSA DITIRELO TSA MAHALA TSA BOITEKANELO

2. Maikemisetso a Molao 10
 3. Maikarabelo a boitekanelo
 4. Go nna le ditshiamelo tsa ditirelo tsa mahala tsa boitekanelo mo ditheong tsa setšhaba tsa boitekanelo

KGAOLO 2

DITSHWANELO LE MAIKARABELO A BADIRISI LE BADIRI BA TLHOKOMELO YA BOITEKANELO 15

5. Kalafi ya tshoganyetso
 6. Modirisi o tshwanetse go nna le kitso e e tletseng
 7. Tumelelo ya modirisi
 8. Go nna le seabe mo ditshwetsong 20
 9. Tirelo ya boitekanelo ntle le tumelelo
 10. Dipegelo tsa kgololo
 11. Ditirelo tsa boitekanelo tsa mabaka a tekeletso gongwe patlisiso
 12. Maikarabelo a go phasalatsa tshedimosetso
 13. Maikarabelo a go tshola direkoto 25
 14. Bosephiri
 15. Phitlhelelo ya direkoto tsa boitekanelo
 16. Phitlhelo ya direko tsa boitekanelo ke motlamedi wa tlhokomelo ya boitekanelo
 17. Pabalelo ya direkoto tsa boitekanelo 30
 18. Go tlhagisa dingongorego
 19. Maikarabelo go badirisi
 20. Ditshwanelo tsa badiri ba tlhokomelo ya boitekanelo

KGAOLO 3

BOITEKANELO JWA BOSETŠHABA 35

21. Ditiro tsa kakaretso tsa lefapha la bosetšhaba
 22. Go tlhamiwa le botokololo jwa Khansele ya Bosetšhaba ya Boitekanelo
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KGAOLO 4**BOITEKANELO JWA POROFENSE**

25. Ditirelo tsa boitekanelo tsa porofense le ditiro tsa kakaretso tsa mafapha a diporofense
26. Go tlhamiwa le botokololo jwa Khansele ya Porofense ya Boitekanelo 5
27. Ditiro tsa Khansele ya Porofense ya Boitekanelo
28. Maphata a porofense a patlomaikutlo

KGAOLO 5**THULAGANYO YA DIKGAOLO YA BOITEKANELO YA REPHABOLIKI**

29. Go tlhamiwa ga thulaganyo ya dikgaolo ya boitekanelo 10
30. Go aroganngwa ga dikgaolo tsa boitekanelo go nna dikgaolopotlana
31. Go tlhamiwa ga dikhansele tsa dikgaolo tsa boitekanelo
32. Ditirelo tsa boitekanelo tse di tshwanetseng go tlamelwa ke makgotlatoropo
33. Paakanyo ya maano a dikgaolo a boitekanelo
34. Dithulaganyo tsa kgabaganyo malebana le ditirelo tsa makgotlatoropo tsa boitekanelo 15

KGAOLO 6**DITHEO TSA BOITEKANELO**

35. Karoganyo ya ditheo tsa boitekanelo
36. Setifikeiti sa tlhokego 20
37. Sebaka sa setifikeiti sa tlhokego
38. Boikuelo go Tona, kgatlhanong le tshwetso ya Mokaedi-Kakaretso
39. Melawana e e malebana le ditifikeiti tsa tlhokego
40. Ditlolomolao le dikotilhao tse di malebana le setifikeiti sa tlhokego
41. Tlamelo ya ditirelo tsa boitekanelo kwa ditheong tsa setšhaba tsa boitekanelo 25
42. Ditleleniki le dikomiti tsa ditikwatikwe tsa baagi tsa boitekanelo
43. Ditirelo tsa boitekanelo kwa ditheong tse e seng tsa boitekanelo le kwa ditheong tsa setšhaba tsa boitekanelo kwa ntleng ga dipetlele
44. Phetiso go tswa kwa setheong sa setšhaba sa boitekanelo go ya kwa go se sengwe 30
45. Tsalano magareng ga ditheo tsa setšhaba le tsa poraefete tsa boitekanelo
46. Maikarabelo a ditheo tsa poraefete tsa boitekanelo
47. Tekanyetso ya ditirelo tsa ditheo tsa boitekanelo

KGAOLO 7**TOGAMAANO YA BADIRI LE DITIKWATIKWE TSA BORUTEGI TSA BOITEKANELO 35**

48. Tlhabololo le tlamelo ka badiri mo thulaganyong ya bosetšhaba ya boitekanelo
49. Ntsifatso ya ditirelo tsa batlamedi ba tlhokomelo ya boitekanelo
50. Foramo ya Khansele ya Semolao ya Baporofesenale ba Boitekanelo
51. Go tlhamiwa ga ditikwatikwe tsa borutegi tsa boitekanelo 40
52. Melawana e e malebana le badiri

KGAOLO 8**TAOLO YA TIRISO YA MADI, DITLHAGISWA TSA MADI, DITHIŠU LE DIKAMETE MO BATHONG**

53. Go tlhomiwa ga tirelo ya bosetšhaba ya tshelo ya madi 45
54. Go rebolwa ga ditheo tse di dumeletsweng
55. Go tlošwa ga dithišu, madi, ditlhagiswa tsa madi gongwe dikamete mo bathong ba ba tshelang

56.	Use of tissue, blood, blood products or gametes removed or withdrawn from living persons	
57.	Prohibition of reproductive cloning of human beings	
58.	Removal and transplantation of human tissue in hospital or authorised institution	5
59.	Removal, use or transplantation of tissue, and administering of blood and blood products by medical practitioner or dentist	
60.	Payment in connection with the importation, acquisition or supply of tissue, blood, blood products or gametes	
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56. Tiriso ya dithišu, madi, ditlhagiswa tsa madi gongwe dikamete tse di tlositsweng gongwe di gogilwe mo bathong ba ba tshelang
57. Kiletso ya go dira batho bamaitirelo ka go tsaya disele tsa ba ba tshelang
58. Go tlošwa gongwe go jalolowa ga dithišu tsa batho kwa sepetelele gongwe kwa setheong se se laoletsweng seno 5
59. Go tlošwa, go dirisiwa gongwe go jalelelwa ga dithišu, le go tsenngwa ga madi gongwe ditlhagiswa tsa madi ke ngaka gongwe ngaka ya meno
60. Dituelo tse di malebana le go romelwa ntle, go rekwa gongwe go tlamela ka dithišu, madi, didirwa tsa madi gongwe dikamete
61. Kabelo le tiriso ya dirwe tsa batho 10
62. Go abiwa ga mebele ya batho le dithišu tsa batho ba ba tlhokafetseng
63. Mebele ya batho, thišu, madi, didirwa tsa madi gongwe dikamete di ka abelwa setheo gongwe motho yo o rebotsweng
64. Mabaka a go abiwa ga mmele, thišu, madi gongwe ditlhagiswa tsa madi tsa batho ba ba tlhokafetseng 15
65. Go gogelwa morago ga kabelo
66. Tlhatlhobo ya morago ga loso ya mebele
67. Go tlošwa ga dithišu kwa ditlhatlhobong tsa morago ga loso le go bonwa ga dithišu ke ditheo le batho
68. Melawana e e malebana le dithišu, disele, dirwe, madi, ditlhagiswa tsa madi gammogo le dikamete 20

KGAOLO 9

PATLISISO YA BOSETSHABA YA BOITEKANELO LE TSHEDIMOSETSO

69. Komiti ya Bosetšhaba ya Patlisiso ya boitekanelo
70. Go supiwa ga ditlapele tsa patlisiso ya boitekanelo 25
71. Patlisiso gongwe diteketsetso go dirisiwa batho
72. Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo
73. Dikomiti tsa Maitsholo tsa Patlisiso ya Boitekanelo
74. Kgokaganyo ya dithulaganyo tsa bosetšhaba ya tshedimosetso ya boitekanelo
75. Maikarabelo a diporofense malebana le tshedimosetso ya boitekanelo 30
76. Maikarabelo a dikhansele tsa dikgaolo tsa boitekanelo le makgotlatoropo

KGAOLO 10

BATLHANKEDI BA BOITEKANELO LE THULAGANYO YA GO IKOBELA SEEMO (compliance)

77. Go tlhamiwa ga Lephata la Batlhatlhobi la Ditheo tsa Boitekanelo 35
78. Kantoro ya Go ikobelwa ga Seemo
79. Tlhatlhobo ka Kantoro ya Go ikobelwa ga Seemo
80. Go thapiwa ga batlhankedi ba boitekanelo
81. Maikarabelo a batlhankedi ba boitekanelo
82. Ditlhatlhobo tsa tiwaelo 40
83. Dipatlisiso tsa boitekanelo jwa tikologo
84. Go tsena le go phuruphutsha mafelo ka lekwatotetlo
85. Go itshupa pele ga go tsena le thibelo ya go tsena
86. Go tsena le go phuruphutsha lefelo ntle le lekwatotetlo
87. Go tlošwa ga dilwana tse di gapilweng ke motlhankedi wa boitekanelo 45
88. Ditlamelo tse dingwe tse di malebana le batlhankedi ba boitekanelo, batlhatlhobi le dithulaganyo tsa go ikobela seemo
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SCHEDULE

Definitions

1. In this Act, unless the context indicates otherwise—
- | | |
|--|----|
| “ authorised institution ” means any institution designated as an authorised institution in terms of section 54; | 10 |
| “ blood product ” means any product derived or produced from blood, including circulating progenitor cells, bone marrow progenitor cells and umbilical cord progenitor cells; | |
| “ central hospital ” means a public hospital designated by the Minister to provide health services to users from more than one province; | 15 |
| “ certificate of need ” means a certificate contemplated in section 36; | |
| “ communicable disease ” means a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host; | 20 |
| “ Constitution ” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); | |
| “ death ” means brain death; | |
| “ Director-General ” means the head of the national department; | |
| “ district health council ” means a council established in terms of section 31; | 25 |
| “ essential health services ” means those health services prescribed by the Minister to be essential health services after consultation with the National Health Council; | |
| “ embryo ” means a human offspring in the first eight weeks from conception; | |
| “ Forum of Statutory Health Professional Councils ” means the Forum established by section 50; | 30 |
| “ gamete ” means either of the two generative cells essential for human reproduction; | |
| “ gonad ” means a human testis or human ovary; | |
| “ health agency ” means any person other than a health establishment— | |
| (a) whose business involves the supply of health care personnel to users or health establishments; | 35 |
| (b) who employs health care personnel for the purpose of providing health services; or | |
| (c) who procures health care personnel or health services for the benefit of a user, and includes a temporary employment service as defined in the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), involving health workers or health care providers; | 40 |
| “ health care personnel ” means health care providers and health workers; | |
| “ health care provider ” means a person providing health services in terms of any law, including in terms of the— | 45 |
| (a) Allied Health Professions Act, 1982 (Act No. 63 of 1982); | |
| (b) Health Professions Act, 1974 (Act No. 56 of 1974); | |
| (c) Nursing Act, 1978 (Act No. 50 of 1978); | |
| (d) Pharmacy Act, 1974 (Act No. 53 of 1974); and | |
| (e) Dental Technicians Act, 1979 (Act No. 19 of 1979); | 50 |

KGAOLO 12

DITLAMELO TSA KAKARETSO

91. Tona a ka thapa dikomiti
 92. Go rebolwa ga ditiro le go rolela dithata
 93. Go phimolwa ga melao le dipoloko 5
 94. Setlhogo se se khutshwane le tshimologo

ŠEJULE

Ditlhaloso

1. Mo Molaong ono, ntle le fa bokao bo kaya ka mokgwa mongwe—
- “**setheo se se dumeletsweng**” se kaya setheo sengwe le sengwe se se rebotsweng 10
 jaaka setheo se se dumeletsweng go ya ka karolo ya 54;
- “**setlhagiswa sa madi**” se kaya setlhagiswa se se tserweng gongwe se tlhagisitswe
 ka madi, go akarediwa disele tse di dikologang tsa tshimologo (circulating
 progenitor cells), disele tsa tshimologo tsa mooko le disele tsa tshimologo tsa 15
 kalana ya mohubu;
- “**sepetele sa bogareng**” se kaya sepetele se se rebotsweng ke Tona go tlamela
 ditirelo tsa boitekanelo go badirisi go tswa kwa diporofenseng tse di fetang
 bongwe;
- “**setifikeiti sa tlhokego**” se kaya setifikeiti se se kabakanngwang mo karolong ya 20
 36;
- “**bolwetse jo bo tshelanwang**” bo kaya bolwetse jo bo bakilweng ke tshwaetso ka
 ntsha ya megare gongwe bothole jo bo bakilweng ke tshwaetso, go latela phetiso
 ka tlhamalalo gongwe e seng ka tlhamalalo ya dire go tswa go motswedi go ya go
 moamogedi;
- “**Molaotheo**” o kaya Molaotheo wa Rephaboliki ya Aforika Borwa wa ngwaga wa 25
 1996 (Molao wa bo108 wa ngwaga wa 1996);
- “**loso**” le kaya loso la boboko;
- “**Mokaedi-Kakaretso**” o kaya tlhogo ya lefapha la bosetšhaba;
- “**khansele ya kgaolo ya boitekanelo**” e kaya khansele e e tlhamilweng go ya ka 30
 karolo ya 31;
- “**ditirelo tsa bothokwa tsa boitekanelo**” di kaya ditirelo tsa boitekanelo tse di
 rebotsweng ke Tona go nna ditirelo tsa bothokwa tsa boitekanelo morago ga go
 batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo;
- “**emborio**” e kaya lesea mo dibekeng tsa ntsha di le robedi morago ga go dirwa 35
 “**Foramo ya Khansele ya Molao ya Baporofesenele ba Boitekanelo**” e kaya
 Foramo e e tlhamilweng ka karolo ya 50;
- “**kamete**” e kaya nngwe fela ya disele tsa tsadiso di le pedi tse di bothokwa mo go
 atiseng batho;
- “**konate**” e kaya kgetsana (testis) ya motho gongwe popelo ya motho
- “**Moemedi wa boitekanelo**” o kaya motho mongwe le mongwe ntle fela le setheo 40
 sa boitekanelo—
- (a) yo kgwebo ya gagwe e akaretsang go tlamela badirisi gongwe ditheo tsa
 boitekanelo ka badiri ba tlhokomelo ya boitekanelo
- (b) yo o thapang badiri ba tlhokomelo ya boitekanelo gore ba tlamele ka ditirelo 45
 tsa boitekanelo; gongwe
- (c) yo o bonang badiri ba tlhokomelo ya boitekanelo gongwe ditirelo tsa
 boitekanelo mo boemong jwa modirisi, mme seno se akaretsa tirelo ya go
 thapa nakwana jaaka e tlhalosiwa mo Molaong wa Seemo sa Thapo wa
 ngwaga wa 1997 (Molao wa bo75 wa ngwaga wa 1997), go akarediwa le
 badiri ba boitekanelo gongwe batlamedi ba tlhokomelo ya boitekanelo; 50
- “**badiri ba tlhokomelo ya boitekanelo**” ba kaya batlamedi ba tlhokomelo ya
 boitekanelo le badiri ba boitekanelo;
- “**motlamedi wa tlhokomelo ya boitekanelo**” o kaya motho yo o tlamelang ka
 ditirelo tsa boitekanelo go ya ka molao ofe fela, go akarediwa go ya ka—
- (a) Molao wa Diporofesene tse di amanang le tsa Boitekanelo (Allied Health 55
 Professionals Act), wa ngwaga wa 1982 (Molao wa bo63 wa ngwaga wa
 1982;

- “**health district**” means a district contemplated in section 29;
- “**health establishment**” means the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services; 5
- “**health nuisance**” means a situation, or state of affairs, that endangers life or health or adversely affects the well-being of a person or community;
- “**health officer**” means any person appointed as a health officer under section 80 or designated as such in terms of that section; 10
- “**health research**” includes any research which contributes to knowledge of—
- (a) the biological, clinical, psychological or social processes in human beings;
 - (b) improved methods for the provision of health services;
 - (c) human pathology;
 - (d) the causes of disease; 15
 - (e) the effects of the environment on the human body;
 - (f) the development or new application of pharmaceuticals, medicines and related substances; and
 - (g) the development of new applications of health technology;
- “**health research ethics committee**” means any committee registered in terms of section 73; 20
- “**health services**” means—
- (a) health care services, including reproductive health care and emergency medical treatment, contemplated in section 27 of the Constitution;
 - (b) basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution; 25
 - (c) medical treatment contemplated in section 35(2)(e) of the Constitution; and
 - (d) municipal health services;
- “**health technology**” means machinery or equipment that is used in the provision of health services, but does not include medicine as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965); 30
- “**health worker**” means any person who is involved in the provision of health services to a user, but does not include a health care provider;
- “**hospital**” means a health establishment which is classified as a hospital by the Minister in terms of section 35; 35
- “**Inspectorate for Health Establishments**” means any inspectorate established in terms of section 77;
- “**military health establishment**” means a health establishment which is, in terms of the Constitution and the Defence Act, 2002 (Act No. 42 of 2002), the responsibility of and under the direct or indirect authority and control of the President, as Commander in Chief, and the Minister of Defence, and includes— 40
- (a) the Institutes for Aviation and Maritime Medicine;
 - (b) the Military Psychological Institute;
 - (c) military laboratory services; and
 - (d) military training and educational centres; 45
- “**Minister**” means the Cabinet member responsible for health;
- “**municipal council**” means a municipal council contemplated in section 157(1) of the Constitution;

- (b) Molao wa Diporofešene tsa Boitekanelo wa ngwaga wa 1974 (Molao wa bo56 wa ngwaga wa 1974);
- (c) Molao wa Booki wa ngwaga wa 1978 (Molao wa bo50 wa ngwaga wa 1978);
- (d) Molao wa Dikhemisi wa ngwaga wa 1974 (Molao wa bo53 wa ngwaga wa 1974); le 5
- (e) Molao wa Bategeniki ba Meno wa ngwaga wa 1979 (Molao wa bo19 wa ngwaga wa 1979);
- “**kgaolo ya boitekanelo**” e kaya kgaolo e e kabakanngwang mo karolong ya 29;
- “**setheo sa boitekanelo**” se kaya setheo sotlhe gongwe karolo ya setheo sa setšhaba gongwe sa poraefete, tlamelo, kago gongwe lefelo, se ka ne se dirisediwa go bona lotseno gongwe go se bone lotseno, fela se dirisediwa gongwe se diretswe go tlamela ka kalafi ya balwetse ba ba robalang gongwe ba ba sa robalang, go tlamela ka tsereganyo ya tlhatlhobo gongwe kalafi, ditirelo tsa booki, tsosoloso, tlhokomelo ya bofelo pele ga löso, thathamologelo, thibelo gongwe ditirelo tse dingwe fela tsa boitekanelo; 10 15
- “**dilo di sele mo boitekanelong**” di kaya seemo se se ka nnang kotsi mo botshelong gongwe mo boitekanelong gongwe se ka nna le diphelelo tse di bosula mo botshelong jwa motho gongwe baagi;
- “**motlhankedi wa boitekanelo**” o kaya motho mongwe le mongwe fela yo o thapilweng jaaka motlhankedi wa boitekanelo ka fa tlase ga karolo ya 80 gongwe a reboletse jalo go ya ka karolo eo; 20
- “**patlisiso ya boitekanelo**” e akaretsa patlisiso nngwe le nngwe fela e e tshwaelang mo kitsong ya—
- (a) dithulaganyo tsa baeoloji, tsa kalafi, tsa sesaekholoji le tsa loago mo bathong;
- (b) ditsela tse di botoka tsa tlamelo ya ditirelo tsa boitekanelo; 25
- (c) phatoloji ya batho
- (d) se se bakang malwetse;
- (e) ditlamorago tsa tikologo mo mmeleng wa motho
- (f) tlhabololo gongwe tiriso e ntšhwa ya dikhemisi, melemo le tse di tsamaelanang natso; le 30
- (g) tlhabololo ya tiriso e ntšhwa ya thekenoloji ya boitekanelo;
- “**komiti ya maitsholo ya patlisiso ya boitekanelo**” e kaya komiti e nngwe le e nngwe e e kwadisitsweng go ya ka karolo ya 73;
- “**ditirelo tsa boitekanelo**” di kaya—
- (a) ditirelo tsa boitekanelo, go akarediwa tlhokomelo ya boitekanelo ya tsadiso le kalafi ya tshoganyetso jaaka di kabakanngwa mo karolong ya 27 ya Molaotheo; 35
- (b) ditirelo tsa ntlha tsa kotlo le tsa tlhokomelo ya boitekanelo tse di kabakanngwang mo karolong ya 28(1)(c) ya Molaotheo;
- (c) kalafi ya bongaka e e kabakanngwang mo karolong ya 35(2) ya Molaotheo; le 40
- (d) ditirelo tsa boitekanelo tsa makgotlatoropo
- “**thekenoloji ya boitekanelo**” e kaya metšhini gongwe didiriswa tse di dirisiwang mo go tlameleng ka ditirelo tsa boitekanelo fela ga e akaretse melemo jaaka e tlhalosiwa mo karolong ya 1 ya Molao wa Taolo ya Melemo le Dire tse di tsamaelanang Nayo wa ngwaga wa 1965 (Molao wa bo101 wa ngwaga wa 1965); 45
- “**modiri wa boitekanelo**” o kaya motho mongwe le mongwe yo o nang le seabe mo go tlameleng ka ditirelo tsa boitekanelo go modirisi, fela ga go akarediwe motlamedi wa tlhokomelo ya boitekanelo;
- “**sepetlele**” se kaya setheo sa boitekanelo se se aroganngwang jaaka sepetlele ke Tona go ya ka karolo ya 35; 50
- “**Lephata la Botlhatlhobi jwa Ditheo tsa Boitekanelo**” le kaya lephata lengwe le lengwe la botlhatlhobi le le tlhamilweng go ya ka karolo ya 77;
- “**setheo sa boitekanelo sa sesole**” se kaya setheo sa boitekanelo se e leng gore, go ya ka Molaotheo le Molao wa Phemelo wa ngwaga wa 2002 (Molao wa bo42 wa ngwaga wa 2002), ke maikarabelo a, mme e bile se ka fa tlase ga bolaodi ka tlhamalalo le fa e ka ne e se ka tlhamalalo, le ka fa tlase ga taolo ya Moporesidente, jaaka Molaodi Mogolo, le Tona ya Phemelo, mme se akaretsa— 55
- (a) Ditheo tsa Melemo tsa Diphofo le Lewatle;
- (b) Setheo sa Saekholoji sa Sesole;
- (c) ditirelo tsa dilaboratori tsa sesole; le 60
- (d) ditikwatikwe tsa katiso le thuto tsa sesole;
- “**Tona**” e kaya tokololo ya Kabinete e e rweleng maikarabelo a boitekanelo;

- “**municipal health services**”, for the purposes of this Act, includes—
- (a) water quality monitoring;
 - (b) food control;
 - (c) waste management;
 - (d) health surveillance of premises; 5
 - (e) surveillance and prevention of communicable diseases, excluding immunisations;
 - (f) vector control;
 - (g) environmental pollution control;
 - (h) disposal of the dead; and 10
 - (i) chemical safety,
- but excludes port health, malaria control and control of hazardous substances;
- “**municipality**” means a municipality as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- “**national department**” means the national Department of Health; 15
- “**National Health Council**” means the Council established by section 22(1);
- “**national health policy**” means all policies relating to issues of national health as approved by the Minister;
- “**National Health Research Committee**” means the Committee established in terms of section 69(1); 20
- “**National Health Research Ethics Council**” means the Council established by section 72(1);
- “**national health system**” means the system within the Republic, whether within the public or private sector, in which the individual components are concerned with the financing, provision or delivery of health services; 25
- “**non-communicable disease**” means a disease or health condition that cannot be contracted from another person, an animal or directly from the environment;
- “**norm**” means a statistical normative rate of provision or measurable target outcome over a specified period of time;
- “**Office of Standards Compliance**” means the Office established in terms of section 78(1); 30
- “**oocyte**” means a developing human egg cell;
- “**organ**” means any part of the human body adapted by its structure to perform any particular vital function, including the eye and its accessories, but does not include skin and appendages, flesh, bone, bone marrow, body fluid, blood or a gamete; 35
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
- “**pollution**” means pollution as defined in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- “**premises**” means any building, structure or tent together with the land on which it is situated and the adjoining land used in connection with it and includes any land without any building, structure or tent and any vehicle, conveyance or ship; 40
- “**prescribed**” means prescribed by regulation made under section 90;
- “**primary health care services**” means such health services as may be prescribed by the Minister to be primary health care services; 45
- “**private health establishment**” means a health establishment that is not owned or controlled by an organ of state;
- “**provincial department**” means any provincial department responsible for health;

- “**khansese ya lekgotlatoropo**” e kaya khansese ya lekgotlatoropo e e kabakanngwang mo karolong ya 157(1) ya Molaotheo;
- “**ditirelo tsa boitekanelo tsa lekgotlatoropo**”, mo mabakeng a Molao ono, di akaretsa—
- (a) tlhokomelo ya boleng jwa metsi; 5
- (b) taolo ya dijo;
- (c) tsamaiso ya leswe/matlakala;
- (d) tshekatsheko ya boitekanelo jwa meago;
- (e) tshekatsheko le thibelo ya malwetse a a tshelanwang, go sa akarediwe go enta
- (f) taolo ya dirwala-malwetse; 10
- (g) taolo ya kgotlelego ya tikologo;
- (h) go tlosiwa ga baswi; le
- (i) pabalesego ya dikhemikhale, fela ga di akaretse boitekanelo jwa maemelakepe, taolo ya malaria le taolo ya dire tse di kotsi;
- “**lekgotlatoropo**” le kaya lekgotlatoropo jaaka le tlhalositswe mo karolong 1 ya 15 Pusedegae: Molao wa Dithulaganyo tsa Makgotlatoropo wa ngwaga wa 2000 (Molao wa bo32 wa ngwaga wa 2000);
- “**lefapha la bosetshaba**” le kaya Lefapha la bosetshaba la Boitekanelo;
- “**Khansese ya Bosetshaba ya Boitekanelo**” e kaya Khansese e e tlhamilweng ka karolo ya 22(1); 20
- “**pholesi ya bosetshaba ya boitekanelo**” e kaya dipholesi tsotlhe tse di malebana le dintlha tsa boitekanelo jwa bosetshaba jaaka di rebotswe ke Tona;
- “**Komiti ya Bosetshaba ya Patlisiso ya Boitekanelo**” e kaya Komiti e e tlhamilweng go ya ka karolo ya 69(1);
- “**Khansese ya Bosetshaba ya Maitsholo ya Patlisiso ya Boitekanelo**” e kaya 25 Khansese e e tlhamilweng ka karolo ya 72(1)
- “**thulaganyo ya bosetshaba ya boitekanelo**” e kaya thulaganyo e e mo Rephaboliking, e ka ne e le mo lephateng la setshaba gongwe la poraefete, e mo go yona dikarolo tse di farologaneng di nang le maikarabelo a go tlamela ka ditshelete, go tlamela gongwe go diragatsa ditirelo tsa boitekanelo; 30
- “**bolwetse jo bo sa tshelanwang**” bokaya bolwetse gongwe seemo sa boitekanelo se se ka sekeng sa tshwaetsa go tswa go motho yo mongwe, phologolo gongwe ka tlhamalalo go tswa mo tikologong;
- “**tekanyetso**” e kaya kelo ya dipalopalo e e lekanyeditsweng ya tlamelo le diphitlhelelo tse di lekanyetsegang tse di neng di beilwe mo pakeng e e rileng; 35
- “**Kantoro ya Go ikobelwa ga Seemo**” e kaya Kantoro e e tlhamilweng go ya ka karolo ya 78(1);
- “**oocyte**” e kaya sele e e golang ya lee la motho;
- “**serwe**” se kaya karolo e nngwe le e nngwe ya mmele wa motho e e amogetsweng ke sebopego sa ona go dira ditiro tse di rileng tsa botlhokwa, go akarediwa leitlho 40 le tse dingwe tsa lona, fela ga se akaretse letlalo le ditomaganyo, nama, lerapo, mooko, diedi tsa mmele, madi gongwe kamete;
- “**karolo ya mmuso**” e kaya karolo ya mmuso jaaka e tlhalositswe mo karolong ya 239 ya Molaotheo;
- “**kgotlelego**” e kaya kgotlelego jaaka e tlhalosiwa mo karolong ya 1 ya Molao wa 45 Bosetshaba wa Tsamaiso ya Tikologo wa ngwaga wa 1998, (Molao wa bo107 wa ngwaga wa 1998);
- “**meago**” e kaya kago nngwe le nngwe; popego gongwe tente mmogo le lefatshe le e tlhomilweng mo go lona gammogo le lefatshe le le golaganang le leo le le dirisediwang seo mme e akaretsa lefatshe lengwe le lengwe le fa le sena dikago 50 dipe, gongwe tente le sepalangwa sepe fela, thebolelo ya dipalangwa gongwe sekepe;
- “**rebotsweng**” e kaya go rebotswe ka molawana o o dirilweng ka fa tlase ga karolo ya 90;
- “**ditirelo tsa tlhokomelo ya ntlha ya boitekanelo**” di kaya ditirelo tsa boitekanelo tse di ka rebolwang ke Tona go nna ditirelo tsa ntlha tsa tlhokomelo ya boitekanelo; 55
- “**setheo sa poraefete sa boitekanelo**” se kaya setheo sa boitekanelo se e seng sa mmuso mme se sa laolwe ke karolo ya mmuso;
- “**lefapha la porofense**” le kaya lefapha lengwe le lengwe la porofense le le rweleng maikarabelo a boitekanelo; 60
- “**Khansese ya Porofense ya Boitekanelo**” e kaya Khansese e e tlhamilweng ka karolo ya 26(1);

- “**Provincial Health Council**” means a Council established by section 26(1);
- “**public health establishment**” means a health establishment that is owned or controlled by an organ of state;
- “**rehabilitation**” means a goal-orientated and time-limited process aimed at enabling impaired persons to reach an optimum mental, physical or social functional level; 5
- “**relevant member of the Executive Council**” means the member of the Executive Council of a province responsible for health;
- “**statutory health professional council**” means—
- (a) the Health Professions Council of South Africa established by section 2 of the Health Professions Act, 1974 (Act No. 56 of 1974); 10
- (b) the South African Nursing Council established by section 2 of the Nursing Act, 1978 (Act No. 50 of 1978);
- (c) the South African Pharmacy Council established by section 2 of the Pharmacy Act, 1974 (Act No. 53 of 1974); 15
- (d) the Allied Health Professions Council of South Africa established by section 2 of the Allied Health Professions Act, 1982 (Act No. 63 of 1982);
- (e) the South African Dental Technicians Council contemplated in section 2 of the Dental Technicians Act, 1979 (Act No. 19 of 1979); and
- (f) such other statutory health professional council as the Minister may prescribe; 20
- “**this Act**” includes any regulation made thereunder;
- “**tissue**” means human tissue, and includes flesh, bone, a gland, an organ, skin, bone marrow or body fluid, but excludes blood or a gamete;
- “**use**”, in relation to tissue, includes preserve or dissect;
- “**user**” means the person receiving treatment in a health establishment, including receiving blood or blood products, or using a health service, and if the person receiving treatment or using a health service is— 25
- (a) below the age contemplated in section 39(4) of the Child Care Act, 1983 (Act No. 74 of 1983), “user” includes the person’s parent or guardian or another person authorised by law to act on the firstmentioned person’s behalf; or 30
- (b) incapable of taking decisions, “user” includes the person’s spouse or partner or, in the absence of such spouse or partner, the person’s parent, grandparent, adult child or brother or sister, or another person authorised by law to act on the firstmentioned person’s behalf;
- “**zygote**” means the product of the union of a male and a female gamete. 35

CHAPTER 1

OBJECTS OF ACT, RESPONSIBILITY FOR HEALTH AND ELIGIBILITY FOR FREE HEALTH SERVICES

Objects of Act

2. The objects of this Act are to regulate national health and to provide uniformity in respect of health services across the nation by— 40

- (a) establishing a national health system which—
- (i) encompasses public and private providers of health services; and

- “setheo sa setšhaba sa boitekanelo” se kaya setheo sa boitekanelo se e leng sa karolo ya mmuso e bile se laolwa ke karolo ya mmuso;
- “tsosoloso” e kaya thulaganyo e e ikaegileng ka phitlhelelo mme e beetswe nako ka maikemisetso a go kgontsha motho yo o golafetseng go fithelela seemo se se lekaneng sa tlhaloganyo, go dira ga mmele gammogo le sa go kgona go nna karolo ya loago; 5
- “Mokhuduthamaga yo o maleba” o kaya tokololo ya Khansele ya Khuduthamaga ya porofense e e rweleng maikarabelo a boitekanelo;
- “Khansele ya semolao ya baporofešenale ba boitekanelo” e kaya—
- (a) Khansele ya Baporofešenale ba Boitekanelo ya Aforika Borwa e e tlhamilweng go ya ka karolo ya 2 ya Molao wa Diporofešene tsa Boitekanelo wa ngwaga wa 1974 (Molao wa bo56 wa ngwaga wa 1974); 10
- (b) Khansele ya Baoki ya Aforika Borwa e e tlhamilweng ka karolo ya 2 ya Molao wa Booki wa ngwaga wa 1978 (Molao wa bo50 wa ngwaga wa 1978);
- (c) Khansele ya Dikhemisi ya Aforika Borwa e e tlhamilweng ka karolo ya 2 ya Molao wa Dikhemisi wa ngwaga wa 1974 (Molao wa bo53 wa ngwaga wa 1974); 15
- (d) Khansele ya Diporofešene tse di amanang le tsa Boitekanelo ya Aforika Borwa e e tlhamilweng ka karolo ya 2 ya Molao wa Diporofešene tse di amanang le tsa Boitekanelo wa ngwaga wa 1982 (Molao wa bo63 wa ngwaga wa 1982); 20
- (e) Khansele ya Bategeniki ba Meno ya Aforika Borwa e e kabakanngwang mo karolong ya 2 ya Molao wa Bategeniki ba Meno wa ngwaga wa 1979 (Molao wa bo19 wa ngwaga wa 1979); le
- (f) khansele e nngwe e e jalo ya diporofešene tsa boitekanelo jaaka e ka rebolwa ke Tona; 25
- “Molao ono” o akaretsa molawana o mongwe le o mongwe fela o o dirilweng ka fa tlase fano;
- “thišu” e kaya thišu ya motho, mme e akaretsa nama, lerapo, kgeleswa, serwe, letlalo, mooko gongwe seedi sa mmele, fela ga e akaretse madi le kamete; 30
- “tiriso” malebana le thišu e akaretsa go bolokiwa gongwe go ara;
- “modirisi” o kaya motho yo o amogelang kalafi kwa setheong sa boitekanelo, go akarediwa go amogela madi gongwe ditlhagiswa tsa madi, gongwe yo o dirisang tirelo ya boitekanelo, mme fa motho yo o amogelang kalafi gongwe yo o dirisang tirelo ya boitekanelo a— 35
- (a) le bogolo jo kwa tlase ga dingwaga tse di kabakanngwang mo karolong ya 39(4) ya Molao wa Tlhokomelo ya Bana wa ngwaga wa 1983 (Molao wa bo74 wa ngwaga wa 1983), “modirisi” o akaretsa motsadi gongwe motlhokomedi wa motho gongwe motho yo mongwe fela yo o dumeletsweng ke molao go diragatsa mo boemong jwa motho yo o kailweng; gongwe 40
- (b) sena bokgoni jwa go tsaya ditshwetso, “modirisi” o akaretsa monna/mosadi gongwe molekane, gongwe, fa go sena monna/mosadi gongwe molekane, motsadi wa motho, ntate/mmemogolo, ngwana yo o godileng gongwe mogolole kgotsa kgaitse, gongwe motho yo mongwe fela yo o dumeletsweng ke molao go diragatsa mo boemong jwa motho yo o kailweng; 45
- “saekoute” (zygote) e kaya setlhagiswa sa kopano ya kamete e e tonanyana le e e tshagadi.

KGAOLO 1

MAIKEMISITSO A MOLAO, MAIKARABELO A BOITEKANELO LE GO NNA LE DITSHIAMELO TSA DITIRELO TSA MAHALA TSA BOITEKANELO 50

Maikemisetso a Molao

2. Maikemisetso a Molao ono ke go laola boitekanelo jwa bosetšhaba le go tlamela gore go nne le go tshwana mo ditirelong tsa boitekanelo go ralala setšhaba ka—

- (a) go tlhama thulaganyo ya bosetšhaba ya boitekanelo e e— 55
- (i) akaretsang batlamedi ba ditirelo tsa boitekanelo ba setšhaba le ba poraefete; le e e

- (ii) provides in an equitable manner the population of the Republic with the best possible health services that available resources can afford;
- (b) setting out the rights and duties of health care providers, health workers, health establishments and users; and
- (c) protecting, respecting, promoting and fulfilling the rights of— 5
 - (i) the people of South Africa to the progressive realisation of the constitutional right of access to health care services, including reproductive health care;
 - (ii) the people of South Africa to an environment that is not harmful to their health or well-being; 10
 - (iii) children to basic nutrition and basic health care services contemplated in section 28(1)(c) of the Constitution; and
 - (iv) vulnerable groups such as women, children, older persons and persons with disabilities.

Responsibility for health 15

3. (1) The Minister must, within the limits of available resources—
- (a) endeavour to protect, promote, improve and maintain the health of the population;
 - (b) promote the inclusion of health services in the socio-economic development plan of the Republic; 20
 - (c) determine the policies and measures necessary to protect, promote, improve and maintain the health and well-being of the population;
 - (d) ensure the provision of such essential health services, which must at least include primary health care services, to the population of the Republic as may be prescribed after consultation with the National Health Council; and 25
 - (e) equitably prioritise the health services that the State can provide.
- (2) The national department, every provincial department and every municipality must establish such health services as are required in terms of this Act, and all health establishments and health care providers in the public sector must equitably provide health services within the limits of available resources. 30

Eligibility for free health services in public health establishments

4. (1) The Minister, after consultation with the Minister of Finance, may prescribe conditions subject to which categories of persons are eligible for such free health services at public health establishments as may be prescribed.
- (2) In prescribing any condition contemplated in subsection (1), the Minister must have regard to— 35
- (a) the range of free health services currently available;
 - (b) the categories of persons already receiving free health services;
 - (c) the impact of any such condition on access to health services; and
 - (d) the needs of vulnerable groups such as women, children, older persons and persons with disabilities. 40
- (3) Subject to any condition prescribed by the Minister, the State and clinics and community health centres funded by the State must provide—
- (a) pregnant and lactating women and children below the age of six years, who are not members or beneficiaries of medical aid schemes, with free health services; 45
 - (b) all persons, except members of medical aid schemes and their dependants and persons receiving compensation for compensable occupational diseases, with free primary health care services; and

- (ii) tlamelang baagi ba Rephaboliki, ka tekatekano, ka ditirelo tse di gaisang tse di ka kgonagalang tsa boitekanelo tse di kgonang go fitlhelelwa ka ditlanelo tse di gona;
- (b) go tlhalosa ditshwanelo le maikarabelo a batlamedi ba tlhokomelo ya boitekanelo, badiri ba boitekanelo, ditheo tsa boitekanelo le badirisi; le 5
- (c) go sireletsa, go tlotla, go tswelletsa le go tsibogela ditshwanelo tsa—
 - (i) batho ba Aforika Borwa mo dikgatong tsa go fitlhelela tshwanelo ya molaotheo ya phitlhelelo ya ditirelo tsa tlhokomelo ya boitekanelo, go akarediwa le tlhokomelo ya boitekanelo jwa tsadiso;
 - (ii) batho ba Aforika Borwa go nna mo tikologong e e seng kotsi mo boitekanelong gongwe matshelelong a bona; 10
 - (iii) bana go nna le kotlo ya ntlha le ditirelo tsa ntlha tsa tlhokomelo ya boitekanelo tse di kabakanngwang mo karolong ya 28(1)(c) ya Molaotheo; le
 - (iv) ditlhopho tse di bokoa di tshwana le basadi, bana, bagodi le batho ba ba sa itekanelang mo mebeleng. 15

Maikarabelo a boitekanelo

3. (1) Tona o tshwanetse, ka ditlanelo tse di gona tse di lekanyeditsweng—
- (a) a leka go sireletsa, tswelletsa, tokafatsa le go tlhokomela boitekanelo jwa baagi; 20
 - (b) a tswelletsa go akarediwa ga ditirelo tsa boitekanelo mo leanong la tlhabololo ya ikonomi ya loago la Rephaboliki;
 - (c) a swetsa ka dipholesi le dikgato tse di tlhokagalang go sireletsa, tswelletsa, tokafatsa le go tlhokomela boitekanelo le botshelo jo bo edileng jwa setšhaba;
 - (d) a netefatsa gore go nna le tlanelo ya ditirelo tsa botlhokwa tsa boitekanelo, tse di tshwanetseng gore bonnye, di akaretse ditirelo tsa tlhokomelo ya ntlha ya boitekanelo go setšhaba sa Rephaboliki jaaka go tla rebolwa morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo; mme 25
 - (e) a beye ditirelo tsa boitekanelo tse Mmuso o ka tlamelang ka tsona go ya ka botlapele, mme a dira seno ka tekatekano. 30
- (2) Lefapha la bosetšhaba, lefapha le lengwe le le lengwe la porofense le lekgotatoropo le lengwe le le lengwe le tshwanetse go tlhoma ditirelo tsa boitekanelo tse di tlhokegang go ya ka Molao ono, mme ditheo tsotlhe tsa boitekanelo le batlamedi ba tlhokomelo ya boitekanelo mo lephateng la setšhaba ba tshwanetse go tlamela ka tekatekano, ditirelo tsa boitekanelo ka ditlanelo tse di gona tse di lekanyeditsweng. 35

Tshiamelo ya ditirelo tsa mahala tsa boitekanelo mo ditheong tsa setšhaba tsa boitekanelo

4. (1) Tona, morago ga go batla maikutlo a Tona ya Ditšhelete, a ka rebola seemo sa gore ke dikarolo dife tsa batho tse di nang le tshiamelo ya ditirelo tseo tsa mahala tsa boitekanelo kwa ditheong tsa setšhaba tsa boitekanelo jaaka di tla bo di rebotswe. 40
- (2) Fa a rebola seemo sepe fela se se kabakanngwang mo karolwaneng ya (1), Tona o tshwanetse go ela tlhoko—
- (a) seelo sa ditirelo tsa mahala tsa boitekanelo se se gona ga jaana;
 - (b) dikarolo tsa batho ba ba setseng ba amogela ditirelo tsa mahala tsa boitekanelo ga jaana; 45
 - (c) ditlamorago tsa seemo sepe fela sa go nna jalo mo phitlhelelong ya ditirelo tsa boitekanelo; le
 - (d) ditlhokego tsa ditlhopho tse di bokoa di tshwana le basadi, bana, bagodi le batho ba ba sa itekanelang mo mebeleng.
- (3) Go ntse go lebeletse seemo se se rebotsweng ke Tona, Mmuso le ditlaleniki le ditikwatikwe tsa boitekanelo tsa baagi tse di tlamelwang ke Mmuso ka matlole di tshwanetse go tlamela—
- (a) basadi ba baimana le ba ba amusang le bana ba ba bogolo jo bo ka fa tlase ga dingwaga di le thataro, ba e seng ditokololo gongwe baamogeladitshiamelo tsa dikema tsa thuso ya kalafi, ka ditirelo tsa mahala tsa boitekanelo; 50
 - (b) batho botlhe, ntle le ditokololo tsa dikema tsa thuso ya kalafi le baikaege ka bona le batho ba ba amogelang tuelo ya malwetse a a duclwang a mo tirong, ka ditirelo tsa tlhokomelo ya ntlha ya boitekanelo; le 55

- (c) women, subject to the Choice on Termination of Pregnancy Act, 1996 (Act No. 92 of 1996), free termination of pregnancy services.

CHAPTER 2

RIGHTS AND DUTIES OF USERS AND HEALTH CARE PERSONNEL

Emergency treatment 5

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

User to have full knowledge

6. (1) Every health care provider must inform a user of—
- (a) the user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user; 10
 - (b) the range of diagnostic procedures and treatment options generally available to the user;
 - (c) the benefits, risks, costs and consequences generally associated with each option; and 15
 - (d) the user's right to refuse health services and explain the implications, risks, obligations of such refusal.
- (2) The health care provider concerned must, where possible, inform the user as contemplated in subsection (1) in a language that the user understands and in a manner which takes into account the user's level of literacy. 20

Consent of user

7. (1) Subject to section 8, a health service may not be provided to a user without the user's informed consent, unless—
- (a) the user is unable to give informed consent and such consent is given by a person— 25
 - (i) mandated by the user in writing to grant consent on his or her behalf; or
 - (ii) authorised to give such consent in terms of any law or court order;
 - (b) the user is unable to give informed consent and no person is mandated or authorised to give such consent, and the consent is given by the spouse or partner of the user or, in the absence of such spouse or partner, a parent, grandparent, an adult child or a brother or a sister of the user, in the specific order as listed; 30
 - (c) the provision of a health service without informed consent is authorised in terms of any law or a court order; 35
 - (d) failure to treat the user, or group of people which includes the user, will result in a serious risk to public health; or
 - (e) any delay in the provision of the health service to the user might result in his or her death or irreversible damage to his or her health and the user has not expressly, impliedly or by conduct refused that service. 40
- (2) A health care provider must take all reasonable steps to obtain the user's informed consent.

- (c) basadi, go lebeletswe Molao wa Tlhopho ya go Senya Mpa wa ngwaga wa 1996 (Molao wa bo92 wa ngwaga wa 1996), ka ditirelo tsa mahala tsa go senya mpa.

KGAOLO 2

DITSHWANELO LE MAIKARABELO A BADIRISI LE BADIRI BA TLHOKOMELO YA BOITEKANELO 5

Kalafi ya tshoganyetso

5. Motlamedi wa tlhokomelo ya boitekanelo, modiri wa boitekanelo gongwe setheo sa boitekanelo ga se a tshwanela go ganela motho ka kalafi ya bongaka ya tshoganyetso.

Modirisi o tshwanetse go nna le kitso ka botlalo 10

6. (1) Motlamedi mongwe le mongwe wa tlhokomelo ya boitekanelo o tshwanetse go itsese modirisi ka—

- (a) seemo sa modirisi sa boitekanelo, ntle le fela mo maemong a e leng gore go na le bosupi jo bo lekaneng jwa gore go senolwa ga seemo sa modirisi sa boitekanelo go tla bo go se mo dikgatlhegong tsa modirisi; 15
- (b) dithulaganyo tse di gona tsa go leka go lemoga bolwetse gammogo le ditlhopho tsa kalafi ka kakaretso tse modirisi a ka di fitlhelelang;
- (c) mesola, dikotsi, ditshenyegelo le ditlamorago ka kakaretso tse di amanang le tlhopho nngwe le nngwe; le
- (d) tshwanelo ya modirisi ya go gana ditirelo tsa boitekanelo le go tshalosa bokao, dikotsi le maikarabelo a go gana goo. 20

(2) Motlamedi wa boitekanelo yo o amegang o tshwanetse gore, fa go kgonagala, a itsese modirisi jaaka go kabakanngwa mo karolwaneng ya (1), ka puo e modirisi a e tlhaloganyang le ka tsela e e elang tlhoko seelo sa modirisi sa thutego.

Tumelelo ya modirisi 25

7. (1) Go lebeletswe karolo ya 8, ga go a tshwanela gore modirisi a tlamelwe ka tirelo ya boitekanelo ntle le tumelelo ya modirisi ka kitso, ntle le fa—

- (a) modirisi a sa kgone go ntsha tumelelo ka kitso mme tumelelo ya go nna jalo e ntshiwa ke motho—
 - (i) yo o letlilweng ke modirisi ka go kwala go rebola tumelelo mo boemong jwa gagwe; gongwe 30
 - (ii) yo o dumeletsweng go ntsha tumelelo eo go ya ka molao mongwe fela gongwe taelo ya kgotlatshekelo;
- (b) modirisi ga a kgone go ntsha tumelelo ka kitso mme ga gona motho ope yo o letlilweng gongwe a dumeletsweng go ntsha tumelelo ya go nna jalo, mme tumelelo e ntshiwa ke mosadi/monna gongwe molekane wa modirisi, gongwe fa go sena mosadi/monna yoo gongwe molekane, motsadi, mmemogolo/ remogolo, ngwana yo o godileng gongwe mogolole gongwe kgaitsemi wa modirisi, ka tatelano eno jaaka e tlhagelela mo lenaaneng; 35
- (c) go tlamelwa ga tirelo ya boitekanelo ntle le tumelelo ka kitso, go dumelelwa go ya ka molao mongwe fela gongwe taelo ya kgotlatshekelo; 40
- (d) go retelelwa ke go alafa modirisi, gongwe setlhopho sa batho se se akaretsang modirisi, go tla nna le ditlamorago tse di masisi mo boitekanelong jwa setšhaba, gongwe
- (e) tiego epe fela mo go tlameleng modirisi ka tirelo ya boitekanelo e ka feleletsa e lebisitse kwa goreng a tlhokafale gongwe ya baka tshenyo e e ka sekeng ya tlhola e baakanngwa mo boitekanelong jwa gagwe mme modirisi a sa gana tirelo eo e ka nna ka go tshalosa, gongwe ka bokao gongwe ka mokgwa mongwe fela. 45

(2) Motlamedi wa tlhokomelo ya boitekanelo o tshwanetse go tsaya dikgato tsotlhe tse di kgonagalang tsa go bona tumelelo ka kitso go tswa go modirisi. 50

(3) For the purposes of this section “informed consent” means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed as contemplated in section 6.

Participation in decisions

8. (1) A user has the right to participate in any decision affecting his or her personal health and treatment. 5

(2) (a) If the informed consent required by section 7 is given by a person other than the user, such person must, if possible, consult the user before giving the required consent.

(b) A user who is capable of understanding must be informed as contemplated in section 6 even if he or she lacks the legal capacity to give the informed consent required by section 7. 10

(3) If a user is unable to participate in a decision affecting his or her personal health and treatment, he or she must be informed as contemplated in section 6 after the provision of the health service in question unless the disclosure of such information would be contrary to the user’s best interest. 15

Health service without consent

9. (1) Subject to any applicable law, where a user is admitted to a health establishment without his or her consent, the health establishment must notify the head of the provincial department in the province in which that health establishment is situated within 48 hours after the user was admitted of the user’s admission and must submit such other information as may be prescribed. 20

(2) If the 48-hour-period contemplated in subsection (1) expires on a Saturday, Sunday or public holiday, the health establishment must notify the head of the provincial department of the user’s admission and must submit the other information contemplated in subsection (1) at any time before noon of the next day that is not a Saturday, Sunday or public holiday. 25

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

Discharge reports 30

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

(2) In prescribing the information contemplated in subsection (1), the Minister must have regard to— 35

(a) the nature of the health service rendered;

(b) the prognosis for the user; and

(c) the need for follow-up treatment.

(3) A discharge report provided to a user may be verbal in the case of an outpatient, but must be in writing in the case of an inpatient. 40

Health services for experimental or research purposes

11. (1) Before a health establishment provides a health service for experimental or research purposes to any user and subject to subsection (2), the health establishment must inform the user in the prescribed manner that the health service is for experimental or research purposes or part of an experimental or research project. 45

(2) A health establishment may not provide any health service to a user for a purpose contemplated in subsection (1) unless the user, the health care provider primarily responsible for the user’s treatment, the head of the health establishment in question and the relevant health research ethics committee, or any other person to whom that

(3) Mo mabakeng a karolo eno "tumelelo ka kitso" e kaya tumelelo ya go tlamelwa ka tirelo e e rileng ya boitekanelo e e tlamelwang ke motho yo o nang le bokgoni jwa semolao jwa go dira jalo mme a boleletswe jaaka go kabakanngwa mo karolong ya 6.

Go nna le seabe mo ditshwetsong

8. (1) Modirisi o na le tshwanelo ya go nna le seabe mo tshwetsong nngwe le nngwe e e amang boitekanelo le kalafi ya gagwe ka sebele. 5

(2) (a) Fa tumelelo ka kitso e e tlhokegang mo karolong ya 7 e ntshiwa ke motho yo mongwe ntle le modirisi, motho yoo, fa go kgonega, o tshwanetse go batla maikutlo a modirisi pele ga a ka ntsha tumelelo e e tlhokegang.

(b) Modirisi yo o ka kgonang go tlhologanya o tshwanetse go bolelelwa jaaka go kabakanngwa mo karolong ya 6, le fa a sena bokgoni jwa semmuso jwa go ntsha tumelelo ka kitso jaaka go tlhokega mo karolong ya 7. 10

(3) Fa modirisi a sa kgone go nna le seabe tshwetsong e e amang boitekanelo gongwe kalafi ya gagwe ka sebele, o tshwanetse go bolelelwa jaaka go kabakanngwa mo karolong ya 6, morago ga go sena go tlamelwa ka tirelo e e kaiwang ya boitekanelo, ntle le fa e le gore go senolwa ga tshedimosetso eo go tla bo go se mo dikgatlhegong tsa modirisi. 15

Tirelo ya boitekanelo ntle le tumelelo

9. (1) Go lebeletswe molao mongwe le mongwe o o maleba, mo mabakeng a modirisi a amogetsweng mo setheong sa boitekanelo ntle le tumelelo ya gagwe, setheo sa boitekanelo se tshwanetse go itsese tlhogo ya lefapha la porofense mo porofenseng e setheo sa boitekanelo se leng kwa go yona, mo sebakeng sa diura di le 48 morago ga modirisi a sena go amogelwa mme se tshwanetse go tlhagisa tshesimosetso e nngwe jaaka go tla bo go rebotswe. 20

(2) Fa paka ya diura di le 48 e e kabakanngwang mo karolwaneng ya (1) e khutla ka Lamatlhatso, Sontaga gongwe letsatsi la boikhutso la setšhaba, setheo sa boitekanelo se tshwanetse go itsese tlhogo ya lefapha la boitekanelo ka go amogelwa ga modirisi mme se tshwanetse go tlhagisa tshedimosetso e nngwe fela e e kabakanngwang mo karolwaneng ya (1) nako nngwe le nngwe fela pele ga sethoboloko sa letsatsi le le latelang le e seng Lamatlhatso, Sontaga gongwe letsatsi la boikhutso la setšhaba. 25

(3) Karolwana ya (1) ga e dire fa modirisi a ka rebola tumelelo ya go tlamelwa ka tirelo nngwe le nngwe fela ya boitekanelo kwa setheong sa boitekanelo mo sebakeng sa diura di le 24 morago ga go amogelwa. 30

Dipegelo tsa kgololo

10. (1) Motlamedi wa tlhokomelo ya boitekanelo o tshwanetse go tlamela modirisi ka pegelo ya kgololo ka nako ya go gololwa ga modirisi go tswa kwa setheong sa boitekanelo, e e nang le tshedimosetso go ya jaaka go tla bo go rebotswe. 35

(2) Fa a rebola tshedimosetso e e kabakanngwang mo karolwaneng ya (1), Tona o tshwanetse go ela tlhoko—

(a) mofuta wa tirelo ya boitekanelo e go tlametsweng ka yona; 40

(b) ponelopele ya tswelolelo ya bolwetse jwa modirisi; le

(c) botlhokwa jwa kalafi ya tatediso.

(3) Pegelo ya kgololo e e newang modirisi e ka dirwa ka molomo fa e le molwetse yo o sa robadiwang, fela e tshwanetse go kwalwa fa e le molwetse yo o neng a robaditswe.

Ditirelo tsa boitekanelo tsa mabaka a tekeletso gongwe patlisiso

11. (1) Pele ga setheo sa boitekanelo se ka tlamela tirelo ya boitekanelo ya mabaka a tekeletso gongwe patlisiso go modirisi ope fela mme go lebeletswe karolwana (2), setheo sa boitekanelo se tshwanetse go itsese modirisi ka tsela e e rebotsweng gore tirelo ya boitekanelo ke ya mabaka a tekeletso gongwe a patlisiso gongwe ke karolo ya porojeke ya tekeletso gongwe patlisiso. 50

(2) Setheo sa boitekanelo ga se a tshwanela go tlamela tirelo epe fela ya boitekanelo go modirisi e le ya mabaka a a kabakanngwang mo karolwaneng ya (1) ntle le fa modirisi, motlamedi wa tlhokomelo ya boitekanelo yo o rweleng maikarabelo a kalafi ya modirisi, tlhogo ya setheo sa boitekanelo se se kaiwang le komiti e e maleba ya maitsholo a dipatlisiso tsa boitekanelo, gongwe motho mongwe fela yo o roletsweng tumelelo eo, 55

authority has been delegated, has given prior written authorisation for the provision of the health service in question.

Duty to disseminate information

12. The national department and every provincial department, district health council and municipality must ensure that appropriate, adequate and comprehensive information is disseminated on the health services for which they are responsible, which must include— 5

- (a) the types and availability of health services;
- (b) the organisation of health services;
- (c) operating schedules and timetables of visits; 10
- (d) procedures for access to the health services;
- (e) other aspects of health services which may be of use to the public;
- (f) procedures for laying complaints; and
- (g) the rights and duties of users and health care providers.

Obligation to keep record 15

13. Subject to National Archives of South Africa Act, 1996 (Act No. 43 of 1996), and the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the person in charge of a health establishment must ensure that a health record containing such information as may be prescribed is created and maintained at that health establishment for every user of health services. 20

Confidentiality

14. (1) All information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment, is confidential.

(2) Subject to section 15, no person may disclose any information contemplated in subsection (1) unless— 25

- (a) the user consents to that disclosure in writing;
- (b) a court order or any law requires that disclosure; or
- (c) non-disclosure of the information represents a serious threat to public health.

Access to health records

15. (1) A health worker or any health care provider that has access to the health records of a user may disclose such personal information to any other person, health care provider or health establishment as is necessary for any legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interests of the user. 30

(2) For the purpose of this section, "personal information" means personal information as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000). 35

Access to health records by health care provider

16. (1) A health care provider may examine a user's health records for the purposes of— 40

- (a) treatment with the authorisation of the user; and

a rebotse tumelelo e e kwadilweng gore go tlamelwe ka tirelo e e kaiwang ya boitekanelo.

Maikarabelo a go phasalatsa tshedimisetso

12. Lefapha la bosetšhaba le lefapha le lengwe le le lengwe la porofense, khansele ya kgaolo ya boitekanelo le lekgotlatoropo, le tshwanetse go netefatsa gore go phasaladiwa tshedimisetso e e maleba, e e lekaneng le e e tlhologanyegang e e malebana le ditirelo tsa boitekanelo tse le nang le maikarabelo a tsona, mme tshedimisetso e tshwanetse go akaretsa—

- (a) mefuta le go nna teng ga ditirelo tsa boitekanelo;
- (b) thulaganyo ya ditirelo tsa boitekanelo;
- (c) dišejule tsa tiro le mananenako a diketelo;
- (d) ditsela tsa go fitlhelela ditirelo tsa boitekanelo;
- (e) dintlha tse dingwe tsa ditirelo tsa boitekanelo tse di ka nnang mosola mo setšhabeng;
- (f) ditsela tsa go tthagisa dingongorego; le
- (g) ditshwanelo le maikarabelo a badirisi le batlamedi ba tlhokomelo ya boitekanelo.

Maikarabelo a go tshola direkoto

13. Go lebeleletse Molao wa Bosetšhaba wa Diakhaefe wa Aforika Borwa wa ngwaga wa 1996 (Molao wa bo43 wa ngwaga wa 1996), le Molao wa Tsweletso ya Phitlhelelo ya Tshedimisetso wa ngwaga wa 2000 (Molao wa bo2 wa ngwaga wa 2000), motho yo o rweleng maikarabelo a setheo sa boitekanelo o tshwanetse go netefatsa gore go tlhamiwa le go tlhokomela direkoto tse di nang le tshedimisetso e e tla bong e rebotse tsa boitekanelo, tsa modirisi mongwe le mongwe wa ditirelo tsa boitekanelo, kwa setheong sa boitekanelo

Bosephiri

14. (1) Tshedimisetso yotlhe e e amanang le modirisi, go akarediwa le tshedimisetso e e malebana le seemo sa gagwe sa boitekanelo, kalafi gongwe go nna ga gagwe kwa setheong sa boitekanelo, ke sephiri.

(2) Go lebeleletse karolo ya 15, ga gona motho ope yo o tshwanetseng go senola tshedimisetso epe fela e e kabakanngwang mo karolwaneng ya (1) ntle le fa—

- (a) modirisi a dumelela go senolwa goo ka lekwalo;
- (b) taelo ya kgotlatshekelo gongwe molao mongwe fela o tlhoka gore go nne le tshenolo eo; gongwe
- (c) go tlhoka go senolwa ga tshedimisetso go na le kotsi e e masisi mo boitekanelong jwa setšhaba.

Phitlhelelo ya direkoto tsa boitekanelo

15. (1) Modiri wa boitekanelo gongwe motlamedi wa tlhokomelo ya boitekanelo yo o kgonang go fitlhelela direkoto tsa boitekanelo tsa modirisi a ka senola tshedimisetso eo ya motho ka sebele go motho yo mongwe fela, motlamedi wa tlhokomelo ya boitekanelo gongwe setheo sa boitekanelo jaaka go tla bo go tlhokega, mo mabakeng a a utwalang mo tironing ya ka gale gongwe go ya ka tiro ya gagwe fa e le gore phitlhelelo eo gongwe tshenolo e mo dikgatlhegelong tsa modirisi.

(2) Mo mabakeng a karolo eno, “tshedimisetso ya motho ka sebele” e kaya tshedimisetso ya motho jaaka e tlhalositswe mo karolong ya 1 ya Molao wa Tsweletso ya Phitlhelelo ya Tshedimisetso wa ngwaga wa 2000 (Molao wa bo2 wa ngwaga wa 2000).

Phitlhelelo ya direkoto ke motlamedi wa tlhokomelo ya boitekanelo

16. (1) Motlamedi wa tlhokomelo ya boitekanelo a ka tlhatlhoba direkoto tsa modirisi e le mo mabakeng a—

- (a) kalafi ka tetla ya modirisi; le

(b) study, teaching or research with the authorisation of the user, head of the health establishment concerned and the relevant health research ethics committee.

(2) If the study, teaching or research contemplated in subsection (1)(b) reflects or obtains no information as to the identity of the user concerned, it is not necessary to obtain the authorisations contemplated in that subsection. 5

Protection of health records

17. (1) The person in charge of a health establishment in possession of a user's health records must set up control measures to prevent unauthorised access to those records and to the storage facility in which, or system by which, records are kept. 10

(2) Any person who—

(a) fails to perform a duty imposed on them in terms of subsection (1);
 (b) falsifies any record by adding to or deleting or changing any information contained in that record;

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

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

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

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

(g) without authority, connects the personal identification elements of a user's record with any element of that record that concerns the user's condition, treatment or history; 20

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

(i) without authority, connects any part of a computer or other electronic system on which records are kept to— 25

(i) any other computer or other electronic system; or

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

(j) without authority, modifies or impairs the operation of— 30

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

(ii) any part of the programme used to record, store, retrieve or display information on a computer or other electronic system on which a user's records are kept, 35

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

Laying of complaints

18. (1) Any person may lay a complaint about the manner in which he or she was treated at a health establishment and have the complaint investigated. 40

(2) The relevant member of the Executive Council and every municipal council must establish a procedure for the laying of complaints within those areas of the national health system for which they are responsible.

(3) The procedures for laying complaints must—

(a) be displayed by all health establishments in a manner that is visible for any person entering the establishment and the procedure must be communicated to users on a regular basis; 45

(b) in the case of a private health establishment, allow for the laying of complaints with the head of the relevant establishment;

(b) thutopatlisiso, go ruta gongwe patlisiso ka tetla ya modirisi, tlhogo ya setheo sa boitekanelo se se maleba le komiti e e maleba ya maitsholo ya patlisiso ya boitekanelo.

(2) Fa thutopatlisiso, go ruta gongwe patlisiso e e kabakanngwang mo karolwaneng ya (1)(b) go sa tlhalose, gongwe go sena tshedimisetso e e ka kgonang go supa modirisi yo o amegang, ga go bothlokwa go bona tetla e e kabakanngwang mo karolwaneng eo. 5

Pabalelo ya direkoto tsa boitekanelo

17. (1) Motho yo o rweleng maikarabelo a setheo sa boitekanelo mme a tshotse direkoto tsa boitekanelo tsa modirisi o tshwanetse go tlhoma dikgato tsa taolo go thibela go fitlhelelwa ga direkoto tseo e seng ka fa molaong mo tlamelong ya poloko e go bolokwang direkoto mo go yona gongwe thulaganyo e go bolokwang direkoto ka yona. 10

(2) Motho mongwe le mongwe yo—

- (a) o retelelwang ke go diragatsa maikarabelo a a rweisiwang go ya ka karolwana ya (1);
- (b) o fosagatsang rekoto nngwe le nngwe ka go tlaleletsa gongwe go tlosa gongwe go fetola tshedimisetso epe fela e e mo rekotong eo; 15
- (c) o simololang, fetolang gongwe a senya rekoto ntle le tetla ya go dira jalo;
- (d) o retelelwang ke go simolola gongwe go fetola rekoto fa go tilhokega sentle gore a dire jalo;
- (e) o tlamelang ka tshedimisetso e e fosagetseng ka maikaelelo a gore e akarediwe mo rekotong; 20
- (f) ntle le tetla, a dirang khophi ya karolo nngwe fela ya rekoto;
- (g) ntle le tetla, a golaganyang dintlha tsa sebele tsa bosupa tsa rekoto ya modirisi le dintlha dingwe fela tsa rekoto eo tse di amanang le seemo sa modirisi, kalafi gongwe hisetori; 25
- (h) a fitlhelelang direkoto gongwe thulaganyo ya go tshola direkoto e seng ka fa molaong, go akarediwa go kgoreletsa tshedimisetso e e fetisiwang go tswa go motho mongwe, gongwe karolo ya thulaganyo ya go tshola direkoto, go ya go yo mongwe gongwe e nngwe;
- (i) ntle le tetla, a golaganya karolo nngwe fela ya khomphiutara gongwe thulaganyo e nngwe ya elektoroniki e direkoto di beilweng mo go yona go— 30
 - (i) khomphiutara e nngwe fela gongwe thulaganyo e nngwe ya elektoroniki gongwe
 - (ii) theminale e nngwe fela gongwe setlhongwa sengwe se se golagantsweng le, gongwe se e leng karolo ya khomphiutara e nngwe gongwe thulaganyo ya eleketoroniki; gongwe 35
- (j) ntle le tetla, a baakanya gongwe a tshwenyana le tiro ya—
 - (i) karolo nngwe fela ya thulaganyo e e dirang ya khomphiutara gongwe thulaganyo e nngwe ya elektoroniki e direkoto tsa modirisi di beilweng mo go yona; gongwe 40
 - (ii) karolo nngwe fela ya lenaneo le le dirisiwang go kwala direkoto, go boloka, go goga gongwe go bontsha tshedimisetso mo khomphiutareng gongwe thulaganyo e nngwe ya elektoroniki e direkoto tsa modirisi di bewang mo go yona, 45

o dira tlolomolao mme a ka atholwa ka go lefisiwa gongwe go tswalelwa kwa kgolegolong sebaka se se sa feteng ngwaga, gongwe a atholelwa go lefisiwa le go tswalelwa kwa kgolegolong mmogo.

Go tlhagisa dingongorego

18. (1) Motho yo mongwe le yo mongwe a ka tlhagisa ngongorego mabapi le ka moo a tshwerweng ka teng kwa setheong sa boitekanelo mme ngongorego eo ya batlisisiwa. 50

(2) Mokhuduthamaga yo o maleba le khansele e nngwe le e nngwe ya lekgotlatoropo ba tshwanetse go tlhama ditsela tsa go tlhagisiwa ga dingongorego mo mafelong a thulaganyo ya bosetshaba ya boitekanelo e ba rweleng maikarabelo a ona.

(3) Tsela ya go tlhagisa dingongorego e tshwanetse—

- (a) go bontshiwa ke ditheo tsotlhe tsa boitekanelo ka tsela e e leng gore e kgona go bonwa ke motho mongwe le mongwe yo o tsenang mo setheong mme badirisi ba tshwanetse go tlamelwa ka tshedimisetso ya seno gangwe le gape; 55
- (b) gore kwa ditheong tsa poraefete tsa boitekanelo, e nne le ka moo go ka tlhagisiwang dingongorego kwa tlhogong ya setheo se se maleba ka gona;

- (c) include provisions for the acceptance and acknowledgment of every complaint directed to a health establishment, whether or not it falls within the jurisdiction or authority of that establishment; and
 - (d) allow for the referral of any complaint that is not within the jurisdiction or authority of the health establishment to the appropriate body or authority. 5
- (4) In laying a complaint, the person contemplated in subsection (1) must follow the procedure established by the relevant member of the Executive Council or the relevant municipal council, as the case may be.

Duties of users

19. A user must— 10
- (a) adhere to the rules of the health establishment when receiving treatment or using health services at the health establishment;
 - (b) subject to section 14 provide the health care provider with accurate information pertaining to his or her health status and co-operate with health care providers when using health services; 15
 - (c) treat health care providers and health workers with dignity and respect; and
 - (d) sign a discharge certificate or release of liability if he or she refuses to accept recommended treatment.

Rights of health care personnel

20. (1) Health care personnel may not be unfairly discriminated against on account of their health status. 20
- (2) Despite subsection (1) but subject to any applicable law, the head of the health establishment concerned may in accordance with any guidelines determined by the Minister impose conditions on the service that may be rendered by a health care provider or health worker on the basis of his or her health status. 25
- (3) Subject to any applicable law, every health establishment must implement measures to minimise—
- (a) injury or damage to the person and property of health care personnel working at that establishment; and
 - (b) disease transmission. 30
- (4) A health care provider may refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her.

CHAPTER 3

NATIONAL HEALTH

General functions of national department 35

21. (1) The Director-General must—
- (a) ensure the implementation of national health policy in so far as it relates to the national department; and
 - (b) issue guidelines for the implementation of national health policy.
- (2) The Director-General must, in accordance with national health policy— 40
- (a) liaise with national health departments in other countries and with international agencies;
 - (b) issue, and promote adherence to, norms and standards on health matters, including— 45
 - (i) nutritional intervention;
 - (ii) environmental conditions that constitute a health hazard;
 - (iii) the use, donation and procurement of human tissue, blood, blood products and gametes;
 - (iv) sterilisation and termination of pregnancy;

- (c) akaretse ditlamelo tsa gore go amogelwe le go lemoga ngongorego nngwe le nngwe e e rometsweng kwa setheong sa boitekanelo, go sa tshwenye gore a e wela mo molelwaneng gongwe taolo ya setheo seo gongwe nnyaya; mme gape
- (d) e letle gore go nne le phetiso ya ngongorego e e seng mo molelwaneng gongwe taolong ya setheo sa boitekanelo go ya go bothati gongwe setheo se se maleba. 5
- (4) Fa a tthagisa ngongorego, motho yo o kabakanngwang mo karolwaneng ya (1) o tshwanetse go latela ditsela tse di beilweng ke Mokhuduthamaga yo o maleba gongwe khansele e e maleba ya lekgotlatoropo, go ya fela ka mabaka. 10

Maikarabelo a badirisi

19. Modirisi o tshwanetse—

- (a) go ikobela melawana ya setheo sa boitekanelo fa a amogela kalafi gongwe a dirisa ditirelo tsa boitekanelo kwa setheong sa boitekanelo;
- (b) go lebeleletse karolo ya 14, a tlamele motlamedi wa tlhokomelo ya boitekanelo ka tshedimosetso e e nepagetseng malebana le seemo sa gagwe sa boitekanelo mme a dirisane mmogo le batlamedi ba tlhokomelo ya boitekanelo fa a dirisa ditirelo tsa boitekanelo; 15
- (c) a bontshe batlamedi ba tlhokomelo ya boitekanelo le badiri ba boitekanelo seriti le tlotlo; mme 20
- (d) a saene setifikeiti sa kgololo gongwe kgololo ya maikarabelo fa a gana go amogela kalafi e e atlenegisiwang.

Ditshwanelo tsa badiri ba tlhokomelo ya boitekanelo

20. (1) Badiri ba tlhokomelo ya boitekanelo ga ba a tshwanela go kgethololwa ka ntlha ya seemo sa bona sa boitekanelo. 25
- (2) Karolwana ya (1) e sa tshwenye, fela go lebeleletse molao mongwe fela o o maleba, tlhogo ya setheo sa boitekanelo se se amegang, go ya ka kaedi nngwe fela e e rebotsweng ke Tona, a ka baya dipeelo mo ditirelong tse di ka tlamelwang ke motlamedi wa tlhokomelo ya boitekanelo gongwe modiri wa boitekanelo go ya ka seemo sa gagwe sa boitekanelo. 30
- (3) Go lebeleletse molao mongwe le mongwe fela o o maleba, setheo se sengwe le se sengwe sa boitekanelo se tshwanetse go tlhoma dikgato tsa go fokotsa—
- (a) kgobalo ya motho gongwe tshenyo ya thoto ya modiri wa tlhokomelo ya boitekanelo yo o dirang mo setheong seo; le
- (b) phetiso ya malwetse. 35
- (4) Motlamedi wa tlhokomelo ya boitekanelo a ka gana go alafa modirisi yo o lwang gongwe a tlahapatsa gongwe a mo tshwenya ka mabaka a thobalano.

KGAOLO 3

BOITEKANELO JWA SETŠHABA

Ditiro tsa kakaretso tsa lefapha la bosetšhaba 40

21. (1) Mokaedi Kakaretso o tshwanetse—
- (a) go netefatsa go diragadiwa ga pholesi ya bosetšhaba ya boitekanelo go ya jaaka e amana le lefapha la bosetšhaba; mme
- (b) a rebole kaedi ya tiragatso ya pholesi ya bosetšhaba ya boitekanelo.
- (2) Mokaedi Kakaretso o tshwanetse, go ya ka pholesi ya bosetšhaba ya boitekanelo— 45
- (a) go gokagana le mafapha a bosetšhaba a boitekanelo kwa dinageng tse dingwe gammogo le bathusi ba boditšhabatšhaba;
- (b) go rebola, le go tsewetsa go ikobela ga ditekanyetso le seemo mo mererong ya boitekanelo, go akarediwa— 50
- (i) tsereganyo ya kotlo
- (ii) seemo sa tikologo se se tsewang e le kotsi ya boitekanelo;
- (iii) tiriso, kabo le go bonwa ga dithišu tsa batho, madi, ditlhogiswa tsa madi le dikamete;
- (iv) go opafatsa le go senya mpa; 55

- (v) the provision of health services, including social, physical and mental health care;
 - (vi) health services for convicted persons and persons awaiting trial;
 - (vii) genetic services; and
 - (viii) any other matter that affects the health status of people in more than one province; 5
 - (c) promote adherence to norms and standards for the training of human resources for health;
 - (d) identify national health goals and priorities and monitor the progress of their implementation; 10
 - (e) co-ordinate health and medical services during national disasters;
 - (f) participate in intersectoral and interdepartmental collaboration;
 - (g) promote health and healthy lifestyles;
 - (h) promote community participation in the planning, provision and evaluation of health services; 15
 - (i) conduct and facilitate health systems research in the planning, evaluation and management of health services;
 - (j) facilitate the provision of indoor and outdoor environmental pollution control services;
 - (k) facilitate and promote the provision of health services for the management, prevention and control of communicable and non-communicable diseases; and 20
 - (l) co-ordinate health services rendered by the national department with the health services rendered by provinces and provide such additional health services as may be necessary to establish a comprehensive national health system. 25
- (3) (a) The Director-General must prepare strategic, medium term health and human resources plans annually for the exercise of the powers and the performance of the duties of the national department.
- (b) The national health plans referred to in paragraph (a) must form the basis of— 30
- (i) the annual budget as required by the national department responsible for finance and state expenditure; and
 - (ii) any other governmental planning exercise as may be required by any other law.
- (4) The national health plans must comply with national health policy. 35
- (5) The Director-General must integrate the health plans of the national department and provincial departments annually and submit the integrated health plans to the National Health Council.

Establishment and composition of National Health Council

22. (1) A council to be known as the National Health Council is hereby established. 40
- (2) The National Health Council consists of—
- (a) the Minister, or his or her nominee, who acts as chairperson;
 - (b) the Deputy Minister of Health, if there is one;
 - (c) the relevant members of the Executive Councils;
 - (d) one municipal councillor, representing organised local government and appointed by the national organisation contemplated in section 163(a) of the Constitution; 45
 - (e) the Director-General and the Deputy Directors-General of the national department;
 - (f) the head of each provincial department; 50
 - (g) one person employed and appointed by the national organisation contemplated in section 163(a) of the Constitution; and
 - (h) the head of the South African Military Health Service.

- (v) tlanelo ya ditirelo tsa boitekanelo, go akarediwa tlhokomelo ya boitekanelo jwa loago, mmele le tlhologanyo;
- (vi) ditirelo tsa boitekanelo go batho ba ba golegilweng le batho ba ba emetseng go sekisiwa;
- (vii) ditirelo tsa jenetiki; le 5
- (viii) morero o mongwe le o mongwe fela o o amang seemo sa boitekanelo sa batho ba ba mo diporofenseng tse di fetang bongwe;
- (c) go tswelletsa go ikobelwa ga ditekanyetso le seemo sa katiso ya badiri ba boitekanelo;
- (d) go supa maikemisetso a bosetšhaba a boitekanelo le dintlha tse di tlang pele gammogo le go tlhokomela tswelolepele ya tiragatso ya tsona; 10
- (e) go gokaganya ditirelo tsa boitekanelo le bongaka ka nako ya matlhotlhapelo a bosetšhaba;
- (f) go nna le seabe mo ditirisanommogong tsa maphata a a farologaneng gammogo le mafapha a a farologaneng; 15
- (g) go tswelletsa boitekanelo le mokgwatshelo o o rotloetsang boitekanelo;
- (h) go tswelletsa gore baagi ba nne le seabe mo togamaanong, tlamelong le tshekatshekong ya ditirelo tsa boitekanelo;
- (i) go dira le go gokaganya patlisiso ya thulaganyo ya boitekanelo mo togamaanong, tshekatshekong le tsamaisong ya ditirelo tsa boitekanelo; 20
- (j) go gokaganya tlanelo ya ditirelo tsa taolo ya kgotlelego ya tikologo ka fa gare ga meago le kwa ntle;
- (k) go gokaganya le go tswelletsa tlanelo ya ditirelo tsa boitekanelo gore go nne le tsamaiso, thibelo le taolo ya malwetse a a tshelanwang le a a sa tshelanweng; le 25
- (l) go gokaganya ditirelo tsa boitekanelo tse di tlamelwang ke lefapha la bosetšhaba le ditirelo tsa boitekanelo tse di tlamelwang ke diporofense mme a tlamele ka ditirelo tsa tlaleletso tsa boitekanelo jaaka go tla bo go tlhokega go tlhama thulaganyo e e akaretsang ya bosetšhaba ya boitekanelo.
- (3) (a) Mokaedi Kakaretso o tshwanetse go baakanya maano a togamaano a pakakhutshwe a boitekanelo le badiri ngwaga le ngwaga gore go diragadiwe dithata le gore lefapha la bosetšhaba le diragatse maikarabelo a lona.
- (b) Maano a bosetšhaba a boitekanelo a a kabakanngwang mo temeng ya (a) a tshwanetse go nna motheo wa—
- (i) tekanyetsokabo ya ngwaga le ngwaga jaaka e tlhokwa ke lefapha la bosetšhaba le le rweleng maikarabelo a ditšhelete le ditshenyegelogo tsa mmuso; le 35
- (ii) tiragatso nngwe le nngwe ya togamaano ya puso jaaka go tla bo go tlhokega go ya ka molao mongwe fela.
- (4) Maano a bosetšhaba a boitekanelo a tshwanetse go ikobela pholesi ya bosetšhaba ya boitekanelo. 40
- (5) Mokaedi Kakaretso o tshwanetse go kopanya maano a boitekanelo a lefapha la bosetšhaba le a mafapha a diporofense ngwaga le ngwaga mme a dire thagiso ya maano a a kopaneng a boitekanelo kwa Khanseleng ya Bosetšhaba ya Boitekanelo.

Go tlhamiwa le botokololo jwa Khansele ya Bosetšhaba ya Boitekanelo 45

22. (1) Ka go riana go tlhamiwa khansele e e tla itseweng jaaka Khansele ya Bosetšhaba ya Boitekanelo.

(2) Khansele ya Bosetšhaba ya Boitekanelo e dirwa ke—

- (a) Tona, gongwe yo a mo tlhophileng, yo o dirang jaaka monnasetilo; 50
- (b) Motlatsatona ya Boitekanelo, fa a le gona;
- (c) Bakhuduthamaga ba ba maleba;
- (d) mokhanselara a le mongwe wa lekgotlatoropo yo o emelang pusoselegae e e rulaganeng mme a thapilwe ke mokgatlho wa bosetšhaba o o kabakanngwang mo karolong ya 163(a) ya Molaotheo;
- (e) Mokaedi Kakaretso le Batlatsa-Mokaedi Kakaretso ba lefapha la bosetšhaba; 55
- (f) tlhogo ya lefapha la porofense nngwe le nngwe;
- (g) motho a le mongwe fela yo o thapilweng mme a tlhophilwe ke mokgatlho wa bosetšhaba o o kabakanngwang mo karolong ya 163(a) ya Molaotheo; le
- (h) tlhogo ya Tirelo ya Boitekanelo ya Sesole sa Aforika Borwa.

Functions of National Health Council

- 23.** (1) The National Health Council must advise the Minister on—
- (a) policy concerning any matter that will protect, promote, improve and maintain the health of the population, including—
 - (i) responsibilities for health by individuals and the public and private sector; 5
 - (ii) targets, priorities, norms and standards relating to the equitable provision and financing of health services;
 - (iii) efficient co-ordination of health services;
 - (iv) human resources planning, production, management and development; 10
 - (v) development, procurement and use of health technology;
 - (vi) equitable financial mechanisms for the funding of health services;
 - (vii) the design and implementation of programmes to provide for effective referral of users between health establishments or health care providers, or to enable integration of public and private health establishments; 15
 - (viii) financial and other assistance received from foreign governments and intergovernmental or nongovernmental organisations, the conditions applicable to receiving such assistance and the mechanisms to ensure compliance with these conditions;
 - (ix) epidemiological surveillance and monitoring of national and provincial trends with regard to major diseases and risk factors for disease; and 20
 - (x) obtaining, processing and use of statistical returns;
 - (b) proposed legislation pertaining to health matters prior to such legislation being introduced into Parliament or a provincial legislature;
 - (c) norms and standards for the establishment of health establishments; 25
 - (d) guidelines for the management of health districts;
 - (e) the implementation of national health policy;
 - (f) the national and provincial integrated health plans contemplated in section 21(5);
 - (g) an integrated national strategy for health research; and 30
 - (h) the performance of any other function determined by the Minister.
- (2) The National Health Council may determine the time frames, guidelines and the format for the preparation of national and provincial health plans.
- (3) The National Health Council must strive to reach its decisions by consensus but where a decision cannot be reached by consensus, the decision of the majority of the members of the National Health Council is the decision of the National Health Council. 35
- (4) The National Health Council may consult with or receive representations from any person, organisation, institution or authority.
- (5) The National Health Council may create one or more committees to advise it on any matter. 40
- (6) The National Health Council determines the procedures for its meetings.
- (7) A quorum for the National Health Council is at least half of the members plus one.
- (8) The Minister or his or her nominee contemplated in section 22(2)(a) must convene the first meeting of the National Health Council within 60 days of the commencement of this Act. 45

National Consultative Health Forum

- 24.** (1) The Minister must establish a body to be known as the National Consultative Health Forum.
- (2) The National Consultative Health Forum must promote and facilitate interaction, communication and the sharing of information on national health issues between 50

Ditiro tsa Khansele ya Bosetšhaba ya Boitekanelo

23. (1) Khansele ya Bosetšhaba ya Boitekanelo e tshwanetse go gakolola Tona ka—
- (a) pholesi e e amanang le morero mongwe le mongwe o o tla sireletsang, tsewetsang, tokafatsang le go tlhokomela boitekanelo jwa setšhaba, go akarediwa— 5
- (i) maikarabelo a boitekanelo a batho ka bobona le maphata a setšhaba le a poraefete;
- (ii) maikemisetso, ditlapele, ditekanyetso le seemo malebana le go tlamelwa ka ditirelo tsa boitekanelo le tlamelo ya ditšhelete ka tekatekano; 10
- (iii) kgokaganyo e e bokgoni ya ditirelo tsa boitekanelo;
- (iv) togamaano ya badiri, tlhagiso, tsamaiso le tlhabololo;
- (v) tlhabololo, theko le tiriso ya thekenoloji ya boitekanelo;
- (vi) ditsela tse di nang le tekatekano tsa ditšhelete go lebeletswe go tlamelwa ka matlole a ditirelo tsa boitekanelo;
- (vii) thulaganyo le tiragatso ya mananeo a gore go nne le tlamelo ya phetiso e e lolameng ya badirisi magareng ga ditheo tsa boitekanelo gongwe batlamedi ba tlhokomelo ya boitekanelo, gongwe go dira gore go nne le kopano magareng ga ditheo tsa boitekanelo tsa setšhaba le tsa poraefete; 15
- (viii) thuso ya ditšhelete le thuso e nngwe fela e e amogetsweng go tswa kwa dipusong tsa dinaga di sele le mekgatlho e e ralalang dipuso gongwe e e seng ya puso, seemo se se malebana le go amogela thuso ya go nna jalo gammogo le ditsela tsa go netefatsa gore go ikobelwa seemo seno; 20
- (ix) tshakatsheko ya leroborobo le tlhokomelo ya tlhagelelo ya bosetšhaba le ya porofense, go lebeletswe malwetse a magolo gammogo le dintlha tse di ka nnang supang kotsi ya malwetse; le 25
- (x) go bona, go tsewetsa le go dirisa dipoelo tsa dipalopalo;
- (b) molao o o tshitsintsweng malebana le merero ya boitekanelo pele ga molao oo o ka itsesewe kwa Palamenteng gongwe ke kokoanopeomolaong ya porofense;
- (c) ditekanyetso le seemo sa go tlhamiwa ga ditheo tsa boitekanelo; 30
- (d) kaedi ya tsamaiso ya dikgaolo tsa boitekanelo;
- (e) tiragatso ya pholesi ya bosetšhaba ya boitekanelo;
- (f) maano a a kopantsweng a bosetšhaba le a porofense a boitekanelo a a kabakanngwang mo karolong ya 21(5);
- (g) togamaano e e kopantsweng ya bosetšhaba ya patlisiso ya boitekanelo; le 35
- (h) tiragatso ya tiro e nngwe le e nngwe fela e e rebotsweng ke Tona.
- (2) Khansele ya Bosetšhaba ya Boitekanelo e ka swetsa ka nako, kaedi le thulaganyo ya paakanyo ya maano a bosetšhaba le a porofense a boitekanelo.
- (3) Khansele ya Bosetšhaba ya Boitekanelo e tshwanetse go leka go fitlhelela ditshwetso tsa yona ka tumelano, fela fa go sa kgonagaleng gore tshwetso e ka tsewa ka tumelano, tshwetso ya bontsi jwa ditokololo tsa Khansele ya Bosetšhaba ya Boitekanelo ke tshwetso ya Khansele ya Boitekanelo.
- (4) Khansele ya Bosetšhaba ya Boitekanelo e ka batla maikutlo gongwe ya amogela ditlhagiso go tswa go motho mongwe le mongwe, mekgatlho, setheo gongwe bothati.
- (5) Khansele ya Bosetšhaba ya Boitekanelo e ka tlhama komiti gongwe dikomiti tse dintsi go e gakolola ka morero mongwe le mongwe fela; 45
- (6) Khansele ya Bosetšhaba ya Boitekanelo e swetsa ka thulaganyo ya dikopano tsa yona.
- (7) Khoramo ya Khansele ya Bosetšhaba ya Boitekanelo ke bonnye, halofo ya ditokololo le motho a le mongwe. 50
- (8) Tona gongwe yo a tlhophilweng ke Tona jaaka go kabakanngwa mo karolong ya 22(2)(a), o tshwanetse go bitsa kopano ya ntlha ya Khansele ya Bosetšhaba ya Boitekanelo mo sebakeng sa malatsi a le 60 morago ga Molao ono o sena go simolola go dira.

Foramo ya Bosetšhaba ya Patlomaikutlo ya Boitekanelo

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24. (1) Tona o tshwanetse go tlhama bothati jo bo tla itseweng jaaka Foramo ya Bosetšhaba ya Patlomaikutlo.

(2) Foramo ya Bosetšhaba ya Patlomaikutlo ya Boitekanelo e tshwanetse go tsewetsa le go gokaganya tshusumetsano, tlhaeletsano le go amogana tshedimotsetso mo dintlheng tsa bosetšhaba tsa boitekanelo magareng ga baemedi ba lefapha la bosetšhaba, 60

representatives of the national department, national organisations identified by the Minister and provincial consultative bodies contemplated in section 28.

(3) (a) Subject to paragraphs (b) and (c), the Minister must determine the composition and the place, date and time of any meeting of the National Consultative Health Forum.

(b) The National Consultative Health Forum must include relevant stakeholders. 5

(c) The National Consultative Health Forum must meet at least once every 12 months.

CHAPTER 4

PROVINCIAL HEALTH

Provincial health services, and general functions of provincial departments

25. (1) The relevant member of the Executive Council must ensure the implementation of national health policy, norms and standards in his or her province. 10

(2) The head of a provincial department must, in accordance with national health policy and the relevant provincial health policy in respect of or within the relevant province—

- (a) provide specialised hospital services; 15
- (b) plan and manage the provincial health information system;
- (c) participate in interprovincial and intersectoral co-ordination and collaboration;
- (d) co-ordinate the funding and financial management of district health councils;
- (e) provide technical and logistical support to district health councils;
- (f) plan, co-ordinate and monitor health services and must evaluate the rendering of health services; 20
- (g) co-ordinate health and medical services during provincial disasters;
- (h) conduct or facilitate research on health and health services;
- (i) plan, manage and develop human resources for the rendering of health services; 25
- (j) plan the development of public and private hospitals, other health establishments and health agencies;
- (k) control and manage the cost and financing of public health establishments and public health agencies;
- (l) facilitate and promote the provision of port health services, comprehensive primary health services and community hospital services; 30
- (m) provide and co-ordinate emergency medical services and forensic pathology, forensic clinical medicines and related services, including the provision of medico-legal mortuaries and medico-legal services;
- (n) control the quality of all health services and facilities; 35
- (o) provide health services contemplated by specific provincial health service programmes;
- (p) provide and maintain equipment, vehicles and health care facilities in the public sector;
- (q) consult with communities regarding health matters; 40
- (r) provide occupational health services;
- (s) promote health and healthy lifestyles;
- (t) promote community participation in the planning, provision and evaluation of health services;
- (u) provide environmental pollution control services; 45
- (v) ensure health systems research; and

mekgatlho ya bosetšhaba e e supilweng ke Tona gammogo le bothati jwa porofense jwa patlomaikutlo jaaka bo kabakanngwa mo karolong ya 28.

(3) (a) Go lebeletse ditema (b) le (c), Tona o tla swetsa ka botokololo le lefelo, letlha le nako ya kopano nngwe le nngwe ya Foramo ya Bosetšhaba ya Patlomaikutlo ya Boitekanelo.

(b) Foramo ya Bosetšhaba ya Patlomaikutlo ya Boitekanelo e tshwanetse go akaretsa banni-le-seabe ba ba maleba.

(c) Foramo ya Bosetšhaba ya Patlomaikutlo ya Boitekanelo e tshwanetse go kopana bonnye, gangwe mo dikgweding dingwe le dingwe di le 12.

KGAOLO 4

BOITEKANELO JWA POROFENSE

Ditirelo tsa boitekanelo tsa porofense le ditiro ka kakaretso tsa mafapha a diporofense

25. (1) Mokhuduthamaga yo o maleba o tshwanetse go netefatsa gore go diragadiwa pholesi ya bosetšhaba ya boitekanelo, ditekanyetso le seemo kwa porofenseng ya gagwe.

(2) Tlhogo ya lefapha la porofense o tshwanetse gore, go ya ka pholesi ya bosetšhaba ya boitekanelo le pholesi e e maleba ya porofense ya boitekanelo e e mabapi le porofense e e maleba—

- (a) a tlamele ka ditirelo tse di kgethegileng tsa dipetlele; 20
- (b) a loge maano le go tsamaisa dithulaganyo tsa tshedimotsetso tsa porofense tsa boitekanelo;
- (c) a nne le seabe mo kgokaganong le tirisanommogong ya magareng ga diporofense le magareng ga maphata a a farologaneng;
- (d) a gokaganye tlamele ya matlole le tsamaiso ya ditšhelete tsa dikhansela tsa dikgaolo tsa boitekanelo; 25
- (e) a tlamele dikhansela tsa dikgaolo tsa boitekanelo ka tshegetso ya setegeniki le dilojisitiki;
- (f) a rulaganye, a gokaganye mme a tlhokomele ditirelo tsa boitekanelo mme o tshwanetse go sekaseka tlamele ya ditirelo tsa boitekanelo; 30
- (g) a gokaganye ditirelo tsa boitekanelo le tsa kalafi ka nako ya matlhotlhapelo a porofense;
- (h) a rulaganye, a gokaganye patlisiso ka ga boitekanelo le ditirelo tsa boitekanelo;
- (i) a rulaganye, a tsamaisa le go tlhabolola badiri gore ba tlamele ka ditirelo tsa boitekanelo; 35
- (j) a rulaganye tlhabolola ya dipetlele tsa setšhaba le tsa poraefete, ditheo tse dingwe tsa boitekanelo gammogo le baemedi ba boitekanelo;
- (k) a laole le go tsamaiso ditshenyegelo le go tlamelwa ka ditšhelete ga ditheo tsa boitekanelo le baemedi ba setšhaba ba boitekanelo; 40
- (l) a gokaganye le go tswetsa tlamele ya ditirelo tsa boitekanelo kwa maemelakepeng, ditirelo tse di akaretsang tsa ntlha tsa boitekanelo gammogo le ditirelo tsa dipetlele tsa baagi;
- (m) a tlamele le go gokaganya ditirelo tsa tshoganyetso tsa bongaka gammogo le phatoloji ya forensiki, melemo ya kalafi ya forensiki gammogo le ditirelo tse di amanang natso, go akarediwa le tlamele ya dimotshari tsa kalafi tsa molao gammogo le ditirelo tsa kalafi tsa molao; 45
- (n) a laole boleng jwa ditirelo le ditlamele tsoatlhe tsa boitekanelo;
- (o) a tlamele ka ditirelo tsa boitekanelo tse di kabakanngwang ke mananeo a a rileng a ditirelo tsa porofense tsa boitekanelo; 50
- (p) a tlamele le go tlhokomela didiriswa, dikoloi le ditlamele tsa tlhokomelo ya boitekanelo mo lephateng la setšhaba;
- (q) a batle maikutlo a baagi malebana le merero ya boitekanelo;
- (r) a tlamele ka ditirelo tsa boitekanelo mo tirong;
- (s) a tswetse boitekanelo le mokgwatshelo o o rotloetsang boitekanelo; 55
- (t) a tswetse gore baagi ba nne le seabe mo thulaganyong, tlamelong le tshakatshekong ya ditirelo tsa boitekanelo;
- (u) a tlamele ka ditirelo tsa taolo ya kgotlelego ya tikologo;
- (v) a netefatse gore go nna le patlisiso ya dithulaganyo tsa boitekanelo; mme

- (w) provide services for the management, prevention and control of communicable and non-communicable diseases.
- (3) The head of a provincial department must—
 - (a) prepare strategic, medium term health and human resources plans annually for the exercise of the powers of, the performance of the duties of and the provision of health services in the province by the provincial department; and 5
 - (b) submit such plans to the Director-General within the time frames and in accordance with the guidelines determined by the National Health Council.
- (4) Provincial health plans must conform with national health policy.

Establishment and composition of Provincial Health Council 10

26. (1) A council to be known as the Provincial Health Council is hereby established in each province.
- (2) Every Provincial Health Council consists of—
- (a) the relevant member of the Executive Council, or his or her nominee, who acts as chairperson; 15
 - (b) one Councillor from each of the metropolitan municipalities in the province if there are such municipalities in the province in question;
 - (c) one Councillor from each of the district municipalities in the province;
 - (d) the head of the provincial department;
 - (e) not more than three representatives involved in the management of local government; and 20
 - (f) such number of other persons as the relevant member of the Executive Council may consider appropriate.
- (3) The persons contemplated in subsection (2)(e) must be appointed by the national and relevant provincial organisation contemplated in section 163(a) of the Constitution. 25

Functions of Provincial Health Council

27. (1) A Provincial Health Council must advise the relevant member of the Executive Council on—
- (a) policy concerning any matter that will protect, promote, improve and maintain the health of the population within the province, including— 30
 - (i) responsibilities for health within the province by individuals and the public and private sector;
 - (ii) targets, priorities, norms and standards within the province relating to the equitable provision and financing of health services;
 - (iii) efficient co-ordination of health services within the province and between neighbouring provinces; 35
 - (iv) human resources planning, production, management and development;
 - (v) development, procurement and use of health technology within the province;
 - (vi) equitable financial mechanisms for the funding of health services within the province; 40
 - (vii) the design and implementation of programmes within the province to provide for effective referral of users between health establishments or health care providers or to enable integration of public and private health establishments; 45
 - (viii) financial and other assistance received by the province from foreign governments and intergovernmental or nongovernmental organisations, the conditions applicable to receiving such assistance and the mechanisms to ensure compliance with these conditions;
 - (ix) epidemiological surveillance and monitoring of provincial trends with regard to major diseases and risk factors for disease; and 50
 - (x) obtaining, processing and use of statistical returns;
 - (b) proposed legislation relating to health matters before it is introduced in the relevant provincial legislature;
 - (c) norms and standards for the establishment of health establishments; 55

- (w) a tlamele ka ditirelo tsa tsamaiso, thibelo le taolo ya malwetse a a tshelanwang le a a sa tshelanwang.
- (3) Tlhogo ya lefapha la boitekanelo e tshwanetse—
- (a) go baakanya maano a togamaano a pakakhutshwe a boitekanelo le badiri ngwaga le ngwaga gore go diragadiwe dithata le gore lefapha la porofense le tlamele ka ditirelo tsa boitekanelo; mme 5
- (b) a tthagise maano a go nna jalo go Mokaedi Kakaretso mo nakong e e beilweng le go ya ka kaedi e e rebotsweng ke Khansele ya Bosetšhaba ya Boitekanelo.
- (4) Maano a porofense a boitekanelo a tshwanetse go ikobela pholesi ya bosetšhaba ya porofense. 10

Go tlhamiwa le botokololo jwa Khansele ya Porofense ya Boitekanelo

26. (1) Ka go riana go tlhamiwa khansele e e tla itseweng jaaka Khansele ya Porofense ya Boitekanelo.
- (2) Khansele e nngwe le e nngwe ya Porofense ya Boitekanelo e dirwa ke —
- (a) mokhuduthamaga yo o maleba, gongwe motho yo o mo tlhophileng, yo o dirang jaaka monnasetilo; 15
- (b) mokhanselara a le mongwe fela go tswa kwa makgotlatoropong a magolo mo porofenseng fa go na le makgotlatoropo a go nna jalo mo porofenseng eo;
- (c) mokhanselara a le mongwe fela go tswa kwa lekgotlatoropong lengwe le lengwe la kgaolo mo porofenseng; 20
- (d) tlhogo ya lefapha la porofense;
- (e) baemedi ba ba sa feteng tharo ba ba nang le seabe mo tsamaisong ya pusoselegae; le
- (f) palo ya batho ba bangwe e Mokhuduthamaga yo o maleba a e bonang e siame.
- (3) Batho ba ba kabakanngwang mo karolwaneng ya (2)(e) ba tshwanetse go thapiwa ke mokgatlo oo maleba wa bosetšhaba le wa porofense o o kabakanngwang mo karolong ya 163(a) ya Molaotheo. 25

Ditiro tsa Khansele ya Porofense ya Boitekanelo.

27. (1) Khansele ya Porofense ya Boitekanelo e tshwanetse go gakolola Mokhuduthamaga yo o maleba ka— 30
- (a) pholesi e e amanang le morero mongwe le mongwe o o tla sireletsang, tswelatsang, tokafatsang le go tlhokomela boitekanelo jwa porofense, go akarediwa—
- (i) maikarabelo a boitekanelo a batho ka bobona le maphata a setšhaba le a poraefete; 35
- (ii) maikemisetso, ditlapele, ditekanyetso le seemo mo porofenseng malebana le go tlamelwa ka ditirelo tsa boitekanelo le tlamelo ya ditšhelete ka tekatekano;
- (iii) kgokaganyo e e bokgoni ya ditirelo tsa boitekanelo mo porofenseng le magareng ga diporofense tsa boagisanyi; 40
- (iv) togamaano ya badiri, tthagiso, tsamaiso le tlhabololo;
- (v) tlhabololo, theko le tiriso ya thekenoloji ya boitekanelo mo porofenseng;
- (vi) ditsela tse di nang le tekatekano tsa ditšhelete go lebeletsweng go tlamelwa ka matlole a ditirelo tsa boitekanelo mo porofenseng;
- (vii) thulaganyo le tiragatso ya mananeo a gore go nne le tlamelo ya phetiso e e lolameng ya badirisi magareng ga ditheo tsa boitekanelo gongwe batlamedi ba tlhokomelo ya boitekanelo, gongwe go dira gore go nne le kopano magareng ga ditheo tsa boitekanelo tsa setšhaba le tsa poraefete; 45
- (viii) thuso ya ditšhelete le thuso e nngwe fela e e amogetsweng ke porofense go tswa kwa dipusong tsa dinaga di sele le mekgatlo e e ralalang dipuso gongwe e e seng ya puso, seemo se se malebana le go amogela thuso ya go nna jalo gammogo le ditsela tsa go netefatsa gore go ikobelwa seemo seno; 50
- (ix) tshekatsheko ya leroborobo le tlhokomelo ya tlhagelelo mo porofenseng, go lebeletsweng malwetse a magolo gammogo le dintlha tse di ka supang kotsi ya malwetse; le 55
- (x) go bona, go tswelatsa le go dirisa dipoelo tsa dipalopalo;
- (b) molao o o tshitsintsweng malebana le merero ya boitekanelo pele ga molao oo o ka itsesewe kwa kokoanopeomolaong ya porofense;
- (c) ditekanyetso le seemo sa go tlhamiwa ga ditheo tsa boitekanelo; 60

- (d) guidelines for the management of health districts;
 - (e) the implementation of national and provincial health policy; and
 - (f) the performance of any other function determined by the relevant member of the Executive Council.
- (2) A Provincial Health Council may determine the time frames, guidelines and the format for the preparation of district health plans within its jurisdiction. 5
- (3) A Provincial Health Council may consult with or receive representations from any person, organisation, institution or authority.
- (4) A Provincial Health Council determines the procedures for its meetings.
- (5) The Provincial Health Council may create one or more committees to advise it on any matter. 10
- (6) A quorum of a Provincial Health Council is at least half of the members plus one.
- (7) The relevant member of the Executive Council or his or her nominee contemplated in section 26(2)(a) must convene the first meeting of the Provincial Health Council within 90 days of commencement of this Act. 15

Provincial consultative bodies

28. (1) The relevant member of the Executive Council must establish a consultative body for his or her province.
- (2) A provincial consultative body must promote and facilitate interaction, communication and the sharing of information on provincial health issues between representatives of the provincial department and provincial and municipal organisations identified by the relevant member of the Executive Council. 20
- (3) (a) Subject to paragraphs (b) and (c) the relevant member of the Executive Council must determine the composition and the place, date and time of any meeting of the provincial consultative body in his or her province. 25
- (b) A provincial consultative body must include relevant stakeholders.
- (c) A provincial consultative body must meet at least once every 12 months.

CHAPTER 5

DISTRICT HEALTH SYSTEM

Establishment of district health system 30

29. (1) A district health system is hereby established.
- (2) The system consists of various health districts, and the boundaries of health districts coincide with district and metropolitan municipal boundaries.

Division of health districts into subdistricts

30. (1) (a) The relevant member of the Executive Council may, with the concurrence of the member of the Executive Council responsible for local government in the province in question and subject to subsection (2), divide any health district in the province into subdistricts and may determine and change the boundaries of such subdistricts. 35
- (b) Where a health district falls within more than one province, the members of the Executive Council of all the relevant provinces must agree to any division, determination or change contemplated in paragraph (a). 40
- (c) Details of any division, determination or change must be published in the *Gazette*.
- (2) The members contemplated in subsection (1) must have due regard to the principles laid down in sections 27 and 195 of the Constitution and the criteria laid down in section 25 of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), particularly in so far as they relate to— 45

- (d) kaedi ya tsamaiso ya dikgaolo tsa boitekanelo;
- (e) tiragatso ya pholesi ya bosetšhaba le ya porofense ya boitekanelo;
- (f) tiragatso ya tiro e nngwe le e nngwe fela e e rebotsweng ke Mokhuduthamaga yo o maleba.

(2) Khansele ya Porofense ya Boitekanelo e ka swetsa ka nako, kaedi le thulaganyo ya paakanyo ya maano a dikgaolo tsa boitekanelo mo molelwaneng wa yona. 5

(3) Khansele ya Porofense ya Boitekanelo e ka batla maikutlo gongwe ya amogela ditlhagiso go tswa go motho mongwe le mongwe, mokgatlho, setheo gongwe bothati.

(4) Khansele ya Porofense ya Boitekanelo e swetsa ka thulaganyo ya dikopano tsa yona. 10

(5) Khansele ya Porofense ya Boitekanelo e ka tlhama komiti gongwe dikomiti tse dintsi go e gakolola ka morero mongwe le mongwe fela;

(6) Khoramo ya Khansele ya Porofense ya Boitekanelo ke bonnye, halofo ya ditokololo le motho a le mongwe.

(7) Mokhuduthamaga yo o maleba gongwe yo a tlhophilweng ke Mokhuduthamaga jaaka go kabakanngwa mo karolong ya 26(2)(a), o tshwanetse go bitsa kopano ya ntlha ya Khansele ya Porofense ya Boitekanelo mo sebakeng sa malatsi a le 90 morago ga Molao ono o sena go simolola go dira. 15

Maphata a porofense a patlomaikutlo

28. (1) Mokhuduthamaga yo o maleba o tshwanetse go tlhama lephata la patlomaikutlo la porofense ya gagwe. 20

(2) Lephata la porofense la patlomaikutlo le tshwanetse go tswetsa le go gokaganya tshusumetsano, tlhaeletsano le go amogana tshedimosetso mo dintlheng tsa boitekanelo mo porofenseng magareng ga baemedi ba lefapha la porofense le mekgatlho ya porofense le ya makgotlatoropo e e supilweng ke Mokhuduthamaga yo o maleba. 25

(3) (a) Go lebeletswe tema ya (b) le (c), Mokhuduthamaga yo o maleba o tshwanetse go swetsa ka botokololo le lefelo, letlha le nako ya kopano nngwe le nngwe ya lephata la porofense la patlomaikutlo mo porofenseng ya gagwe.

(b) Lephata la porofense la patlomaikutlo le tshwanetse go akaretsa banni-le-seabe ba ba maleba. 30

(c) Lephata la porofense la patlomaikutlo le tshwanetse go kopana bonnye gangwe mo dikgweding dingwe le dingwe di le 12.

KGAOLO 5

THULAGANYO YA DIKGAOLO YA BOITEKANELO

Go tlhamiwa ga thulaganyo ya dikgaolo ya boitekanelo 35

29. (1) Ka go riana go tlhamiwa thulaganyo ya dikgaolo ya boitekanelo.

(2) Thulaganyo e dirwa ke dikgaolo tse di farologaneng tsa boitekanelo mme melelwane ya dikgaolo tsa boitekanelo e tshwana le melelwane ya makgotlatoropo a kgaolo le a magolo.

Go kgaogangwa ga dikgaolo tsa boitekanelo go nna dikgaolopotlana 40

30. (1) (a) Mokhuduthamaga yo o maleba, ka tumelano le Mokhuduthamaga yo o rweleng maikarabelo a puso selegae mo porofenseng eo mme go lebeletswe karolwana ya (2), a ka aroganya dikgaolo tsa boitekanelo mo porofenseng ka dikgaolopotlana mme a ka swetsa le go fetola melelwane ya dikgaolopotlana tseo.

(b) Mo mabakeng a mo go ona kgaolo ya boitekanelo e welang mo diporofenseng di feta bongwe, bakhuduthamaga ba diporofense tse di maleba ba tshwanetse go dumelana ka karoganyo nngwe le nngwe, tshwetso gongwe phetogo e e kabakanngwang mo temeng ya (a). 45

(c) Dintlha tse di ka ga karoganyo nngwe le nngwe, tshwetso gongwe phetogo di tshwanetse go phasaladiwa mo *Kaseteng*. 50

(2) Bakhuduthamaga ba ba kabakanngwang mo karolwaneng ya (1) ba tshwanetse go tlotla dintlha tse di beilweng mo dikarolong tsa 27 le 195 tsa Molaotheo le ditlhokego tse di beilweng mo karolong ya 25 ya Pusoselegae: Molao wa Melelwane ya Makgotlatoropo wa ngwaga wa 1998 (Molao wa bo27 wa ngwaga wa 1998), bogolo segolo jaaka fa di amana le— 55

- (a) equity;
- (b) access to services;
- (c) quality;
- (d) overcoming fragmentation;
- (e) comprehensive services; 5
- (f) effectiveness;
- (g) efficiency;
- (h) local accountability;
- (i) community participation;
- (j) developmental and intersectoral approach; and 10
- (k) sustainability.

Establishment of district health councils

31. (1) The relevant member of the Executive Council, after consultation with the member of the Executive Council responsible for local government in the province in question and the municipal council of the relevant metropolitan or district municipality, 15 must establish a district health council for every health district in his or her province.

(2) (a) A district health council consists of—

- (i) a member of the metropolitan or district municipal council situated in the health district in question, nominated by the relevant council;
- (ii) a person appointed by the relevant member of the Executive Council to 20 represent him or her;
- (iii) a member of the council of each local municipality within the health district, nominated by the members of the relevant council; and
- (iv) not more than five other persons, appointed by the relevant member of the Executive Council after consultation with the municipal council of the 25 metropolitan or district municipality, as the case may be.

(b) The member contemplated in paragraph (a)(i) is the chairperson of the district health council.

(c) In the case of a cross-boundary district, the relevant members of the Executive Council may each appoint a member to represent them and the persons contemplated in paragraph (a)(iv) must be appointed by the relevant members of the Executive Council in consultation with each other. 30

(3) A district health council must—

- (a) promote co-operative governance;
- (b) ensure co-ordination of planning, budgeting, provisioning and monitoring of 35 all health services that affect residents of the health district for which the council was established; and
- (c) advise the relevant members of the Executive Council, through the Provincial Health Councils, and the municipal council of the relevant metropolitan or district municipality, on any matter regarding health or health services in the 40 health district for which the council was established.

(4) A district health council may create one or more committees to advise it on any matter.

(5) Provincial legislation must at least provide for—

- (a) the functioning of district health councils; 45
- (b) the approval, after consultation with the relevant district health council, by the relevant member of the Executive Council and the municipal council of the metropolitan or district municipality, as the case may be, of the detailed budget and performance targets for health services in the health district to which both the provincial and municipal spheres of government must 50 contribute; and
- (c) (i) deadlock-breaking mechanisms for cases where agreement between the relevant member of the Executive Council and the municipal council on the budget or performance targets contemplated in paragraph (b) cannot be reached within a period specified in the legislation; and 55
- (ii) corrective action to be taken if the agreement contemplated in subparagraph (i) is breached.

- (a) tekatekano;
- (b) phitlhelelo ya ditirelo;
- (c) boleng;
- (d) go kgona karoganyo;
- (e) ditirelo ka botlalo; 5
- (f) bokgoni;
- (g) kgono;
- (h) maikarabelo a selegae;
- (i) go nna le seabe ga baagi;
- (j) tsela ya tlhabololo le tirisano ya maphata; le 10
- (k) go nnela ruri.

Go tlhamiwa ga dikhansele tsa kgaolo tsa boitekanelo

31. (1) Mokhuduthamaga yo o maleba, morago ga go batla maikutlo a Mokhuduthamaga yo o rweleng maikarabelo a pusoselegae mo porofenseng eo, le khansele ya lekgotlatoropo le le maleba le legolo gongwe lekgotlatoropo la kgaolo, o tshwanetse go tlhama khansele ya kgaolo ya boitekanelo ya kgaolo nngwe le nngwe mo porofenseng ya gagwe. 15

(2) (a) Khansele ya kgaolo ya boitekanelo e dirwa ke—

- (i) tokololo ya khansele ya lekgotlatoropo le legolo gongwe la kgaolo le le mo kgaolong eo ya boitekanelo, e e tlhophilweng ke khansele e e maleba; 20
- (ii) motho yo o tlhophilweng ke mokhuduthamaga yo o maleba gore a mo emele;
- (iii) tokololo ya khansele ya lengwe le lengwe la makgotlatoropo a selegae a a mo kgaolong ya boitekanelo, e tlhophilwe ke ditokololo tsa khansele e e maleba; le
- (iv) batho ba sa fete tlhano, ba ba thapilweng ke Mokhuduthamaga yo o maleba morago ga go batla maikutlo a khansele ya lekgotlatoropo le legolo gongwe la kgaolo, fela jaaka go tla bo go le maleba. 25

(b) Tokololo e e kabakanngwang mo temeng ya (a)(i) ke monnasetilo wa khansele ya kgaolo ya boitekanelo.

(c) Moo go nang le kgaolo e e kgabaganyang molelwane, mongwe le mongwe wa Bakhuduthamaga ba ba maleba a ka thapa tokololo e e mo emelang mme batho ba ba kabakanngwang mo temeng ya (a)(iv) ba tshwanetse go thapiwa ke Bakhuduthamaga ba ba maleba ba sena go buisana. 30

(3) Khansele ya kgaolo ya boitekanelo e tshwanetse —

- (a) go tsweletsa tsamaiso ka tirisano mmogo; 35
- (b) go netefatsa gore go nna le kgokaganyo ya go loga maano, tekanyetsokabo, theko le tlhokomelo ya ditirelo tsothe tsa boitekanelo tse di amang baagi ba ya boitekanelo e khansele e e tlhametsweng; le
- (c) go gakolola Bakhuduthamaga ba ba maleba, ka Dikhansele tsa Porofense tsa Boitekanelo, le khansele ya lekgotlatoropo le le maleba le legolo gongwe la kgaolo, ka merero e e amanang le boitekanelo gongwe ditirelo tsa boitekanelo mo kgaolong ya boitekanelo e khansele e e tlhametsweng. 40

(4) Khansele ya kgaolo ya boitekanelo e ka tlhama komiti e le nngwe gongwe go feta go e gakolola ka morero mongwe le mongwe fela.

(5) Molao wa porofense o tshwanetse gore bonnye o nne le tlanelo ya— 45

- (a) go dira ga dikhansele tsa kgaolo tsa boitekanelo;
- (b) go rebolwa, morago ga go batla maikutlo a khansele e e maleba ya kgaolo ya boitekanelo, ke mokhuduthamaga yo o maleba le khansele ya lekgotlatoropo le le maleba le legolo gongwe la kgaolo, fela jaaka go tla bo go le maleba, ga tekanyetsokabo ka botlalo le diphitlhelelo tse di lebeletsweng tsa tiragatso ya ditirelo tsa boitekanelo mo kgaolong ya boitekanelo, tse magato a puso a porofense le a pusoselegae a tshwanetseng go dira dikakgelo mo go tsona; le 50
- (c) (i) ditsela tsa go fedisa go tlholana mo mabakeng a go sa kgoneng go fitlhelelwa tumelano magareng ga Mokhuduthamaga yo o maleba le khansele ya lekgotlatoropo mabapi le tekanyetsokabo gongwe diphitlhelelo tse di lebeletsweng tse di kabakanngwang mo temeng ya (b) mo pakeng e e tlhalositsweng mo molaong; le 55
- (ii) dikgato tsa paakanyo tse di tshwanetseng go tsewa fa tumelano e e kabakanngwang mo temaneng ya (i) e tlolwa.

(6) The relevant member of the Executive Council must ensure that each health district and each health subdistrict is effectively managed.

Health services to be provided by municipalities

32. (1) Every metropolitan and district municipality must ensure that appropriate municipal health services are effectively and equitably provided in their respective areas. 5

(2) The relevant member of the Executive Council must assign such health services to a municipality in his or her province as are contemplated in section 156(4) of the Constitution.

(3) An agreement contemplated in section 156(4) of the Constitution is known as a service level agreement and must provide for— 10

- (a) the services to be rendered by the municipality;
- (b) the resources that the relevant member of the Executive Council must make available;
- (c) performance standards which must be used to monitor services rendered by the municipality; and 15
- (d) conditions under which the agreement may be terminated.

Preparation of district health plans

33. (1) Each district and metropolitan health manager must within the national budget cycle develop and present to the district health council in question and the relevant member of the Executive Council a district health plan drawn up in accordance with national guidelines issued by the Director-General with due regard to national and provincial health policies and the requirements of the relevant integrated development plan prepared in terms of section 25 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000). 20 25

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

Transitional arrangements concerning municipal health services

34. Until a service level agreement contemplated in section 32(3) is concluded, municipalities must continue to provide, within the resources available to them, the health services that they were providing in the year before this Act took effect. 30

CHAPTER 6

HEALTH ESTABLISHMENTS

Classification of health establishments 35

35. The Minister may by regulation—

- (a) classify all health establishments into such categories as may be appropriate, based on—
 - (i) their role and function within the national health system;
 - (ii) the size and location of the communities they serve; 40
 - (iii) the nature and level of health services they are able to provide;
 - (iv) their geographical location and demographic reach;
 - (v) the need to structure the delivery of health services in accordance with national norms and standards within an integrated and co-ordinated national framework; and 45
 - (vi) in the case of private health establishments, whether or not the establishment is for profit or not; and

(6) Mokhuduthamaga yo o maleba o tshwanetse go netefatsa gore kgaolo nngwe le nngwe ya boitekanelo le kgaolopotlana nngwe le nngwe ya boitekanelo e tsamaisiwa ka bokgoni.

Ditirelo tsa boitekanelo tse di tshwanetseng go tlamelwa ke makgotlatoropo

32. (1) Makgotlatoropo otlhe a magolo gongwe a dikgaolo a tshwanetse go netefatsa gore go tlamelwa ka ditirelo tse di maleba tsa boitekanelo tsa lekgotlatoropo ka bokgoni le ka tekatekano kwa mafelong a ona. 5

(2) Mokhuduthamaga yo o maleba o tshwanetse go rebolela ditirelo tseo tsa boitekanelo kwa lekgotlatoropong mo porofenseng ya gagwe jaaka go kabakanngwa mo karolong ya 156(4) ya Molaotheo. 10

(3) Tumelano e e kabakanngwang mo karolong ya 156(4) ya Molaotheo e itsege jaaka tumelano ya tirelo mme e tshwanetse go nna le tlamelo ya—

- (a) ditirelo tse di tla tlamelwang ke lekgotlatoropo;
- (b) ditlamelo tse Mokhuduthamaga yo o maleba a tshwanetseng go tlamela ka tsona; 15
- (c) seemo sa tiragatso se se tshwanetseng go dirisediwa go tlhokomela ditirelo tse di tlamelwang ke lekgotlatoropo; le
- (d) seemo se mo go sona go ka khutlisiwang tumelano. 15

Paakanyo ya maano a dikgaolo tsa boitekanelo

33. (1) Motsamaisi mongwe le mongwe wa boitekanelo wa lekgotlatoropo la kgaolo gongwe le legolo o tshwanetse gore mo sedikeng sa tekanyetsokabo ya bosetšhaba, a kwale le go tlhagisa kwa khanseleng e e maleba ya kgaolo ya boitekanelo le mokhuduthamaga yo o maleba, leano la kgaolo ya boitekanelo le le kwadilweng go ya ka kaedi ya bosetšhaba e e rebotsweng ke Mokaedi Kakaretso, go ntse go tlotliwa dipholesi tsa bosetšhaba le tsa porofense tsa boitekanelo le ditlhokego tsa maano a a maleba a tlhabololo e e kopaneng go ya ka karolo ya 25 ya Pusoselegae: Molao wa Thulaganyo ya Makgotlatoropo wa ngwaga wa 2000 (Molao wa bo32 wa ngwaga wa 2000). 20

(2) Mokhuduthamaga yo o maleba o tshwanetse go netefatsa gore kgaolo nngwe le nngwe ya boitekanelo e kwala le go diragatsa leano la kgaolo la badiri go ya ka kaedi ya bosetšhaba e e rebotsweng ke Mokaedi Kakaretso. 25

Dithulaganyo tsa kgabaganyo malebana le ditirelo tsa makgotlatoropo tsa boitekanelo

34. Go fitlha fa go sena go wediwa tumelano ya tirelo e e kabakanngwang mo karolong ya 32(3), makgotlatoropo a tshwanetse gore, ka ditlamelo tse a nang natso, a tswelele go tlamela ka ditirelo tsa boitekanelo tse a ntseng a tlamela ka tsona, ngwaga pele ga Molao ono o simolola go dira. 30

KGAOLO 6

DITHEO TSA BOITEKANELO

Karoganyo ya ditheo tsa boitekanelo

35. Tona, ka molawana, a ka—

- (a) aroganya ditheo tsa boitekanelo ka dikarolo tse di ka nnang maleba go ya ka—
 - (i) seabe le tiro ya tsona mo thulaganyong ya bosetšhaba ya boitekanelo;
 - (ii) bogolo le lefelo le baagi ba di ba tlamelang ba leng mo go lona;
 - (iii) mofuta le seemo sa ditirelo tsa boitekanelo tse di ka kgonang go di tlamela; 45
 - (iv) lefelo le di leng mo go lona le bogolo jo di kgonang go bo fitlhelela;
 - (v) botlhokwa jwa go rulaganya go tlamela ka ditirelo tsa boitekanelo go ya ka tekanyetso le seemo sa bosetšhaba mo letlhomesong le le kopaneng mme le gokaganngwa la bosetšhaba; le 50
 - (vi) mo mabakeng a ditheo tsa poraefete, gore a setheo se dira lotseno gongwe nnyaya; le

- (b) in the case of a central hospital, determine the establishment of the hospital board and the management system of such central hospital.

Certificate of need

36. (1) A person may not—

- (a) establish, construct, modify or acquire a health establishment or health agency; 5
 (b) increase the number of beds in, or acquire prescribed health technology at, a health establishment or health agency;
 (c) provide prescribed health services; or
 (d) continue to operate a health establishment or health agency after the expiration of 24 months from the date this Act took effect, 10
 without being in possession of a certificate of need.

(2) A person who wishes to obtain or renew a certificate of need must apply to the Director-General in the prescribed manner and must pay the prescribed application fee.

(3) Before the Director-General issues or renews a certificate of need, he or she must take into account— 15

- (a) the need to ensure consistency of health services development in terms of national, provincial and municipal planning;
 (b) the need to promote an equitable distribution and rationalisation of health services and health care resources, and the need to correct inequities based on racial, gender, economic and geographical factors; 20
 (c) the need to promote an appropriate mix of public and private health services;
 (d) the demographics and epidemiological characteristics of the population to be served;
 (e) the potential advantages and disadvantages for existing public and private health services and for any affected communities; 25
 (f) the need to protect or advance persons or categories of persons designated in terms of the Employment Equity Act, 1998 (Act No. 55 of 1998), within the emerging small, medium and micro-enterprise sector;
 (g) the potential benefits of research and development with respect to the improvement of health service delivery; 30
 (h) the need to ensure that ownership of facilities does not create perverse incentives for health service providers and health workers;
 (i) if applicable, the quality of health services rendered by the applicant in the past; 35
 (j) the probability of the financial sustainability of the health establishment or health agency;
 (k) the need to ensure the availability and appropriate utilisation of human resources and health technology;
 (l) whether the private health establishment is for profit or not; and 40
 (m) if applicable, compliance with the requirements of a certificate of non-compliance.

(4) The Director-General may investigate any issue relating to an application for the issue or renewal of a certificate of need and may call for such further information as may be necessary in order to make a decision upon a particular application. 45

(5) The Director-General may issue or renew a certificate of need subject to—

- (a) compliance by the holder with national operational norms and standards for health establishments and health agencies, as the case may be; and
 (b) any condition regarding— 50
 (i) the nature, type or quantum of services to be provided by the health establishment or health agency;
 (ii) human resources and diagnostic and therapeutic equipment and the deployment of human resources or the use of such equipment;

- (b) mo mabakeng a sepetlele sa bogareng, go swetsa ka go tlhamiwa ga boto ya sepetlele le thulaganyo ya tsamaiso ya sepetlele seo sa bogareng.

Setifikeiti sa tlhokego

36. (1) Motho ga a tshwanela—
- (a) go tlhama, go aga, go baakanya gongwe go bona setheo sa boitekanelo gongwe bothusi jwa boitekanelo; 5
- (b) go oketsa palo ya malao kwa, gongwe go bona thekenoloji ya boitekanelo e e rebotsweng kwa, setheong sa boitekanelo gongwe bothusing jwa boitekanelo;
- (c) go tlamela ka ditirelo tse di rebotsweng tsa boitekanelo; gongwe
- (d) go tswelela go dirisa setheo sa boitekanelo gongwe bothusi jwa boitekanelo morago ga go khutla ga dikgwedi di le 24 go tloga ka letlha le Molao ono o simolotseng go dira ka lona, ntle le go nna le setifikeiti sa tlhokego. 10
- (2) Motho yo o eletsang go bona gongwe go ntšhwafatsa setifikeiti sa tlhokego o tshwanetse go dira kopo go Mokaedi Kakaretso ka tsela e e rebotsweng mme o tshwanetse go duela tuelo e e rebotsweng ya kopo. 15
- (3) Pele ga Mokaedi Kakaretso a ka rebola gongwe a ntšhwafatsa setifikeiti sa tlhokego, o tshwanetse go ela tlhoko—
- (a) tlhokego ya gore go nne le tlhomamo ya tlabelo ya ditirelo tsa boitekanelo go ya ka maano a bosetšhaba, a porofense le a makgotatoropo;
- (b) botlhokwa jwa go tsweletsa phasalatso le thulaganyoseswa ya ditirelo tsa boitekanelo le ditlamelo tsa tlhokomelo ya boitekanelo, le botlhokwa jwa go siamisa go tlhoka tekatekano go lebeleletse dintlha tsa semorafe, bong, ikonomi le bonno; 20
- (c) botlhokwa jwa go tsweletsa motswako o o maleba wa ditirelo tsa setšhaba le tsa poraefete tsa boitekanelo; 25
- (d) dintlha tsa lemorago le leroborobo tsa baagi ba ba tshwanetseng go tlamelwa ka tirelo;
- (e) mesola le dithapolo tse di ka nnang gona mo ditirelong tsa boitekanelo tsa setšhaba le tsa poraefete tse di gona ga jaana le mo baaging bangwe le bangwe ba ba amegang; 30
- (f) botlhokwa jwa go sireletsa gongwe go tsweletsa batho gongwe dikarolo tsa batho tse di rebotsweng go ya ka Molao wa Tekatekano ya Thapo wa ngwaga wa 1998 (Molao wa bo55 wa ngwaga wa 1998), mo lephateng la dikgwebopotlana;
- (g) dipelo tse di ka nnang gona tsa patlisiso le tlabelo malebana le go tokafatsa tlamelo ka tirelo ya boitekanelo; 35
- (h) botlhokwa jwa go netefatsa gore go nna le ditlamelo ga go tlhole dithotloetso tse di sa nnang sentle go batlamedi ba ditirelo tsa boitekanelo le badiri ba boitekanelo;
- (i) fa go le maleba, boleng jwa ditirelo tsa boitekanelo tse mokopi a tlametseng ka tsona mo nakong e e fetileng; 40
- (j) kgonagalo ya gore bokgoni jwa ditšhelete jwa setheo sa boitekanelo gongwe bothusi jwa boitekanelo bo tla nnela ruri;
- (k) botlhokwa jwa go netefatsa go nna teng le tiriso e e maleba ya badiri le thekenoloji ya boitekanelo; 45
- (l) gore a setheo sa boitekanelo sa poraefete ke se se dirang lotseno gongwe nnyaya; le
- (m) fa go le maleba, go ikobela ditlhokego tsa setifikeiti sa go se ikobele ditlhokego.
- (4) Mokaedi Kakaretso a ka batlisisa ntlha nngwe le nngwe e e malebana le kopo ya go rebolwa gongwe go ntšhwafadiwa ga setifikeiti sa tlhokego mme a ka kopa tshedimosetso epe fela e e ka tlhokegang gore a kgone go dira tshwetso malebana le kopo e e riling. 50
- (5) Mokaedi Kakaretso a ka rebola gongwe a ntšhwafatsa setifikeiti sa tlhokego go lebeleletse— 55
- (a) gore motshodi o ikobela ditekanyetso le seemo sa bosetšhaba sa tiro sa ditheo tsa boitekanelo le bothusi jwa boitekanelo, jaaka go le maleba; le
- (b) seemo sengwe le sengwe malebana le—
- (i) mofuta gongwe bogolo jwa ditirelo tse di tla bong di tlamelwa ke setheo sa boitekanelo gongwe bothusi jwa boitekanelo; 60
- (ii) badiri le didiriswa tsa tlhatlhubo le tsa kalafi gammogo le go phasaladiwa ga badiri gongwe tiriso ya didiriswa tsa go nna jalo;

- (iii) public private partnerships;
 - (iv) types of training to be provided by the health establishment or health agency; and
 - (v) any criterion contemplated in subsection (3).
- (6) The Director-General may withdraw a certificate of need— 5
- (a) on the recommendation of the Office of Standards Compliance in terms of section 79(7)(b);
 - (b) if the continued operation of the health establishment or the health agency, as the case may be, or the activities of a health care provider or health worker working within the health establishment, constitute a serious risk to public health; 10
 - (c) if the health establishment or the health agency, as the case may be, or a health care provider or health worker working within the health establishment, is unable or unwilling to comply with minimum operational norms and standards necessary for the health and safety of users; or 15
 - (d) if the health establishment or the health agency, as the case may be, or a health care provider or health worker working within the health establishment, persistently violates the constitutional rights of users or obstructs the State in fulfilling its obligations to progressively realise the constitutional right of access to health services. 20
- (7) If the Director-General refuses an application for a certificate of need or withdraws a certificate of need the Director-General must within a reasonable time give the applicant or holder, as the case may be, written reasons for such refusal or withdrawal.

Duration of certificate of need 25

37. A certificate of need is valid for a prescribed period, but such prescribed period may not exceed 20 years.

Appeal to Minister against Director-General's decision

38. (1) Any person aggrieved by a decision of the Director-General in terms of section 36 may appeal in writing to the Minister against such decision. 30
- (2) Such appeal must—
- (a) be lodged within 60 days from the date on which written reasons for the decision were given by the Director-General or such later date as the Minister permits; and
 - (b) set out the grounds of appeal. 35
- (3) After considering the grounds of appeal and the Director-General's reasons for the decision, the Minister must as soon as practicable—
- (a) confirm, set aside or vary the decision; or
 - (b) substitute any other decision for the decision of the Director-General.
- (4) The Minister must within a reasonable time after reaching a decision give the appellant written reasons for such decision. 40

Regulations relating to certificates of need

39. (1) The Minister may, after consultation with the National Health Council, make regulations relating to— 45
- (a) the requirements for the issuing or renewal of a certificate of need;
 - (b) the requirements for a certificate of need for health establishments and health agencies existing at the time of commencement of this Act;
 - (c) the requirements for a certificate of need for health establishments and health agencies coming into being after the commencement of this Act; and

- (iii) tirisanommogo ya lephata la setšhaba le la poraefete;
- (iv) mefuta ya katiso e e tla tlamelwang ke setheo sa boitekanelo gongwe bothusi jwa boitekanelo; le
- (v) ditlhokego dingwe le dingwe tse di kabakanngwang mo karolwaneng ya (3). 5
- (6) Mokaedi Kakaretso a ka gogela morago setifikeiti sa tlhokego—
- (a) ka katlenegiso ya Kantoro ya Go ikobelwa ga Seemo go ya ka karolo ya 79(7)(b);
- (b) fa go tswelela ka tiro ga setheo sa boitekanelo gongwe bothusi jwa boitekanelo, fela jaaka go le maleba, gongwe ditiro tsa motlamedi wa tlhokomelo ya boitekanelo gongwe modiri wa boitekanelo yo o dirang mo setheong sa boitekanelo, di ka nna le kotsi e kgolo mo boitekanelong jwa setšhaba; 10
- (c) fa setheo sa boitekanelo gongwe bothusi jwa boitekanelo, fela jaaka go le maleba, gongwe motlamedi wa tlhokomelo ya boitekanelo gongwe modiri wa boitekanelo yo o dirang mo setheong sa boitekanelo a sa kgone gongwe a sa batle go ikobela ditekanyetso gongwe seemo se se beilweng sa tiro se se botlhokwa mo boitekanelong le pabalesegong ya badirisi; gongwe 15
- (d) fa setheo sa boitekanelo gongwe bothusi jwa boitekanelo, fela jaaka go le maleba, gongwe motlamedi wa tlhokomelo ya boitekanelo gongwe modiri wa boitekanelo yo o dirang mo setheong sa boitekanelo a tswelsetse go gatakaka ditshwanelo tsa molaotheo tsa badirisi gongwe a kgoreletsa Mmuso mo go diragatseng maikarabelo a ona a go tswelela go fitlhelela tshwanelo ya molaotheo ya go fitlhelela ditirelo tsa boitekanelo. 20
- (7) Fa Mokaedi Kakaretso a gana kopo ya setifikeiti sa tlhokego gongwe a gogela morago setifikeiti sa tlhokego, Mokaedi Kakaretso o tshwanetse gore mo sebakeng se se amogelesegang, a tlamele mokopi gongwe motshodi, fela jaaka go le maleba, mabaka a a kwadilweng a go gana goo gongwe go gogelwa morago. 25

Sebaka sa setifikeiti sa tlhokego

37. Setifikeiti sa tlhokego se dira sebaka se se rebotsweng, fela sebaka seo se se rebotsweng ga se a tshwanela go feta dingwaga di le 20. 30

Boikuelo go Tona kgatlhanong le tshwetso ya Mokaedi Kakaretso

38. (1) Motho mongwe le mongwe yo o utlwisitsweng botlhoko ke tshwetso ya Mokaedi Kakaretso go ya ka karolo ya 36, a ka ikuela ka go kwalela Tona kgatlhanong le tshwetso eo. 35
- (2) Boikuelo joo bo tshwanetse—
- (a) go tsenngwa mo sebakeng sa malatsi a le 60 go tswa kwa letlheng le Mokaedi Kakaretso a fileng mabaka a a kwadilweng a tshwetso gongwe letlha le le kwa moragonyana jaaka Tona a ka letla; mme
- (b) bo tlhalose mabaka a boikuelo. 40
- (3) Morago ga go sekaseka mabaka a boikuelo le mabaka a tshwetso ya Mokaedi Kakaretso, Tona, ka bonako jo bo ka kgonagalang—
- (a) a tlhomamise, a beele thoko gongwe a fetole tshwetso; gongwe
- (b) a dire gore tshwetso nngwe le nngwe fela e e kaneng e le gona e emelwe ke tshwetso ya Mokaedi Kakaretso. 45
- (4) Tona o tshwanetse go naya moikuedi mabaka a a kwadilweng a tshwetso eo mo sebakeng se se amogelesegang.

Melawana e e malebana le ditifikeiti tsa tlhokego

39. (1) Tona, morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo, a ka dira melawana e e malebana le— 50
- (a) ditlhokego tsa go rebolwa gongwe go ntshwafadiwa ga setifikeiti sa tlhokego;
- (b) ditlhokego tsa setifikeiti sa tlhokego sa ditheo tsa boitekanelo le bothusi jwa boitekanelo tse di gona ka nako ya go simolola go dira ga Molao ono;
- (c) ditlhokego tsa setifikeiti sa tlhokego sa ditheo tsa boitekanelo le bothusi jwa boitekanelo tse di simololang go nna gona morago ga go simolola go dira ga Molao ono; 55

- (d) any other matter relating to the granting of a certificate of need and the inspection and administration of health establishments and health agencies.
- (2) Regulations made under subsection (1)—
- (a) must ensure the equitable distribution and rationalisation of health, with special regard to vulnerable groups such as woman, older persons, children and people with disabilities; 5
- (b) may prescribe the fees payable in respect of applications for the issuing and renewal of certificates of need;
- (c) must prescribe the formats and procedures to be used in applications for the issuing and renewal of certificates of need, and the information that must be submitted with such applications; 10
- (d) must ensure and promote access to health services and the optimal utilisation of health care resources, with special regard to vulnerable groups such as woman, older persons, children and people with disabilities;
- (e) must ensure compliance with the provisions of this Act and national operational norms and standards for the delivery of health services; 15
- (f) must seek to avoid or prohibit business practices or perverse incentives which adversely affect the costs or quality of health services or the access of users to health services;
- (g) must avoid or prohibit practices, schemes or arrangements by health care providers or health establishments that directly or indirectly conflict with, violate or undermine good ethical and professional practice; and 20
- (h) must ensure that the quality of health services provided by health establishments and health agencies conforms to the prescribed norms and standards.

Offences and penalties in respect of certificate of need 25

40. (1) Any person who performs any act contemplated in section 36(1) without a certificate of need required in terms of that section is guilty of an offence.

(2) Any person convicted of an offence in terms of subsection (1) is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment. 30

Provision of health services at public health establishments

41. (1) The Minister, in respect of a central hospital, and the relevant member of the Executive Council, in respect of all other public health establishments within the province in question, may—

- (a) determine the range of health services that may be provided at the relevant public health establishment; 35
- (b) prescribe the procedures and criteria for admission to and referral from a public health establishment or group of public health establishments;
- (c) subject to subsection (2), prescribe schedules of fees, including penalties for not following the procedures contemplated in paragraph (b), for— 40
- (i) different categories of users;
- (ii) various forms of treatment; and
- (iii) various categories of public health establishments; and
- (d) in consultation with the relevant Treasury, determine the proportion of revenue generated by a particular public health establishment classified as a hospital that may be retained by that hospital, and how those funds may be used. 45

(2) When determining a schedule of fees, the fee for a particular service may not be varied in respect of users who are not ordinarily resident in a province.

- (d) morero mongwe le mongwe fela o o malebana le go rebolwa ga setifikeiti sa tlhokego le tlhatlhobo le tsamaiso ya ditheo tsa boitekanelo le bothusi jwa boitekanelo.
- (2) Melawana e e dirwang ka fa tlase ga karolwana (1)—
- (a) e tshwanetse go netefatsa gore go nna le phasalatso le thulaganyosešwa ya boitekanelo, go lebeleletse thata ditlhophha tse di bokoa di tshwana le basadi, bagodi, bana le batho ba ba sa itekanelang mo mebeleng; 5
- (b) e ka rebola tuelo e e tshwanetseng go duelwa malebana le dikopo tsa go rebolwa le go ntshwafadiwa ga ditifikeiti tsa tlhokego;
- (c) e tshwanetse go rebola popego le dithulaganyo tse di tla dirisiwang mo dikopong tsa go rebolwa le go ntshwafadiwa ga ditifikeiti tsa tlhokego, le tshedimosetso e e tshwanetseng go tlhagisiwa le dikopo tsa go nna jalo; 10
- (d) e tshwanetse go netefatsa le go tswelletsa go fitlhelelwa ga ditirelo tsa boitekanelo le tiriso e e tletseng ya ditlamelo tsa tlhokomelo ya boitekanelo, go lebeleletse thata ditlhophha tse di bokoa di tshwana le basadi, bagodi, bana le batho ba ba sa itekanelang mo mebeleng; 15
- (e) e tshwanetse go netefatsa gore go ikobelwa ditlamelo tsa Molao ono le ditekanyetso le seemo sa bosetšhaba sa tiro sa go tlamela ka ditirelo tsa boitekanelo;
- (f) e tshwanetse go leka go tla gongwe go thibela dikgwebo gongwe dithotloetso tse di sa nngang sentle tse di ka amang bosula, ditlhotlha le boleng jwa ditirelo tsa boitekanelo gongwe go fitlhelelwa ga ditirelo tsa boitekanelo ke badirisi; 20
- (g) e tshwanetse go tla gongwe go thibela ditiro, dikema, gongwe dithulaganyo tsa batlamedi ba tlhokomelo ya boitekanelo gongwe ditheo tsa boitekanelo tse di thulanang ka tthamalalo gongwe e seng ka tthamalalo, di gatakakang gongwe di nyatsang maitsholo a a siameng a seporofesenale; mme 25
- (h) e tshwanetse go netefatsa gore boleng jwa ditirelo tsa boitekanelo tse di tlamelwang ke ditheo tsa boitekanelo le bothusi jwa boitekanelo bo ikobela ditekanyetso le seemo se se rebotsweng. 30

Ditlolomolao le dikotlhao malebana le setifikeiti sa tlhokego

40. (1) Motho mongwe le mongwe yo o dirang sengwe fela se se kabakanngwang mo karolong ya 36(1) ntle le setifikeiti sa tlhokego se se batlegang go ya ka karolo eo o dirile tlolomolao.

(2) Motho mongwe le mongwe yo o tshwarelwang go tlola molao go ya ka karolwana ya (1) a ka atholelwa go lefa gongwe go golegwa sebaka se se sa feteng dingwaga di le tlhano gongwe go lefa gammogo le go golegwa. 35

Tlamelo ya ditirelo tsa boitekanelo kwa ditheong tsa setšhaba tsa boitekanelo

41. (1) Tona, fa go lebeleletse sepetlele sa bogareng, le mokhuduthamaga yo o maleba, fa go lebeleletse ditheo tse dingwe tsotlhe tsa setšhaba tsa boitekanelo tse di mo porofenseng eo— 40

- (a) a ka swetsa ka ditirelo tsa boitekanelo tse di ka tlamelwang kwa setheong sa setšhaba se se maleba sa boitekanelo;
- (b) a ka rebola dithulaganyo le ditlhokego tsa go amogelwa le go fetisiwa go tswa kwa setheong sa setšhaba sa boitekanelo gongwe setlhophha sa ditheo tsa setšhaba tsa boitekanelo; 45
- (c) go lebeleletse karolwana ya (2), a ka swetsa ka šejule ya dituelo, go akarediwa dikotlhao tsa go se latele dithulaganyo tse di kabakanngwang mo temeng ya (b), tsa—
- (i) dikarolo tse di farologaneng tsa badirisi; 50
- (ii) mefuta e e farologaneng ya kalafi; le
- (iii) dikarolo tse di farologaneng tsa ditheo tsa setšhaba tsa boitekanelo; le
- (d) ka go batla maikutlo mo bothating jo bo maleba jwa Matlotlo, a swetsa ka seelo sa lotseno le le kgobokantsweng ke setheo se se maleba sa setšhaba sa boitekanelo se se arogantsweng jaaka sepetlele, e e ka salang mo sepetlele le ka moo matlole ao a ka dirisiwang ka gona. 55

(2) Fa go swediwa ka šejule ya dituelo, tuelo ya tirelo e e rileng ga e a tshwanela go farologana fa go lebeleletse badirisi ba e leng gore ga se baagi ba porofense.

(3) Despite subsection (2), a province whose residents make use of another province's services must compensate that province for health services provided to such residents in the manner and to the extent prescribed by the Minister in consultation with, in the case of a central hospital, the National Treasury and, in the case of any other hospital, the relevant Treasury. 5

(4) The Minister must appoint a representative hospital board for each central hospital or group of central hospitals.

(5) The functions of a central hospital board must be prescribed by the Minister.

(6) (a) The relevant member of the Executive Council must—

(i) appoint a representative board for each public health establishment classified as a hospital or for each group of such public health establishments within the relevant province; 10

(ii) prescribe the functions of such boards; and

(iii) prescribe procedures for meetings of the board.

(b) A hospital contemplated in paragraph (a) does not include a central hospital. 15

(7) The boards contemplated in subsections (4) and (6) must be composed of—

(a) one representative from each university associated with the hospital;

(b) in the case of a board contemplated in subsection (4), one representative from the national department;

(c) in the case of boards contemplated in subsections (4) and (6), one representative from the provincial department in the province in which the relevant hospital is situated; 20

(d) not more than three representatives of the communities served by the hospital, including special interest groups representing users; and

(e) not more than five representatives of staff and management of the hospital but such representatives may not vote at a meeting of the board. 25

(8) The boards contemplated in subsections (4) and (6) may include not more than five persons with expertise in areas such as accounting, financial management, human resources management, information management and legal matters.

(9) Members of a hospital board are appointed for a period of three years at a time and the Minister, in the case of central hospitals, or the relevant member of the Executive Council, in the case of other hospitals, may replace any member on good cause shown. 30

Clinics and community health centre committees

42. (1) Provincial legislation must at least provide for the establishment in the province in question of a committee for— 35

(a) a clinic or a group of clinics;

(b) a community health centre; or

(c) a clinic and a community health centre or a group of clinics and community health centres.

(2) Any committee contemplated in subsection (1) must at least include— 40

(a) one or more local government councillors;

(b) one or more members of the community served by the health facility; and

(c) the head of the clinic or health centre in question.

(3) The functions of a committee must be prescribed in the provincial legislation in question. 45

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

43. (1) The Minister may prescribe—

(a) minimum standards and requirements for the provision of health services in locations other than health establishments, including schools and other public places; and 50

- (3) Le fa go ntse go na le karolwana ya (2), porofense e baagi ba yona ba dirisang ditirelo tsa porofense e nngwe e tshwanetse go duelela porofense eo ditirelo tsa boitekanelo tse baagi ba go nna jalo ba tlametsweng ka tsona ka tsela le go ya jaaka go rebotswe ke Tona, morago ga go batla maikutlo a lephata la Matlotlo la Bosetšhaba, jaaka go le maleba mo sepetlele sa bogareng, mme fa e le sepetlele se sengwe fela, bothati jwa Matlotlo jo bo maleba. 5
- (4) Tona o tshwanetse go thapa boto ya kemedi ya sepetlele mo sepetlele sa bogareng le sengwe sa bogareng gongwe mo setlhopheng sa dipetlele tsa bogareng.
- (5) Ditiro tsa boto ya sepetlele sa bogareng di tshwanetse go rebolwa ke Tona. 10
- (6) (a) Mokhuduthamaga yo o maleba o tshwanetse—
- (i) go thapa boto ya kemedi mo setheong sengwe le sengwe sa setšhaba sa boitekanelo se se aroganngwang jaaka sepetlele gongwe mo setlhopheng sa ditheo tsa setšhaba tsa boitekanelo mo porofenseng e e maleba;
- (ii) go rebola ditiro tsa diboto tsa go nna jalo; le
- (iii) go rebola dithulaganyo tsa dikopano tsa boto. 15
- (b) Sepetlele se se kabakanngwang mo temeng ya (a) ga se akaretse sepetlele sa bogareng.
- (7) Diboto tse di kabakanngwang mo dikarolwaneng tsa (4) le (6) di tshwanetse go nna le—
- (a) moemedi a le mongwe go tswa kwa yunibesithing nngwe le nngwe e e amanang le sepetlele; 20
- (b) mo mabakeng a boto e e kabakanngwang mo karolwaneng ya (4) gona, moemedi a le mongwe fela go tswa kwa lefapheng la bosetšhaba;
- (c) mo mabakeng a diboto tse di kabakanngwang mo dikarolwaneng tsa (4) le (6), moemedi a le mongwe fela go tswa kwa lefapheng la porofense e sepetlele se se maleba se leng mo go yona; 25
- (d) baemedi ba sa fete tharo ba baagi ba ba direlwanng ke sepetlele, go akarediwa ditlhopho tse di nang le dikgatlhego tse di kgethegileng tse di emetseng badirisi; le
- (e) baemedi ba sa fete tlhano ba badiri le batsamaisi ba sepetlele, fela baemedi bao ga ba a tshwanela go bouta kwa dikopanong tsa boto. 30
- (8) Diboto tse di kabakanngwang mo dikarolwaneng tsa (4) le (6) di ka akaretsa batho ba ba sa feteng tlhano ba ba nang le bokgoni jo bo kgethegileng mo maphateng a tshwana le a bobalatlotlo, tsamaiso ya ditšhelete, tsamaiso ya badiri, tsamaiso ya tshedimosetso le meroero ya molao. 35
- (9) Ditokololo tsa boto ya sepetlele di thapiwa sebaka sa dingwaga di le tharo ka nako mme Tona, mo mabakeng a dipetlele tsa bogareng, gongwe Mokhuduthamaga yo o maleba, mo mabakeng a dipetlele tse dingwe, a ka dira gore tokololo nngwe e emelwe ke e nngwe fa go tlhokega jalo.

Dikomiti tsa ditlaleniki le ditikwatikwe tsa baagi tsa boitekanelo 40

42. (1) Melao ya porofense e tshwanetse gore bobotlana, e tlamele ka gore mo porofenseng e e maleba, go tlhamiwe komiti ya—
- (a) tlaleniki gongwe setlhopho sa ditlaleniki;
- (b) tikwatikwe ya boitekanelo ya baagi; gongwe
- (c) tlaleniki le tikwatikwe ya boitekanelo ya baagi gongwe setlhopho sa ditlaleniki le ditikwatikwe tsa boitekanelo tsa baagi. 45
- (2) Komiti e nngwe le e nngwe e e kabakanngwang mo karolwaneng ya (1) e tshwanetse gore bobotlana e akaretse—
- (a) mokhanselara wa puoselegae a le mongwe gongwe go feta;
- (b) tokololo e le nngwe gongwe go feta ya baagi ba ba direlwanng ke setheo seo sa boitekanelo; le 50
- (c) tlhogo ya tlaleniki gongwe tikwatikwe eo ya boitekanelo.
- (3) Ditiro tsa komiti di tshwanetse go rebolwa mo peomolaong ya porofense eo.

Ditirelo tsa boitekanelo kwa ditheong tse e seng tsa boitekanelo le kwa ditheong tsa setšhaba tsa boitekanelo ntle le dipetlele 55

43. (1) Tona a ka rebola—
- (a) seemopotlana le ditlhokego tsa tlamelelo ya ditirelo tsa boitekanelo kwa mafelong a mangwe ntle le ditheo tsa boitekanelo, go akarediwa dikolo le mafelo a setšhaba; le

- (b) penalties for any contravention of or failure to comply with any such standards or requirements.
- (2) Provincial legislation must provide for the provision of health services at health establishments in the province in question other than hospitals.
- (3) (a) The Minister may, in the interests of the health and wellbeing of persons attending an initiation school and subject to the provisions of any other law, prescribe conditions under which the circumcision of a person as part of an initiation ceremony may be carried out. 5
- (b) For the purposes of this subsection—
- (i) “initiation school” means any place at which one or more persons are circumcised as part of an initiation ceremony; and 10
- (ii) “initiation ceremony” means a traditional ritual or practice in terms of which a person is inducted into an order or accorded a certain status or recognition within a community.
- (4) The Minister may, subject to the provisions of any other law, prescribe conditions relating to traditional health practices to ensure the health and well-being of persons who are subject to such health practices. 15

Referral from one public health establishment to another

44. (1) Subject to this Act, a user may attend any public health establishment for the purposes of receiving health services. 20
- (2) If a public health establishment is not capable of providing the necessary treatment or care, the public health establishment in question must transfer the user concerned to an appropriate public health establishment which is capable of providing the necessary treatment or care in such manner and on such terms as may be determined by the Minister or the relevant member of the Executive Council, as the case may be. 25

Relationship between public and private health establishments

45. (1) The Minister must prescribe mechanisms to enable a co-ordinated relationship between private and public health establishments in the delivery of health services.
- (2) The national department, any provincial department or any municipality may enter into an agreement with any private practitioner, private health establishment or non-governmental organisation in order to achieve any object of this Act. 30
- (3) An agreement contemplated in subsection (2) must comply with the Public Finance Management Act, 1999 (Act No. 1 of 1999), or any municipal finance management legislation, as the case may be. 35

Obligations of private health establishments

46. Every private health establishment must maintain insurance cover sufficient to indemnify a user for damages that he or she might suffer as a consequence of a wrongful act by any member of its staff or by any of its employees.

Evaluating services of health establishments

47. (1) All health establishments must comply with the quality requirements and standards prescribed by the Minister after consultation with the National Health Council. 40
- (2) The quality requirements and standards contemplated in subsection (1) may relate to human resources, health technology, equipment, hygiene, premises, the delivery of health services, business practices, safety and the manner in which users are accommodated and treated. 45
- (3) The Office of Standards Compliance and the Inspectorate for Health Establishments must monitor and enforce compliance with the quality requirements and standards contemplated in subsection (1).

- (b) dikotlhao fa go na le tlomolao gongwe go retelelwa ke go ikobela seemo gongwe ditlhokego tsa go nna jalo.
- (2) Melao ya porofense e tshwanetse go nna le tlanelo ya tlanelo ya ditirelo tsa boitekanelo kwa ditheong tsa boitekanelo mo porofenseng eo go na le kwa dipetlele.
- (3) (a) Tona, mo dikgatlhegong tsa boitekanelo le botshelo jwa batho ba ba yang kwa sekolong sa thupiso mme go lebeletse ditlanelo tsa molao mongwe fela, a ka rebola seemo se go rupisiwa ga motho go ka dirwang ka gona fa e le karolo ya moletlo wa go aloga. 5
- (b) Go tseweletsa karolwana eno—
- (i) “sekolo sa thupiso” se kaya lefelo le motho gongwe batho ba feta bongwe ba rupisiwang e le karolo ya moletlo wa go aloga; mme 10
- (ii) “moletlo wa go aloga” o kaya moetlo wa setso o ka ona motho a tsenngwang mo mokgweng gongwe a newa seemo se se rileng gongwe temogo mo baaging.
- (4) Tona, go lebeletse ditlanelo tsa molao mongwe fela, a ka rebola ditlanelo tse di malebana le ditiro tsa setso tsa boitekanelo go netefata boitekanelo le botshelo jwa batho ba go dirwang ditiro tseo tsa boitekanelo mo go bona. 15

Phetiso go tswa kwa setheong se sengwe sa setšhaba go ya kwa go se sengwe

44. (1) Go lebeletse Molao ono, modirisi a ka etela setheo sa setšhaba sa boitekanelo go bona ditirelo tsa boitekanelo. 20
- (2) Fa setheo sa setšhaba sa boitekanelo se sena bokgoni jwa go tlamela ka kalafi gongwe tlhokomelo e e tlhokegang, setheo seo sa setšhaba sa boitekanelo se ka fetisetsa modirisi yoo kwa setheong se se tshwanetseng sa setšhaba sa boitekanelo se se nang le bokgoni jwa go tlamela ka kalafi gongwe tlhokomelo e e maleba ka tsela e, mme go ya ka ditlhokego tse di tla bong di sweditse ke Tona gongwe Mokhuduthamaga yo o maleba, fela jaaka go tla bo go le maleba. 25

Dikamano magareng ga ditheo tsa setšhaba le tsa poraefete tsa boitekanelo

45. (1) Tona o tshwanetse go rebola dithulaganyo tse di tla kgontshang gore go nne le dikamano tse di gokagantsweng magareng ga ditheo tsa poraefete le tsa setšhaba tsa boitekanelo mo tlanelong ya ditirelo tsa boitekanelo. 30
- (2) Lefapha la bosetšhaba, lefapha lengwe le lengwe fela la porofense, gongwe lekgotlatoropo le ka tsena mo tumelanong le motlamedi wa poraefete, setheo sa poraefete sa boitekanelo gongwe mokgatlo o e seng wa puso gore go fithelelwe maikemisetso mangwe fela a Molao ono.
- (3) Tumelano e e kabakanngwang mo karolwaneng ya (2) e tshwanetse go ikobela Molao wa Tsamaiso ya Ditšhelete tsa Setšhaba wa ngwaga wa 1999 (Molao wa bo1 wa ngwaga wa 1999), gongwe molao wa tsamaiso ya ditšhelete tsa lekgotlatoropo, jaaka go tla bo go le maleba. 35

Maikarabelo a ditheo tsa poraefete tsa boitekanelo

46. Setheo sengwe le sengwe sa poraefete sa boitekanelo se tshwanetse go tlhokomela go nna le inšorensense e e lekaneng go ka golola modirisi mo tshenyong e a ka e itemogelang ka ntsha ya phoso e e dirilweng ke mongwe wa badiri ba sona. 40

Tshekatsheko ya ditirelo tsa ditheo tsa boitekanelo

47. (1) Ditheo tsothle tsa boitekanelo di tshwanetse go ikobela ditlhokego tsa boleng le seemo se se rebotsweng ke Tona morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo. 45
- (2) Ditlhokego tsa boleng le seemo se se kabakanngwang mo karolwaneng ya (1) di ka kaya badiri, thekenoloji ya boitekanelo, didiriswa, boitekanelo, meago, tlanelo ya ditirelo tsa boitekanelo; ditiro tsa kgwebo; pabalesego le tsela e badirisi ba fiwang bonno ka yona le ka moo ba tsholwang ka gona. 50
- (3) Kantoru ya Seemo sa Go Ikobelwa Seemo le Botlhatlhabi jwa Ditheo tsa Boitekanelo e tshwanetse go tlhokomela le go netefatsa boikobo ka ditlhokego tsa boleng le seemo se se kabakanngwang mo karolwaneng ya (1).

CHAPTER 7

HUMAN RESOURCES PLANNING AND ACADEMIC HEALTH COMPLEXES

Development and provision of human resources in national health system

48. (1) The National Health Council must develop policy and guidelines for, and monitor the provision, distribution, development, management and utilisation of, human resources within the national health system. 5

(2) The policy and guidelines contemplated in subsection (1) must amongst other things facilitate and advance—

- (a) the adequate distribution of human resources;
- (b) the provision of appropriately trained staff at all levels of the national health system to meet the population's health care needs; and 10
- (c) the effective and efficient utilisation, functioning, management and support of human resources within the national health system.

Maximising services of health care providers

49. The Minister, with the concurrence of the National Health Council, must determine guidelines to enable the provincial departments and district health councils to implement programmes for the appropriate distribution of health care providers and health workers. 15

Forum of Statutory Health Professional Councils

50. (1) A forum to be known as the Forum of Statutory Health Professional Councils is hereby established on which all the statutory health professional councils must be represented. 20

(2) The Forum of Statutory Health Professional Councils consists of the chairpersons of the statutory health professional councils and the registrars or chief executive officers, as the case may be, of the statutory health professional councils. 25

(3) (a) In addition to the representatives contemplated in subsection (2), the Minister must appoint—

- (i) two representatives of the national department;
- (ii) three community representatives who have been appointed to any of the statutory health professional councils contemplated in subsection (1); and 30
- (iii) two representatives of tertiary education institutions,

to the Forum of Statutory Health Professional Councils.

(b) (i) The Minister must appoint a suitable person as chairperson of the Forum of Statutory Health Professional Councils:

(ii) The chairperson holds office for such period, but not exceeding two years, as the Minister may determine at the time of his or her appointment, and may be reappointed at the expiry of his or her term of office. 35

(c) Any member of the Forum of Statutory Health Professional Councils, including the chairperson, must vacate his or her office if—

- (i) his or her estate is sequestrated; 40
- (ii) he or she becomes disqualified from practising his or her profession in terms of any law;
- (iii) he or she becomes mentally ill to such a degree that it is necessary that he or she be detained, supervised or controlled;
- (iv) he or she is convicted in the Republic or elsewhere of an offence involving dishonesty or an offence in respect whereof he or she is sentenced to imprisonment without the option of a fine; 45
- (v) he or she ceases to be a South African citizen;
- (vi) he or she has been absent from more than two consecutive ordinary meetings of the Forum without leave from the Forum; 50
- (vii) he or she tenders his or her resignation in writing and the Minister accepts the resignation;

KGAOLO 7**TOGAMAANO YA BADIRI LE DITIKWATIKWE TSA BORUTEGI
TSA BOITEKANELO****Tlhabololo le tlanelo ya badiri mo thulaganyong ya bosetšhaba ya boitekanelo**

48. (1) Khansele ya Bosetšhaba ya Boitekanelo e tshwanetse go tlhama pholesi le kaedi, le go tlhokomela tlanelo ya phasalatso, tlhabololo, tsamaiso le tiriso ya badiri mo thulaganyong ya bosetšhaba ya boitekanelo. 5

(2) Pholesi le kaedi e e kabakanngwang mo karolwaneng ya (1) e tshwanetse gore, magareng ga tse dingwe, e gokaganye le go tsweletsa—

(a) phasalatso e e lekaneng ya badiri; 10

(b) tlanelo ya badiri ba ba katisitsweng ka tshwanelo mo magatong otlhe a thulaganyo ya bosetšhaba ya boitekanelo gore go fitlhelelwe ditlhokego tsa setšhaba tsa tlhokomelo ya boitekanelo; le

(c) tiriso e e bokgoni, go dira, tsamaiso le tshegetso ya badiri mo thulaganyong ya bosetšhaba ya boitekanelo. 15

Ntsifatso ya ditirelo tsa batlamedi ba tlhokomelo ya boitekanelo

49. Tona, ka tumelano ya Khansele ya Bosetšhaba ya Boitekanelo, o tshwanetse go swetsa ka kaedi e e tla kgontshang mafapha a porofense le dikhansele tsa kgaolo tsa boitekanelo go diragatsa mananeo a phasalatso e e tshwanetseng ya batlamedi ba tlhokomelo ya boitekanelo le badiri ba boitekanelo. 20

Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo

50. (1) Ka go riana go tlhamiwa foramo e e tla itseweng jaaka Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo e dikhansele tsothe tsa molao tsa baporofešenale ba boitekanelo di tshwanetseng go nna le kemedi mo go yona.

(2) Foramo ya khansele ya Semolao ya Baporofešenale ba Boitekanelo e dirwa ke bannasetilo ba dikhansele semolao ya baporofešenale ba boitekanelo le bakwadisi gongwe batlhankedikhuduthamaga bagolo, fela jaaka go tla bo go le maleba, ba dikhansele semolao ya baporofešenale ba boitekanelo. 25

(3) (a) Go tlaleletsa mo baemeding ba ba kabakanngwang mo karolwaneng ya (2), Tona a ka thapa— 30

(i) baemedi ba le babedi ba lefapha la bosetšhaba;

(ii) baemedi ba le bararo ba baagi ba ba thapilweng mo go nngwe fela ya dikhansele tsa semolao tsa baporofešenale ba boitekanelo tse di kabakanngwang mo karolwaneng ya (1); le

(iii) baemedi ba le babedi ba ditheo tsa thuto e kgolo, 35

mo Foramong ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo.

(b) (i) Tona o tshwanetse go thapa motho yo o siameng jaaka monnasetilo wa Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo.

(ii) Monnasetilo o tla nna mo kantoro sebaka se se tla bong se sweditse le Tona fa a mo thapa, fela se sa fete dingwaga di le pedi, mme a ka thapiwa gape morago ga gore paka ya gagwe ya kantoro e khutle. 40

(c) Tokololo nngwe le nngwe ya Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo, go akarediwa le monnasetilo, e tshwanetse go tswa mo kantorong fa—

(i) fa a amogiwa dithoto;

(ii) fa a ilediwa go tlhola a dira mo porofeseneng ya gagwe go ya ka molao mongwe fela; 45

(iii) fa a nna le bolwetse jwa tlhologanyo moo e leng gore go botlhokwa gore a tswalelwe, a tlhokomelwe gongwe a laolwe;

(iv) fa a ka golegwa mo Rephaboliking kgotsa gongwe fela e le ka ntlha ya tlolomolao e e akaretsang go sa ikanyege gongwe tlolomolao e e leng gore e baka gore a atlholelwe go ya kgolegolong ntle le go ithophela go lefa; 50

(v) fa a khutla go nna moagi wa Aforika Borwa;

(vi) fa a lofetse dikopano di feta bobedi tse di tlhomaganang tsa tsa Foramo ntle le tetla go tswa mo Foramong;

(vii) a leboga tiro ka go kwala mme Tona a amogela seo; 55

- (viii) he or she ceases to hold any qualification necessary for his or her appointment;
or
- (ix) the Minister, in the public interest, terminates his or her membership.
- (4) The Forum of Statutory Health Professional Councils must—
- (a) protect the interests of the public and users; 5
- (b) ensure communication and liaison between the statutory health professional councils upon matters affecting more than one of the registered professions;
- (c) in the interests of the public, promote interprofessional liaison and communication between registered professions;
- (d) promote good practice in health services and sharing of information between the statutory health professional councils; 10
- (e) ensure consistency in the actions and decisions of the statutory health professional councils;
- (f) consult and liaise with any relevant authority on matters collectively affecting all registered health professions; 15
- (g) investigate and report on, of its own accord, at the request of one or more of the statutory health professional councils or at the request of the Minister, any matter of relevance to more than one statutory health professional council;
- (h) in the prescribed manner, act as ombudsperson in respect of complaints by members of the public and other persons concerning the councils referred to in subsection (1); 20
- (i) advise the Minister on the development of coherent policies relating to the education and training and optimal utilisation and distribution of health care providers;
- (j) monitor and advise the Minister on the implementation of health policy in so far as it impacts on health care providers and the registered professions; 25
- (k) hold the statutory health professional councils explicitly to account for their performance as competent public authorities;
- (l) publish an annual report on the performance of the statutory health professional councils; 30
- (m) set performance improvement targets with the statutory health professional councils and monitor their progress; and
- (n) advise the Minister and the individual statutory health professional councils concerning—
- (i) the scopes of practice of the registered professions; 35
- (ii) common educational and training requirements of health care providers;
- (iii) new professions to be regulated;
- (iv) targets, priorities, norms and standards relating to the equitable distribution of health care providers;
- (v) development, procurement and use of health service technology; 40
- (vi) perverse incentives within the registered professions;
- (vii) the recruitment, evaluation and registration of foreign health care professionals;
- (viii) effective co-ordination of the objectives and responsibilities of the various statutory health professional councils; 45
- (ix) responsibilities of health care providers in promoting and maintaining public health;
- (x) interprofessional communication and relationships; and
- (xi) any other matter that may be prescribed.
- (5) (a) In performing its duties the Forum of Statutory Health Professional Councils may— 50
- (i) consult or hear representations by any person, body or authority; and
- (ii) establish a committee to advise it on any matter.
- (b) A committee contemplated in paragraph (a)(ii) may consist of not more than seven persons who must have the relevant knowledge, expertise, skills and experience to enable the committee to give the required advice. 55

- (viii) a khutla go nna le borutegi bope fela jo bo tlokegang mo tirong eo ya gagwe; gongwe
- (ix) Tona, mo dikgatlhegong tsa setšhaba, a khutlisa botokololo jwa gagwe.
- (4) Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo e tshwanetse— 5
- (a) go sireletsa dikgatlhego tsa setšhaba le badirisi;
- (b) go netefatsa gore go nna le tshaeletsano le kgokagano magareng ga dikhansele tsa Semolao tsa Baporofešenale ba Boitekanelo malebana le merero e e amang diporofesene tse di kwadisitsweng di feta bongwe;
- (c) mo dikgatlhegong tsa setšhaba, e tswetse kgokagano go ralala diporofesene le tshaeletsano magareng ga diporofesene tse di kwadisitsweng; 10
- (d) go tswetsetsa tiro e e siameng mo ditirelong tsa boitekanelo le go amogana tshedimosetso magareng ga dikhansele tsa molao tsa baporofešenale ba boitekanelo;
- (e) go netefatsa go tshwana ga ditiro le ditshwetso tsa dikhansele tsa molao tsa baporofešenale ba boitekanelo; 15
- (f) go batla maikutlo le go gokagana le bothati bongwe le bongwe jo bo maleba mo mererong e e amang diporofešene tsothe tse di kwadisitsweng;
- (g) go batlisisa le go tthagisa pegelo, ka bo yona, ka kopo ya nngwe gongwe dingwe tsa dikhansele tsa molao tsa baporofešenale ba boitekanelo gongwe ka kopo ya Tona, ka morero mongwe le mongwe o o amang dingwe gongwe nngwe ya dikhansele tsa molao tsa baporofešenale ba boitekanelo; 20
- (h) ka tsela e e rebotsweng, go dira jaaka rabadirisi malebana le dingongorego dingwe le dingwe fela tsa ditokololo tsa setšhaba le batho ba bangwe malebana le dikhansele tse dikailweng mo karolwaneng ya (1); 25
- (i) go gakolola Tona ka tihabololo ya dipholesi tse di tsamaelanang tse di malebana le thuto le katiso gammogo le tiriso ka botlalo le phasalatso ya batlamedi ba boitekanelo;
- (j) go tlhokomela le go gakolola Tona ka tiragatso ya pholesi ya boitekanelo go lebeleletse ka moo e amang batlamedi ba tlhokomelo ya boitekanelo le diporofešene tse di kwadisitsweng ka gona; 30
- (k) go dira gore dikhansele tsa semolao tsa baporofešenale ba boitekanelo di ikarabele malebana le ditiro tsa tsona jaaka ditheo tsa setšhaba;
- (l) go phasalatsa pegelo ya ngwaga le ngwaga ya khansele ya semolao ya baporofešenale ba boitekanelo; 35
- (m) go baya diphithlelelo tsa tokafatso ya tiro le dikhansele tsa semolao tsa baporofešenale ba boitekanelo le go tlhokomela tswelelopele ya tsona; le
- (n) go gakolola Tona le dikhansele tse di farologaneng tsa semolao tsa baporofešenale ba boitekanelo malebana le— 40
- (i) lenaneo la tiro la diporofešene tse di kwadisitsweng;
- (ii) ditlhokego tse di tshwanang tsa thuto le katiso tsa batlamedi ba tlhokomelo ya boitekanelo;
- (iii) diporofešene tse dintšhwa tse di tshwanetseng go laolwa;
- (iv) diphithlelelo tse di beilweng, ditlapele, ditekanyetso le seemo malebana le phasalatso ya batlamedi ba tlhokomelo ya boitekanelo ka tekatekano; 45
- (v) tihabololo, theko le tiriso ya thekenoloji ya tirelo ya boitekanelo;
- (vi) dithotloetso tse di sa nngang sentle mo diporofešeneng tse di kwadisitsweng;
- (vii) go ngoka, go sekaseka le go kwadisa baporofešenale ba tlhokomelo ya boitekanelo go tswa kwa dinageng di sele; 50
- (viii) kgokaganyo e e bokgoni ya maikemisetso le maikarabelo a dikhansele tse di farologaneng tsa semolao tsa baporofešenale ba boitekanelo;
- (ix) maikarabelo a batlamedi ba tlhokomelo ya boitekanelo mo go tswelletseng le go tlhokomela boitekanelo jwa setšhaba;
- (x) morero mongwe le mongwe fela o o ka rebolwang. 55
- (5) (a) Fa e tswetse ka ditiro tsa yona, Foramo ya Khansele ya Semolao ya Baporofešenale ba Boitekanelo e ka—
- (i) batla maikutlo gongwe ya reetsa ditlhagiso ka motho mongwe le mongwe fela, setheo gongwe bothati; mme
- (ii) e ka tlhama komiti go e gakolola ka morero mongwe le mongwe fela. 60
- (b) Komiti e e kabakanngwang mo temeng ya (a)(ii) e ka dirwa ke batho ba ba sa feteng supa ba ba tshwanetseng go nna le kitso e e maleba, boitseanape, bokgoni le maitemogelo a a tla kgontshang komiti go tlamela ka kgakololo e e tlokegang.

- (c) The chairperson of the Forum must be a member of the committee.
- (6) (a) A decision of the Forum of Statutory Health Professional Councils must be taken by the votes of a majority of at least two thirds of the members of the Forum present at the meeting of the Forum.
- (b) A quorum for any meeting of the Forum is at least half of the members of the Forum plus one. 5
- (c) In the event of an equality of votes, the chairperson of the Forum has a casting vote in addition to his or her deliberative vote.
- (7) The Forum of Statutory Health Professional Councils may determine the procedure for its meetings. 10
- (8) The Forum of Statutory Health Professional Councils must meet at least three times a year.
- (9) The Forum of Statutory Health Professional Councils is funded through prescribed membership fees paid by the statutory health professional councils.
- (10) The members of the Forum of Statutory Health Professional Councils may agree that a person employed by one of the statutory health professional councils represented on the Forum must act as secretary at a meeting of the Forum. 15

Establishment of academic health complexes

51. The Minister may, in consultation with the Minister of Education, establish—
- (a) academic health complexes, which may consist of one or more health establishments at all levels of the national health system, including peripheral facilities, and one or more educational institutions working together to educate and train health care personnel and to conduct research in health services; and 20
- (b) any co-ordinating committees that may be necessary in order to perform such functions as may be prescribed. 25

Regulations relating to human resources

52. The Minister may make regulations regarding human resources within the national health system in order to—
- (a) ensure that adequate resources are available for the education and training of health care personnel to meet the human resources requirements of the national health system; 30
- (b) ensure the education and training of health care personnel to meet the requirements of the national health system;
- (c) create new categories of health care personnel to be educated or trained; 35
- (d) identify shortages of key skills, expertise and competencies within the national health system and to prescribe strategies which are not in conflict with the Higher Education Act, 1997 (Act No. 101 of 1997), for the—
- (i) recruitment of health care personnel from other countries; and
- (ii) education and training of health care providers or health workers in the Republic, 40
- to make up the deficit in respect of scarce skills, expertise and competencies;
- (e) prescribe strategies for the recruitment and retention of health care personnel within the national health system;
- (f) ensure the existence of adequate human resources planning, development and management structures at national, provincial and district levels of the national health system; 45
- (g) ensure the availability of institutional capacity at national, provincial and district levels of the national health system to plan for, develop and manage human resources; 50
- (h) ensure the definition and clarification of the roles and functions of the national department, provincial departments and municipalities with regard to the planning, production and management of human resources; and

(c) Monnasetilo wa Foramo o tshwanetse go nna tokololo ya komiti.

(6) (a) Tshwetso ya Foramo ya Dikhansela tsa Semolao tsa Baporofešenale ba Boitekanelo e tshwanetse go tsewa ka diboutu tsa bontsi jwa bonnye pedi-tharong ya ditokololo tsa Foramo tse di leng gona kwa kopanong ya Foramo.

(b) Khoramo ya kopano nngwe le nngwe ya Foramo ke bonnye, halofo ya ditokololo tsa Foramo le a le mongwe.

(c) Mo mabakeng a go nang le tekatekano ya diboutu, monnasetilo wa Foramo o na le boutu ya tshwetso mo godimo ga boutu ya gagwe e e tlwaelegileng.

(7) Foramo ya Dikhansela tsa Semolao tsa Baporofešenale ba Boitekanelo e ka swetsa ka thulaganyo ya dikopano tsa yona.

(8) Foramo ya Dikhansela tsa Semolao tsa Baporofešenale ba Boitekanelo e tshwanetse go kopana, bonnye gararo ka ngwaga.

(9) Foramo ya Dikhansela tsa Semolao tsa Baporofešenale ba Boitekanelo e bona tlamelo ya matlotlo mo dituelong tse di rebotsweng tsa botokololo tse di diuelwang ke dikhansela tsa semolao tsa baporofešenale ba boitekanelo.

(10) Ditokololo tsa Foramo ya Semolao ya Baporofešenale ba Boitekanelo di ka dumelana gore motho yo o thapilweng ke nngwe ya dikhansela tsa semolao tsa baporofešenale ba boitekanelo tse di nang le kemedi mo Foramong o tshwanetse go dira jaaka mokwaledi kwa kopanong ya Foramo.

Go tlhamiwa ga ditikwatikwe tsa borutegi tsa boitekanelo

51. Tona, morago ga go batla maikutlo a Tona ya Thuto, a ka tlhama—

(a) ditikwatikwe tsa borutegi tsa boitekanelo tse di ka dirwang ke setheo sa boitekanelo se le sengwe gongwe go feta kwa magatong otlhe a thulaganyo ya bosetšhaba ya boitekanelo, go akarediwa ditlamelo tse di kwa meelwaneng, le setheo gongwe ditheo tsa thuto tse di dirang mmogo go ruta le go katisa badiri ba tlhokomelo ya boitekanelo le go dira dipatlisiso tsa ditirelo tsa boitekanelo; le

(b) dikomiti dingwe fela tsa bogokaganyi go ya fela jaaka go tla bo go tlhokega gore di dire ditiro tse di tla bong di rebotswa.

Melawana e e malebana le badiri

52. Tona a ka dira melawana e e malebana le badiri mo thulaganyong ya bosetšhaba ya boitekanelo go—

(a) netefatsa gore go nna le ditlamelo tse di lekaneng go dirisediwa thuto le katiso ya badiri ba tlhokomelo ya boitekanelo go fitlhelela ditlhokego tsa badiri tsa thulaganyo ya bosetšhaba ya boitekanelo;

(b) go netefatsa gore go na le thuto le katiso ya badiri ba tlhokomelo ya boitekanelo go fitlhelela ditlhokego tsa badiri ba thulaganyo ya bosetšhaba ya boitekanelo;

(c) go tlhama dikarolo tse dintšhwa tsa badiri ba tlhokomelo ya boitekanelo tse di tshwanetseng go rutwa le go katisiwa;

(d) go supa tlhalelo e e gona ya botlhokwa ya bokgoni, borutegi le kgono mo thulaganyong ya bosetšhaba ya boitekanelo le go rebola togamaano e e sa thulaneng le Molao wa Thuto e Kgolo wa ngwaga wa 1997 (Molao wa bo101 wa ngwaga wa 1997), e e malebana le—

(i) go ngokiwa ga badiri ba tlhokomelo ya boitekanelo go tswa kwa dinageng tse dingwe; le

(ii) thuto le katiso ya batlamedi ba tlhokomelo ya boitekanelo gongwe badiri ba boitekanelo mo Rephaboliking,

(e) go rebola maano a go ngoka le go tsholela ruri badiri ba tlhokomelo ya boitekanelo mo thulaganyong ya bosetšhaba ya boitekanelo;

(f) go netefatsa go nna teng ga togamaano e e lekaneng ya badiri, tlhabololo le dipopegotheo tsa tsamaiso kwa magatong a bosetšhaba, porofense le kgaolo a thulaganyo ya bosetšhaba ya boitekanelo;

(g) go netefatsa gore go nna le bokgoni jwa setheo kwa magatong a bosetšhaba, porofense le kgaolo a thulaganyo ya bosetšhaba ya boitekanelo go rulaganyetsa, go tlhabolola le go tsamaisa badiri;

(h) go netefatsa gore go nna le tlhaloso ya seabe le ditiro tsa lefapha la bosetšhaba, mafapha a diporofense gammogo le makgotlatoropo malebana le thulaganyo, tlhagiso le tsamaiso ya badiri; le

- (i) prescribe circumstances under which health care personnel may be recruited from other countries to provide health services in the Republic.

CHAPTER 8

CONTROL OF USE OF BLOOD, BLOOD PRODUCTS, TISSUE AND GAMETES IN HUMANS

5

Establishment of national blood transfusion service

53. (1) The Minister must establish a blood transfusion service for the Republic by granting a licence to a non-profit organisation, which is able to provide a blood transfusion service throughout the territory of the Republic.

(2) The holder of the licence granted in terms of subsection (1)— 10

(a) must comply with prescribed norms and standards and must provide the prescribed blood transfusion and related services;

(b) may establish regional units, for the delivery of blood transfusion services, which must function under the control of the licence holder; and

(c) has the sole right to provide a blood transfusion service in the Republic. 15

(3) Any person other than the holder of the licence granted in terms of subsection (1) who provides a blood transfusion service in the Republic, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

Designation of authorised institution

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54. (1) The Minister may, by notice in the *Gazette*, designate any institution other than an institution contemplated in section 63 as an authorised institution.

(2) An authorised institution may—

(a) acquire, use or supply the body of a deceased person for any of the purposes referred to in section 64; 25

(b) acquire or use any tissue lawfully imported or removed from the body of a living or deceased person for any of the purposes referred to in section 56 or 64, as the case may be;

(c) supply any tissue preserved by it to an institution or person contemplated in section 63 for any of the purposes referred to in section 58 or 64; and 30

(d) acquire, use and supply blood products for any of the purposes referred to in section 56 or 64.

(3) The Minister may, in the notice contemplated in subsection (1), impose conditions in respect of the exercise of a power referred to in subsection (2).

Removal of tissue, blood, blood products or gametes from living persons

35

55. A person may not remove tissue, blood, a blood product or gametes from the body of another living person for the purpose referred to in section 56 unless it is done—

(a) with the written consent of the person from whom the tissue, blood, blood product or gametes are removed granted in the prescribed manner; and

(b) in accordance with prescribed conditions. 40

Use of tissue, blood, blood products or gametes removed or withdrawn from living persons

56. (1) A person may use tissue or gametes removed or blood or a blood product withdrawn from a living person only for such medical or dental purposes as may be prescribed. 45

- (i) go rebola seemo se mo go sona badiri ba tlhokomelo ya boitekanelo ba ka ngokiwang go tswa kwa dinageng tse dingwe go tlamela ka ditirelo tsa boitekanelo mo Rephaboliking.

KGAOLO 8

TAOLO YA TIRISO YA MADI, DITLHAGISWA TSA MADI, DITHIŠU LE DIKAMETE MO BATHONG 5

Go tlhamiwa ga tirelo ya bosetšhaba ya tshelo ya madi

53. (1) Tona o tshwanetse go tlhoma tirelo ya tshelo ya madi ya Rephaboliki ka go rebola laesense go mokgatho o o sa direng lotseno, o o kgonang go tlamela ka tirelo ya tshelo ya madi go ralala Rephaboliki. 10
- (2) Motshodi wa laesense e e rebotsweng go ya ka karolwana (1)—
- (a) o tshwanetse go ikobela ditekanyetso le seemo se se rebotsweng mme o tshwanetse go tlamela ka tirelo e e rebotsweng ya tshelo ya madi le ditirelo tse di amanang nayo;
- (b) a ka tlhoma diyuniti tsa dikgaolo gore di tlamele ka ditirelo tsa tshelo ya madi, tse di tla bong di dira ka fa tlase ga taolo ya motshodi wa laesense; mme 15
- (c) o na le tshwanelo a le nosi fela ya go tlamela ka tirelo ya tshelo ya madi mo Rephaboliking.
- (3) Motho yo mongwe fela ntle le motshodi wa laesense e e rebotsweng go ya ka karolwana ya (1), yo o tlamelang ka tirelo ya tshelo ya madi mo rephaboliking, dira tlolomolao mme a ka atholelwa go lefa gongwe go golegwa sebaka se se sa feteng dingwaga di le tlhano gongwe go lefa le go golegwa. 20

Go rebolwa ga ditheo tse di dumeletsweng

54. (1) Tona, ka kitsiso mo *Kaseteng*, a ka rebola setheo sengwe le sengwe go na le setheo se se kabakanngwang mo karolong ya 63 jaaka setheo se se dumeletsweng. 25
- (2) Setheo se se dumeletsweng se ka—
- (a) bona, dirisa gongwe go tlamela ka mmele wa motho yo o tlhokafetseng go dirisiwa mo mabakeng mangwe le mangwe a a kailweng mo karolong ya 64;
- (b) bona gongwe sa dirisa thišu nngwe le nngwe e e rometsweng teng go ya ka molao gongwe e tlositswe mo mmeleng wa motho yo o tshelang gongwe yo o tlhokafetseng ka ntlha ya lebaka lengwe le lengwe fela le le kailweng mo karolong ya 58 gongwe 64, fela jaaka go tla bo go le maleba; 30
- (c) tlamela ka thišu nngwe le nngwe fela e se e bolokileng go setheo gongwe motho yo o kabakanngwang mo karolong ya 63 go dirisediwa mabaka mangwe le mangwe fela a a kailweng mo karolong ya 58 gongwe 64; le 35
- (d) bona, dirisa le tlamela ka ditlhagiswa tsa madi go dirisiwa mo mabakeng mangwe le mangwe fela a a kailweng mo karolong ya 56 gongwe 64.
- (3) Tona, ka kitsisio e e kabakanngwang mo karolwaneng ya (1), a ka dirisa seemo se se malebana le tiriso ya dithata e e kaiwang mo karolwaneng ya (2).

Go tlosiwa ga dithišu, madi, ditlhagiswa tsa madi gongwe dikametse go tswa mo bathing ba ba tshelang 40

55. Motho ga a tshwanela go tlosa thišu, madi, setlhagiswa sa madi gongwe dikamete mo mmeleng wa motho yo mongwe yo o tshelang go dirisediwa mabaka a a kailweng mo karolong ya 56 ntle le fa fela go dirwa—
- (a) ka tumelelo e e kwadilweng ke motho yo thišu, madi, didirwa tsa madi gongwe dikamete di tloswang mo go ena e e rebotsweng ka tsela e e rebotsweng; le 45
- (b) go ya ka seemo se se rebotsweng.

Tiriso ya dithišu, madi, ditlhagiswa tsa madi gongwe dikamete tse di tlositsweng gongwe di gogilwe go tswa mo mothong yo o tshelang 50

56. (1) Motho a ka dirisa thišu gongwe dikamete tse di tlositsweng gongwe madi gongwe ditlhagiswa tsa madi tse di gogilweng go tswa mo mothong yo o tshelang fela mo mabakeng a kalafi gongwe a bongaka jwa meno fela jaaka go tla bo go rebotswa.

(2) (a) Subject to paragraph (b), the following tissue, blood, blood products or gametes may not be removed or withdrawn from a living person for any purpose contemplated in subsection (1):

- (i) Tissue, blood, a blood product or a gamete from a person who is mentally ill within the meaning of the Mental Health Care Act, 2002 (Act No. 17 of 2002); 5
- (ii) tissue which is not replaceable by natural processes from a person younger than 18 years;
- (iii) a gamete from a person younger than 18 years; or
- (iv) placenta, embryonic or foetal tissue, stem cells and umbilical cord, excluding umbilical cord progenitor cells. 10

(b) The Minister may authorise the removal or withdrawal of tissue, blood, a blood product or gametes contemplated in paragraph (a) and may impose any condition which may be necessary in respect of such removal or withdrawal.

Prohibition of reproductive cloning of human beings

57. (1) A person may not— 15

- (a) manipulate any genetic material, including genetic material of human gametes, zygotes or embryos; or
- (b) engage in any activity, including nuclear transfer or embryo splitting, for the purpose of the reproductive cloning of a human being.

(2) The Minister may, under such conditions as may be prescribed, permit therapeutic cloning utilising adult or umbilical cord stem cells. 20

(3) No person may import or export human zygotes or embryos without the prior written approval of the Minister.

(4) The Minister may permit research on stem cells and zygotes which are not more than 14 days old on a written application and if— 25

- (a) the applicant undertakes to document the research for record purposes; and
- (b) prior consent is obtained from the donor of such stem cells or zygotes.

(5) Any person who contravenes a provision of this section or who fails to comply therewith is guilty of an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment. 30

(6) For the purpose of this section—

- (a) “reproductive cloning of a human being” means the manipulation of genetic material in order to achieve the reproduction of a human being and includes nuclear transfer or embryo splitting for such purpose; and
- (b) “therapeutic cloning” means the manipulation of genetic material from either adult, zygotic or embryonic cells in order to alter, for therapeutic purposes, the function of cells or tissues. 35

Removal and transplantation of human tissue in hospital or authorised institution

58. (1) A person may not remove tissue from a living person for transplantation in another living person or carry out the transplantation of such tissue except— 40

- (a) in a hospital or an authorised institution; and
- (b) on the written authority of—
 - (i) the medical practitioner in charge of clinical services in that hospital or authorised institution, or any other medical practitioner authorised by him or her; or 45

(2) (a) Go lebeleetswe tema ya (b), thišū, madi, ditlhagiswa tsa madi gongwe dikamete tse di latelang, ga di a tshwanela go tlošwa gongwe go gogiwa mo mothong yo o tshelang go dirisediwa mabaka mangwe le mangwe fela a a kabakanngwang mo karolwaneng ya (1);

- (i) dithišū, madi, ditlhagiswa tsa madi gongwe kamete go tswa mo mothong yo o lwalang bolwetse jwa tlhologanyo go ya ka bokao jwa Molao wa Tlhokomelo ya Boitekanelo jwa Tlhologanyo wa ngwaga wa 2002 (Molao wa bo17 wa ngwaga wa 2002); 5
- (ii) dithišū tse di sa busediweng ka thulaganyo ya tlholego go tswa mo mothong yo o bogolo jo bo ka fa tlase ga dingwaga di le 18; 10
- (iii) kamete go tswa mo mothong yo o monnye go na le dingwaga di le 18; gongwe 10
- (iv) samorago, dithišū tsa emborio gongwe ya lesea le le iseng le tsalwe, disele tsa medi le lelana la mohubu, go sa akarediwe disele tsa tshimologo tsa lelana la mohubu.

(b) Tona a ka laolela go tlošwa gongwe go gogiwa ga dithišū, madi, setlhagiswa sa madi gongwe dikamete tse di kabakanngwang mo temeng ya (a) mme a ka diragatsa seemo sengwe le sengwe se se ka nnang bothokwa malebana le go tlošwa gongwe go gogiwa goo. 15

Kiletso ya go dira batho ba ba tshwanang le ba bangwe ka go tsaya disele tsa ba ba tshelang 20

57. (1) Motho ga a tshwanela—

- (a) go fetola dire dingwe le dingwe tsa jenetiki, go akarediwa dire tsa jenetiki tsa dikamete tsa batho, disaekoute gongwe diemborio; gongwe
- (b) go dira sepe fela, go akarediwa phetiso ya nyutlelia gongwe go aroganngwa ga emborio, 25

go dirisediwa mabaka a go dirwa ga batho ba ba tshwanang le ba bangwe ka go tsaya disele tsa ba ba tshelang.

(2) Tona, mo seemong se se tla bong se rebotswe, a ka letla go dirisiwa ga disele go fodisa ka go dirisa disele tsa mogolo gongwe tsa kalana ya mohubu.

(3) Ga gona motho ope yo o ka romelang teng gongwe go romela ntle disaekoute gongwe di emborio tsa batho ntle le tetla go tswa go Tona. 30

(4) Tona a ka letla patlisiso mo diseleng tsa tshimologo le disaekoute tse di seng bogolo jwa go feta malatsi a le 14 fa a amogetse kopo e e kwadilweng le fa—

- (a) mokopi a ipofa go kwala patlisiso gore go mme le rekoto; mme
- (b) go amogetswe tumelelo go tswa go moabi wa disele gongwe disaekoute tseo. 35

(5) Motho mongwe le mongwe yo o tlošang ditlamelo tsa karolo eno gongwe yo o retelwang ke go ikobela seno o dira tlolomolao e e ka lebisang kwa go atholelweng tuelo gongwe go golegwa sebaka se se sa feteng dingwaga di le thano gongwe kotlhao ya tuelo le ya go golegwa.

(6) Mo mabakeng a karolo eno— 40

- (a) “go tsadisa ka go dira motho wa maitirelo” go kaya go fetola dire tsa jenetiki gore go fitlhelelwe tsadiso ya motho mme seno se akaretsa phetiso ya nyutlelia gongwe go aroganngwa ga emborio go dirisediwa mabaka ao; mme
- (b) “go dira motho wa maitirelo yo o tshwanang le yo mongwe mo mabakeng a kalafi” go kaya go getola dire tsa jenetiki e ka nna go tswa mo mogolong, disele tsa saekoute gongwe tsa emborio go fetola, go alafa go lebeleetswe tiro ya disele gongwe dithišū. 45

Go tlošwa gongwe go jalelewa ga dithišū tsa batho kwa sepetlele gongwe kwa setheong se se dumeletsweng seno

58. (1) Motho ga a tshwanela go tloša dithišū go tswa mo mothong yo o tshelang go jalelelwa mo mothong yo o tshelang gongwe go tseweletsa jalelelo ya thišū eo, ntle le— 50

- (a) kwa sepetlele gongwe kwa setheong se se dumeletsweng; le
- (b) ka dumelelo e e kwadilweng ya—
 - (i) ngaka e e rweleng maikarabelo a ditirelo tsa kalafi mo sepetlele gongwe kwa setheong se se dumeletsweng, gongwe ngaka nngwe fela e e laoletsweng jalo ke ena; gongwe 55

- (ii) in the case where there is no medical practitioner in charge of the clinical services at that hospital or authorised institution, a medical practitioner authorised thereto by the person in charge of the hospital or authorised institution.

(2) The medical practitioner contemplated in subsection (1)(b) may not participate in a transplant for which he or she has granted authorisation in terms of that subsection. 5

Removal, use or transplantation of tissue, and administering of blood and blood products by medical practitioner or dentist

59. (1) For the purposes of this Chapter, only a registered medical practitioner or dentist may remove any tissue from a living person, use tissue so removed for any of the purposes contemplated in section 56 or transplant tissue so removed into another living person. 10

(2) Subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), only a registered medical practitioner or dentist, or a person acting under the supervision or on the instructions of a medical practitioner or dentist, may for the purposes of this Chapter administer blood or a blood product to, or prescribe blood or a blood product for, a living person. 15

Payment in connection with the importation, acquisition or supply of tissue, blood, blood products or gametes

60. (1) No person, except— 20

(a) a hospital or an institution contemplated in section 58(1)(a), a person or an institution contemplated in section 63 and an authorised institution or, in the case of tissue or gametes imported or exported in the manner provided for in the regulations, the importer or exporter concerned, may receive payment in respect of the acquisition, supply, importation or export of any tissue or gamete for or to another person for any of the purposes contemplated in section 56 or 64; 25

(b) a person or an institution contemplated in section 63 or an authorised institution, may receive any payment in respect of the importation, export or acquisition for the supply to another person of blood or a blood product. 30

(2) The amount of payment contemplated in subsection (1) may not exceed an amount which is reasonably required to cover the costs involved in the importation, export, acquisition or supply of the tissue, gamete, blood or blood product in question.

(3) This section does not prevent a health care provider registered with a statutory health professional council from receiving remuneration for any professional service rendered by him or her. 35

(4) It is an offence for a person—

(a) who has donated tissue, a gamete, blood or a blood product to receive any form of financial or other reward for such donation, except for the reimbursement of reasonable costs incurred by him or her to provide such donation; and 40

(b) to sell or trade in tissue, gametes, blood or blood products, except as provided for in this Chapter.

(5) Any person convicted of an offence in terms of subsection (4) is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment. 45

Allocation and use of human organs

61. (1) Human organs obtained from deceased persons for the purpose of transplantation or treatment, or medical or dental training or research, may only be used in the prescribed manner. 50

(2) Human organs obtained in terms of subsection (1) must be allocated in accordance with the prescribed procedures.

(3) An organ may not be transplanted into a person who is not a South African citizen or a permanent resident of the Republic without the Minister's authorisation in writing.

- (ii) mo mabakeng a go senang ngaka e e rweleng maikarabelo a ditirelo tsa bongaka kwa sepetlele gongwe kwa setheong se se dumeletsweng, ngaka e e laoletsweng jalo ke motho yo o rweleng maikarabelo a sepetlele gongwe setheo se se dumeletsweng.

(2) Ngaka e e kabakanngwang mo karolwaneng ya (1)(b) ga e a tshwanela go nna le seabe mo jaleleleng e a e reboletseng taolo go ya ka karolwana eo. 5

Go tloswa, go dirisiwa le go jalelelwa ga dithišu, le go tsenngwa ga madi gongwe ditlhagiswa tsa madi ke ngaka gongwe ngaka ya meno

59. (1) Mo mabakeng a Kgaolo eno, ke ngaka e e kwadisitsweng fela gongwe ngaka ya meno e e ka tlosang dithišu dingwe le dingwe fela go tsa mo mothong yo o tshelang, ya dirisetsa dithišu tse di tlositsweng jalo mabaka a a kabakanngwang mo karolong ya 56 gongwe ya jalelela thišu e e tlositsweng jalo mo mothong yo mongwe yo o tshela. 10

(2) Go lebeletswe Molao wa Taolo ya Melemo le Tse di Amanang nayo wa ngwaga wa 1965, (Molao wa bo101 wa ngwaga wa 1965), ke ngaka e e kwadisitsweng fela gongwe ngaka ya meno, gongwe motho yo o dirang ka fa tlase ga tlhokomelo gongwe ka taelo ya ngaka gongwe ngaka ya meno, yo, mo mabakeng a Kgaolo eno, a ka tsenyang motho yo o tshelang madi gongwe ditlhagiswa tsa madi, gongwe a rebolela motho yo o tshelang madi gongwe ditlhagiswa tsa madi. 15

Dituelo tse di malebana le go romelwa ntle, go rekwa gongwe go tlamela ka dithišu, madi, ditlhagiswa tsa madi gongwe dikamete 20

60. (1) Ga go motho ope, ntle le—

(a) sepetlele gongwe setheo se se kabakanngwang mo karolong ya 58(1)(a), motho gongwe setheo se se kabakanngwang mo karolong ya 63 le setheo se se laoletsweng gongwe, mo mabakeng a thišu gongwe dikamete tse di amegang tse di rometsweng teng gongwe tse di rometsweng ntle, se ka amogela tuelo malebana le go bona, go tlamela, go romela teng gongwe go romela ntle thišu nngwe le nngwe gongwe kamete go dirisiwa ke motho yo mongwe, e dirisediwa mabaka a a kabakanngwang mo karolong ya 56 le 64; 25

(b) motho gongwe setheo se se kabakanngwang mo karolong ya 63 gongwe setheo se se laoletsweng, a ka amogela tuelo malebana le go romelwa teng, go romelwa ntle gongwe go tlamela motho yo mongwe ka madi gongwe ditlhagiswa tsa madi. 30

(2) Tšhelete e e duelwang e e kabakanngwang mo karolwaneng ya (1) ga e a tshwanela go feta tšhelete e e tlhokegang go fitlhelela ditshenyegelo tse di amanang le go romelwa teng, go romelwa ntle gongwe go bonwa gongwe go tlamela ka thišu, kamete, madi gongwe ditlhagiswa tseo tsa madi. 35

(3) Karolo eno ga e thibele motlamedi wa tlhokomelo ya boitekanelo yo o kwadisitsweng le khansela ya semolao ya baporofesenele ba boitekanelo go amogela tuelo ya tirelo nngwe le nngwe fela ya seporofesenele e a tlametseng ka yona.

(4) Ke tlolomolao gore motho— 40

(a) yo o abileng thišu, kamete, madi gongwe ditlhagiswa tsa madi, a amogele tuelo ya tšhelete gongwe ya mofuta ofe fela ka ntlha ya kabo eo, ntle le fela tuelo ya ditshenyegelo tse a di itemogetseng fa a ne a dira kabelo eo; le

(b) go rekisa gongwe go gweba ka thišu, kamete, madi gongwe ditlhagiswa tsa madi, ntle le jaaka go dirilwe tlamelo mo Kgaolong eno. 45

(5) Motho mongwe le mongwe yo o athholelwang tlolomolao go ya ka karolwana ya (4), fa a tshwarwa a ka athholelwa tuelo gongwe go golegwa sebaka se se sa feteng dingwaga di le tlhano gongwe a athholelwa tuelo le kgolego eo mmogo.

Kabelo le tiriso ya dirwe tsa batho

61. (1) Dirwe tsa batho tse di bonweng go tswa mo bathong ba ba tlhokafetseng gore di dirisediwe go jalelelwa gongwe kalafi, gongwe katiso gongwe patlisiso ya bongaka gongwe ya bongaka jwa meno, di tshwanetse go dirisiwa fela ka tsela e e rebotsweng. 50

(2) Dirwe tsa batho tse di bonweng go ya ka karolwana ya (1) di tshwanetse go abiwa go ya ka dithulaganyo tse di rebotsweng.

(3) Ga go a tshwanela gore go jalelelwe serwe mo mothong yo e seng moagi wa Aforika Borwa gongwe moagi wa leruri wa Rephaboliki ntle le tumelelo ya Tona e e kwadilweng. 55

(4) The Minister must prescribe—

- (a) criteria for the approval of organ transplant facilities; and
- (b) procedural measures to be applied for such approval.

(5) (a) A person who contravenes a provision of this section or fails to comply therewith or who charges a fee for a human organ is guilty of an offence. 5

(b) Any person convicted of an offence in terms of paragraph (a) is liable on conviction to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

Donation of human bodies and tissue of deceased persons

62. (1) (a) A person who is competent to make a will may— 10

- (i) in the will;
- (ii) in a document signed by him or her and at least two competent witnesses; or
- (iii) in an oral statement made in the presence of at least two competent witnesses,

donate his or her body or any specified tissue thereof to be used after his or her death, or give consent to the post mortem examination of his or her body, for any purpose provided for in this Act. 15

(b) A person who makes a donation as contemplated in paragraph (a) must nominate an institution or a person contemplated in section 63 as donee.

(c) If no donee is nominated in terms of paragraph (b), the donation is null and void.

(d) Paragraph (b) does not apply in respect of an organ donated for the purposes contemplated in section 61(1) and the donee of such organ must be determined in terms of section 61(2). 20

(2) In the absence of a donation under subsection (1)(a) or of a contrary direction given by a person whilst alive, the spouse, partner, major child, parent, guardian, major brother or major sister of that person, in the specific order mentioned, may, after that person's death, donate the body or any specific tissue of that person to an institution or a person contemplated in section 63. 25

(3) (a) The Director-General may, after the death of a person and if none of the persons contemplated in subsection (2) can be located, donate any specific tissue of that person to an institution or a person contemplated in section 63. 30

(b) The Director-General may only donate the specific tissue if all the prescribed steps have been taken to locate the persons contemplated in subsection (2).

Human bodies, tissue, blood, blood products or gametes may be donated to prescribed institution or person

63. A human body, tissue, blood, blood products or gametes may be donated by any person contemplated in section 55(a) or 62 to any prescribed institution or person for any purpose contemplated in section 56 or 64(1). 35

Purposes of donation of body, tissue, blood or blood products of deceased persons

64. (1) A donation in terms of section 62 may only be made for— 40

- (a) the purposes of the training of students in health sciences;
- (b) the purposes of health research;
- (c) the purposes of the advancement of health sciences;
- (d) therapeutic purposes, including the use of tissue in any living person; or
- (e) the production of a therapeutic, diagnostic or prophylactic substance.

(2) This Act does not apply to the preparation of the body of a deceased person for the purposes of embalming it, whether or not such preparation involves the— 45

- (a) making of incisions in the body for the withdrawal of blood and the replacement thereof by a preservative; or

- (4) Tona a ka rebola—
- (a) ditlhokego tsa thebolo ya ditlamelo tsa jalelelo ya dirwe; le
 - (b) dikgato tsa thulaganyo tse di tshwanetseng go dirisediwa thebolo eo.
- (5) (a) Motho yo o tlolang ditlamelo tsa karolo eno gongwe yo o retelelwang ke go o ikobela gongwe yo o kopang tuelo ya dirwe tsa batho o tlodile molao. 5
- (b) Motho mongwe le mongwe yo o tshwarelwang tlolomolao go ya ka tema ya (a) fa a tshwarwa a ka atholelwa tuelo gongwe go golegwa sebaka se se sa feteng dingwaga di le tlhano gongwe katlholo ya tuelo le ya go golegwa.

Go abiwa ga mebele ya batho le dithišu tsa batho ba ba tlhokafetseng

62. (1)(a) Motho yo o nang le bokgoni jwa go ka kwala wili— 10
- (i) mo wiling ya gagwe;
 - (ii) mo lekwalong le le saenilweng ke ena le, bonnye, dipaki di le pedi tse di nang le bokgoni; gongwe
 - (iii) ka polelo e e buiwang ka molomo e e dirilweng fa pele ga, bonnye, dipaki di le pedi tse di nang le bokgoni 15
- a ka aba mmele wa gagwe gongwe thišu e e rileng ya ona go dirisiwa morago ga loso la gagwe, a ntsha tumelelo ya gore go dirwe tlhatlhobo ya morago ga loso mo mmeleng wa gagwe go tsweletsa mabaka ape fela a a nang le tlamelo mo Molaong ono.
- (b) Motho yo o dirang kabo e e kabakanngwang mo temeng ya (a) o tshwanetse go tlhopha setheo gongwe motho yo o kabakanngwang mo karolong ya 63 jaaka 20 moamogedi wa kabo.
- (c) Fa go sa tlhophiwa moamogedi wa kabo go ya ka tema ya (b), kabo eo e a phimolwa.
- (d) Tema ya (b) ga e dire mo malebana le serwe se se abetsweng mabaka a a kabakanngwang mo karolong ya 61(1) mme moamogedi wa serwe seo o tshwanetse go swediwa go ya ka karolo ya 61(2). 25
- (2) Fa go sena kabo ka fa tlase ga karolwana ya (1)(a) gongwe go sena kaelo e e ntshiwang ke motho fa a sa ntse a tshela, monna/mosadi, molekane, ngwaga yo mogolo, motsadi, motlhoqomedi, morwarre gongwe kgaitsemi yo mogolo wa motho yoo, ka tatelano e e kailweng, e kare morago ga loso, a abela mmele gongwe thišu e e rileng ya 30 motho yoo go setheo gongwe motho yo o kabakanngwang mo karolong ya 63.
- (3) (a) Mokaedi Kakaretso, morago ga loso la motho, mme fa go sena ope wa batho ba ba kabakanngwang mo karolwaneng ya (2) yo go kgonwang go ikgolaganya nae, a ka aba thišu e e rileng ya motho yoo go setheo gongwe motho yo o kabakanngwang mo 35 karolong ya 63.
- (b) Mokaedi Kakaretso a ka aba thišu e e rileng eo fa fela go latetswe dikgato tse di rebotsweng go leka go golagana le batho ba ba kabakanngwang mo karolwaneng ya (2).

Mebele ya batho, dithišu, madi, ditlhagiswa tsa madi gongwe dikamete di ka abelwa setheo gongwe motho yo o rebotsweng

63. Mmele wa motho, dithišu, madi, didirwa tsa madi gongwe dikamete di ka abiwa 40 ke motho mongwe le mongwe yo o kabakanngwang mo karolong ya 55(a) gongwe 62 go setheo sengwe le sengwe se se rebotsweng gongwe motho go dirisediwa mabaka a a kabakanngwang mo 56 gongwe 64(1).

Mabaka a go aba mmele, dithišu, madi gongwe ditlhagiswa tsa madi tsa batho ba ba tlhokafetseng 45

64. (1) Kabo, go ya ka karolo ya 62 e ka direlwa fela—
- (a) mabaka a katiso ya baithuti ba disaense tsa boitekanelo;
 - (b) mabaka a patlisiso ya boitekanelo;
 - (c) mabaka a go tsweletsa disaense tsa boitekanelo;
 - (d) mabaka a kalafi, go akarediwa go dirisa dithišu mo mothong mongwe le 50 mongwe yo o tshelang; gongwe
 - (e) tlhagiso yo dire tsa kalafi, go bona bolwetse gongwe thibelo ya bolwetse.
- (2) Molao ono ga o dire mo go baakanngweng ga mmele wa motho yo o tlhokafetseng go tloidiwa go thibela go bola, go sa kgathalasege gore a paakanyo eo e akaretsa—
- (a) go segiwa ga mmele go goga madi le go tsenya ditlotsi mo boemong jwa ona; 55 gongwe

- (b) restoration of any disfigurement or mutilation of the body before its burial.

Revocation of donation

65. A donor may, prior to the transplantation of the relevant organ into the donee, revoke a donation in the same way in which it was made or, in the case of a donation by way of a will or other document, also by the intentional destruction of that will or document. 5

Post mortem examination of bodies

66. (1) Subject to subsection (2), a post mortem examination of the body of a deceased person may be conducted if—

- (a) the person, while alive, gave consent thereto; 10
 (b) the spouse, partner, major child, parent, guardian, major brother or major sister of the deceased, in the specific order mentioned, gave consent thereto; or
 (c) such an examination is necessary for determining the cause of death.

(2) A post mortem examination may not take place unless—

- (a) the medical practitioner in charge of clinical services in the hospital or authorised institution or of the mortuary in question, or any other medical practitioner authorised by such practitioner, has authorised the post mortem examination in writing and in the prescribed manner; or 15
 (b) in the case where there is no medical practitioner in charge of clinical services, a medical practitioner authorised by the person in charge of such hospital or authorised institution, has authorised the post mortem examination in writing and in the prescribed manner. 20

Removal of tissue at post-mortem examinations and obtaining of tissue by institutions and persons

67. (1) (a) The Minister may, on the written application of an institution or person requiring tissue for a purpose contemplated in section 64(1), authorise that institution or person, in writing, to obtain such tissue from a medical practitioner contemplated in subsection (3) or a person or an institution contemplated in section 63. 25

(b) The Minister may impose any condition on the institution or person to which or to whom he or she has granted an authorisation in terms of paragraph (a). 30

(c) This Act does not prevent persons or institutions from acquiring tissue in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), for the purposes of that Act.

(2) The medical practitioner in charge of clinical services in the hospital or authorised institution or of the mortuary in question, or any other medical practitioner authorised by such practitioner, or, in the case where there is no medical practitioner in charge of clinical services, a medical practitioner authorised by the person in charge of such hospital or authorised institution, may, in writing and in the prescribed manner, authorise— 35

- (a) a prescribed institution or person contemplated in section 63; or 40
 (b) an authorised institution making application therefor in writing,

to remove any specified tissue from the body concerned before burial thereof.

(3) Despite anything to the contrary in any other law, a medical practitioner who conducts a post-mortem examination in terms of—

- (a) section 3 of the Inquests Act, 1959 (Act No. 58 of 1959); or 45
 (b) section 71(1)(a) or (b),

must remove or cause to be removed from a body such tissue as may be specified in an authorisation under subsection (1) and must hand it over to the institution or person in possession of the authorisation.

(4) The removal contemplated in subsection (3) may not be effected if— 50

- (a) the removal of the tissue is likely to affect the outcome of the examination; or

- (b) go baakanngwa ga tshwanologo nngwe fela gongwe go mutlhega ga mmele pele ga o fitlhwa.

Go gogelwa morago ga kabelo

65. Moabi, pele ga jalelelo ya serwe se se maleba mo moamogeding, a ka gogela morago kabelo ka tsela e e dirilweng ka yona, gongwe, fa e le kabelo ka tsela ya wili gongwe lekwalo lengwe fela, ka go, senya ka bomo wili gongwe lekwalo leo. 5

Tlhatlhobo ya morago ga loso ya mebele

66. (1) Go lebeletse karolwana ya (2), tlhatlhobo ya morago ga loso ya mmele wa motho yo o tlhokafetseng e ka dirwa fa—

- (a) motho yoo, a dumeletse seo a sa ntse a tshela; 10
 (b) monna/mosadi, molekane, ngwana yo mogolo, motsadi, motlhokomedi, mogolole gongwe kgaitsemi yo mogolo wa moswi, ka tatelano e e kailweng, a ka rebola tumelelo eo; gongwe
 (c) tlhatlhobo eo e tlhokega go swetsa ka se se tlhodileng loso.

(2) Tlhatlhobo ya morago ga loso ga e a tshwanela go dirwa ntle le fa— 15

- (a) ngaka e e rweleng maikarabelo a ditirelo tsa kalafi mo sepetlele gongwe setheo se se dumeletsweng gongwe motshare oo, gongwe ngaka nngwe fela e e dumeletsweng ke ngaka eo, a dumeletse tlhatlhobo ya morago ga loso ka go kwala le ka tsela e e rebotsweng; gongwe
 (b) mo mabakeng a go senang ngaka e e rweleng maikarabelo a ditirelo tsa kalafi, ngaka e e dumeletsweng ke motho yo o rweleng maikarabelo a sepetlele seo gongwe setheo se se dumeletsweng, a dumeletse tlhatlhobo ya morago ga loso ka go kwala le ka tsela e e rebotsweng. 20

Go tlosiwa ga dithišu kwa tlhatlhobong ya morago ga lesa le go amogelwa ga thišu ke ditheo le batho 25

67. (1) (a) Tona, fa go na le kopo e e kwadilweng ya setheo gongwe motho yo o tlhokang thišu go dirisediwa mabaka a a kabakanngwang mo karolong ya 64 (1), a ka dumelela setheo gongwe motho yoo, ka go kwala, go bonala thišu eo go tswa kwa ngakeng e e kabakanngwang mo karolwaneng ya (3) gongwe motho gongwe setheo se se kabakanngwang mo karolong ya 63. 30

(b) Tona a ka remola seemo sengwe le sengwe fela mo setheong se, gongwe motho yo o neilweng tumelelo go ya ka tema ya (a).

(c) Molao ono ga o thibele batho gongwe ditheo go bona dithišu go ya ka Molao wa Bosetšhaba wa Ditlamelo tsa Boswa wa ngwaga wa 1999 (Molao wa bo25 wa ngwaga wa 1999), go tsewetsa Molao oo. 35

(2) ngaka e e rweleng maikarabelo a ditirelo tsa kalafi mo sepetlele gongwe setheo se se dumeletsweng gongwe motshare o o kaiwang, gongwe ngaka nngwe fela e e dumeletsweng ke ngaka eo, gongwe, mo mabakeng a go se nang ngaka e e rweleng maikarabelo a ditirelo tsa kalafi, ngaka e e rebotsweng ke motho yo o rweleng maikarabelo a sepetlele gongwe setheo seo se se dumeletsweng, ka go kwala le ka tsela e e rebotsweng, a ka dumelela— 40

(a) setheo se se rebotsweng gongwe motho yo o kabakanngwang mo karolong ya 63; gongwe

(b) setheo se se dumeletsweng se se dirang kopo jalo ka go kwala, go tlosa thišu nngwe le nngwe e e tlhalositsweng mo mmeleng o o maleba pele ga o ka fitlhwa. 45

(3) Le fa go na le sengwe fela se se ganetsang mo molaong mongwe fela, ngaka e e dirang tlhatlhobo ya morago ga loso go ya ka—

(a) karolo ya 3 ya Molao wa Ditlhotlhomiso wa ngwaga wa 1959 (Molao wa bo58 wa ngwaga wa 1959); gongwe 50

(b) karolo ya bo71(1)(a) gongwe (b),

e tshwanetse go tlosa gongwe ya dira gore go tlosiwe mo mmeleng, thišu go ya jaaka go tla bo go tlhalositse mo tumelelong e e ka fa tlase ga karolwana ya (1) mme e tshwanetse go e isa kwa setheong gongwe kwa mothong yo o tshotseng tumelelo.

(4) Tloso e e kabakanngwang mo karolwaneng ya (3) ga e a tshwanela go dirwa fa— 55

(a) go na le kgonagalo ya gore go tlosiwa ga thišu go ka ama ditlamorago tsa tlhatlhobo; gongwe

- (b) the body or tissue in question has been donated or if the removal would be contrary to a direction given by the deceased before his or her death.

Regulations relating to tissue, cells, organs, blood, blood products and gametes

68. (1) The Minister may make regulations regarding—
- (a) the post mortem examination of bodies of deceased persons; 5
 - (b) the preservation, use and disposal of bodies, including unclaimed bodies;
 - (c) the removal of donated tissue or cells from persons, tissue or cells obtained from post mortem examinations and the procurement, processing, storage, supply and allocation of tissue or human cells by institutions and persons;
 - (d) tissue transplants; 10
 - (e) the production, packaging, sealing, labelling, storage and supplying of therapeutic, diagnostic and prophylactic substances from tissue;
 - (f) the supply of tissue, organs, oocytes, human stem cells and other human cells, blood, blood products or gametes;
 - (g) the importation and exportation of tissue, human cells, blood, blood products or gametes; 15
 - (h) the withdrawal of blood from living persons and the preservation, testing, processing, supply or disposal of withdrawn or imported blood;
 - (i) the administering of blood and any blood product to living persons;
 - (j) the production, packaging, sealing, labelling and supplying of blood and blood products; 20
 - (k) the bringing together outside the human body of male and female gametes, and research with regard to the product of the union of those gametes;
 - (l) the artificial fertilisation of persons;
 - (m) the appointment and functions of inspectors of anatomy and investigating officers; 25
 - (n) the records and registers to be kept by persons and institutions;
 - (o) the returns and reports, including extracts from registers, to be submitted to specified persons and institutions;
 - (p) the acquisition, storage, harvesting, utilisation or manipulation of tissue, blood, blood products, organs, gametes, oocytes or human stem cells for any purpose; 30
 - (q) the appointment and functions of inspectors of the national blood transfusion service and progenitor cell transplant institutions; and
 - (r) any other matter relating to regulating the control and the use of human bodies, tissue, organs, gametes, blood and blood products in humans. 35
- (2) The Minister, with the concurrence of the Cabinet member responsible for finance, may make regulations concerning the payment of persons or institutions in connection with procurement, storage, supply, import or export of human bodies, tissue, blood, blood products or gametes. 40
- (3) The Minister may, if it is consistent with the objects of this Act and upon such conditions as the Minister may deem fit, by notice in the *Gazette* exempt any person or category of persons from any or all of the regulations made under this section.

CHAPTER 9

NATIONAL HEALTH RESEARCH AND INFORMATION

45

National Health Research Committee

69. (1) The Minister must establish a committee to be known as the National Health Research Committee.

- (b) mmele gongwe thišu e e amegang eo e abilwe gongwe fa go tlošwa go tla bo go ganetsa kaelo e e ntshitsweng ke moswi pele ga loso la gagwe.

Melawana e e malebana le dithišu, disele, dirwe, madi, ditlhagiswa tsa madi le dikamete

68. (1) Tona e ka dira melawana e e malebana le— 5
- (a) tthatlhobo ya morago ga loso ya mebele ya batho ba ba tlhokafetseng;
- (b) thibelo ya go bola, tiriso le go tlošwa ga mebele, go akarediwa ditopo tse di se nang beng;
- (c) go tlošwa ga thišu e e abilweng gongwe disele mo bathong, thišu gongwe disele tse di bonweng go tswa kwa ditlhatlhobong tsa morago ga loso le go bonwa, go dirisiwa, go bolokwa le tlanelo le kabelo ya dithišu gongwe disele tsa batho ke ditheo le batho; 10
- (d) jalelelo ya thišu;
- (e) tlhagiso, go pakiwa, go tswalwa, go tshwaiwa, go bolokwa le go tlanelwa ga dire tsa kalafi, go bona bolwetse le thibelo ya bolwetse go tswa mo thišung; 15
- (f) tlanelo ka dithišu, dirwe, di-*oocyte* gongwe disele tsa tshimologo tsa batho go dirisediwa mabaka ape fela;
- (g) go romelwa teng gongwe go romelwa ntle ga dithišu, disele tsa batho, madi, didirwa tsa madi gongwe dikamete;
- (h) go gogwa ga madi go tswa mo mothong yo o tshelang le go thibela go bola, teko, go dirisiwa, tlanelo le go tlošwa ga madi a a gogilweng gongwe a a rometsweng teng; 20
- (i) go tsennngwa ga madi gongwe ditlhagiswa tsa madi mo mothong yo o tshelang;
- (j) tlhagiso, go pakiwa, go tswalwa le go tlanelwa ka madi le ditlhagiswa tsa madi; 25
- (k) go tliswa mmogo ga dikamete tse ditonanyana le tse ditshegadi kwa ntle ga mmele wa motho, le patlisiso malebana le setlhagiswa sa kopano ya dikamete tseno;
- (l) go nontshiwa (imisiwa) ga batho ka tsela e e seng ya tlholego;
- (m) go thapiwa le ditiro tsa batlhatlhobi ba anatomi le batlhankedi ba patlisiso; 30
- (n) direkoto le direjisetara tse di tshwanetseng go tsholwa ke batho gongwe ditheo;
- (o) dipoelo le dipegelo, go akarediwa dikgogo go tswa mo direjisetareng, tse di tshwanetseng go tlhagisiwa ko bathong ba, gongwe ditheo tse di tlhalositsweng; 35
- (p) go bonwa, poloko, kotulo, tiriso le go fetolwa ga tiriso ya dithišu, madi, ditlhagiswa tsa madi, dirwe, dikamete, di-*oocyte* gongwe disele tsa tshimologo tsa batho go dirisediwa mabaka mangwe le mangwe fela;
- (q) go thapiwa le ditiro tsa batlhatlhobo ba tirelo ya bosetšhaba ya tshelo ya madi le ditheo tsa jalelelo ya disele tsa tshimologo; le 40
- (r) morero mongwe le mongwe fela o o malebana le go lebelela taolo le tiriso ya mebele ya batho, dithišu, dirwe, dikamete, madi le ditlhagiswa tsa madi mo bathong.
- (2) Tona, ka tumelano le tokololo ya Kabinete e e rweleng maikarabelo a ditšhelete, a ka dira melalwana e e malebana le tuelo ya batho gongwe ditheo malebana le go bonwa, poloko, tlanelo, thomelo teng gongwe thomelo ntle ya mebele ya batho, dithišu, madi, ditlhagiswa tsa madi gongwe dikamete. 45
- (3) Tona, fa seo se tsamaelana le maikemisetso a Molao ono le go ya ka seemo sa Tona a ka bonang se tshwanetse, ka kitsiso ya *Kasete*, a ka golola motho mongwe le mongwe fela gongwe setlhopho sa batho go tswa mo go molawana mongwe gongwe melawana 50 yotlhe fela e e dirilweng ka fa tlase ga karolo eno.

KGAOLO YA 9

PATLISISO YA BOSETŠHABA YA BOITEKANELO LE TSHEDIMOSETSO

Komiti ya Bosetšhaba ya Patlisiso ya Boitekanelo

69. (1) Tona o tshwanetse go tlhama komiti e e tla itseweng jaaka Komiti ya 55 Bosetšhaba ya Patlisiso ya Boitekanelo.

- (2) (a) The National Health Research Committee consists of not more than 15 persons, appointed by the Minister after consultation with the National Health Council.
- (b) A person appointed in terms of paragraph (a)—
- (i) serves for a term of not more than three years and may be reappointed for one or more terms; and
 - (ii) ceases to be a member on resignation or if requested by the Minister for good cause to resign.
- (c) A vacancy in the National Health Research Committee must be filled by the appointment of a person for the unexpired portion of the term of office of the member in whose place the person is appointed, and in the same manner in which the member was appointed in terms of paragraph (a).
- (3) The National Health Research Committee must—
- (a) determine the health research to be carried out by public health authorities;
 - (b) ensure that health research agendas and research resources focus on priority health problems;
 - (c) develop and advise the Minister on the application and implementation of an integrated national strategy for health research; and
 - (d) coordinate the research activities of public health authorities.
- (4) The Minister must prescribe the manner in which the National Health Research Committee must conduct its affairs and the procedure to be followed at meetings of the Committee, including the manner in which decisions must be taken.
- (5) A member of the National Health Research Committee who is not in the full-time employment of the State must in respect of his or her service as a member be paid such remuneration as the Minister may determine with the concurrence of the Minister of Finance.

Identification of health research priorities

- 70.** (1) The National Health Research Committee must identify and advise the Minister on health research priorities.
- (2) In identifying health research priorities, the National Health Research Committee must have regard to—
- (a) the burden of disease;
 - (b) the cost-effectiveness of interventions aimed at reducing the burden of disease;
 - (c) the availability of human and institutional resources for the implementation of an intervention at the level closest to the affected communities;
 - (d) the health needs of vulnerable groups such as woman, older persons, children and people with disabilities; and
 - (e) the health needs of communities.

Research on or experimentation with human subjects

- 71.** (1) Notwithstanding anything to the contrary in any other law, research or experimentation on a living person may only be conducted—
- (a) in the prescribed manner; and
 - (b) with the written consent of the person after he or she has been informed of the objects of the research or experimentation and any possible positive or negative consequences on his or her health.
- (2) Where research or experimentation is to be conducted on a minor for a therapeutic purpose, the research or experimentation may only be conducted—
- (a) if it is in the best interests of the minor;
 - (b) in such manner and on such conditions as may be prescribed;
 - (c) with the consent of the parent or guardian of the child; and
 - (d) if the minor is capable of understanding, with the consent of the minor.
- (3) (a) Where research or experimentation is to be conducted on a minor for a non-therapeutic purpose, the research or experimentation may only be conducted—
- (i) in such manner and on such conditions as may be prescribed;
 - (ii) with the consent of the Minister;

(2) (a) Komiti ya Bosetšhaba ya Patlisiso ya Boitekanelo e dira ke batho ba sa fete 15, ba ba thapilweng ke Tona morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo.

(b) Motho yo o thapilweng go ya ka tema ya (a)—

- (i) o dira paka e e sa feteng dingwaga di le tharo mme a ka thapiwa gape sebaka sa paka e le nngwe gongwe go feta; mme 5
- (ii) o khutla go nna tokololo fa a kwala lekwalo la go rola tiro gongwe fa a kopiwa ke Tona ka ntlha ya mabaka a a molemo go rola tiro.

(c) Phatlhatiro e e nnang mo Komiting ya Bosetšhaba ya Patlisiso ya Boitekanelo e tshwanetse go thibiwa ka thapa motho sebaka sa paka e e setseng ya go nna mo kantorong ga tokololo e go thapiwang motho mo boemong jwa yona, le ka tsela e e tshwanang fela le e tokololo e neng e thapilwe ka yona go ya ka tema ya (a). 10

(3) Komiti ya Bosetšhaba ya Patlisiso ya Boitekanelo e tshwanetse—

- (a) go swetsa ka patlisiso ya boitekanelo e e tshwanetseng go dirwa ke ditheo tsa setšhaba tsa boitekanelo; 15
- (b) go netefatsa gore mananetema a patlisiso ya boitekanelo le ditlamelo tsa patlisiso di lebelela mathata a a tlang pele a boitekanelo;
- (c) go tlhabolola le go gakolola Tona ka go dirisiwa le tiragatso ya togamaano e e kopaneng ya bosetšhaba mo patlisisong ya boitekanelo; le
- (d) go gokaganya ditiro tsa patlisiso tsa ditheo tsa setšhaba tsa boitekanelo. 20

(4) Tona o tshwanetse go rebola tsela e Komiti ya Bosetšhaba ya Patlisiso ya Boitekanelo e tshwanetseng go tsewetsa merero ya yona ka teng le dithulaganyo tse di tshwanetseng go latelwa kwa dikopanong tsa Komiti, go akarediwa le tsela e ditshwetso di tshwanetseng go tsewa ka yona.

(5) Tokololo ya Komiti ya Bosetšhaba ya Boitekanelo e e sa thapiwang leruri ke Mmuso, e tshwanetse go duelelwa tirelo ya yona jaaka tokololo ka tuelo e e tla bong e rebotswe ke Tona ka tumelano le Tona ya Ditšhelete. 25

Go supiwa ga ditlapele tsa patlisiso ya boitekanelo

70. (1) Komiti ya Bosetšhaba ya patlisiso ya Boitekanelo e tshwanetse go supa le go gakolola Tona ka ditlapele tsa patlisiso ya boitekanelo. 30

(2) Fa e supa ditlapele tsa patlisiso ya boitekanelo, Komiti ya Bosetšhaba ya Patlisiso ya Boitekanelo e tshwanetse go ela tihoko—

- (a) mokgweleo wa malwetse;
- (b) botlhotlhwatlase jwa mekgwa ya tsereganyo e maikaelelo a yona e leng go fokotsa mokgweleo wa malwetse; 35
- (c) go nna teng ga badiri le ditlamelo tsa tiragatso ya tsereganyo kwa legatong le le gaufi thata le baagi ba ba amegileng;
- (d) ditlhokego tsa boitekanelo tsa ditlhopho tse di bokoa go tshwana le basadi, bagodi, bana le batho ba ba sa itekanelang mo mebeleng; le
- (e) ditlhokego tsa boitekanelo tsa baagi. 40

Patlisiso ka, gongwe ditekeletso go dirisiwa batho

71. (1) Le fa go na le sengwe fela se se ganetsang mo molaong mongwe fela, patlisiso gongwe tekeletso mo mothong yo o tshelang e ka dirwa fela—

- (a) ka tsela e e rebotsweng; le
- (b) ka tumelelo e e kwadilweng ke motho morago ga a sena go itsisewe maikemisetso a patlisiso gongwe tekeletso le ditlamorago dingwe le dingwe fela tse di molemo gongwe tse di bosula tse di ka nnang teng mo boitekanelong jwa gagwe. 45

(2) Mo mabakeng a mo go ona go tshwanetseng ga dirwa patlisiso gongwe tekeletso mo ngwaneng, e le ya mabaka a kalafi, patlisiso gongwe tekeletso e ka dirwa fela— 50

- (a) fa e le mo dikgathlegong tsa ngwana;
- (b) ka tsela, le ka seemo se se tla bong se rebotswe;
- (c) ka tumelelo ya motsadi gongwe motlhokomedi wa ngwana; le
- (d) fa ngwana a na le bokgoni jwa go tlhaloganya; ka tumelelo ya ngwana.

(3) (a) Mo mabakeng a mo go ona go tshwanetseng ga dirwa patlisiso gongwe tekeletso mo ngwaneng, e se ya mabaka a kalafi, patlisiso gongwe tekeletso e ka dirwa fela— 55

- (i) ka tsela, le ka seemo se se tla bong se rebotswe;
- (ii) ka tumelelo ya Tona;

- (iii) with the consent of the parent or guardian of the minor; and
- (iv) if the minor is capable of understanding, the consent of the minor.
- (b) The Minister may not give consent in circumstances where—
 - (i) the objects of the research or experimentation can also be achieved if it is conducted on an adult; 5
 - (ii) the research or experimentation is not likely to significantly improve scientific understanding of the minor's condition, disease or disorder to such an extent that it will result in significant benefit to the minor or other minors;
 - (iii) the reasons for the consent to the research or experimentation by the parent or guardian and, if applicable, the minor are contrary to public policy; 10
 - (iv) the research or experimentation poses a significant risk to the health of the minor; or
 - (v) there is some risk to the health or wellbeing of the minor and the potential benefit of the research or experimentation does not significantly outweigh that risk. 15

National Health Research Ethics Council

72. (1) A council to be known as the National Health Research Ethics Council is hereby established.
- (2) The Minister must—
- (a) after consultation with the National Health Council, appoint as members of the National Health Research Ethics Council not more than 15 persons nominated by interested parties at the invitation of the Minister by notice in the *Gazette*; and 20
 - (b) publish the list of appointees in the *Gazette*.
- (3) A member of the National Health Research Ethics Council is appointed for three years but may be reappointed for one or more further terms. 25
- (4) A member of the National Health Research Ethics Council must vacate his or her office if he or she resigns or if requested by the Minister for good cause to resign.
- (5) If a member of the National Health Research Ethics Council vacates office or dies, the Minister may fill the vacancy by appointing a person in accordance with subsection (2) for the unexpired portion of the term of office of his or her predecessor. 30
- (6) The National Health Research Ethics Council must—
- (a) determine guidelines for the functioning of health research ethics committees;
 - (b) register and audit health research ethics committees;
 - (c) set norms and standards for conducting research on humans and animals, including norms and standards for conducting clinical trials; 35
 - (d) adjudicate complaints about the functioning of health research ethics committees and hear any complaint by a researcher who believes that he or she has been discriminated against by a health research ethics committee;
 - (e) refer to the relevant statutory health professional council matters involving the violation or potential violation of an ethical or professional rule by a health care provider; 40
 - (f) institute such disciplinary action as may be prescribed against any person found to be in violation of any norms and standards, or guidelines, set for the conducting of research in terms of this Act; and 45
 - (g) advise the national department and provincial departments on any ethical issues concerning research.
- (7) For the purposes of subsection (6)(c), “clinical trials” means a systematic study, involving human subjects that aims to answer specific questions about the safety or efficacy of a medicine or method of treatment. 50

- (iii) ka tumelelo ya motsadi gongwe motlhokomedi wa ngwana; le
- (iv) fa ngwana a na le bokgoni jwa go tlhaloganya; ka tumelelo ya ngwana.
- (b) Tona ga a tshwanela go rebola tumelelo mo mabakeng a mo go ona—
 - (i) maikemisetso a patlisiso gongwe tekeletso e ka fitlhelelwa fa e ka dirwa mo mogolong; 5
 - (ii) go na le kgonagalo ya gore patlisiso gongwe tekeletso e seke ya tokafatsa go tlhalogannngwa ka mokgwa wa saense ga bolwetse jwa ngwana mo e leng gore go ka nna le mosola o o bonalang mo ngwaneng gongwe mo baneng ba bangwe;
 - (iii) mabaka a tumelelo ya patlisiso gongwe tekeletso ka motsadi gongwe motlhokomedi, le a ngwana, fa go le maleba, a ganetsana le pholesi ya setšhaba; 10
 - (iv) patlisiso gongwe tekeletso e e ka nna kotsi mo boitekanelong jwa ngwana; gongwe
 - (v) go na le kotsi mo boitekanelong gongwe botshelong jwa ngwana mme dipoelo tse di ka nnang gona tsa patlisiso gongwe tekeletso ga di gaise kotsi. 15

Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo

72. (1) Ka go riana go tlhomiwa khansele e e tla itseweng jaaka Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo.
- (2) Tona o tshwanetse— 20
- (a) morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo, go tlhapa jaaka ditokololo tsa Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo, batho ba sa fete 15 ba ba tlhophilweng ke maphata a a nang le kgatlhego ka taletso e e dirilweng ke Tona ka kitsiso mo Kaseteng; mme
 - (b) a phasalatse lenaane la ba ba thapilweng mo *Kaseteng*. 25
- (3) Tokololo ya Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo e thapiwa sebaka sa dingwaga di le tharo fela e ka thapiwa gape sebaka sa paka e le nngwe gongwe go feta.
- (4) Tokololo ya Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo e tshwanetse go tswa mo kantorong ya yona fa e rola tiro gongwe fa e kopiwa ke Tona go rola tiro ka ntsha ya mabaka a a molemo. 30
- (5) Fa tokololo ya Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso e tswa mo kantorong gongwe e tlhokafala, Tona a ka tlatsa phatlhatiro ka go thapa motho go ya ka karolwana ya (2) go feleletsa paka e e setseng ya kantoro ya yo o tlišeng fa pele ga gagwe. 35
- (6) Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo e tshwanetse—
- (a) go swetsa ka kaedi ya go dira ga dikomiti tsa maitsholo tsa patlisiso ya boitekanelo;
 - (b) go kwadisa le go runa dikomiti tsa maitsholo tsa patlisiso ya boitekanelo;
 - (c) go baya ditekanyetso le seemo sa go dira dipatlisiso mo bathong le mo diphologolong, go akarediwa le ditekanyetso le seemo sa go dira ditekeletso mo bathong;
 - (d) go tseraganya mo dingongoregong tse di malebana le go dira ga dikomiti tsa maitsholo tsa patlisiso ya boitekanelo le go reetsa ngongorego nngwe le nngwe ya mmatlisisi yo o dumelang gore o tlhaotswe ke komiti ya maitsholo ya patlisiso ya boitekanelo; 45
 - (e) go fetisetsa go khansele e e maleba ya semolao ya baporofešenale ba boitekanelo, merero e e amanang le go gatakwa gongwe kgonagalo ya go gatakwa ga molawana wa maitsholo gongwe wa seporofešenale ke motlamedi wa tlhokomelo ya boitekanelo; 50
 - (f) go tsaya dikgato tsa kgalemo jaaka di tla bo di rebotswe, kgatlhanong le motho mongwe le mongwe yo o fitlhelwang a gatakakile ditekanyetso gongwe seemo sepe fela, gongwe kaedi e e beetsweng go dirwa ga patlisiso go ya ka Molao ono; le
 - (g) go gakolola lefapha la bosetšhaba le mafapha a diporofense ka ga dintlha dingwe le dingwe fela tsa maitsholo tse di malebana le patlisiso. 55
- (7) Go tšweletsa karolwana ya (6)(c), “ditekeletso mo bathong” di kaya thutopatlisiso e e rulaganeng e e akaretsang go diriswa ga batho mme e ikaelela go araba dipotso tse di rileng malebana le pabalesego gongwe bokgoni jwa molemo gongwe mokgwa wa kalafi. 60

Health research ethics committees

73. (1) Every institution, health agency and health establishment at which health research is conducted, must establish or have access to a health research ethics committee, which is registered with the National Health Research Ethics Council.

(2) A health research ethics committee must—

- (a) review research proposals and protocols in order to ensure that research conducted by the relevant institution, agency or establishment will promote health, contribute to the prevention of communicable or non-communicable diseases or result in cures for communicable or non-communicable diseases; and
- (b) grant approval for research by the relevant institution, agency or establishment in instances where research proposals and protocol meet the ethical standards of that health research ethics committee.

Co-ordination of national health information system

74. (1) The national department must facilitate and co-ordinate the establishment, implementation and maintenance by provincial departments, district health councils, municipalities and the private health sector of health information systems at national, provincial and local levels in order to create a comprehensive national health information system.

(2) The Minister may, for the purpose of creating, maintaining or adapting databases within the national health information system contemplated in subsection (1), prescribe categories or kinds of data for submission and collection and the manner and format in which and by whom the data must be compiled or collated and must be submitted to the national department.

Provincial duties in relation to health information

75. The relevant member of the Executive Council must establish a committee for his or her province to establish, maintain, facilitate and implement the health information systems contemplated in section 74 at provincial and local level.

Duties of district health councils and municipalities

76. Every district health council and every municipality which provides a health service must establish and maintain a health information system as part of the national health information system contemplated in section 74.

CHAPTER 10**HEALTH OFFICERS AND COMPLIANCE PROCEDURES****Establishment of Inspectorate for Health Establishments**

77. (1) The relevant member of the Executive Council must establish an inspectorate in his or her province to be known as the Inspectorate for Health Establishments.

(2) An Inspectorate for Health Establishments must—

- (a) monitor and evaluate compliance with this Act by health establishments and health agencies in the province for which it is established; and
- (b) submit a quarterly report on its activities and findings to the relevant member of the Executive Council.

(3) The relevant member of the Executive Council must submit an annual report to the Minister on the activities and findings of the Inspectorate for Health Establishments established in his or her province.

Dikomiti tsa maitsholo tsa patlisiso ya boitekanelo

73. (1) Setheo sengwe le sengwe, bothusi jwa boitekanelo gongwe setheo sa boitekanelo se go dirwang patlisiso ya boitekanelo kwa go sona, se tshwanetse go tlhoma, gongwe sa kgona go fitlhelela komiti ya maitsholo ya patlisiso ya maitsholo, e e kwadisitsweng le Khansele ya Bosetšhaba ya Maitsholo ya Patlisiso ya Boitekanelo. 5

(2) Komiti ya maitsholo ya patlisiso ya boitekanelo e tshwanetse—

(a) go sekaseka ditshitshinyo tsotlhe tsa patlisiso le diporotokolo gore e kgone go netefatsa gore patlisiso e e dirwang ke setheo se se maleba, bothusi gongwe setheo sengwe e tla tswelatsa boitekanelo, e nna le seabe mo thibelong ya malwetse a a tshelanwang le a a sa tshelanweng gongwe bogole gongwe e tla lebisa kwa kalafing ya malwetse a a tshelanwanang gongwe a a sa tshelanweng; le 10

(b) go rebola tetla ya patlisiso go setheo se se maleba gongwe bothusi mo mabakeng a ditshitshinyo le diporotokolo tsa patlisiso di kgotsofatsang seemo sa maitsholo sa komiti eo ya maitsholo ya patlisiso ya boitekanelo. 15

Kgokaganyo ya thulaganyo ya bosetšhaba ya tshedimosetso ya boitekanelo

74. (1) Lefapha la bosetšhaba le tshwanetse go thusa gore mafapha a porofense, dikhansele tsa kgaolo tsa boitekanelo, makgotlatoropo le lephata la poraefete la boitekanelo, a tlhoma, diragatsa le go tlhokomela dithulaganyo tsa tshedimosetso ya boitekanelo kwa magatong a bosetšhaba, porofense le a selegae gore go nne le thulaganyo e e kopaneng ya bosetšhaba ya tshedimosetso ya boitekanelo. 20

(2) Tona, gore go tlhomiwe, tlhokomelwe gongwe go fetolela dibanka tsa tshedimosetso mo thulaganyong ya bosetšhaba ya tshedimosetso ya boitekanelo e e kabakanngwang mo karolong ya (1), a ka rebola dikarolo gongwe mefuta ya tshedimosetso e e tshwanetseng go tlhagisiwa le go kokoanngwa le tsela le thulaganyo, le gore ke mang a tshwanetseng go rulaganya tshedimosetso le go e tlhagisa kwa lefapheng la bosetšhaba. 25

Maikarabelo a porofense malebana le tshedimosetso ya boitekanelo

75. Mokhuduthamaga yo o maleba o tshwanetse go tlhama komiti ya porofense gore e tlhame, tlhokomele, gokaganye le go diragatsa dithulaganyo tsa tshedimosetso ya boitekanelo tse di kabakanngwang mo karolong ya 74 kwa magatong a porofense le a selegae. 30

Maikarabelo a dikhansele tsa kgaolo tsa boitekanelo le makgotlatoropo

76. Khansele nngwe le nngwe ya kgaolo ya boitekanelo le lekgotlatoropo le le tlamelang ka ditirelo tsa boitekanelo di tshwanetse go tlhoma le go tlhokomela thulaganyo ya tshedimosetso ya boitekanelo jaaka karolo ya thulaganyo ya bosetšhaba ya tshedimosetso ya boitekanelo e e kabakanngwang mo karolong ya 74. 35

KGAOLO 10**BATLHANKEDI BA BOITEKANELO LE THULAGANYO YA GO IKOBELA SEEMO (compliance)**

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Go tlhamiwa ga Botlhatlhabi jwa Ditheo tsa Boitekanelo

77. (1) Mokhuduthamaga yo o maleba o tshwanetse go tlhama botlhatlhabi mo porofenseng ya gagwe, jo bo tla itsegeng jaaka Botlhatlhabi jwa Ditheo tsa Boitekanelo.

(2) Botlhatlhabi jwa Ditheo tsa Boitekanelo bo tshwanetse—

(a) go tlhokomela le go sekaseka go ikobelwa ga Molao ono ke ditheo tsa boitekanelo le bothusi jwa boitekanelo mo porofenseng e bo e tlhametsweng; le 45

(b) go tlhagisa pegelo ya kwatara nngwe le nngwe e e ka ga ditiro le diphithlelelo tsa yona kwa mokhuduthamageng yo o maleba.

(3) Mokhuduthamaga yo o maleba o tshwanetse go tlhagisa pegelo ya ngwaga le ngwaga go Tona, e e ka ga ditiro le diphithlelelo tsa Botlhatlhabi jwa Ditheo tsa Boitekanelo jo bo tlhamilweng mo porofenseng ya gagwe. 50

Office of Standards Compliance

78. (1) The Director-General must establish an Office of Standards Compliance within the national department which must include a person who acts as ombudsperson in respect of complaints in terms of this Act.

- (2) The Office of Standards Compliance must— 5
- (a) keep the Minister informed of the quality of the health services provided throughout the Republic as measured against prescribed health standards;
 - (b) advise the Minister on norms and standards for quality in health services;
 - (c) advise the Minister on norms and standards for the certificate of need processes; 10
 - (d) recommend to the Minister any changes which should be made to the prescribed health standards;
 - (e) recommend to the Minister new systems and mechanisms to promote quality of health services;
 - (f) monitor compliance with prescribed health standards by health establishments, health care providers, health workers and health agencies; 15
 - (g) monitor compliance by a health establishment, health agency, health worker and health care provider with any condition that may have been imposed on such establishment, agency, worker or provider, as the case may be, in respect of certificates of need issued in terms of this Act; 20
 - (h) report to the Minister any violation of a prescribed health standard where such violation poses an immediate and serious threat to public health and make recommendations to the Minister on the action to be taken in order to protect public health;
 - (i) prepare an annual report to the Minister concerning its findings with regard to compliance with prescribed standards and with conditions imposed in respect of certificates of need; 25
 - (j) institute monitoring activities and processes for quality assurance in health establishments;
 - (k) provide advice to the national department and to provincial departments on quality of care provided by health establishments, health agencies, health workers and health care providers; 30
 - (l) inspect a health establishment or health agency in order to determine levels of compliance with prescribed health standards and conditions imposed by certificates of need; and 35
 - (m) instruct a health officer or person designated by the National Commissioner of the South African Police Service in terms of section 80(3) to inspect health establishments and health agencies in order to—
 - (i) investigate any complaint, allegation or suspicion relating to the observation of prescribed health standards; and 40
 - (ii) report to the Director-General on the findings of any investigation contemplated in subparagraph (i).

Inspections by Office of Standards Compliance

79. (1) The Office of Standards Compliance or its agents must inspect every health establishment and health agency at least once every three years to ensure compliance with this Act, and may conduct announced or unannounced inspections of a health establishment and a health agency at any time. 45

(2) (a) The Office of Standards Compliance may order the total or partial closure of a health establishment or a health agency if a certificate of need was not issued in respect of that health establishment or health agency prior to any activities contemplated in section 36 being undertaken. 50

Kantoro ya Go ikobelwa ga Seemo

78. (1) Mokaedi Kakaretso o tshwanetse go tlhama Kantoro ya Go Ikobelwa ga Seemo mo lefapheng la bosetšhaba e e tshwanetseng go akaretša motho yo o dirang jaaka rabadirisi wa dingongorego go ya ka Molao ono.

(2) Kantoro ya Go ikobelwa ga Seemo e tshwanetse—

- (a) go dira gore Tona a nne a na le tshedimosetso ka boleng jwa ditirelo tsa boitekanelo tse di tlamelwang go ralala Rephaboliki jaaka di tla bo di lekanyediwa le seemo se se rebotsweng sa boitekanelo; 5
- (b) go gakolola Tona ka ditekanyetso le seemo sa boleng mo ditirelong tsa boitekanelo; 10
- (c) go gakolola Tona ka ditekanyetso le seemo sa dithulaganyo tsa setifikeiti sa tlhokego;
- (d) go atlenegisa go Tona, diphetogo dingwe le dingwe tse di tshwanetseng go dirwa mo seemong se se rebotsweng sa boitekanelo;
- (e) go atlenegisa go Tona, dithulaganyo le dikgato tsa go tsweletsa boleng jwa ditirelo tsa boitekanelo; 15
- (f) go tlhokomela go ikobelwa ga seemo se se rebotsweng sa boitekanelo ke ditheo ssa boitekanelo, batlamedi ba tlhokomelo ya boitekanelo, badiri ba boitekanelo le bothusi jwa boitekanelo;
- (g) go tlhokomela gore setheo sa boitekanelo, bothusi jwa boitekanelo, modiri wa boitekanelo le motlamedi wa tlhokomelo ya boitekanelo o ikobela seemo sengwe le sengwe se se rebotsweng mo setheong, bothusing, modiring gongwe motlameding yoo, fela jaaka go tla bo go le maleba, malebana le ditifikeiti tsa tlhokego tse di rebotsweng go ya ka Molao ono; 20
- (h) go begela Tona ka kgatakako nngwe fela ya seemo se se rebotsweng sa boitekanelo moo kgatakako eo e ka nngwe le kotsi ya ka gangwe le e e masisi mo boitekanelong jwa setšhaba le go dira dikatlenegiso go Tona malebana le kgato e e tshwanetseng go tsewa go sireletsa boitekanelo jwa setšhaba; 25
- (i) go baakanya pegelo ya ngwaga le ngwaga go Tona e e malebana le diphitlhelelo tsa yona malebana le go ikobelwa ga seemo se se beilweng le seemo se se rebotsweng malebana le ditifikeiti tsa tlhokego; 30
- (j) go tsenya ditiro tsa tlhokomelo le dithulaganyo tsa netefaletso ya boleng mo ditheong tsa boitekanelo;
- (k) go tlamela ka kgakololo go lefapha la bosetšhaba le go mafapha a porofense malebana le boleng jwa tlhokomelo e e tlamelwang ke ditheo tsa boitekanelo, bothusi jwa boitekanelo, badiri ba boitekanelo gammogo le batlamedi ba tlhokomelo ya boitekanelo; 35
- (l) go tlhatlhoba setheo sa boitekanelo gongwe bothusi jwa boitekanelo gore go bonwe seelo sa go ikobela seemo se se rebotsweng sa boitekanelo le seemo se se rebotsweng ke ditifikeiti tsa tlhokego; le 40
- (m) go laela motlhankedi wa boitekanelo gongwe motho yo o beilweng ke Mokhomisinara wa Bosetšhaba wa Tirelo ya Sepodisi ya Aforika Borwa go ya ka karolo ya 80(3), go tlhatlhoba ditheo tsa boitekanelo le bothusi jwa boitekanelo gore—
 - (i) go tlhatlhobiwe ngongorego nngwe le nngwe, magatwe gongwe dipelaelo tse di malebana le go elwa tlhoko ga seemo se se beilweng sa boitekanelo; le 45
 - (ii) go begela Mokaedi Kakaretso ka diphitlheleo tsa patlisiso nngwe le nngwe e e kabakanngwang mo temaneng ya (i).

Tlhatlhobo ka Kantoro ya Go ikobelwa ga Seemo

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79. (1) Kantoro ya Go ikobelwa ga Seemo gongwe bathusi ba yona, e tshwanetse go tlhatlhoba setheo sengwe le sengwe sa boitekanelo le bothusi jwa boitekanelo, bonnye gangwe mo dingwageng di le tharo go netefatsa gore go ikobelwa Molao ono, mme e ka dira ditlhatlhobo tse di begilweng gongwe tse di sa begwang tsa setheo sa boitekanelo le bothusi jwa boitekanelo ka nako nngwe le nngwe fela. 55

(2) (a) Kantoro ya Go ikobelwa ga Seemo e ka laela gore go tswalwe gotlhelele gongwe karolo nngwe ya setheo sa boitekanelo gongwe bothusi jwa boitekanelo fa go sa ntshiwa setifikeiti sa boitekanelo sa setheo seo sa boitekanelo gongwe bothusi jwa boitekanelo pele ga ditiro dipe fela tse di kabakanngwang mo karolong ya 36 e ka dirwa.

(b) An order issued in terms of paragraph (a) must be in writing and issued to the head of the health establishment or health agency in question.

(3) If the Office for Standards Compliance orders the total or partial closure of a health establishment, the Minister must ensure, within a reasonable period from the date of such closure, that reasonable alternative and accessible health services are available to any community affected by the closure. 5

(4) The Office of Standards Compliance must issue a written notice of non-compliance to the head of a health establishment if the Office of Standards Compliance determines that—

(a) the health establishment does not comply with— 10

- (i) any provision of this Act;
- (ii) any condition imposed in a certificate of need;
- (iii) building regulations; or
- (iv) the provisions of any other law; or

(b) a health care provider or health worker associated with the health establishment is engaged in certain prescribed business or health service practices upon the basis of perverse incentives. 15

(5) A notice of non-compliance must be issued to the person determined to be responsible for any condition contemplated in subsection (3)(a) or (b) stating the nature and extent of the non-compliance and directing the appropriate corrective action to be taken within a specified period in respect of the prescribed business or health service practice or to minimise or rectify the non-compliance. 20

(6) A notice of non-compliance contemplated in subsection (3) remains in force until the relevant provision of the Act has been complied with and the Office of Standards Compliance has issued a compliance certificate in respect of that notice. 25

(7) The Office of Standards Compliance, in the event of failure to comply with the requirements of a notice of non-compliance, may—

(a) temporarily suspend the operation of, or shut down, the whole or a part of the health establishment or health agency, pending compliance with the notice of non-compliance; 30

(b) recommend to the Director-General that the certificate of need of the health establishment or health agency be withdrawn; or

(c) recommend to the Director-General that an application for the renewal of a certificate of need in respect of the health establishment or health agency be refused. 35

Appointment of health officers

80. (1) Subject to any other law—

(a) the Minister may appoint any person in the employ of the national department as a health officer of the national department;

(b) the relevant member of the Executive Council may appoint any person in the employ of the provincial department in question, as a health officer for the province in question; and 40

(c) the mayor of a metropolitan or district council may appoint any person in the employ of the council in question as a health officer for the municipality in question. 45

(2) An appointment under subsection (1) may be general or for a specific purpose.

(3) The relevant member of the Executive Council may request the National Commissioner of the South African Police Service to designate a member of the Service as a health officer for the province in question.

(4) The Minister or the relevant member of the Executive Council, as the case may be, must issue to every health officer a document in the prescribed form certifying that he or she has been appointed or designated as a health officer for the national department or provincial department in question. 50

(b) Taelo e e ntshitsweng go ya ka tema ya (a) e tshwanetse go kwalwa mme e newe tlhogo ya setheo sa boitekanelo gongwe bothusi jwa boitekanelo joo.

(3) Fa Kantoro ya Go ikobelwa ga Seemo e laela gore go tswalwe gotlhelele gongwe karolo nngwe ya setheo sa boitekanelo, Tona o tshwanetse go netefatsa, mo sebakeng se se amogelesegang morago ga letlha la go tswalwa goo, gore go nna le ditirelo tse dingwe tsa boitekanelo tse di amogelesegang le tse di ka fitlhelegang go baagi ba ba amilweng ke go tswalwa goo. 5

(4) Kantoro ya Go ikobelwa ga Seemo e tshwanetse go rebola kitsiso e e kwadilweng ya go se ikobelwe go tlhogo ya setheo sa boitekanelo fa Kantoro ya Go ikobelwa ga Seemo e swetsa gore— 10

(a) setheo sa boitekanelo ga se ikobele—

(i) tlamelolo nngwe fela ya Molao ono;

(ii) seemo sengwe fela se se rebotsweng mo setifikeiting sa tlhokego;

(iii) melawana ya kago; gongwe

(iv) ditlanelo tsa molao mongwe fela; gongwe 15

(b) motlamedi wa tlhokomelo ya boitekanelo gongwe modiri wa boitekanelo yo o amanang le setheo sa boitekanelo a na le seabe mo dikgwebong tse di rileng tse di rebotsweng gongwe ditirelo tsa boitekanelo ka ntlha ya dithotloetso tse di sa nnang sentle.

(5) Kitsiso ya go se ikobele seemo e tshwanetse go rebolwa motho yo o tsewang a rwele maikarabelo a seemo sengwe le sengwe se se kabakanngwang mo karolwaneng ya (3)(a) gongwe (b), e tlhalosa mofuta le seelo sa go se ikobele seemo mme e kaela ka dikgato tse di maleba tsa paakanyo tse di tshwanetseng go tsewa mo pakeng e e tlhalositsweng malebana le kgwebo e e rebotsweng gongwe tirelo ya boitekanelo gongwe go fokotsa gongwe go siamisa go se ikobele seemo. 25

(6) Kitsiso ya go se ikobele seemo e e kabakanngwang mo karolwaneng ya (3) e sala e ntse e dira go fitlha ga tlamelolo e e maleba ya Molao e sena go ikobelwa mme Kantoro ya Go ikobelwa ga Seemo e rebotse setifikeiti malebana le kitsiso eo.

(7) Fa go na le go se ikobele ditlhokego tsa kitsiso ya go se ikobele seemo, Kantoro ya Go ikobelwa ga Seemo e ka— 30

(a) beela thoko nakwana tiro ya, gongwe ya tswala, gotlhelele gongwe karolo ya setheo sa boitekanelo gongwe bothusi jwa boitekanelo, go emetswe gore go ikobelwe kitsiso ya go se ikobele seemo;

(b) atlenegisa go Mokaedi Kakaretso gore setifikeiti sa tlhokego sa setheo sa boitekanelo gongwe bothusi jwa boitekanelo se gogelwe morago; gongwe 35

(c) atlenegisa go Mokaedi Kakaretso gore kopo ya ntshwafatso ya setifikeiti sa tlhokego sa setheo sa boitekanelo gongwe bothusi jwa boitekanelo e ganwe.

Go thapiwa ga batlhankedi ba boitekanelo

80. (1) Go lebelelwe molao o mongwe fela—

(a) Tona a ka thapa motho mongwe le mongwe yo o dirang mo lefapheng la bosetshaba jaaka motlhankedi wa boitekanelo wa lefapha la bosetshaba; 40

(b) Mokhuduthamaga yo o maleba a ka thapa motho mongwe le mongwe fela yo o dirang mo lefapheng la porofense e e kaiwang, jaaka motlhankedi wa boitekanelo wa porofense eo; mme

(c) Ratoropo wa motsetoropomogolo gongwe khansela ya kgaolo a ka thapa motho mongwe le mongwe fela yo o dirang mo khanseleng e e kaiwang jaaka motlhankedi wa boitekanelo wa lekgotlatoropo leo. 45

(2) Go thapiwa ka fa tlase ga karolwana ya (1) go ka nna ga kakaretso gongwe ga lebaka le le rileng.

(3) Mokhuduthamaga yo o maleba a ka kopa Mokhomisinara wa Bosetshaba wa Ditirelo tsa Sepodisi tsa Aforika Borwa go supa tokololo ya Tirelo jaaka motlhankedi wa boitekanelo wa porofense e e kaiwang. 50

(4) Tona gongwe Mokhuduthamaga yo o maleba, fela jaaka go tla bo go le maleba, o tshwanetse go rebolola motlhankedi mongwe le mongwe wa boitekanelo lekwalo le le mo sebopegong se se rebotsweng, le le netefatsang gore o thapilwe gongwe o supilwe jaaka motlhankedi wa boitekanelo wa lefapha la bosetshaba gongwe lefapha la porofense e e kaiwang. 55

Duty of health officers

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

Routine inspections

82. (1) A health officer may enter any premises, excluding a private dwelling, at any reasonable time and— 5

- (a) inspect such premises in order to ensure compliance with this Act;
- (b) question any person who he or she believes may have information relevant to the inspection;
- (c) require the person in charge of such premises to produce, for inspection or for the purpose of obtaining copies or extracts thereof or therefrom, any document that such person is required to maintain in terms of any law; and 10
- (d) take samples of any substance that is relevant to the inspection.

(2) A health officer may be accompanied by an interpreter and any other person reasonably required to assist him or her in conducting the inspection.

(3) A health officer may issue a compliance notice to the person in charge of the premises if a provision of this Act has not been complied with. 15

(4) A compliance notice remains in force until the relevant provision of the Act has been complied with and the health officer has issued a compliance certificate in respect of that notice.

(5) A health officer who removes any item other than that contemplated in subsection (1)(d) must— 20

- (a) issue a receipt for it to the person in charge of the premises; and
- (b) subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), return it as soon as practicable after achieving the purpose for which it was removed.

Environmental health investigations

83. (1) (a) If a health officer has reasonable grounds to believe that any condition exists which—

- (a) constitutes a violation of the right contained in section 24(a) of the Constitution;
- (b) constitutes pollution detrimental to health; 30
- (c) is likely to cause a health nuisance; or
- (d) constitutes a health nuisance,

the health officer must investigate such condition.

(2) If the investigation reveals that a condition contemplated in subsection (1) exists, the health officer must endeavour to determine the identity of the person responsible for such condition. 35

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

(4) Any person aggrieved by a determination or instruction in terms of subsection (2) or (3) may, within a period of 14 days from the date on which he or she became aware of the determination or instruction, lodge an appeal with the head of the relevant provincial department. 40

Entry and search of premises with warrant

84. (1) A health officer accompanied by a police official may, on the authority of a warrant issued in terms of subsection (5) and subject to section 85, enter any premises specified in the warrant, including a private dwelling, and— 45

- (a) inspect, photograph, copy, test and examine any document, record, object or material, or cause it to be inspected, photographed, copied, tested and examined; 50

Maikarabelo a batlhankedi ba boitekanelo

81. Motlhankedi wa boitekanelo o tshwanetse go tlhokomela le go dira gore go ikobelwe Molao ono.

Ditlathlho tsa ka gale

82. (1) Motlhankedi wa boitekanelo a ka tsenya mo moagong mongwe le mongwe, go sa akarediwa moago wa poraefete, ka nako nngwe le nngwe e e amogelesegang mme—

- (a) a tlhatlhoba meago eo gore a netefatse gore go ikobelwa Molao ono;
- (b) a botsolotsa motho mongwe le mongwe yo a dumelang gore a ka nna le tshedimosetso e e malebana le tlhatlhobo;
- (c) a dira gore motho yo o rweleng maikarabelo a moago oo, a tlhagise, gore di tlhatlhabiwe gongwe go dirisediwa mabaka a go dira dikhopi gongwe dikgogo go tswa mo makwalong mangwe le mangwe a motho yoo a tlhokang go di tlhokomela go ya ka molao mongwe fela; mme
- (d) a tsaya disampole tsa sere sengwe le sengwe se se maleba mo tlhatlhobong.

(2) Motlhankedi wa boitekanelo a ka patiwa ke moranoledi le motho mongwe fela yo o tlhokegang go mo thusa go dira tlhatlhobo.

(3) Motlhankedi wa boitekanelo a ka rebola kitsiso ya go ikobela seemo go motho yo o rweleng maikarabelo a moago fa ditlamelo tsa Molao ono di sa ikobelwa.

(4) Kitsiso ya go ikobela seemo e tla tswelela go dira go fitlhelela ga ditlamelo tse di maleba tsa Molao di setse di ikobetswe mme motlhankedi wa boitekanelo a rebotse ssetifikeiti sa go ikobelwa ga seemo malebana le kitsiso eo.

(5) Motlhankedi wa boitekanelo yo o tlosang sengwe fela go na le se se kabakanngwang mo karolwaneng ya (1)(d) o tshwanetse—

- (a) go rebola rasiiti ya sona go motho yo o rweleng maikarabelo a moago; mme
- (b) go lebeletse Molao wa Thulaganyo ya Bosenyi wa ngwaga wa 1977 (Molao wa bo51 wa ngwaga wa 1977), a se busetse ka bonako jo bo kgonagalang morago ga go fitlhelela maikemisetso a go bo se tlositswe.

Dipatlisiso tsa boitekanelo jwa tikologo

83. (1) (a) Fa motlhankedi wa boitekanelo a na le mabaka a a utlwalang a go belaela gore go na le seemo se—

- (a) se kayang kgatako ya tshwanelo e e mo karolong ya 24(a) ya Molaotheo;
- (b) se kayang kgotlhelego e e kotsi mo boitekanelong;
- (c) se ka bakang tlhakatlhakano ya boitekanelo;

motlhankedi wa boitekanelo o tshwanetse go batlisisa seemo seo.

(2) Fa patlisiso e senola gore go na le seemo se se kabakanngwang mo karolwaneng ya (1), motlhankedi wa boitekanelo o tshwanetse go leka go supa motho yo o rweleng maikarabelo a seemo seo.

(3) Motlhankedi wa boitekanelo o tshwanetse go rebola kitsiso ya go ikobelwa ga seemo go motho yo o supilweng a rwele maikarabelo a seemo sengwe le sengwe fela se se kabakanngwang mo karolwaneng ya (1) gore a tseye dikgato tse di maleba tsa paakanyo gore a tle a fokotse, a tlose gongwe a baakanye seemo seo.

(4) Motho mongwe le mongwe yo o sitelwang ke tshwetso gongwe taelo go ya ka karolwana ya (2) gongwe ya (3), mo sebakeng sa malatsi a le 14 morago ga letlha le a itsitseng ka tshwetso gongwe taelo, a ka tsenya boikuelo go tlhogo ya lefapha le le maleba la porofense.

Go tsena le go phuruphutsha mafelo ka lekwatotetlo

84. (1) Motlhankedi wa boitekanelo, a patilwe ke motlhankedi wa sepodisi, ka tumelelo ya lekwatotetlo le le rebotsweng go ya ka karolwana ya (5), mme go lebeletse karolo ya 85, a ka tsena mo moagong o o tlahalotseng mo lekwatotetlong, go akarediwa bonno jwa poraefete mme—

- (a) a tlhatlhoba, a tshwantsha, a dira dikhopi, a dira diteko le go tlhatlhoba dikwalo dingwe fela, direkoto, dilo gongwe dire, gongwe a dira gore go tlhatlhojwe, go tswewe dinepe, go dirwe dikhopi, go dirwe ditekogongwe ditlhatlhobo;

- (b) seize any document, record, object or material if he or she has reason to suspect that it might be used as evidence in a criminal trial; and
- (c) examine any activity, operation or process carried out on the premises.
- (2) A health officer who removes anything from the premises being searched must—
- (a) issue a receipt for it to the owner or person in control of the premises; and 5
- (b) unless it is an item prohibited in terms of this Act, return it as soon as practicable after achieving the purpose for which it was removed.
- (3) Upon the request of a health officer acting in terms of a warrant issued in terms of subsection (5), the occupant and any other person present on the premises must—
- (a) make available or accessible or deliver to the health officer any document, record, object or material which pertains to an investigation contemplated in subsection (1) and which is in the possession or under the control of the occupant or other person; 10
- (b) furnish such information as he or she has with regard to the matter under investigation; and 15
- (c) render such reasonable assistance as the health officer may require to perform his or her functions in terms of this Act efficiently.
- (4) Before questioning any person at the premises in question, the health officer or police official must advise that person of his or her right to be assisted at the time by an advocate or attorney, and allow that person to exercise that right. 20
- (5) A warrant contemplated in subsection (1) may be issued by a judge or a magistrate—
- (a) in relation to premises on or from which there is reason to believe that a contravention of this Act has been or is being committed; and
- (b) if it appears from information on oath or affirmation that there are reasonable grounds to believe that there is evidence available in or upon such premises of a contravention of this Act. 25
- (6) The warrant may impose restrictions on the powers of the health officer.
- (7) A warrant issued in terms of this section—
- (a) remains in force until— 30
- (i) it is executed;
- (ii) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority;
- (iii) the expiry of one month from the day of its issue; or
- (iv) the purpose for the issuing of the warrant has lapsed, 35
- whichever occurs first; and
- (b) must be executed by day unless the person who issues the warrant authorises the execution thereof by night.
- (8) No person is entitled to compensation for any loss or damage arising out of any *bona fide* action by a police official or health officer under this section. 40

Identification prior to entry, and resistance against entry

- 85.** (1) A health officer who has obtained a warrant in terms of section 84(5) or the police official accompanying him or her must immediately before entering the premises in question—
- (a) audibly announce that he or she is authorised to enter the premises and demand admission to the premises; and 45
- (b) notify the person in control of the premises of the purpose of the entry, unless there are reasonable grounds to believe that such announcement or notification might defeat the purpose of the search.
- (2) The health officer must— 50
- (a) hand to the person in control of the premises a copy of the warrant or, if such person is not present, affix such a copy to a prominent place on the premises; and

- (b) a tsaya lekwalo lengwe le lengwe fela, rekoto, selo gongwe sere fa a na le lebaka la go belaela gore di ka dirisiwa jaaka bosupi mo tshkong ya bosenyi; le
- (c) go tthatlhuba tiro nngwe le nngwe fela gongwe thulaganyo e e dirisiwang mo moagong. 5
- (2) Motlhankedi wa boitekanelo yo o tlosang sengwe fela mo moagong o o phuruphudiwang o tshwanetse—
- (a) go rebola rasiti ya sona go mong gongwe motho yo o laolang moago; mme
- (b) ntle le fa e le ntlha e e ilediwang go ya ka Molao ono, a se busetse ka bonako jo bo kgonagalang morago ga go fitlhelela se se neng se se tseetswe. 10
- (3) Ka kopo ya motlhankedi wa boitekanelo yo o dirang go ya ka lekwatotetlo le le rebotsweng go ya ka karolwana ya (5), monni le motho mongwe fela yo o leng gona kwa moagong ba tshwanetse—
- (a) go tthagisa, go isa gongwe go dira gore go nne le phitlhelelo ya lekwalo lengwe le lengwe fela, rekoto, selo gongwe sere se se malebana le patlisiso e e kabakanngwang mo karolwaneng ya (1) le e a e tshotseng gongwe e le mo taolong ya gagwe gongwe ya motho yo mongwe; 15
- (b) go tthagisa tshedimotsetso e a nang nayo malebana le morero o o batlisisiwa; le
- (c) go tlamela ka thuso ka moo go kgonegang ka teng go ya fela jaaka motlhankedi wa boitekanelo a ka e tlhoka go tseweletsa tiro ya gagwe go ya ka Molao ono ka tolamo. 20
- (4) Pele ga go botsolotsa motho mongwe le mongwe fela kwa moagong o o kailweng, motlhankedi wa boitekanelo gongwe motlhankedi wa sepodisi, o tshwanetse go gakolola motho yoo ka tshwanelo ya gagwe ya go thusiwa ka nako ke mmueledi gongwe ramolao, le go letla motho yoo go dirisa tshwanelo eo. 25
- (5) Lekwalotetlo le le kabakanngwang mo karolwaneng ya (1) le ka rebolwa ke moathodi gongwe magiseterata—
- (a) malebana le moago e go nang le mabaka a go dumela gore go tlotswe Molao ono gongwe go tseweletse go tlola Molao ono kwa go ona; le 30
- (b) fa go lebega, go ya ka tshedimotsetso e e mo maikanong gore go na le mabaka a a utlwalang go ka dumela gore go na le bosupi jwa go tlola Molao ono kwa moagong oo.
- (6) Lekwalotetlo le ka lekanyetsa dithata tsa motlhankedi wa boitekanelo. 35
- (7) Lekwalotetlo le le rebotsweng go ya ka karolo eno—
- (a) le tsewelela go dira go fitlha—
- (i) le diragaditswe;
- (ii) le phimotswe ke motho yo o le rebotsweng, gongwe, fa motho yoo a seo, ke motho mongwe fela yo o nang le dithata tse di tshwanang le tseo;
- (iii) go khutla ga kgwedi e le nngwe go tloga ka letsatsi le le rebotsweng ka lona; gongwe 40
- (iv) maikemisetso a go rebolwa ga lekwatotetlo a khutiile, go ya fela ka gore go tla diragala eng pele; mme
- (b) le tshwanetse go diragadiwa motshegare ntle le fa fela motho yo o rebolang lekwatotetlo a dumelela gore le diragadiwa bosigo. 45
- (8) Ga gona motho ope yo o nang le tshiamelo ya go duelelwa ditshenyegelo dipe fela tse di bakilweng ke tiro ya motlhankedi wa sepodisi gongwe motlhankedi wa boitekanelo ka fa tlase ga karolo eno.

Go itshupa pele ga go tsena le thibelo ya go tsena

85. (1) Motlhankedi wa boitekanelo yo o amogetseng lekwatotetlo go ya ka karolo ya 84(5), gongwe motlhankedi wa sepodisi yo o mo patileng, o tshwanetse go ka gangwe fela, pele ga go tsena moago o o kaiwang—
- (a) a tlhalose ka lentswe le le utlwalang gore o na le tumelelo ya go tsena mo moagong mme a lope go amogelwa mo moagong; mme
- (b) a itsepe motho yo o laolang moago maikemisetso a go tsena, ntle le fa fela go na le mabaka a a utlwalang a go dumela gore tlhaloso gongwe kitsiso eo e ka nyeletsa maikemisetso a phuruphutso. 55
- (2) Motlhankedi wa boitekanelo o tshwanetse—
- (a) naya motho yo o laolang moago, khophi ya lekwatotetlo, gongwe fa motho yoo a seo, a naparetse khophi eo mo lefelong le le bonalang mo moagong; mme 60

(b) on request of the person in charge of such premises, show his or her certificate of appointment as health officer to that person.

(3) A health officer or police official contemplated in subsection (1) may overcome resistance to the entry and search by using such force as is reasonably required, including the breaking of a door or window of the premises. 5

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

Entry and search of premises without warrant

86. A health officer accompanied by a police official may without a warrant exercise any power referred to in section 84(1) if— 10

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

(b) there are reasonable grounds to believe that a warrant would be issued in terms of section 84(5) and that the delay in obtaining the warrant would defeat the object of the warrant. 15

Disposal of items seized by health officer

87. (1) The health officer must deliver anything seized in terms of section 84 or 86 without delay to a police official contemplated in section 30 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), who must deal with and dispose of the seized item in the manner provided for in Chapter 2 of that Act. 20

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

Miscellaneous provisions relating to health officers, inspectors and compliance procedures 25

88. For the purposes of this Act, the heads of national and provincial departments, and the head of a health department of a municipality must be regarded as being—

(a) the owner and occupier of any premises that the national or provincial department or the municipality occupies or uses; and

(b) the employer of persons in the service of that national or provincial department or municipality if, as an employer, the national or provincial department or municipality— 30

(i) performs any duty imposed upon an employer by or under this Act; or

(ii) exercises any power conferred upon an employer by or under this Act.

Offences 35

89. (1) A person is guilty of an offence if he or she—

(a) obstructs or hinders a health officer who is performing a function under this Act;

(b) refuses to provide a health officer with such information as that person is required to provide under this Act; 40

(c) knowingly gives false or misleading information to a health officer;

(d) unlawfully prevents the owner of any premises, or a person working for the owner, from entering the premises in order to comply with a requirement of this Act;

(e) impersonates a health officer; 45

- (b) ka kopo ya motho yo o rweleng maikarabelo a moago oo, a bontshe setifikeiti sa gagwe sa go thapiwa jaaka motlhankedi wa boitekanelo.
- (3) Motlhankedi wa boitekanelo gongwe motlhankedi wa sepodisi yo o kabakannwang mo karolwaneng ya (1) a ka samagana le kganetso ya go tsena le go phuruphutsa ka go dirisa maatla go ya fela jaaka go tla bo go tlhokega mme go dumelega, go akaretsa go thuba lebati gongwe letlhabaphefo la moago. 5
- (4) Pele ga go dirisa maatla, motlhankedi wa boitekanelo gongwe motlhankedi wa sepodisi o tshwanetse go lopa ka lentswe le le utlwalang gore a letlwe go tsena mme o tshwanetse go tlhalosa maikemisetso a go tsena, ntle le fa fela go na le mabaka a a utlwalang a go dumela gore go dira jalo go ka nyeletsa maikemisetso a phuruphutso. 10

Go tsena le go phuruphutsa moago ntle le lekwalotetlo

86. Motlhankedi wa boitekanelo yo o patilweng ke motlhankedi wa sepodisi, ntle le lekwalotetlo, a ka dirisa maatla mangwe le mangwe a a kailweng mo karolong ya 84(1) fa—

- (a) motho yo o nang le bokgoni jwa go dira jalo a dumela go dira seo; gongwe 15
- (b) go na le mabaka a a utlwalang a go dumela gore go tla ntshiwa lekwalotetlo go ya ka karolo ya (84)5 le gore tiego ya go bona lekwalotetlo e tla nyeletsa maikemisetso a lekwalotetlo.

Go tloswa ga dilo tse di thopilweng ke motlhankedi wa boitekanelo

87. (1) Motlhankedi wa boitekanelo o tshwanetse go isa sengwe le sengwe se se gapilweng go ya ka karolo ya 84 gongwe 86 ntle le tshenyoo ya nako, kwa motlhankeding wa sepodisi yo o kabakannwang mo karolong ya 30 ya Molao wa Thulaganyo ya Bosenyi wa ngwaga wa 1977 (Molao wa bo51 wa ngwaga wa 1977), yo a tshwanetseng go bona le go tlosa dilo tse di thopilweng ka tsela e e diretsweng tlameloo mo Kgaolong ya 2 ya Molao oo. 25

(2) Fa motlhankedi wa sepodisi a dira go ya ka karolo ya (30)(a) gongwe (b) ya Molao wa Thulaganyo ya Bosenyi wa ngwaga wa 1977 (Molao wa bo51 wa ngwaga wa 1977), malebana le ntlha e e kabakannwang mo karolwaneng ya (1), o tshwanetse go dira jalo morago ga go batla maikutlo a motlhankedi wa boitekanelo.

Ditlanelo tse dingwe tse di malebana le batlhankedi ba boitekanelo, batlhatlhabi le dithulaganyo tsa go ikobela seemo 30

88. Go tswelletsa Molao ono, ditlhogo tsa mafapha a bosetshaba le a porofense, le tlhaogo ya lefapha la boitekanelo la lekgotlatoropo ba tshwanetse go tsewa e le—

- (a) mong le monni wa moago o lefapha la bosetshaba gongwe la porofense gongwe lekgotlatoropo le nngang mo go ona gongwe le o dirisang; mme 35
- (b) mothapi wa batho ba ba mo tirelong ya lefapha leo la bosetshaba gongwe la porofense gongwe lekgotlatoropo fa, jaaka mothapi, lefapha la bosetshaba gongwe la porofense gongwe lekgotlatoropo—
- (i) le diragatsa tiro nngwe le nngwe e e rebolelwang mothapi ke, gongwe ka fa tlase ga Molao ono; gongwe 40
- (ii) le diragatsa maatla mangwe le mangwe a a rolelwang mothapi ke, gongwe ka fa tlase ga Molao ono.

Ditlolomolao

89. (1) Motho o na le molato wa tlolomolao fa—

- (a) a kgoreletsa motlhankedi wa boitekanelo yo o dirang tiro ka fa tlase ga Molao ono; 45
- (b) a gana go tlamela motlhankedi wa boitekanelo ka tshedimisetso e motho yoo a tshwanetseng go e tlamela ka fa tlase ga Molao ono;
- (c) ka kitso, naya motlhankedi wa boitekanelo tshedimisetso e e fosagetseng gongwe e e latlang; 50
- (d) ntle le molao, a thibela mong wa moago mongwe le mongwe fela, gongwe motho yo o direlang mong go tsena mo moagong gore a ikobele tlhokego ya Molao ono;
- (e) a dirisa motlhankedi wa boitekanelo;

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

CHAPTER 11

REGULATIONS

Regulations 15

90. (1) The Minister, after consultation with the National Health Council, may make regulations regarding—

- (a) anything which may or must be prescribed in terms of this Act;
- (b) the fees to be paid to public health establishments for health services rendered;
- (c) the norms and standards for specified types of protective clothing and the use, cleaning and disposal of such clothing; 20
- (d) the development of an essential drugs list and medical and other assistive devices list;
- (e) human resource development;
- (f) co-operation and interaction between private health care providers and private health establishments on the one hand and public health care providers and public health establishments on the other; 25
- (g) returns, registers, reports, records, documents and forms to be completed and kept by the national department, provincial departments, district health councils, health care providers, private health establishments and public health establishments; 30
- (h) the functions of persons who render voluntary, charitable or similar services in connection with a public health establishment;
- (i) the rendering of forensic pathology, forensic medicine and related laboratory services, including the provision of medico-legal mortuaries and medico-legal services; 35
- (j) communicable diseases;
- (k) notifiable medical conditions;
- (l) rehabilitation;
- (m) emergency medical services and emergency medical treatment, both within and outside of health establishments; 40
- (n) health nuisances and medical waste;
- (o) the import and export of pathogenic micro-organisms;
- (p) health laboratory services, including— 45
 - (i) the classification, accreditation and licensing of health laboratories; and
 - (ii) setting, monitoring and enforcing quality control standards applicable to health laboratories;
- (q) non-communicable diseases;
- (r) health technology;
- (s) health research; 50
- (t) the national health information system contemplated in section 74;
- (u) the processes and procedures to be implemented by the Director-General in order to obtain prescribed information from stakeholders relating to health

- (f) retelwa ke go ikobela kitsiso ya go ikobela seemo e a e reboletsweng ke motlhankedi wa boitekanelo go ya ka Molao ono; gongwe
- (g) a senola tshedimosetso nngwe le nngwe fela e e bonweng fa go dirwa tiro nngwe le nngwe fela go ya ka Molao ono le e e amanang le merero ya ditšhelete gongwe ya kgwebo ya motho mongwe le mongwe fela, go motho mongwe fela, ntle le— 5
- (i) fa motho yo mongwe a tlhoka tshedimosetso gore a kgone go dira tiro nngwe go ya ka Molao ono;
- (ii) tshenolo e laotswe ke kgotlatshekelo ya molao; gongwe
- (iii) tshenolo e ikobela ditlamelo tsa molao mongwe fela. 10
- (2) Motho mongwe le mongwe yo o tshwarelwang tlolomolao go ya ka karolwana ya (1) o tla lebagana le katlholo ya go lefa gongwe go golegwa sebaka se se sa feteng dingwaga di le tlhano gongwe katlholo ya go lefa le go golegwa goo.

KGAOLO 11**MELAWANA**

15

Melawana

- 90.** (1) Tona, morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo, a ka dira melawana malebana le—
- (a) sengwe le sengwe se se ka, gongwe se se ka se keng sa rebolwa go ya ka Molao ono; 20
- (b) dituelo tse di tshwanetseng go duelwa ditheo tsa bosetšhaba tsa boitekanelo tsa ditirelo tsa boitekanelo tse go tlametsweng ka tsona;
- (c) ditekanyetso le seemo sa mefuta e e rileng ya diaparo tsa itshireletso le tiriso, phepatatso, le go latlhiwa ga diaparo tseo;
- (d) go tlhabololwa ga lenaane la melemo ya botlhokwa le lenaane la didiriswa tsa kalafi le tsa thuso; 25
- (e) tlhabololo ya badiri;
- (f) tirisanommogo le tshusumetsano magareng ga batlamedi ba tlhokomelo ya boitekanelo ba poraefete le ditheo tsa boitekanelo tsa poraefete ka fa letsogong le lengwe, le batlamedi ba tlhokomelo ya boitekanelo ba setšhaba le ditirelo tsa boitekanelo tsa setšhaba ka fa go je lengwe; 30
- (g) dipoelo, direjisetara, dipegelo, direkoto, dikwalo le diforomo tse di tshwanetseng go tladiwa le go tsholwa ke lefapha la bosetšhaba, mafapha a porofense, dikhansele tsa kgaolo tsa boitekanelo, batlamedi ba tlhokomelo ya boitekanelo, ditheo tsa boitekanelo tsa poraefete le ditheo tsa boitekanelo tsa setšhaba; 35
- (h) ditiro tsa batho ba ba tlamelang ka ditirelot sa boithaopo, tsa thusomorafe gongwe tse di tshwanang natso malebana le setheo sa boitekanelo sa setšhaba;
- (i) tlamelo ya patoloji ya forensiki, melemo ya forensiki le ditirelo tsa laboratori tse di amanang natso, go akarediwa tlamelo ka dimotšhara tsa kalafi ya molao le ditirelo tsa kalafi ya molao; 40
- (j) malwetse a a tshelanwang;
- (k) malwetse a a itseseweng;
- (l) tsosoloso;
- (m) ditirelo tsa tshoganyetso le kalafi ya tshoganyetso, mo ditheong tsa boitekanelo le kwa ntle ga tsona; 45
- (n) dilo di sele mo boitekanelong le leswe la melemo
- (o) go romelwa teng le go romelwa ntle ga ditshetsana tsa patojeniki;
- (p) ditirelo tsa dilaboratori tsa boitekanelo, go akarediwa— 50
- (i) karoganyo, tlhomamiso le thebolo ya dilaesense tsa di laboratori; le
- (ii) go tlhomiwa, go tlhokomelwa le go dirisiwa ga seemo sa taolo ya boleng se se maleba mo dilaborating tsa boitekanelo;
- (q) malwetse a a sa tshelanwang;
- (r) thekenoloji ya boitekanelo;
- (s) patlisiso ya boitekanelo; 55
- (t) thulaganyo ya bosetšhaba ya tshedimosetso ya boitekanelo e e kabakanngwang mo karolong ya 74;
- (u) dithulaganyo le dikgato tse Mokaedi Kakaretso a tshwanetseng go di diragatsa gore a kgone go bona tshedimosetso e e rebotsweng go tswa kwa

- financing, the pricing of health services, business practices within or involving health establishments, health agencies, health workers and health care providers, and the formats and extent of publication of various types of information in the public interest and for the purpose of improving access to and the effective and efficient utilisation of health services; 5
- (v) the processes of determination and publication by the Director-General of one or more reference price lists for services rendered, procedures performed and consumable and disposable items utilised by categories of health establishments, health care providers or health workers in the private health sector which may be used— 10
- (i) by a medical scheme as a reference to determine its own benefits; and
- (ii) by health establishments, health care providers or health workers in the private health sector as a reference to determine their own fees, but which are not mandatory; and
- (w) generally, any other matter which it is necessary or expedient to prescribe in order to implement or administer this Act. 15
- (2) The Minister, subject to the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), and after consultation with the National Health Research Ethics Council, may make regulations regarding research on human subjects.
- (3) The Minister may, in any regulation made under this Act— 20
- (a) designate as authoritative any methodology, procedure, practice or standard that is recognised as authoritative by internationally recognised health bodies within the relevant profession; and
- (b) require any person or body to comply with the designated methodology, procedure, practice or standard. 25
- (4) (a) The Minister must publish all regulations proposed to be made under this Act in the *Gazette* for comment at least three months before the date contemplated for their commencement.
- (b) If the Minister alters the draft regulations, as a result of any comment, he or she need not publish those alterations before making the regulations. 30
- (c) The Minister may, if circumstances necessitate the immediate publication of a regulation, publish that regulation without the consultation contemplated in paragraph (a).

CHAPTER 12

GENERAL PROVISIONS 35

Minister may appoint committees

91. (1) The Minister may, after consultation with the National Health Council, establish such number of advisory and technical committees as may be necessary to achieve the objects of this Act.
- (2) When establishing an advisory or technical committee, the Minister may 40 determine by notice in the *Gazette*—
- (a) its composition, functions and working procedure;
- (b) in consultation with the Minister of Finance, the terms, conditions, remuneration and allowances applicable to its members; and
- (c) any incidental matters relating to that advisory or technical committee. 45

- banning-le-seabe malebana le tlanelo ya boitekanelo ka ditšhelete, go bewa ga ditlhotlha tsa ditirelo tsa boitekanelo, dikgwebo tse di mo, gongwe tse di amang ditheo tsa boitekanelo, bothusi jwa boitekanelo, badiri ba boitekanelo le batlamedi ba tlhokomelo ya boitekanelo, le popego le seelo sa phasalatso ya mefuta e e farologaneng ya tshedimosetso mo dikgatlhegong tsa setšhaba le go dirisediwa mabaka a go tokafatsa phitlhelelo ya tiriso e e bokgoni ya ditirelo tsa boitekanelo; 5
- (v) thulaganyo e e dirisiwang ke Mokaedi Kakaretso go swetsa le go phasalatsa nngwe gongwe bontsi jwa manaane a kaedi a ditlhotlha tsa tirelo e go tlametsweng ka yona, dithulaganyo tse di dirilweng le dilo tse di monyelegang le tse di latlhwang tse di dirisiwang ka dikarolo tsa ditheo tsa boitekanelo, batlamedi ba tlhokomelo ya boitekanelo gongwe badiri ba boitekanelo mo lephateng la poraefete la boitekanelo tse di ka dirisiwang— 10
- (i) ke sekema sa kalafi jaaka kaedi go swetsa ka ditshiamelo tsa sona; le 15
- (ii) ditheo tsa boitekanelo; batlamedi ba tlhokomelo ya boitekanelo gongwe badiri ba boitekanelo mo lephateng la poraefete la boitekanelo jaaka kaedi go swetsa ka dituelo tsa bona, fela di sa ba pateletse; le 15
- (w) ka kakaretso, morero mongwe le mongwe fela o go leng bothokwa gongwe go le mosola gore o rebolwe gore go kgonege go dirisa le go tsamaisa Molao ono. 20
- (2) Tona, go lebeleletse Molao wa Taolo ya Melemo le Dire tse di Amanang natso wa ngwaga wa 1965 (Molao wa bo101 wa ngwaga wa 1965), le morago ga go batla maikutlo a Khansele ya Bosetšhaba Maitsholo ya Patlisiso ya Boitekanelo, a ka dira melawana e e malebana le patlisiso go dirisiwa batho. 25
- (3) Tona, mo molawaneng mongwe le mongwe o o dirilweng ka fa tlase ga Molao ono, a ka— 25
- (a) tlhomamisa jaaka ntlha ya semmuso, mokgwa, thulaganyo, tiro gongwe seemo sengwe le sengwe se se lemogwang jaaka sa semmuso ke maphata a itsegeng boditšhabatšhaba a boitekanelo mo diporofešeneng tse di maleba; mme 30
- (b) tlhoka gore motho mongwe le mongwe gongwe lephata le ikobele mokgwa, thulaganyo, tiro gongwe seemo se se tlhomamisitsweng. 30
- (4) (a) Tona o tshwanetse go phasalatsa melawana yotlhe e go tshitsintsweng gore e dirwe ka fa tlase ga Molao ono, mo *Kaseteng*, gore go dirwe ditshwaelo, bonnye dikgwe di le tharo pele fa letlha le le kabakanngwang gore e simolole go dira. 35
- (b) Fa Tona a fetola melawanatlhomo ka ntlha ya tshwaelo nngwe fela, ga a tlhoke go phasalatsa diphetogo tseo pele ga a ka dira melawana. 35
- (c) Fa seemo se tlhoka gore molawana o phasaladiwe ka gangwe fela, Tona a ka phasalatsa molawana ntle le patlo maikutlo e e kabakanngwang mo temeng ya (a). 35

KGAOLO 12

40

DITLAMELO TSA KAKARETSO

Tona a ka thapa dikomiti

91. (1) Tona, morago ga go batla maikutlo a Khansele ya Bosetšhaba ya Boitekanelo, a ka tlhama dikomiti tsa bogakolodi le tsa setegeniki tsa palo e e ka tlhokegang go fitlhelela maikemisetso a Molao ono. 45
- (2) Fa a tlhama komiti ya bogakolodi gongwe ya setegeniki, Tona a ka swetsa ka kitsiso mo *Kaseteng*—
- (a) ka botokololo, ditiro le dithulaganyo tsa go dira tsa yona; 50
- (b) ka go batla maikutlo a Tona ya Ditšhelete, dipeelo, seemo, tuelo le ditetlo tse di tla dirisediawang ditokololo tsa yona; le 50
- (c) merero mengwe le mengwe fela e e malebana le komiti eo ya bogakolodi gongwe ya setegeniki. 50

Assignment of duties and delegation of powers

- 92.** Subject to the Public Finance Management Act (Act No. 1 of 1999)—
- (a) the Minister may assign any duty and delegate any power imposed or conferred upon him or her by this Act, except the power to make regulations, to—
5
 - (i) any person in the employ of the State; or
 - (ii) any council, board or committee established in terms of this Act;
 - (b) the relevant member of the Executive Council may assign any duty and delegate any power imposed or conferred upon him or her by this Act, except the power to make regulations, or assigned or delegated to him or her by the Minister, to any officer in the relevant provincial department or any council, board or committee established in terms of this Act; 10
 - (c) the Director-General may assign any duty and delegate any power imposed or conferred upon him or her by this Act to any official in the national department; and 15
 - (d) the head of a provincial department may assign any duty and delegate any power imposed or conferred upon him or her in terms of this Act to any official of that provincial department.

Repeal of laws, and savings

- 93.** (1) Subject to this section, the laws mentioned in the second column of the Schedule are hereby repealed to the extent set out in the third column of the Schedule. 20
- (2) Anything done before the commencement of this Act under a provision of a law repealed by subsection (1) and which could have been done under a provision of this Act must be regarded as having been done under the corresponding provision of this Act.
- (3) The Minister may prescribe such further transitional arrangements as may be necessary to effect a smooth transition between the laws referred to in the Schedule and this Act. 25

Short title and commencement

- 94.** This Act is called the National Health Act, 2003, and takes effect on a date fixed by the President by proclamation in the *Gazette*. 30

Go rebolela ditiro le go rolela dithata

92. Go lebeleletse Molao wa Tsamaiso ya Ditšhelete tsa Setšhaba (Molao wa bo1 wa ngwaga wa 1999)—

- (a) Tona a ka rebolela tiro nngwe le nngwe gongwe a rolela thata nngwe le nngwe e a e neetsweng ke Molao ono, ntle le thata ya go dira melawana go— 5
 (i) motho mongwe le mongwe yo o direlang Mmuso; gongwe
 (ii) khansela, boto gongwe komiti nngwe le nngwe e e tlhamilweng go ya ka Molao ono;
- (b) Mokhuduthamaga yo o maleba a ka rebolela tiro nngwe le nngwe gongwe a rolela thata nngwe le nngwe e a e neetsweng ke ono, ntle le thata ya go dira melawana, gongwe e a e reboletsweng gongwe e roletswe go ena ke Tona, go motlhankedi mongwe le mongwe yo o mo lefapheng le le maleba la porofense gongwe khansela, boto gongwe komiti nngwe le nngwe e e tlhamilweng go ya ka Molao ono; 10
- (c) Mokaedi Kakaretso a ka rebolela tiro nngwe le nngwe gongwe a rolela thata nngwe le nngwe e a e neetsweng ke Molao ono go motlhankedi mongwe le mongwe fela mo lefapheng la bosetšhaba; mme 15
- (d) Tlhogo ya lefapha la porofense e ka rebolela tiro nngwe le nngwe gongwe ya rolela thata nngwe le nngwe e a e neetsweng ke Molao ono go motlhankedi mongwe le mongwe fela wa lefapha leo la porofense. 20

Go phimolwa ga melao, le dipoloko

93. (1) Go lebeleletse karolo eno, ka go riana, melao e e kailweng mo kholomong ya bobedi ya Šejule e a phimolwa go ya jaaka go beilwe mo kholomong ya boraro ya Šejule.

(2) Sengwe le sengwe se se dirilweng pele ga go simolola go dira ga Molao ono ka fa tlase ga tlanelo ya molao o o phimotsweng ke karolwana ya (1) le se se ka bong se dirilwe ka fa tlase ga tlanelo ya Molao ono, se tshwanetse go tsewa se dirilwe ka fa tlase ga tlanelo e e tsamaelanang ya Molao ono. 25

(3) Tona a ka rebola dithulaganyo tse dingwe tsa kgabaganyo jaaka go tla bo go tlhokega go kgontsha kgabaganyo e e bobebe magareng ga melao e e kaiwang mo Sejuleng le Molao ono. 30

Setlhogo se se khutshwane le tshimologo

94. Molao ono o bidiwa Molao wa Bosetšhaba wa Boitekanelo wa ngwaga wa 2003, mme o simolola go dira mo letlheng le le tlhomamisitsweng ke Moporesidente ka kgoeletso mo *Kaseteng*. 35

Act No. 61, 2003

NATIONAL HEALTH ACT, 2003

SCHEDULE**LAWS REPEALED***(Section 93)*

No. and year of Act	Short title	Extent of repeal
Act No. 63 of 1977	Health Act, 1977	The whole
Act No. 18 of 1979	Health Amendment Act, 1979	The whole
Act No. 33 of 1981	Health Amendment Act, 1981	The whole
Act No. 37 of 1982	Health Amendment Act, 1982	The whole
Act No. 21 of 1983	Health Amendment Act, 1983	The whole
Act No. 65 of 1983	Human Tissue Act, 1983	The whole
Act No. 2 of 1984	Health Amendment Act, 1984	The whole
Act No. 106 of 1984	Human Tissue Amendment Act, 1984	The whole
Act No. 70 of 1985	Health Amendment Act, 1985	The whole
Act No. 51 of 1989	Human Tissue Amendment Act, 1989	The whole
Act No. 116 of 1990	National Policy for Health Act, 1990	The whole
Act No. 86 of 1993	Academic Health Centres Act, 1993	The whole
Act No. 118 of 1993	Health and Welfare Matters Amendment Act, 1993	Sections 1, 2, 4, 5, 6, 7, 8, 9 and 10

ŠEJULE**MELAO E E PHIMOTSWENG***(Karolo ya 93)*

Nomoro le ngwaga wa Molao	Setlhogo se se khutshwane	Seelo sa go phimolwa	
Molao wa bo63 wa ngwaga wa 1977	Molao wa Boitekanelo wa ngwaga wa 1977	Otlhe	5
Molao wa bo18 wa ngwaga wa 1979	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1979	Otlhe	10
Molao wa bo33 wa ngwaga wa 1981	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1981	Otlhe	15
Molao wa bo37 wa ngwaga wa 1982	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1982	Otlhe	
Molao wa bo21 wa ngwaga wa 1983	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1983	Otlhe	20
Molao wa bo65 wa ngwaga wa 1983	Molao wa Dithišu tsa Batho wa ngwaga wa 1983	Otlhe	
Molao wa bo2 wa ngwaga wa 1984	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1984	Otlhe	25
Molao wa bo106 wa ngwaga wa 1984	Molao o o Tlhabolotsweng wa Dithišu tsa batho wa ngwaga wa 1984	Otlhe	30
Molao wa bo70 wa ngwaga wa 1985	Molao o o Tlhabolotsweng wa Boitekanelo wa ngwaga wa 1985	Otlhe	
Molao wa bo51 wa ngwaga wa 1989	Molao o o Tlhabolotsweng wa Dithišu tsa batho wa ngwaga wa 1989	Otlhe	35
Molao wa bo116 wa ngwaga wa 1990	Molao wa Bosetšhaba wa Pholesi ya Boitekanelo wa ngwaga wa 1990	Otlhe	
Molao wa bo86 wa ngwaga wa 1993	Molao wa Ditikwatikwe tsa Borutegi tsa Boitekanelo wa ngwaga wa 1993	Otlhe	40
Molao wa bo118 wa ngwaga wa 1993	Molao o o Tlhabolotsweng wa Merero ya Boitekanelo le Katlaatlololoago wa ngwaga wa 1993	Dikarolo tsa 1, 2, 4, 5, 6, 7, 8, 9 le 10	45

