



KWAZULU-NATAL PROVINCE  
KWAZULU-NATAL PROVINSIE  
ISIFUNDAZWE SAKWAZULU-NATALI

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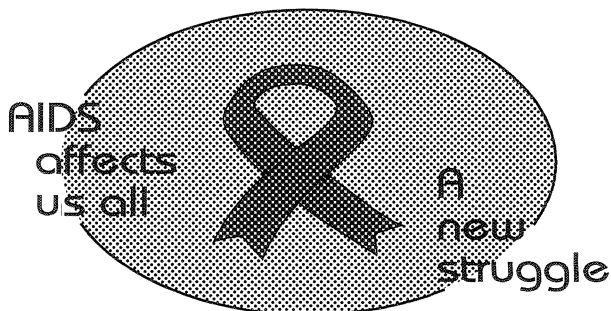
**Vol. 6**

**PIETERMARITZBURG,**

9 NOVEMBER 2012  
9 KULWEZI 2012

**No. 849**

**We all have the power to prevent AIDS**



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DEPARTMENT OF HEALTH

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**PROVINCIAL NOTICES—PROVINSIALE KENNISGEWINGS—IZAZISO ZESIFUNDAZWE**

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**No. 123****9 November 2012****KWAZULU-NATAL CLINIC- AND COMMUNITY HEALTH CENTRE COMMITTEES  
REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No.1 of 2009), in order to regulate Clinic- and Community Health Centre Committees.

Given under my Hand at Pietermaritzburg this 4<sup>th</sup> day of **July**, Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health

## SCHEDULE

### Definitions

1. In these Regulations, “the Act” means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

“**Chairperson**” means the Chairperson of the Committee; and

“**Committee**” means a Clinic- or Community Health Centre Committee established by notice published in accordance with section 42 of the Act.

### Committee to advise Department

2.(1) In performing the functions as contemplated in section 43 of the Act, a Committee must advise the Department on –

- (a) services to be provided in order to reduce the gap between the needs of the community and provision of services at the clinic or in the community;
- (b) specific and achievable primary health care objectives using district, national and provincial goals as a framework;
- (c) outreach services for the community surrounding the clinic area;
- (d) focused community-based activities where health workers are familiar with the community and population profile regarding health problems and needs of the community; and
- (e) any other matter related to the objects and other provisions of the Act.

(2) Further to the obligations contemplated in subregulation (1), a Committee must –

- (a) strengthen the relationship between the clinic- or community health centre stakeholders within its area;
- (b) contribute annually to the operational planning for the clinic;
- (c) acquaint itself with the operation of the clinic or community health centre;
- (d) make representation for equitable access to services of the clinic or community health centre for the community within its area;
- (e) conduct inspections at the clinic or community health centre;

- (f) act as a liaison between the community and the clinic or community health centre and receive feedback from the community in respect of services rendered by the clinic or community health centre;
- (g) monitor the planning and implementation of community-based activities;
- (h) promote infection control practices and monitor the adherence thereto; and
- (i) monitor that patients are efficiently referred to the next level of care when their needs fall beyond the scope of clinic staff competence.

#### **Appointment of Members of Committee**

3. Before appointing any person as a Member of a Committee, the responsible Member of the Executive Council must –

- (a) by notice in any widely circulated means of communication within the area of the relevant clinic or community health centre, call for nominations for membership on the relevant Committee and state the criteria for such nominations;
- (b) specify a period within which nominations must be submitted;
- (c) consider all nominations; and
- (d) make an appointment within 60 days after the nominations have been received and considered.

#### **Termination of Membership of Committee**

4. A member ceases to be a Member of a Committee on any of the following grounds –

- (a) inability to perform the functions of the Committee;
- (b) misconduct;
- (c) written resignation;
- (d) he or she becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (e) he or she is convicted of a criminal offence involving fraud, misrepresentation or any other breach of trust;
- (f) he or she is convicted of an offence in respect of which he or she is sentenced to imprisonment without the option of a fine;
- (g) the responsible Member of the Executive Council, in the interest of the public and for just cause, and after consultation with the member, terminates his or her membership of the Committee; or
- (h) death of a member.

**Vacancy on Committee**

5. Every vacancy on a Committee arising from circumstances referred to in regulation 4 must be filled by the responsible Member of the Executive Council and every member so appointed must hold office for the unexpired portion of the period for which the vacating member was appointed.

**Duties of Chairperson**

6. The Chairperson –

- (a) may convene an ordinary meeting as often as necessary, but at least three times a year, as contemplated in section 46 of the Act.
- (b) may call a special meeting of the Committee at any time;
- (c) must ensure that the Committee performs its functions and fulfils its objectives in terms of the Act; and
- (d) must determine the date, place and time of any meeting of the Committee.

**Meetings of Committee**

7.(1) The Committee must, at its first meeting, elect a Chairperson and a Deputy Chairperson.

(2) The Chairperson may convene a special meeting of the Committee at any time –

- (a) upon written request by the Chairperson; or
- (b) within ten calendar days of receipt of a written request signed by at least a third of the members of the Committee.

(3) A written request, as contemplated in subregulation (2), must state clearly the purpose for which the meeting is convened.

**Quorum, procedure at meetings and decision-making**

8.(1) A quorum of any meeting of a Committee is one half of the total number of members plus one.

(2) The Committee must determine the procedure to be followed at its meetings.

(3) At all meetings of the Committee the Chairperson or, in his or her absence, the Deputy Chairperson, must preside.

(4) The decision of the majority of the Members of the Committee present at any meeting thereof constitutes a decision of the Committee and, in the event of an equality of votes, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote.

(5) A decision taken by the Committee or an act performed under the authority of the Committee is not invalid merely by reason of an interim vacancy in the Committee.

(6) The Committee may co-opt any person to attend and participate in its deliberations on any matter, but such person may not vote on any matter.

(7)(a) A Member of the Committee, who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Committee, must disclose the nature of their interest to the Committee.

(b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.

(c) The member contemplated in paragraph (a) must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Committee relating to that matter.

(8) The Chairperson must keep an attendance register in which he or she must enter the names of all the members attending each meeting, as well as the names of members absent with or without leave.

(9) The clinic or community health centre must provide secretarial services to the Committee.

**Short title**

9. These regulations are called the KwaZulu-Natal Clinic- and Community Health Centre Committees Regulations, 2012.

No. 123

9 November 2012

**KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL                    REGULASIES                    OP                    KLINIEK-                    EN  
GEMEENSKAPGESONDHEIDSENTRUMKOMITEES, 2012**

Hiermee maak ek die regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), ten einde Kliniek- en Gemeenskapgesondheidsentrumkomitees te reguleer.

Gegee onder my Hand te Pietermaritzburg hierdie 4<sup>th</sup> dag van **July**, Twee-duisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu  
verantwoordelik vir Gesondheid



**BYLAE****Omskrywings**

1. In hierdie Regulasies beteken "die Wet" die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

“**Komitee**” ’n Kliniek- of Gemeenskappgesondheidsentrumkomitee ingestel deur kennisgewing gepubliseer in ooreenstemming met artikel 42 van die Wet; en

“**Voorsitter**” die Voorsitter van die Komitee.

**Komitee om Departement te adviseer**

2.(1) In die verrigting van funksies soos bedoel in artikel 43 van die Wet, moet ’n Komitee die Departement adviseer op –

- (a) dienste wat verskaf sal word ten einde die gaping tussen die behoeftes van die gemeenskap en diensverskaffing by die kliniek of gemeenskap te verminder;
- (b) spesifieke en bereikbare primêre gesondheidsoogmerke deur gebruik te maak van distriks-, nasionale en provinsiale doelwitte as raamwerk;
- (c) uitreikdienste vir die kliniek se omliggende gemeenskap;
- (d) gefokusde gemeenskapsgebaseerde aktiwiteite waar gesondheidswerkers vertrouwd is met die gemeenskap en die bevolkingsprofiel betreffende gesondheidsprobleme en behoeftes van die gemeenskap; en
- (e) enige ander aangeleentheid betreffende die doelwitte en ander bepalings van die Wet.

(2) Bykomend tot die pligte bedoel in subregulasie (1), moet ’n Komitee –

- (a) die verhouding tussen die kliniek- en gemeenskappgesondheidsentrum-belanghebbendes binne sy gebied versterk;
- (b) jaarliks bydra tot die bedryfsbeplanning vir die kliniek;
- (c) homself op hoogte hou van die bedryf van die kliniek of gemeenskappgesondheidsentrum;
- (d) voorleggings maak vir billike toegang tot die dienste van die kliniek of gemeenskappgesondheidsentrum vir die kliniek se omliggende gemeenskap;

- (e) inspeksies by die kliniek of gemeenskapgesondheidsentrum uitvoer;
- (f) optree as 'n skakel tussen die gemeenskap en die kliniek of gemeenskapgesondheidsentrum en terugvoer ontvang vanuit die gemeenskap ten opsigte van dienste gelewer deur die kliniek of gemeenskapgesondheidsentrum;
- (g) die beplanning en implementering van gemeenskapsgebaseerde aktiwiteite monitor;
- (h) infeksiebeheerpraktyke bevorder en die nakoming daarvan monitor; en
- (i) monitor dat pasiënte doeltreffend na die volgende vlak van versorging verwys word wanneer hul behoeftes buite die omvang van die kliniekpersoneel se bevoegdheid val.

### **Aanstelling van Lede van Komitee**

**3.** Voor aanstelling van enige persoon as Lid van die Komitee, moet die verantwoordelike Lid van die Uitvoerende Raad –

- (a) deur kennisgewing in enige wydverspreide kommunikasiemedium binne die gebied van die betrokke kliniek of gemeenskapgesondheidsentrum benoemings om lidmaatskap van die betrokke Komitee versoek en die kriteria vir sodanige benoemings meld;
- (b) 'n tydperk spesifiseer waartydens benoemings ingedien moet word;
- (c) alle benoemings oorweeg; en
- (d) 'n aanstelling maak binne 60 dae nadat die benoemings ontvang en oorweeg is.

### **Beëindiging van lidmaatskap van Komitee**

**4.** 'n Lid se lidmaatskap van die Komitee word beëindig op enige van die volgende gronde –

- (a) onvermoë om die funksies van die Komitee uit te voer;
- (b) wangedrag;
- (c) skriftelike bedanking;
- (d) hy of sy word 'n geestesgesondheidsorg-gebruiker, soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 2002 (Wet No. 17 van 2002);
- (e) hy of sy is skuldig bevind aan 'n kriminele oortreding wat bedrog, wanvoorstelling of enige ander skending van vertroue insluit;
- (f) hy of sy is skuldig bevind aan 'n misdryf ten opsigte waarvan hy of sy tot gevangenisstraf gevonnis is sonder die opsie van 'n boete;

- (g) die verantwoordelike Lid van die Uitvoerende Raad, in openbare belang en vir regverdige beweegredes, en na oorlegpleging met die lid, sy of haar lidmaatskap van die Komitee beëindig; of
- (h) die dood van 'n lid.

### **Vakature op Komitee**

5. Elke vakature op 'n Komitee wat voortspruit uit die omstandighede verwys na in regulasie 4 moet gevul word deur die verantwoordelike Lid van die Uitvoerende Raad en elke lid aldus aangestel beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die uittredende lid aangestel is.

### **Pligte van Voorsitter**

6. Die Voorsitter –

- (a) mag 'n gewone vergadering so gereeld as nodig belê, maar ten minste drie keer per jaar, soos bedoel in artikel 46 van die Wet;
- (b) mag 'n spesiale vergadering van die Komitee te enige tyd beroep;
- (c) moet verseker dat die Komitee sy funksies verrig en sy doelwitte vervul ingevolge die Wet; en
- (d) moet die datum, plek en tyd van enige vergadering van die Komitee bepaal.

### **Vergaderings van Komitee**

7.(1) Die Komitee moet, tydens sy eerste vergadering, 'n Voorsitter en 'n Ondervoorsitter verkies.

(2) Die Voorsitter mag 'n spesiale vergadering van die Komitee belê te enige tyd –

- (a) op skriftelike versoek van die Voorsitter; of
- (b) binne tien kalenderdae vanaf ontvangs van 'n skriftelike versoek onderteken deur minstens een derde van die lede van die Komitee.

(3) 'n Skriftelike versoek, soos bedoel in subregulasie (2), moet die doel waarvoor die vergadering belê word duidelik uiteensit.

**Kworum, prosedure en besluitneming**

8.(1) 'n Kworum van enige vergadering van die Komitee bestaan uit een helfte van die totale getal lede plus een.

(2) Die Komitee moet die prosedure wat by sy vergaderings gevolg word bepaal.

(3) By alle vergaderings van die Komitee moet die Voorsitter of, in sy of haar afwesigheid, die Ondervoorsitter voorsit.

(4) Die beslissing van die meerderheid van die Lede van die Komitee teenwoordig by enige vergadering van die Komitee vorm 'n besluit van die Komitee, en in die geval van 'n staking van stemme het die persoon wat by die betrokke vergadering voorsit, 'n beslissende stem bykomend tot sy of haar beraadslagende stem.

(5) 'n Besluit geneem deur die Komitee of 'n handeling uitgevoer onder die gesag van die Komitee is nie ongeldig bloot uit hoofde van 'n tussentydse vakature in die Komitee nie.

(6) Die Komitee mag enige persoon koöpteer om die beraadslagings oor enige saak by te woon en deel te neem daaraan, maar so 'n persoon mag nie stem vir enige aangeleentheid nie.

(7)(a) 'n Lid van die Komitee wat enige belang het, hetsy direk of indirek, by enige aangeleentheid wat oorweeg word of deur die Komitee oorweeg sal word, moet die aard van sy of haar belang aan die Komitee openbaar maak.

(b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word.

(c) Die Lid bedoel in paragraaf (a) moet onttrek word deur die Voorsitter en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of 'n besluit van die Komitee, met betrekking tot daardie aangeleentheid nie.

(8) Die Voorsitter moet 'n bywoningsregister byhou waarin hy of sy die name van alle lede teenwoordig by elke vergadering, asook die name van lede afwesig met of sonder verlof, aanteken.

(9) Die kliniek of gemeenskapgesondheidsentrum moet sekretariële dienste aan die Komitee verskaf.

**Kort titel**

9. Hierdie Regulasies word die KwaZulu-Natal Regulasies op Kliniek- en Gemeenskapgesondheidsentrumkomitees, 2012 genoem.

**No. 123****9 kuLwezi 2012****UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YAMAKOMIDI EMITHOLAMPILO NEZIKHUNGO ZEZEPILO  
ZOMPHAKATHI YAKWAZULU-NATALI, 2012**

Ngalokhu, ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ukuze kulawulwe amakomidi emitholampilo nawezikhungo zezempilo zomphakathi.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi 4<sup>th</sup> ku **July**, oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele ezeMpilo

## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile,

-

“uSihlalo” kushiwo uSihlalo weKomidi; futhi

“iKomidi” kushiwo ikomidi lomtholampilo noma lesikhungo sezempilo somphakathi esisungulwe ngesaziso esishicilelwe ngokuhambisana nesigaba 42 soMthetho.

### IKomidi liyokweluleka uMnyango

2.(1) Uma lenza imisebenzi ehlongozwe esigabeni 43 soMthetho, iKomidi kumele leluleke uMnyango mayelana –

- (a) nemisebenzi ezohlinzekwa ukuze kuncishiswe igebe phakathi kwezidingo zomphakathi kanye nemisebenzi ehlinzekwa emitholampilo noma emphakathini;
- (b) nezinjongo ezicacile futhi ezifizekayo zosizo lwezempilo kusetshenziswa uhlaka lwezinjongo lwesifunda, lukazwelonke nolwesifundazwe;
- (c) nokuvakashelwa kwemiphakathi eyakhele indawo enomtholampilo;
- (d) nemisebenzi egxile ekusizeni umphakathi lapho abasebenzi bezempilo benolwazi ngomphakathi kanye nezibalo zabantu mayelana nezinkinga zezempilo kanye nezidingo zomphakathi; kanye
- (e) nanoma iluphi udaba oluphathelele nezinhlalo nezinye izinhlinzeko zomthetho.

(2) Ngaphezu kwezibopho ezihlongozwe kwisigatshana somthethonqubo (1) iKomidi kumele

-

- (a) lisimamise ubudlelwane phakathi kwalabo abambe iqhaza emtholampilo noma esikhungweni sezempilo somphakathi endaweni yalo;
- (b) lifake isandla ekuhlelweni kokusebenza komtholampilo minyaka yonke;
- (c) lizijwayeze indlela okusebenza ngayo umtholampilo noma isikhungo sezempilo somphakathi;
- (d) likhombise ukuthi bonke abantu bangathola usizo ngokulinganayo emtholampilo noma esikhungweni sezempilo somphakathi esisendaweni yalo;

- (e) lihlole umtholampilo nesikhungo sezempilo somphakathi;
- (f) lixhumanise umphakathi nomtholampilo noma nesikhungo sezempilo somphakathi futhi lithole imibono yomphakathi mayelana nezinga losizo oluhlinzekwa umtholampilo noma isikhungo sezempilo somphakathi;
- (g) liqaphe ukuhlelwa nokuqaliswa kwemisebenzi yokusiza umphakathi;
- (h) ligqugquzele amasu okulawula ukuthelelana ngezifo liphinde liqaphe ukulandelwa kwawo; futhi
- (i) libheke ukuthi iziguli zidluliselwa ezingeni elithe thuthu lokwelashwa uma usizo eziludingayo lungaphezu kwamandla abasebenzi basemtholampilo.

### **Ukuqokwa kwamalungu eKomidi**

**3.** Ngaphambi kokuba kuqokwe noma imuphi umuntu ukuba abe yilungu leKomidi, iLungu loMkhandlu oPhethe kumele –

- (a) ngesaziso ephephandabeni elifundwa kakhulu kulowo mphakathi owakhele umtholampilo noma isikhungo sezempilo somphakathi, limeme ukuba kuphakanyiswe abantu abazokuba ngamalungu alelo Komidi futhi linqume indlela okuzokwenziwa ngayo iziphakamiso;
- (b) linqume isikhathi okumele kuthunyelwe ngaso iziphakamiso;
- (c) licubungule zonke iziphakamiso; futhi
- (d) liqoke abantu zingakedluli izinsuku ezingama-60 ngemuva kokuba kutholakele futhi kwacutshungulwa iziphakamiso.

### **Ukunqanyulwa kobulungu eKomidini**

**4.** Ilungu liyayeka ukuba yilungu leKomidi ngalezi zizathu ezilandelayo:

- (a) uma lingakwazi ukwenza imisebenzi yeKomidi;
- (b) uma liziphatha budlabha;
- (c) uma lesula ngenchwadi;
- (d) uma ligula ngengqondo njengoba kuchazwe eMthethweni wabaGula ngeNgqondo, 2002 (uMthetho No. 17 ka 2002);
- (e) uma litholakale linecala elibandakanya ukukhwabanisa, ukuqamba amanga nanoma yini ephambene nokwethembeka;
- (f) uma litholakale linecala lase ligwetshwa isigwebo sokubhadla ejele ngaphandle kokubonelelwa ngenhlawulo;
- (g) uma iLungu leKomidi, ngezizathu ezithinta umphakathi noma ngezizathu ezifanele, nangemuva kokubonisana nelungu, linqamula ubulungu balo eKomidini; noma

(h) uma ilungu lishona.

#### **Izikhala zomsebenzi eKomidini**

5. Zonke izikhala zomsebenzi eKomidini ezivela ngenxa yezizathu okukhulunywe ngazo kumthethonqubo 4, kumele zigcwaliswe yiLungu loMkhandlu oPhethe futhi noma iliphi ilungu eliqokelwa kuleso sikhundla kumele lisebenze sikhathi esisasele sokusebenza salelo lungu elishiyile kuleso sokhundla.

#### **Imisebenzi kaSihlalo**

6. USihlalo –

- (a) angabiza umhlangano ojwayelekile noma nini uma kunesidingo, kodwa okungenani kathathu ngonyaka, njengoba kuhlangezwe esigabeni 46 soMthetho;
- (b) angabiza umhlangano ophuthumayo weKomidi noma nini;
- (c) kumele aqinisekise ukuthi iKomidi lenza imisebenzi futhi lifezekisa amajoka alo ngokoMthetho; futhi
- (d) kumele anqume usuku, indawo nesikhathi sanoma imuphi umhlangano weKomidi.

#### **Imihlangano yeKomidi**

7.(1) IKomidi kumele emhlanganweni walo wokuqala liqoke uSihlalo neSekela likaSihlalo.

(2) USihlalo angabiza umhlangano ophuthumayo weKomidi noma nini –

- (a) uma uSihlalo enze isicelo ngencwadi; noma
- (b) ezinsukwini eziyishumi kutholakale isicelo esibhalwe phansi sasayinwa okungenani ingxenye eyodwa kokuthathu yamalungu eKomidi.

(3) Isicelo esibhalwe phansi njengoba kuhlangezwe kwisigatshana somthethonqubo (2) kumele sibeke ngokucacile inhloso yokubizwa komhlangano.

#### **Isibalo sabangabamba umhlangano, inqubo yemihlangano nokuthathwa kwezinqumo**

8.(1) Isibalo sabangabamba umhlangano weKomidi yingxenye yesibalo sawo wonke amalungu nelungu elilodwa ngaphezulu.

(2) IKomidi kumele linqume inqubo okumele ilandelwe emihlanganweni yalo.



(3) Kuyona yonke imihlangano yeKomidi, uSihlalo noma, uma engekho, iSekela likaSihlalo, kumele lengamele.

(4) Isinqumo seningi lamalungu eKomidi akhona kunoma imuphi umhlangano kuyoba yisona sinqumo seKomidi, futhi, uma kwenzeka kuba nokulingana kwamavoti, umuntu owengamele umhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

(5) Isinqumo esithathwe iKomidi noma isenzo esenziwe ngemvume yeKomidi angeke sithathwe njengesingekho emthethweni ngenxa yokuthi kusenesikhala eKomidini.

(6) IKomidi lingamema noma imuphi umuntu ukuba ethamele noma abambe iqhaza ezingxoxweni zalo mayelana nanoma iluphi udaba, kodwa lowo muntu angeke avote ezindabeni zeKomidi.

(7)(a) Ilungu leKomidi, elithinteka ngqo noma ngandlela thile kunoma iluphi udaba oludingidwa iKomidi, kumele likudalule lokho kuthinteka kwalo kwiKomidi.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) Ilungu elihlongozwe endimeni (a) kumele lihoxiswe uSihlalo emhlanganweni, futhi akumele libe khona noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zeKomidi mayelana nalolo daba.

(8) USihlalo kumele agcine irejista yabethamele umhlangano okumele abhale kuyona amagama abo bonke abethamele umhlangano ngamunye, namagama amalungu aphuthile emhlanganweni ebikile noma engabikanga.

(9) Umtholampilo noma isikhungo sezempilo somphakathi kumele sihlizwe imisebenzi yezobubhalane eKomidini.

### **Isihloko esifingqiwe**

**9.** Le mithethonqubo ibizwa ngeMithethonqubo yamaKomidi eMitholampilo neziKhungo zezeMpilo zoMphakathi yaKwaZulu-Natali, 2012.

**No. 124****9 November 2012****KWAZULU-NATAL DEPARTMENT OF HEALTH****KWAZULU-NATAL HOSPITAL BOARDS REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), to regulate Hospital Boards in the Province.

Given under my Hand at Pietermaritzburg, this 4<sup>th</sup> day of **July** Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health

## SCHEDULE

### Definitions

1. In these Regulations, “the Act” means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

“**Board**” means a hospital board established by notice published in accordance with section 36 of the Act;

“**Chairperson**” means the Chairperson of the Board; and

“**hospital**” means a hospital as defined in section 1 of the National Health Act.

### Duties of Board

2. In order to carry out the powers and functions contemplated in section 37(1) of the Act, the Board must –

- (a) acquaint itself with the operation of the hospital;
- (b) make representation for equitable access to services for all community members;
- (c) liaise with other organizations with the view to assist patients and staff in areas of special needs;
- (d) contribute to the strategic plan drawn up by a hospital;
- (e) provide expert advice and input to hospital management as required;
- (f) provide a visible presence at the hospital on a regular basis to build relations with the staff and gain an understanding of hospital working conditions;
- (g) be responsible for receiving and perusing regular management reports;
- (h) conduct visits to the hospital voluntarily or upon request from management of the hospital;
- (i) act as a conduit between the community and the hospital and receive feedback from the community;
- (j) support the hospital in tracing families and relatives of destitute patients;
- (k) monitor the implementation by hospital management of all decisions taken at previous meetings of the hospital board;
- (l) liaise with national and provincial organisations concerned with health care or the rendering of health care services; and

(m) exercise any power, perform any functions and execute any duty conferred on it by the Act, these Regulations or any other law.

#### **Vacancies on Board**

3.(1) Every vacancy on a Board arising from circumstances referred to in section 38(4) of the Act must be filled by the responsible Member of the Executive Council following the procedure contemplated in section 40 of the Act.

(2) Members appointed in terms of subregulation (1) hold office for the unexpired portion of the period for which the vacating member was appointed.

#### **Meetings of Board**

4.(1) In addition to the power to determine the date, place and time of any meeting as contemplated in section 41 of the Act, the Chairperson may convene a special meeting of the Board at any time –

- (a) upon written request by the Chairperson;
- (b) upon request by hospital management; or
- (c) within ten calendar days of receipt of a written request signed by at least one third of the members of the Board.

(2) A written request, as contemplated in subregulation (1), must state clearly the purpose for which the meeting is convened.

#### **Quorum, procedure at meetings and decision-making**

5.(1) A quorum of any meeting of the Board is one half of the total number of members plus one.

(2) The Board must determine the procedure to be followed at its meetings.

(3) The Board must, at its first meeting, elect a Deputy Chairperson.

(4) At all meetings of the Board the Chairperson or, in his or her absence, the Deputy Chairperson must preside.

(5) The decision of the majority of the Members of the Board present at any meeting thereof constitutes a decision of the Board and, in the event of an equality of votes, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote.

(6) A decision taken by the Board or an act performed under the authority of the Board is not invalid merely by reason of an interim vacancy on the Board.

(7) The Board may co-opt any person to attend and participate in its deliberations on any matter, but such person may not vote on any matter.

(8)(a) A Member of the Board who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Board, must disclose the nature of his or her interest to the Board.

(b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.

(c) The Member contemplated in paragraph (a) must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Board relating to that matter.

(9) The Chairperson must keep an attendance register in which he or she must enter the names of all the members attending each meeting as well as the names of members absent with or without leave.

(10) The hospital must provide secretarial services to the Board.

#### **Duties of Chairperson**

6. The Chairperson of the Board must –

(a) ensure that the Board exercises its powers, performs its functions and carries out its duties as contemplated in the Act and complies with the relevant provisions of the Act, these Regulations and any other law; and

(b) disclose to the Board all material facts and information which, in any way, may influence the decisions or actions of the Board.

#### **Short title**

7. These Regulations are called the KwaZulu-Natal Hospital Boards Regulations, 2012.

**No. 124****9 November 2012****KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL REGULASIES OP HOSPITAALRADE, 2012**

Hiermee maak ek die Regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), ten einde Hospitaalrade in die Provinsie te reguleer.

Gegee onder my Hand te Pietermaritzburg hierdie **4th** dag van **July**, Twee-duisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu  
verantwoordelik vir Gesondheid

## BYLAE

### Omskywings

1. In hierdie Regulasies beteken "die Wet" die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

“**hospitaal**” ’n hospitaal soos omskryf in artikel 1 van die Wet op Nasionale Gesondheid;

“**Raad**” ’n Hospitaalraad ingestel deur kennisgewing gepubliseer in ooreenstemming met artikel 36 van die Wet; en

“**Voorsitter**” die Voorsitter van die Raad.

### Pligte van Raad

2. Ten einde die magte en pligte bedoel in artikel artikel 37(1) van die Wet uit te voer, moet die Raad –

- (a) homself vergewis van die bedryf van die hospitaal;
- (b) voorleggings maak vir billike toegang tot dienste vir alle lede van die gemeenskap;
- (c) met ander organisasies skakel met die doel om pasiënte en personeel by te staan op die gebied van spesiale behoeftes;
- (d) bydra tot die strategiese plan opgestel deur ’n hospitaal;
- (e) deskundige advies verskaf en insette lewer aan die bestuur van die hospitaal soos benodig;
- (f) ’n sigbare teenwoordigheid handhaaf by die hospitaal, op ’n gereelde basis, ten einde bande met personeel te versterk en begrip te ontwikkel vir die hospitaal se werksomstandighede;
- (g) verantwoordelik wees vir die ontvangs en sorvuldige bestudering van gereelde bestuursverslae;
- (h) vrywillige besoeke aflê by die hospitaal, of soos versoek deur die bestuur van die hospitaal;
- (i) optree as ’n voerbuis tussen die gemeenskap en die hospitaal en terugvoer ontvang vanuit die gemeenskap;

- (j) die hospitaal ondersteun in die opsporing van familielede en naasbestaandes van pasiënte wat agtergelate is;
- (k) die bestuur van die hospitaal se implementering van alle besluite geneem by die vorige vergaderings van die hospitaalraad monitor;
- (l) skakel met nasionale en provinsiale organisasies wat betrokke is by gesondheidsorg of die lewering van gesondheidsorgdienste, en
- (m) enige mag uitvoer, enige funksie verrig en enige plig uitvoer soos toegeken deur die Wet, hierdie Regulasies of enige ander wet.

### **Vakatures op Raad**

3.(1) Elke vakante posisie op 'n Raad wat voortspruit uit omstandighede verwys na in artikel 38(4) van die Wet moet gevul word deur die verantwoordelike Lid van die Uitvoerende Raad volgens die prosedure bedoel in artikel 40 van die Wet.

(2) Lede aangestel ingevolge subregulasie (1) beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die uittredende lid aangestel is.

### **Vergaderings van Raad**

4.(1) Bykomend tot die mag om die datum, plek en tyd van enige vergadering te bepaal, soos bedoel in artikel 41 van die Wet, mag die Voorsitter te enige tyd 'n spesiale vergadering van die Raad belê –

- (a) op skriftelike versoek van die Voorsitter;
- (b) op versoek van die bestuur van die hospitaal; of
- (c) binne tien kalenderdae van ontvangs van 'n skriftelike versoek onderteken deur minstens een derde van die Lede van die Raad.

(2) 'n Skriftelike versoek, soos bedoel in subregulasie (1), moet die doel waarvoor die vergadering belê word duidelik uiteensit.

### **Kworum, prosedure by vergaderings en besluitneming**

5.(1) 'n Kworum van enige vergadering van die Raad bestaan uit een helfte van die totale getal lede plus een.

(2) Die Raad moet die prosedure bepaal wat gevolg moet word by sy vergaderings.



- (3) Die Raad moet, tydens sy eerste vergadering, 'n Ondervoorsitter verkies.
- (4) By alle vergaderings van die Raad moet die Voorsitter of, in sy of haar afwesigheid, die Ondervoorsitter voorsit.
- (5) Die beslissing van die meerderheid van die Lede van die Raad teenwoordig by enige vergadering van die Raad vorm 'n besluit van die Raad en, in die geval van 'n staking van stemme, het die persoon wat by die betrokke vergadering voorsit, 'n beslissende stem bykomend tot sy of haar beraadslagende stem.
- (6) 'n Besluit geneem deur die Raad of 'n handeling uitgevoer onder die gesag van die Raad is nie ongeldig bloot op grond van 'n tussentydse vakature op die Raad nie.
- (7) Die Raad mag enige persoon koöpteer om beraadslagings oor enige saak by te woon en deel te neem daaraan, maar so 'n persoon mag nie stem oor enige aangeleentheid nie.
- (8)(a) 'n Lid van die Raad wat enige belang het, hetsy direk of indirek, by enige aangeleentheid wat oorweeg word of wat deur die Raad oorweeg sal word, moet die aard van sy of haar belang aan die Raad openbaar maak.
- (b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word.
- (c) Die Lid bedoel in paragraaf (a) moet verskoon word deur die Voorsitter en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of besluit van die Raad met betrekking tot daardie aangeleentheid nie.
- (9) Die Voorsitter moet 'n bywoningsregister byhou waarin hy of sy die name van alle lede teenwoordig by elke vergadering, asook die name van lede afwesig met of sonder verlof, aanteken.
- (10) Die hospitaal moet sekretariële dienste aan die Raad verskaf.

### **Pligte van Voorsitter**

#### **6. Die Voorsitter van die Raad moet –**

- (a) verseker dat die Raad sy magte uitoefen, sy funksies verrig en sy pligte uitvoer soos bedoel in die Wet en voldoen aan die toepaslike bepalings van die Wet, hierdie Regulasies en enige ander wet;
- (b) aan die Raad alle wesentliche feite en inligting openbaar maak wat, op enige manier, die besluite of handeling van die Raad mag beïnvloed.

### **Kort titel**

#### **7. Hierdie regulasies word die KwaZulu-Natal Regulasies op Hospitaalrade, 2012 genoem.**

**No. 124****9 kuLwezi 2012****UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YAMABHODI EZIBHEDLELA YAKWAZULU-NATALI, 2012**

Ngalokhu ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ukuze kulawulwe amabhodi ezibhedlela esiFundazweni.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi **4th** ku **July**, oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezeMpilo

## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile

–

“iBhodi” kushiwo ibhodi yesibhedlela esungulwe ngesaziso esishicilelwe ngokuhambisana nesigaba 36 soMthetho;

“uSihlalo” kushiwo uSihlalo weBhodi; kanti

“isibhedlela” kushiwo isibhedlela njengoba sichazwe kwisigaba 1 soMthetho wezeMpilo kaZwelonke.

### Amajoka eBhodi

2.(1) Ukuze kufezekiswe amandla namajoka ahlongozwe esigabeni 37(1) soMthetho, iBhodi kumele –

- (a) izijwayeze izindlela zokusebenza kwesibhedlela;
- (b) iqinisekise ukuthi usizo lutholakala ngendlela elinganayo kuwona wonke amalungu omphakathi;
- (c) isebenzisane nezinye izinhlangano ngenhloso yokusiza iziguli nabasebenzi ezindaweni ezinezidingo ezikhethekile;
- (d) ifake isandla ekuhlelweni kwamasu okusebenza okwenziwa yisibhedlela;
- (e) ihlinzeke ngezeluleko zobungoti futhi isize abaphathi besibhedlela njengoba kungadingeka;
- (f) ihlale itholakala njalo emagcekeni esibhedlela ukuze yakhe ubudlelwane nabasebenzi futhi ikwazi ukubona izimo zokusebenza zesibhedlela;
- (h) yamukele futhi ihlole zikhathi zonke imibiko yezokuphatha;
- (i) ivakashele isibhedlela ngokuzithandela noma uma icelwa abaphathi besibhedlela;
- (j) isebenze njengomxhumanisi phakathi komphakathi nesibhedlela futhi yamukele izimvo zomphakathi;
- (k) yeseke isibhedlela emizamweni yokuthola imindeni nezihlobo zeziguli ezingenabani;
- (l) iqaphe ukusetshenziswa kwazo zonke izinqumo ezithathwe emihlanganweni edlule yeBhodi yesibhedlela nabaphathi besibhedlela;

(m) ibonisane nezinhlango zikazwelonke nezesifundazwe ezithintekayo kwezokwelapha noma ezihlinzeka ngemisebenzi yezokwelapha; futhi

(n) isebenzise noma imaphi amandla, yenze noma imiphi imisebenzi futhi ifezekise noma imaphi amajoka ewanikezwe yilo Mthetho, yile mithethonqubo nanoma imuphi omunye umthetho.

### **Izikhala kwiBhodi**

3.(1) Zonke izikhala kwiBhodi ezivela ngenxa yezizathu okukhulunywe ngazo esigabeni 38(4) soMthetho kumele zigcwaliswe yiLungu loMkhandlu oPhethe ngokulandela inqubo ehlongozwe esigabeni 40 soMthetho.

(2) Amalungu aqokwe ngokwesigatshana somthethonqubo (1) ayoba sesikhundleni isikhathi esisasele salelo lungu elishiyile kuleso sikhundla.

### **Imihlangano yeBhodi**

4.(1) Ngaphezu kwamandla okunquma usuku, indawo nesikhathi sanoma imuphi umhlangano njengoba kuhlongozwe esigabeni 41 soMthetho uSihlalo angabiza umhlangano ophuthumayo weBhodi noma nini –

(a) uma kucela uSihlalo ngencwadi;

(b) uma kucela abaphathi besibhedlela; noma

(b) ezinsukwini eziyishumi kutholakale incwadi yesicelo esayinwe okungenani ingxenye eyodwa kokuthathu yamalungu eBhodi.

(2) Isicelo esibhalwe phansi njengoba kuhlongozwe kwisigatshana somthethonqubo (1) kumele sibeke ngokucacile inhloso yokubizwa komhlangano.

### **Isibalo sabangabamba umhlangano, inqubo yomhlangano kanye nokuthathwa kwezinqumo**

5.(1) Isibalo sabangabamba umhlangano weBhodi yingxenye yesibalo sawo wonke amalungu nelungu elilodwa ngaphezulu.

(2) IBhodi kumele inqume inqubo okumele ilandelwe emihlanganweni yeBhodi.

(3) IBhodi kumele ikhethe isekela likaSihlalo emhlanganweni wokuqala.

(4) Kuyona yonke imihlangano yeBhodi, uSihlalo noma, uma engekho, isekela likaSihlalo, kumele lengamele.

(5) Isinqumo seningi lamalungu eBhodi akhona kunoma imuphi umhlangano kuyoba yisona sinqumo seBhodi, futhi, uma kwenzeka kuba nokulingana kwamavoti, umuntu owengamele umhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

(6) Isinqumo esithathwe iBhodi noma isenzo esenziwe ngemvume yeBhodi angeke sithathwe njengesingekho emthethweni ngenxa yokuthi kunesikhala esingakagcwaliswa kwiBhodi.

(7) IBhodi ingamema noma imuphi umuntu ukuba ethamele noma abambe iqhaza ezingxoxweni zayo mayelana nanoma iluphi udaba, kodwa lowo muntu angeke avote ezindabeni zeBhodi.

(8)(a) Ilungu leBhodi, elithinteka ngqo noma ngandlela thile kunoma iluphi udaba oludingidwa iBhodi, kumele likudalule lokho kuthinteka kwalo kwiBhodi.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) Ilungu elihlongozwe endimeni (a) kumele lihoxiswe uSihlalo emhlanganweni, futhi akumele libe khona noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zeBhodi mayelana nalolo daba.

(9) USihlalo kumele agcine irejista yabebethamele umhlangano okumele abhale kuyona amagama abo bonke abebethamele umhlangano ngamunye, namagama amalungu aphuthile emhlanganweni ebikile noma engabikanga.

(10) Isibhedlela kumele sihlizwe ngemisebenzi yezobubhalane kwiBhodi.

### **Imisebenzi kaSihlalo**

#### **6. USihlalo weBhodi kumele –**

(a) aqinisekise ukuthi iBhodi isebenzisa amandla ayo, yenza imisebenzi yayo futhi ifeza amajoka ayo njengoba kuhlongozwe eMthethweni futhi iyahambisana nezinhlinzako zoMthetho, zale mithethonqubo nezanoma imuphi omunye umthetho; futhi

(b) adalule kwiBhodi konke okuphathekayo nolwazi okungasiza iBhodi ekuthatheni izinqumo noma izinyathelo zayo.

### **Isihloko esifingqiwe**

**7. Le mithethonqubo ibizwa ngeMithethonqubo yamaBhodi eziBhedlela yaKwaZulu-Natali, 2012.**

**No. 125****9 November 2012****KWAZULU-NATAL DEPARTMENT OF HEALTH****KWAZULU-NATAL PROVINCIAL HEALTH COUNCIL REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), in order to regulate the KwaZulu-Natal Provincial Health Council.

Given under my Hand at Pietermaritzburg this 4<sup>th</sup> day of **July** Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health

## SCHEDULE

### Definitions

1. In these Regulations, “the Act” means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

“**Chairperson**” means the Chairperson of the Council; and

“**Council**” means the KwaZulu-Natal Provincial Health Council established in terms of section 15(1) of the Act; and

“**SALGA**” means the South African Local Government Association, KwaZulu-Natal, being that organisation in the Province of KwaZulu-Natal recognised in terms of section 2(1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), as representing the majority of municipalities in the Province.

### Duration of term of office of Members of Council

2.(1) Members contemplated in section 26(2)(a), (b), (c), (d) and (f) of the National Health Act, 2003 (Act No. 61 of 2003), are appointed by the responsible Member of the Executive Council.

(2) Members contemplated in section 26(2)(e) of the National Health Act are appointed by organized local government.

(3) All members are appointed to the Council for a period of three years.

(4) The responsible Member of the Executive Council may, on good cause shown, replace any member contemplated in subregulation (1).

(5) The responsible Member of the Executive Council may reappoint a member at the end of the three year period if such member is eligible.

(6) A member may not be appointed for more than two terms.

- (7) A member ceases to be a Member of the Council on any of the following grounds –
- (a) inability to perform the functions of the Council;
  - (b) misconduct;
  - (c) written resignation;
  - (d) he or she becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
  - (e) he or she is convicted of a criminal offence involving fraud, misrepresentation or any other breach of trust;
  - (f) he or she is convicted of an offence in respect of which he or she is sentenced to imprisonment without the option of a fine;
  - (g) the responsible Member of the Executive Council, in the interest of the public and for just cause, and after consultation with the member, terminates his or her membership of the Council; or
  - (h) death of the member.
- (8) Every vacancy on the Council arising from circumstances referred to in subregulation (7) must be filled by the responsible Member of the Executive Council and every member so appointed holds office for the unexpired portion of the period for which the vacating member was appointed.
- (9) The provisions of subregulations (4), (5), (6) and (7) apply, with the necessary changes, to the members appointed by SALGA in terms of subregulation (2).

### **Meetings of Council**

- 3.(1) The Council must meet at least four times annually.
- (2) At the first meeting of the Council a Deputy Chairperson must be elected by the Members present.
- (3) At all meetings of the Council the Chairperson or, in his or her absence, the Deputy Chairperson must preside.
- (4) A special meeting of the Council may be convened by the Chairperson at any time –
- (a) upon written request by the Chairperson; or
  - (b) within ten calendar days of receipt of a written request signed by at least one third of the Members of the Council.



(5) A written request, as contemplated in subregulation (4), must clearly state the purpose for which the meeting is convened.

(6) A quorum of any meeting of the Council is one half of the total number of members plus one.

(7) The decision of the majority of the Members of the Council present at any meeting thereof constitutes a decision of the Council and, in the event of an equality of votes, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote.

#### **Disclosure of interest by Members**

4.(1)(a) A Member of the Council who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Council, must disclose the nature of his or her interest to the Council;

(b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.

(c) The member must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Council relating to that matter.

(2) A decision taken by the Council or an act performed under the authority of the Council is not invalid merely by reason of a vacancy in the Council.

(3) The Council may co-opt any person to attend and participate in its deliberations on any matter, but such person may not vote on any matter.

#### **Duties of Chairperson**

5. The Chairperson of the Council must –

(a) ensure that the Council exercises its powers, performs its functions and carries out its duties as contemplated in section 27 of the National Health Act and complies with the relevant provisions of the Act, these regulations and any other law; and

(b) disclose to the Council all material facts and information which, in any way, may influence the decisions or actions of the Council.

#### **Short title**

6. These regulations are called the KwaZulu-Natal Provincial Health Council Regulations, 2012.

No. 125

9 November 2012

**KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL REGULASIES OP PROVINSIALE GESONDHEIDSRAAD, 2012**

Hiermee maak ek die Regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), ten einde die KwaZulu-Natal Provinsiale Gesondheidsraad te reguleer.

Gegee onder my Hand te Pietermaritzburg hierdie 4<sup>th</sup> dag van **July**, Twee-duisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
verantwoordelik vir Gesondheid

**BYLAE****Omskrywings**

1. In hierdie Regulasies beteken "die Wet" die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

“**Raad**” die KwaZulu-Natal Provinsiale Gesondheidsraad ingestel ingevolge artikel 15(1) van die Wet;

“**SALGA**” Suid-Afrikaanse Vereniging van Plaaslike Regering, KwaZulu-Natal, synde die organisasie in die Provinsie van KwaZulu-Natal erken ingevolge artikel 2(1) van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997), wat die meerderheid munisipaliteite in die Provinsie verteenwoordig; en

“**Voorsitter**” die Voorsitter van die Raad.

**Duur van ampstermyn van lede van die Raad**

2.(1) Lede bedoel in artikel 26(2)(a), (b), (c), (d) en (f) van die Wet op Nasionale Gesondheid, 2003 (Wet No. 61 van 2003), word aangestel deur die verantwoordelike Lid van die Uitvoerende Raad.

(2) Lede bedoel in artikel 26(2)(e) van die Wet op Nasionale Gesondheid word aangestel deur georganiseerde plaaslike regering.

(3) Alle lede van die Raad word vir 'n tydperk van drie jaar aangestel.

(4) Die verantwoordelike Lid van die Uitvoerende Raad mag, met goeie beweegrede, enige lid bedoel in subregulasie (1) vervang.

(5) Die verantwoordelike Lid van die Uitvoerende Raad mag 'n lid heraanstel aan die einde van die drie jaar-tydperk indien so 'n lid verkiesbaar is.

(6) 'n Lid mag nie vir meer as twee ampstermyne aangestel word nie.

- (7) 'n Lid se lidmaatskap van die Raad word beëindig op enige van die volgende gronde –
- (a) onvermoë om die funksies van die Raad uit te voer;
  - (b) wangedrag;
  - (c) skriftelike bedanking;
  - (d) hy of sy word 'n geestesgesondheidsorg-gebruiker, soos omskryf in artikel 1 van die Wet op Geestesgesondheid, 2002 (Wet No 17 van 2002);
  - (e) hy of sy is skuldig bevind aan 'n kriminele oortreding wat bedrog, wanvoorstelling of enige ander skending van vertroue insluit;
  - (f) hy of sy is skuldig bevind aan 'n misdryf ten opsigte waarvan hy of sy tot gevangenisstraf gevonnissen is sonder die opsie van 'n boete;
  - (g) die verantwoordelike Lid van die Uitvoerende Raad, in openbare belang en vir regverdige beweegredes, en na oorlegpleging met die lid, sy of haar lidmaatskap van die Raad beëindig; of
  - (h) die dood van die lid.

(8) Elke vakature op die Raad wat voortspruit uit die omstandighede verwys na in subregulasie (7) moet gevul word deur die verantwoordelike Lid van die Uitvoerende Raad, en elke lid aldus aangestel beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die uittredende lid aangestel is.

(9) Die bepalings van subregulasies (4), (5), (6) en (7) is van toepassing, met die nodige veranderinge, op die lede aangestel deur SALGA ingevolge subregulasie (2).

### **Vergaderings van Raad**

3.(1) Die Raad moet ten minste vier keer per jaar vergader.

(2) Tydens die eerste vergadering van die Raad moet 'n Ondervoorsitter verkies word deur die teenwoordige lede.

(3) By alle vergaderings van die Raad moet die Voorsitter of, in sy of haar afwesigheid, die Ondervoorsitter voorsit.

(4) 'n Spesiale vergadering van die Raad mag te eniger tyd deur die Voorsitter belê word –

- (a) op skriftelike versoek deur die Voorsitter; of
- (b) binne tien kalenderdae van ontvangs van 'n skriftelike versoek onderteken deur minstens een derde van die Lede van die Raad.

(5) 'n Skriftelike versoek, soos bedoel in subregulasie (4), moet die doel waarvoor die vergadering belê word duidelik uiteensit.

(6) 'n Kworum van enige vergadering van die Raad bestaan uit een helfte van die totale getal lede plus een.

(7) Die beslissing van die meerderheid van die Lede van die Raad teenwoordig by enige vergadering van die Raad vorm 'n besluit van die Raad en, in die geval van 'n staking van stemme, het die persoon wat by die betrokke vergadering voorsit, 'n beslissende stem bykomend tot sy of haar beraadslagende stem.

#### **Openbaarmaking van belange deur Lede**

4.(1)(a) 'n Lid van die Raad wat enige belang het, hetsy direk of indirek, in enige aangeleentheid wat oorweeg word of deur die Raad oorweeg sal word, moet die aard van sy of haar belang aan die Raad openbaar maak.

(b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word.

(c) Die lid moet onttrek word deur die Voorsitter en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of besluit van die Raad met betrekking tot daardie aangeleentheid nie.

(2) 'n Besluit geneem deur die Raad of 'n handeling uitgevoer onder die gesag van die Raad is nie ongeldig bloot op grond van 'n vakature op die Raad nie.

(3) Die Raad mag enige persoon koöpteer om die beraadslagings oor enige saak by te woon en deel te neem daaraan, maar so 'n persoon mag nie stem oor enige aangeleentheid nie.

#### **Pligte van Voorsitter**

5. Die Voorsitter van die Raad moet –

(a) verseker dat die Raad sy magte uitoefen, funksies verrig en pligte uitvoer soos bedoel in artikel 27 van die Wet op Nasionale Gesondheid en voldoen aan die toepaslike bepalinge van die Wet, hierdie Regulasies en enige ander wet; en

(b) aan die Raad alle wesentliche feite en inligting openbaar maak wat, op enige manier, die besluite of handeling van die Raad mag beïnvloed.

#### **Kort titel**

6. Hierdie regulasies word die KwaZulu-Natal Regulasies op Provinsiale Gesondheidsraad, 2012 genoem.

No. 125

9 kuLwezi 2012

**UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YOMKHANDLU WEZEMPILO WESIFUNDAZWE SAKWAZULU-NATALI, 2012**

Ngalokhu ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ukuze kulawulwe uMkhandlu wezeMpilo wesiFundazwe saKwaZulu-Natali.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi **4th** ku **July**, oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali elibhekele ezeMpilo

## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile

–

“**uMkhandlu**” kushiwo uMkhandlu wezeMpilo waKwaZulu-Natali osungulwe ngokwesigaba 15(1) soMthetho;

“**uSihlalo**” kushiwo uSihlalo woMkhandlu; futhi

“**i-SALGA**” kushiwo iNhlango yoHulumeni baseKhaya yaseNingizimu Afrika, KwaZulu-Natali, okuyileyo nhlangano esiFundazweni saKwaZulu-Natali esungulwe ngokwesigaba 2(1) soMthetho wokuHlelwa koHulumeni baseKhaya, 1997 (uMthetho No. 52 ka 1997), njengoba imele iningi lomasipala esiFundazweni.

### Isikhathi sokuba sesikhundleni samalungu oMkhandlu

2.(1) Amalungu oMkhandlu ahlongozwe esigabeni 26(2)(a), (b), (c), (d) no (f) soMthetho wezeMpilo kaZwelonke aqokwa yiLungu oMkhandlu oPhethe.

(2) Amalungu ahlongozwe esigabeni 26(2)(e) soMthetho wezeMpilo kaZwelonke aqokwa ohulumeni basekhaya.

(3) Wonke amalungu aqokelwa eMkhandlwini isikhathi esiyiminyaka emithathu.

(4) ILungu oMkhandlu oPhethe, uma linesizathu esizwakalayo lingashintsha ilungu elihlongozwe kwisigatshana somthethonqubo (1).

(5) ILungu loMkhandlu oPhethe lingabuye liqoke ilungu ekupheleni kwesikhathi esiyiminyaka emithathu uma lelo lungu lisafanelekile ukuqokwa.

(6) ILungu angeke liqokwe amahlandla angaphezu kwamabili.

(7) ILungu liyayeka ukuba yilungu loMkhandlu ngenxa yalezi zizathu ezilandelayo –

- (a) uma lingakwazi ukwenza imisebenzi yoMkhandlu;
- (b) uma liziphatha budlabha;
- (c) uma lesula ngencwadi;
- (d) uma ligula ngengqondo njengoba kuchazwe eMthethweni wabaGula ngeNgqondo, 2002 (uMthetho No. 17 ka 2002);
- (e) uma litholakale necala elibandakanya ukukhwabanisa, ukuqamba amanga nanoma ikuphi ukungathembeki;
- (f) uma litholakale necala lase ligwetshwa isigwebo sokubhadla ejele ngaphandle kokubonelelwa ngenhlawulo;
- (g) uma iLungu loMkhandlu oPhethe, ngezizathu ezithinta umphakathi noma ngezizathu ezifanele, nangemuva kokubonisana nelungu, linqamula ubulungu balo eMkhandlwini; noma
- (h) uma ilungu lishona.

(8) Zonke izikhala ezivela eMkhandlwini ngenxa yezimo okukhulunywe ngazo kwisigatshana somthethonqubo (7), kumele zigcwaliswe yiLungu loMkhandlu oPhethe futhi noma iliphi ilungu eliqokelwa kuleso sikhundla kumele libambe lesi sikhathi esisasele salelo lungu elishiyile kuleso sikhundla.

(9) Izinhlinzeko zesigatshana somthethonqubo (4), (5), (6) no (7) zisebenza nezinguquko ezidingekayo kumalungu aqokwe yi-SALGA ngokwesigatshana somthethonqubo (2).

### **Imihlangano yoMkhandlu**

3.(1) UMkhandlu kumele uhlangane okungenani kane ngonyaka.

(2) Emhlanganweni wokuqala woMkhandlu kumele amalungu akhona akhethe isekela likaSihlalo.

(3) Yonke imihlangano yoMkhandlu kumele yenganyelwe uSihlalo noma uma engekho, isekela likaSihlalo.

(4) USihlalo angabiza umhlangano ophuthumayo woMkhandlu noma nini –

- (a) uma kucela uSihlalo ngencwadi; noma
- (b) ezinsukwini eziyishumi kutholakale incwadi yesicelo esayinwe okungenani yingxenye eyodwa kokuthathu yamalungu wonke oMkhandlu.



(5) Isicelo esibhalwe phansi esihlongozwe kwisigaba somthethonqubo (4) kumele sibeke ngokucacile inhloso yokubizwa komhlangano.

(6) Isibalo sabangabamba umhlangano woMkhandlu ingxenye yawo wonke amalungu kanye nelungu elilodwa ngaphezulu.

(7) Isinqumo seningi lamalungu oMkhandlu akhona kunoma imuphi umhlangano kuyoba yisona sinqumo soMkhandlu, futhi, uma kwenzeka kuba nokulingana kwamavoti, umuntu owengamele umhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

#### **Ukudalulwa kokuthinteka kwamalungu**

4.(1)(a) Ilungu loMkhandlu, elithinteka ngqo noma ngandlela thile kunoma iluphi udaba oludingidwa noma oluzodingidwa uMkhandlu, kumele lidalule lokho kuthinteka kwalo eMkhandlwini.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) Ilungu kumele lihoxiswe uSihlalo emhlanganweni, futhi angeke libe khona noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zoMkhandlu mayelana nalolo daba.

(2) Isinqumo esithathwe uMkhandlu noma isenzo esenziwe ngemvume yoMkhandlu angeke sithathwe njengesingekho emthethweni ngenxa yokuthi kunesikhala esingakagcwaliswa eMkhandlwini.

(3) UMkhandlu ungamema noma imuphi umuntu ukuba ethamele noma abambe iqhaza ezingxoxweni mayelana nanoma iluphi udaba, kodwa lowo muntu angeke avote ezindabeni zoMkhandlu.

#### **Imisebenzi kaSihlalo**

5. USihlalo woMkhandlu kumele –

(a) aqinisekise ukuthi uMkhandlu usebenzisa amandla awo, wenza imisebenzi yawo futhi ufeza amajoka awo njengoba kuhlongozwe esigabeni 27 soMthetho wezeMpilo kaZwelonke futhi uyahambisana nezinhlinzeko zoMthetho, zale mithethonqubo nezanoma imuphi omunye umthetho; futhi

(b) adalule eMkhandlwini konke okuphathekayo nolwazi okungasiza uMkhandlu ekuthatheni izinyathelo noma izinqumo zawo.

#### **Isihloko esifingqiwe**

6. Le mithethonqubo ibizwa ngeMithethonqubo yoMkhandlu wezeMpilo wesiFundazwe saKwaZulu-Natali, 2012.

**No. 126****9 November 2012****KWAZULU-NATAL DEPARTMENT OF HEALTH****KWAZULU-NATAL DISTRICT HEALTH COUNCILS REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), in accordance with section 31(1) of the National Health Act, 2003 (Act No. 61 of 2003), in order to regulate District Health Councils in the Province.

Given under my Hand at Pietermaritzburg this 4<sup>th</sup> day of **July** Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health

## SCHEDULE

### Definitions

1. In these Regulations, “the Act” means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

“**Chairperson**” means Chairperson of the Council as contemplated in section 31(2)(b) of the National Health Act; and

“**Council**” means a District Health Council contemplated in section 23 of the Act.

### Procedure for establishment of Council

2.(1) In order to establish a Council as contemplated in section 23 of the Act, the responsible Member of the Executive Council must, within twelve months of the date of promulgation of these Regulations, send a written notice to the Member of the Executive Council responsible for local government and the Mayors of all district- and metropolitan municipalities, requesting nominations of persons to serve on each proposed Council.

(2) The responsible Member of the Executive Council must also send a notice to each local municipal council within the Province, requesting nominations of persons from the local councils to be appointed as members of each proposed District Health Council, as contemplated in section 31(2)(a)(iii) of the National Health Act, 2003 (Act No. 61 of 2003).

(3) Upon receipt of all the nominations received in terms of subregulations (1) and (2), the responsible Member of the Executive Council must –

- (a) publish a notice in the *Gazette* establishing a District Health Council for every district in the Province as contemplated in section 29(2) of the National Health Act; and
- (b) appoint the members of each Council.

### Duties of Chairperson

3. The Chairperson of a Council must –

- (a) convene meetings of the Council at least four times annually;
- (b) call a special meeting of the Council as contemplated in regulation 5(4)(b);

(c) ensure that the Council exercises its powers, performs its functions and carries out its duties as contemplated in the Act and complies with the relevant provisions of the Act, these Regulations and any other law; and

(d) disclose to the Council all material facts and information which, in any way, may influence the decisions or actions of the Council.

#### **Appointment and term of office of Members of Council**

4.(1) Members of Council are appointed by the responsible Member of the Executive Council for a period of three years.

(2) The responsible Member of the Executive Council may, on good cause shown, replace any member contemplated in subregulation (1).

(3) The responsible Member of the Executive Council may reappoint a member at the end of the three year period if such member is eligible.

(4) A member may not be appointed for more than two consecutive terms.

(5) A member ceases to be a member of the Council on any of the following grounds –

(a) inability to perform the functions of the Council;

(b) misconduct;

(c) written resignation;

(d) he or she becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(e) he or she is convicted of a criminal offence involving fraud, misrepresentation or any other breach of trust;

(f) he or she is convicted of an offence in respect of which he or she is sentenced to imprisonment without the option of a fine;

(g) the responsible Member of the Executive Council, in the interest of the public and for just cause, and after consultation with the member, terminates his or her membership of the Council; or

(h) death of the member.

(6) Every vacancy on a Council arising from circumstances referred to in subregulation (5) must be filled by the responsible Member of the Executive Council and every member so

appointed must hold office for the unexpired portion of the period for which the vacating member was appointed.

(7) In filling the vacancy contemplated in subregulation (6) the responsible Member of the Executive Council must follow the process as contemplated in regulation 2(2) and (3).

### **Meetings of Council**

5.(1) The Chairperson of a Council must determine the date, place and time of any meeting of a Council.

(2) At the first meeting of the Council a Deputy Chairperson must be elected by the members present.

(3) A special meeting of the Council may be convened by the Chairperson at any time –  
(a) upon written request by the Chairperson; or  
(b) within ten calendar days of receipt of a written request signed by at least one third of the members of the Council.

(4) A written request, as contemplated in subregulation (3), must state clearly the purpose for which the meeting is convened.

### **Quorum and procedure at meetings**

6.(1) A quorum of any meeting of the Council is one half of the total number of members plus one.

(2) A Council must determine the procedure to be followed at its meetings.

(3) At all meetings of the Council the Chairperson or, in his or her absence, the Deputy Chairperson must preside.

(4) The decision of the majority of the Members of the Council present at any meeting thereof constitutes a decision of the Council and, in the event of an equality of votes, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote.

(5) The Chairperson must keep an attendance register in which he or she must enter the names of all the members attending each meeting as well as the names of members absent with or without leave.

(6)(a) A member of a Council, who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Council, must disclose the nature of his or her interest and all material facts and information which, in any way, may influence the decisions or actions of the Council, to the Council.

(b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.

(c) The member contemplated in paragraph (a) must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Council relating to that matter.

**Short title**

7. These regulations are called the KwaZulu-Natal District Health Councils Regulations, 2012.

**No. 126****9 November 2012****KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL REGULASIES OP DISTRIKSGESONDHEIDSRAD E, 2012**

Hiermee maak ek die regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), in ooreenstemming met artikel 31(1) van die Wet op Nasionale Gesondheid, 2003 (Wet No. 61 van 2003), ten einde Distriks gesondheidsrade in die Provinsie te reguleer.

Gegee onder my Hand te Pietermaritzburg hierdie **4th** dag van **June** Twee-duisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
verantwoordelik vir Gesondheid

## BYLAE

### Omskrywings

1. In hierdie Regulasies beteken "die Wet" die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

"Raad" 'n Distriksgesondheidsraad bedoel in artikel 23 van die Wet; en

"Voorsitter" die Voorsitter van die Raad soos bedoel in artikel 31(2)(b) van die Wet op Nasionale Gesondheid.

### Prosedure vir instelling van Raad

2.(1) Ten einde 'n Raad in te stel soos bedoel in artikel 23 van die Wet, moet die verantwoordelike Lid van die Uitvoerende Raad, binne twaalf maande vanaf die proklamasiedatum van hierdie Regulasies, 'n skriftelike kennisgewing stuur aan die Lid van die Uitvoerende Raad verantwoordelik vir plaaslike regering en die Burgemeesters van alle distriks- en metropolitaanse munisipaliteite waarin nominasies van persone om te dien op elke voorgenome Raad versoek word.

(2) Die verantwoordelike Lid van die Uitvoerende Raad moet ook 'n kennisgewing stuur aan elke plaaslike munisipale raad binne die Provinsie wat nominasies versoek van persone op die plaaslike rade om aangestel te word as lede van elke voorgenome Distriksgesondheidsraad, soos bedoel in artikel 31(2)(a)(iii) van die Wet op Nasionale Gesondheid, 2003 (Wet No. 61 van 2003).

(3) By ontvangs van al die nominasies wat ontvang is ingevolge subregulasies (1) en (2), moet die verantwoordelike Lid van die Uitvoerende Raad –

(a) 'n kennisgewing in die *Koerant* publiseer wat 'n Distriksgesondheidsraad vir elke distrik in die Provinsie instel, soos bedoel in artikel 29(2) van die Wet op Nasionale Gesondheid; en

(b) die lede van elke Raad aanstel.

### Pligte van Voorsitter

3. Die Voorsitter van 'n Raad moet –

(a) vergaderings van die Raad belê, minstens vier keer per jaar;

(b) 'n spesiale vergadering van die Raad beroep, soos bedoel in regulasie 5(4)(b);



- (c) verseker dat die Raad sy magte uitoefen, sy funksies verrig en sy pligte uitvoer soos bedoel in die Wet en voldoen aan die toepaslike bepalings van die Wet, hierdie Regulasies en enige ander wet; en
- (d) aan die Raad alle wesentlike feite en inligting openbaar maak wat, op enige wyse, die besluite of handeling van die Raad mag beïnvloed.

#### **Aanstelling en ampstermyn van Lede van Raad**

4.(1) Lede van die Raad word aangestel deur die verantwoordelike Lid van die Uitvoerende Raad vir 'n tydperk van drie jaar.

(2) Die verantwoordelike Lid van die Uitvoerende Raad mag, met goeie bewegegrede bewys, enige lid bedoel in subregulasie (1) vervang.

(3) Die verantwoordelike Lid van die Uitvoerende Raad mag 'n lid heraanstel aan die einde van die drie jaar-tydperk indien sodanige lid verkiesbaar is.

(4) 'n Lid mag nie vir meer as twee opeenvolgende termynne aangestel word nie.

(5) 'n Lid se lidmaatskap van die Raad word beëindig op enige van die volgende gronde –

- (a) onvermoë om die funksies van die Raad uit te voer;
- (b) wangedrag;
- (c) skriftelike bedanking;
- (d) hy of sy word 'n geestesgesondheidsorg-gebruiker, soos omskryf in artikel 1 van die Wet op Geestesgesondheidsorg, 2002 (Wet No. 17 van 2002);
- (e) hy of sy is skuldig bevind aan 'n kriminele oortreding wat bedrog, wanvoorstelling of enige ander skending van vertroue insluit;
- (f) hy of sy is skuldig bevind aan 'n misdryf ten opsigte waarvan hy of sy tot gevangenisstraf gevonnis is sonder die opsie van 'n boete;
- (g) die verantwoordelike Lid van die Uitvoerende Raad, in openbare belang en vir regverdige bewegegredes, en na oorlegpleging met die lid, sy of haar lidmaatskap van die Raad beëindig; of
- (h) die dood van die lid.

(6) Elke vakature op 'n Raad wat voortspruit uit omstandighede verwys na in subregulasie (5) moet gevul word deur die verantwoordelike Lid van die Uitvoerende Raad, en elke lid aldus aangestel beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die uittredende lid aangestel is.

(7) By die vul van die vakature bedoel in subregulasie (6) moet die verantwoordelike Lid van die Uitvoerende Raad die proses volg soos bedoel in regulasie 2(2) en (3).

**Vergaderings van Raad**

5.(1) Die Voorsitter van 'n Raad moet die datum, plek en tyd van enige vergadering van 'n Raad bepaal.

(2) Tydens die eerste vergadering van die Raad moet 'n Ondervoorsitter verkies word deur die teenwoordige lede.

(3) 'n Spesiale vergadering van die Raad mag te eniger tyd deur die Voorsitter belê word –  
(a) op skriftelike versoek deur die Voorsitter; of  
(b) binne tien kalenderdae vanaf ontvangs van 'n skriftelike versoek onderteken deur minstens een derde van die Lede van die Raad.

(4) 'n Skriftelike versoek, soos bedoel in subregulasie (3), moet die doel waarvoor die vergadering belê word duidelik uiteensit.

**Kworum en prosedure by vergaderings**

6.(1) 'n Kworum van 'n vergadering van die Raad bestaan uit een helfte van die totale getal lede plus een.

(2) 'n Raad moet die prosedure bepaal wat by sy vergaderings gevolg moet word.

(3) By alle vergaderings van die Raad moet die Voorsitter of, in sy of haar afwesigheid, die Ondervoorsitter voorsit.

(4) Die besluit van die meerderheid van die lede van die Raad teenwoordig by enige vergadering van die Raad vorm 'n besluit van die Raad en, in die geval van 'n staking van stemme, moet die persoon wat by die betrokke vergadering voorsit 'n beslissende stem hê, bykomend tot sy of haar beraadslagende stem.

(5) Die Voorsitter moet 'n bywoningsregister byhou waarin hy of sy die name van alle lede teenwoordig by elke vergadering, asook die name van lede afwesig met of sonder verlof, aanteken.

(6)(a) 'n Lid van die Raad wat enige belang het, hetsy direk of indirek, by enige aangeleentheid wat oorweeg word of wat deur die Raad oorweeg sal word, moet die aard van sy of haar belang en alle wesenslike feite en inligting wat op enige wyse die besluite of handeling van die Raad mag beïnvloed aan die Raad openbaar maak.

(b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word.

(c) Die Lid bedoel in paragraaf (a) moet onttrek word deur die Voorsitter en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of besluit van die Raad met betrekking tot daardie aangeleentheid nie.

**Kort titel**

7. Hierdie regulasies word die KwaZulu-Natal Regulasies op Distriksgeondheidsrade, 2012 genoem.

**UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YEMIKHANDLU YEZEMPILO YEZIFUNDA YAKWAZULU-NATALI,  
2012**

Ngalokhu ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ngokuhambisana nesigaba 31(1) soMthetho wezeMpilo kaZwelonke, 2003 (uMthetho No. 61 ka 2003), ukuze kulawulwe imikhandlu yezempilo yezifunda esiFundazweni.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi 4<sup>th</sup> ku **July** oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele ezeMpilo

## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile,

-

“uSihlalo” kushiwo uSihlalo womkhandlu njengoba kuhlangozwe esigabeni 31(2)(b) soMthetho wezeMpilo kaZwelonke;

“uMkhandlu” kushiwo umkhandlu wezempilo wesifunda ohlongozwe esigabeni 23 soMthetho.

### Inqubo yokusungulwa koMkhandlu

2.(1) Ukuze kusungulwe uMkhandlu njengoba kuhlangozwe esigabeni 23 soMthetho, iLungu loMkhandlu oPhethe kumele, ezinyangeni eziyishumi nambili kusukela kumiswe le Mithethonqubo, lithumele isaziso esibhalwe phansi kwiLungu loMkhandlu oPhethe elibhekele ezohulumeni basekhaya, koSodolobha bomasipala bezifunda nabemikhandludolobha, licele ukuba kuphakanyiswe abantu abazosebenza eMikhandlwini ehlongoziwe.

(2) ILungu loMkhandlu oPhethe kumele liphinde lithumele isaziso emkhandlwini kamasipala wasekhaya ngamunye osesiFundazweni, licele ukuba kuphakanyiswe abantu emkhandlwini kamasipala abazoqokwa njengamalungu omkhandlu wezempilo wesifunda ngamunye ohlongoziwe, njengoba kuhlangozwe esigabeni 31(2)(a)(iii) soMthetho wezeMpilo kaZwelonke.

(3) Uma selithole zonke iziphakamiso ngokwezigatshana zomthethonqubo (1) no (2), iLungu loMkhandlu oPhethe kumele –

(a) lishicilele isaziso kwiGazethi sokusungula umkhandlu wezempilo wesifunda kuzona zonke izifunda esiFundazweni njengoba kuhlangozwe esigabeni 29(2) soMthetho wezeMpilo kaZwelonke; futhi

(b) liqoke amalungu oMkhandlu ngamunye.

**Imisebenzi kaSihlalo****3. USihlalo woMkhandlu kumele –**

- (a) abize imihlangano yoMkhandlu okungenani kane ngonyaka;
- (b) abize umhlangano ophuthumayo woMkhandlu, njengoba kuhlongozwe kumthethonqubo 5(4)(b);
- (c) aqinisekise ukuthi uMkhandlu uyawasebenzisa amandla awo, uyayenza imisebenzi yawo futhi uyawafeza amajoka awo njengoba kuhlongozwe eMthethweni futhi uyahambisana nezinhlinzeko zoMthetho, zale Mithethonqubo kanye nezeminye imithetho eziphatelene nalokho; futhi
- (d) adalule eMkhandlwini konke okuphathekayo nolwazi okungasiza uMkhandlu ekuthatheni izinqumo noma izinyathelo.

**Ukuqokwa nesikhathi sokuba sesikhundleni samalungu oMkhandlu**

4.(1) Amalungu oMkhandlu aqokwa yiLungu loMkhandlu oPhethe isikhathi esiyiminyaka emithathu.

(2) ILungu loMkhandlu oPhethe lingashintsha noma iliphi ilungu elihlongozwe kwisigatshana somthethonqubo (1) uma linesizathu esizwakalayo sokwenze njalo.

(3) ILungu loMkhandlu oPhethe lingaphinde liqokele esikhundleni ilungu ekupheleni kweminyaka emithathu uma lelo lungu lifanelekile.

(4) Ilungu angeke liqokelwe esikhundleni amahlandla angaphezu kwamabili alandelanayo.

(5) Ilungu liyashiya esikhundleni sokuba yilungu loMkhandlu uma kuvela noma isiphi isizathu kulezi ezilandelayo –

- (a) lingakwazi ukwenza imisebenzi yoMkhandlu;
- (b) liziphatha budlabha;
- (c) lesula ngencwadi;
- (d) ligula ngengqondo njengoba kuchazwe eMthethweni wabaGula ngeNgqondo, 2002 (uMthetho No. 17 ka 2002);
- (e) uma lithokalale necala elibandakanya ukukhwabanisa, ukuqamba amanga nanoma ikuphi okuphambene nokwethembeka;
- (f) uma litholakale linecala lase ligwetshwa isigwebo sokubhadla ejele ngaphandle kokubonelelwa ngenhlawulo;

- (g) iLungu loMkhandlu, ngezizathu ezithinta umphakathi noma ngezizathu ezifanele, nangemuva kokubonisana nelungu, linqamula ubulungu balo eMkhandlwini; noma
- (h) uma ilungu lishona.

(6) Zonke izikhala zomsebenzi eMkhandlwini ezivela ngenxa yezizathu okukhulunywe ngazo kwisigatshana somthethonqubo (5) kumele zigcwaliswe yiLungu loMkhandlu oPhethe futhi noma iliphi ilungu eliqokelwa kuleso sikhundla kumele libambe isikhathi esisasele salelo lungu elishiyile kuleso sikhundla.

(7) Uma kugcwaliswe isikhala njengoba kuhlongozwe kwisigatshana somthethonqubo (6) iLungu loMkhandlu oPhethe kumele lilandele inqubo ehlongozwe kumthethonqubo 2(2) no (3).

#### **Imihlangano yoMkhandlu**

5.(1) USihlalo woMkhandlu kumele anqume usuku, indawo nesikhathi sanoma imuphi umhlangano woMkhandlu.

(2) Emhlanganweni wokuqala woMkhandlu, isekela likaSihlalo kumele likhethwe amalungu akhona.

(3) USihlalo angabiza umhlangano ophuthumayo woMkhandlu noma nini –

- (a) uma uSihlalo enze isicelo ngencwadi; noma
- (b) ezinsukwini eziyishumi kutholakale isicelo esisayinwe okungenani ingxenye eyodwa kokuthathu yamalungu oMkhandlu.

(4) Isicelo esibhalwe phansi njengoba kuhlongozwe kwisigatshana somthethonqubo (3) kumele sibeke ngokucacile inhloso yomhlangano obiziwe.

#### **Isibalo sabangabamba umhlangano nenqubo yomhlangano**

6.(1) Isibalo sabantu abangabamba umhlangano woMkhandlu yingxenye yesibalo sawo wonke amalungu nelungu elilodwa ngaphezulu.

(2) UMkhandlu kumele unqume inqubo okumele ilandelwe emihlanganweni yawo.

(3) Kuyo yonke imihlangano yoMkhandlu kumele, uSihlalo noma, uma engekho, isekela likaSihlalo, lengamele umhlangano.

(4) Isinqumo seningi lamalungu oMkhandlu akhona kunoma imuphi umhlangano kuba yisona sinqumo soMkhandlu, futhi, uma kwenzeka kuba nokulingana kwamavoti, umuntu okunguyena owengamele umhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

(5) USihlalo kumele agcine irejista yabethamele umhlangano lapho eyobhala khona amagama awo wonke amalungu ethamele umhlangano ngamunye, kanjalo namalungu aphuthile emhlanganweni abikile nangabikanga.

(6)(a) Ilungu loMkhandlu elithinteka ngqo noma ngandlela thile odabeni oludingidwa noma oluzodingidwa uMkhandlu, kumele lidalule lokho kuthinteka kwalo eMkhandlwini nakho konke okunye okuphathekayo nolwazi okungenzeka ukuthi ngandlela thile kube nomthelela ezinqumweni noma ezinyathelweni zoMkhandlu.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) USihlalo kumele ahoxise ilungu elihlongozwe endimeni (a) emhlanganweni, futhi akumele libe khona emhlanganweni, noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zoMkhandlu mayelana nalolo daba.

### **Isihloko esifingqiwe**

7. Le mithethonqubo ibizwa ngeMithethonqubo yeMikhandlu yezeMpilo yeziFunda yaKwaZulu-Natali, 2012.

**No. 127****9 November 2012****KWAZULU-NATAL DEPARTMENT OF HEALTH****KWAZULU-NATAL PROVINCIAL HEALTH INFORMATION SYSTEMS COMMITTEE  
REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), in order to regulate the KwaZulu-Natal Provincial Health Information Systems Committee in the Province.

Given under my Hand at Pietermaritzburg this 4<sup>th</sup> day of **July** , Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health



## SCHEDULE

### Definitions

1. In these Regulations, “the Act” means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

“**Chairperson**” means the Chairperson of the KwaZulu-Natal Provincial Health Information Systems Committee as contemplated in section 30(a) of the Act; and

“**Committee**” means the KwaZulu-Natal Provincial Health Information Systems Committee established in terms of section 29 of the Act.

### Duties of Committee

2. In performing the functions contemplated in section 31(1) of the Act, the Committee must –

- (a) ensure that all health information systems adhere to national guidelines and specifications;
- (b) guide the development and implementation of Provincial policies to govern information management, technology and systems;
- (c) monitor the implementation of policies contemplated in paragraph (b) and receive reports from the Department;
- (d) where the responsible Member of the Executive Council is not the Chairperson of the Committee, make recommendations to the responsible Member of the Executive Council on any matters appertaining to information systems; and
- (e) exercise any power, perform any functions and execute any duty conferred on it by the Act, these Regulations or any other law.

### Duties of Chairperson

3. The Chairperson must –

- (a) call a special meeting of the Committee as contemplated in regulation 4(2);
- (b) ensure that the Committee exercises its powers, performs its functions and carries out its duties as contemplated in the Act and complies with the relevant provisions of the Act, these Regulations and any other law; and

(c) disclose to the Committee all material facts and information which, in any way, may influence the decisions or actions of the Committee.

#### **Meetings of Committee**

4.(1) The Chairperson may convene an ordinary meeting as often as necessary, but at least three times a year, as contemplated in section 32 of the Act.

(2) A special meeting of the Committee may be convened by the Chairperson at any time –

(a) upon written request to the members of the Committee by the Chairperson; or

(b) within ten calendar days of receipt of a written request signed by at least one third of the members of the Committee.

(3) A written request, as contemplated in subregulation (1), must state clearly the purpose for which the meeting is requested.

#### **Quorum and procedure at meetings**

5.(1) A quorum of any meeting of the Committee is half of the total number of members plus one.

(2) The Committee must determine the procedure to be followed at its meetings.

(3) At the first meeting of the Committee a Deputy Chairperson must be elected by the members present.

(4) At all meetings of the Committee the Chairperson or the Deputy Chairperson or, in his or her absence, any other member of the Committee designated by the members present, must preside.

(5) The decision of the majority of the members of the Committee present at any meeting thereof constitutes a decision of the Committee and, in the event of an equality of votes, the person presiding at the meeting in question has a casting vote in addition to his or her deliberative vote.

(6) The Department must keep an attendance register in which the names of all the members attending each meeting as well as the names of members absent with or without leave are recorded.

(7)(a) A Member of a Committee who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Committee, must disclose the nature of his or her interest and all material facts and information which, in any way, may influence the decisions or actions of the Committee, to the Committee.

(b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.

(c) The Member contemplated in paragraph (a) must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Committee relating to that matter.

#### **Duration of term of office of Committee Members**

6.(1) Members of the Committee are appointed by the responsible Member of the Executive Council for a period of three years.

(2) The responsible Member of the Executive Council may –

- (a) replace any member on good cause shown; and
- (b) may reappoint a member at the end of the three year period if such member is eligible.

(3) The responsible member of the Executive Council may remove a member of the Committee on any of the following grounds –

- (a) inability to perform the functions of his or her office;
- (b) his/her estate is sequestrated or he/she has entered into a compromise with the creditors of his or her estate;
- (c) misconduct;
- (d) absence from more than two consecutive meetings of the Committee without the Committee's leave;
- (e) written resignation;
- (f) he or she ceases to hold any qualification necessary for his/her appointment to the Committee;
- (g) he or she ceases to be a South African citizen;

(h) he or she becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(i) he or she is convicted of a criminal offence involving fraud, misrepresentation or any other breach of trust;

(j) he or she is convicted of an offence in respect of which he or she is sentenced to imprisonment without the option of a fine;

(k) the responsible Member of the Executive Council, in the interest of the public and for just cause, and after consultation with the member, terminates his or her appointment to the Committee; or

(l) death of a member.

(4) Every vacancy on a Committee arising from circumstances contemplated in subregulation (3) must be filled by the responsible Member of the Executive Council and every member so appointed holds office for the unexpired portion of the period for which the vacating member was appointed.

**Short title**

7. These regulations are called the KwaZulu-Natal Provincial Health Information Systems Committee Regulations, 2012.

**No. 127****9 November 2012****KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL PROVINSIALE REGULASIES OP  
GESONDHEIDINLIGTINGSTELSELSKOMITEE, 2012**

Hiermee maak ek die regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), ten einde die KwaZulu-Natal Provinsiale Gesondheidinligtingstelselkomitee in die Provinsie te reguleer.

Gegee onder my Hand te Pietermaritzburg, hierdie **4th** dag van **July** Twee-duisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
verantwoordelik vir Gesondheid

## BYLAE

### Omskrywings

1. In hierdie Regulasies beteken "die Wet" die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

"**Komitee**" die KwaZulu-Natal Provinsiale Gesondheidsinligtingstelselkomitee ingestel ingevolge artikel 29 van die Wet; en

"**Voorsitter**" die Voorsitter van die KwaZulu-Natal Provinsiale Gesondheidsinligtingstelselkomitee soos bedoel in artikel 30(a) van die Wet.

### Pligte van Komitee

2. In die uitvoer van die funksies bedoel in artikel 31(1) van die Wet, moet die Komitee –

- (a) verseker dat alle gesondheidsinligtingstelsels nasionale riglyne en spesifikasies nakom;
- (b) die ontwikkeling en implementering van Provinsiale beleide vir inligtingsbestuur, tegnologie en stelsels bestuur;
- (c) die implementering van beleide bedoel in paragraaf (b) monitor en Departementele verslae ontvang;
- (d) indien die verantwoordelike Lid van die Uitvoerende Raad nie die Voorsitter van die Komitee is nie, aanbevelings maak aan die verantwoordelike Lid van die Uitvoerende Raad oor enige aangeleenthede met betrekking tot inligtingstelsels; en
- (e) enige mag uitvoer, enige funksies verrig en enige plig uitvoer soos toegeken deur die Wet, hierdie Regulasies of enige ander wet.

### Pligte van Voorsitter

3. Die Voorsitter moet –

- (a) 'n spesiale vergadering van die Komitee belê, soos bedoel in regulasie 4(2);
- (b) verseker dat die Komitee sy magte uitvoer, sy funksies verrig en sy pligte uitvoer soos bedoel in die Wet en voldoen aan die betrokke bepalings van die Wet, hierdie Regulasies en enige ander wet; en

(c) aan die Komitee alle wesenlike feite en inligting openbaar maak wat, op enige manier, die besluite of handeling van die Komitee mag beïnvloed.

#### **Vergaderings van Komitee**

4.(1) Die Voorsitter mag 'n gewone vergadering belê so dikwels as wat nodig is, maar minstens drie keer per jaar, soos bedoel in artikel 32 van die Wet.

(2) 'n Spesiale vergadering van die Komitee mag te eniger tyd deur die Voorsitter belê word

–

(a) op skriftelike versoek aan die Lede van die Komitee deur die Voorsitter; of

(b) binne tien kalenderdae na ontvangs van 'n skriftelike versoek onderteken deur minstens een derde van die lede van die Komitee.

(3) 'n Skriftelike versoek, bedoel in subregulasie (1), moet die doel waarvoor die vergadering versoek word duidelik uiteensit.

#### **Kworum en prosedure van vergaderings**

5.(1) 'n Kworum van enige vergadering van die Komitee bestaan uit een helfte van die totale getal lede plus een.

(2) Die Komitee moet die prosedure bepaal wat gevolg moet word by sy vergaderings.

(3) Tydens die eerste vergadering van die Komitee moet 'n Ondervoorsitter deur teenwoordige lede verkies word.

(4) By alle vergaderings van die Komitee moet die Voorsitter of die Ondervoorsitter, of in sy of haar afwesigheid, enige ander lid van die Komitee soos aangewys deur die teenwoordige lede, voorsit.

(5) Die beslissing van die meerderheid van die lede van die Raad teenwoordig by enige vergadering van die Raad vorm 'n besluit van die Raad en, in die geval van 'n staking van stemme, het die persoon wat by die betrokke vergadering voorsit, 'n beslissende stem bykomend tot sy of haar beraadslagende stem.

(6) Die Departement moet 'n bywoningsregister byhou waarin die name van alle lede teenwoordig by elke vergadering, asook die name van lede afwesig met of sonder verlof, aangeteken word.

(7)(a) 'n Lid van die Komitee wat enige belang het, hetsy direk of indirek, by enige aangeleentheid wat oorweeg word of wat deur die Komitee oorweeg sal word, moet die aard van sy of haar belang en alle wesenlike feite en inligting wat, op enige manier, die besluite of handelinge van die Komitee mag beïnvloed, aan die Komitee openbaar maak;

(b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word; en

(c) Die Lid bedoel in paragraaf (a) moet onttrek word deur die Voorsitter en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of besluit van die Komitee met betrekking tot daardie aangeleentheid nie.

#### **Duur van ampstermyn van Komiteelede**

**6.(1)** Lede van Raad word aangestel deur die verantwoordelike Lid van die Uitvoerende Raad vir 'n tydperk van drie jaar.

(2) Die verantwoordelike Lid van die Uitvoerende Raad mag –

(a) by bewys van goeie beweegrede enige lid vervang; en

(b) 'n lid heraanstel aan die einde van die drie jaar-tydperk indien sodanige lid verkiesbaar is.

(3) Die verantwoordelike Lid van die Uitvoerende Raad mag 'n Lid van die Komitee verwyder op enige van die volgende gronde –

(a) onvermoë om die funksies van sy of haar amp te verrig;

(b) sy of haar boedel is gesekwestreer of hy of sy het 'n kompromie aangegaan het met die krediteure van sy of haar boedel betreffende 'n afkoopsom;

(c) wangedrag;

(d) afwesigheid tydens meer as twee opeenvolgende vergaderings van die Komitee sonder die toestemming van die Komitee;

(e) skriftelike bedanking;

(f) hy of sy nie langer oor 'n kwalifikasie beskik wat verlang word vir sy of haar aanstelling tot die Komitee nie;

(g) hy of sy nie langer 'n Suid-Afrikaanse burger is nie;

(h) hy of sy word 'n geestesgesondheidsorg-gebruiker, soos omskryf in artikel 1 van die Wet op Geestesgesondheidsorg, 2002 (Wet No. 17 van 2002);



- (i) hy of sy is skuldig bevind aan 'n kriminele oortreding wat bedrog, wanvoorstelling, of enige ander verbreking van vertrouwe betrek;
- (j) hy of sy is skuldig bevind aan 'n misdryf ten opsigte waarvan hy of sy tot gevangenisstraf gevonnissen is sonder die opsie van 'n boete;
- (k) die verantwoordelike lid van die Uitvoerende Raad, in die openbare belang en vir regverdige beweegredes, en na oorlegpleging met die lid, sy of haar aanstelling tot die Komitee beëindig; of
- (l) die dood van die lid.

(4) Elke vakature op 'n Raad wat voortspruit uit die omstandighede verwys na in subregulasie (3) moet gevul word deur die verantwoordelike Lid van die Uitvoerende Raad en elke lid aldus aangestel beklee die amp vir die onverstreke gedeelte van die tydperk waarvoor die uitredende lid aangestel was.

**Kort titel**

7. Hierdie Regulasies word die KwaZulu-Natal Provinsiale Regulasies op Gesondheidsinligtingstelselkomitee, 2012 genoem.

No. 127

9 kuLwezi 2012

**UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YEKOMIDI LEZINHLELO ZOLWAZI LWEZEMPILO LESIFUNDAZWE  
SAKWAZULU-NATALI, 2012**

Ngalokhu ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ukuze kulawulwe iKomidi leziNhlelo zoLwazi lwezeMpilo lesiFundazwe saKwaZulu-Natali.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi 4<sup>th</sup> ku **July** oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele ezeMpilo

## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile

–

“**uSihlalo**” kushiwo uSihlalo weKomidi leziNhlelo zoLwazi lwezeMpilo lesiFundazwe saKwaZulu-Natali njengoba kuhlangozwe esigabeni 30(a) soMthetho; futhi

“**iKomidi**” kushiwo iKomidi leziNhlelo zoLwazi lwezeMpilo lesiFundazwe saKwaZulu-Natali elisungulwe ngokwesigaba 29 soMthetho.

### Imisebenzi yeKomidi

2. Uma lenza imisebenzi yalo ehlongozwe esigabeni 31(1) soMthetho, iKomidi kumele –

- (a) liqinisekise ukuthi zonke izinhlelo zolwazi lwezempilo ziyahambisana nemikhombandlela nemigomo kazwelonke;
- (b) lilawule ukusungulwa nokuqaliswa kwezinqubomgomo zesifundazwe ezilawula ukuphathwa kolwazi, ezobuchwepheshe kanye nezinhlelo;
- (c) liqaphe ukuqaliswa kwezinqubomgomo ezihlongozwe endimeni (b) futhi lamukele imibiko eMnyangweni;
- (d) uma iLungu loMkhandlu oPhethe lingesiyena uSihlalo weKomidi, lenze izincomo kwiLungu loMkhandlu oPhethe mayelana nanoma iluphi udaba oluphathelene nezinhlelo zolwazi; futhi
- (e) lisebenzise noma imaphi amandla, lenze noma imiphi imisebenzi futhi lifeze noma imaphi amajoka eliwethweswe uMthetho, yile Mithethonqubo nanoma imuphi omunye umthetho.

### Imisebenzi kaSihlalo

3. USihlalo kumele –

- (a) abize umhlangano ophuthumayo weKomidi, njengoba kuhlangozwe kumthethonqubo 4(2);
- (b) aqinisekise ukuthi iKomidi lisebenzisa amandla alo, lenza imisebenzi yalo futhi lifeza amajoka alo njengoba kuhlangozwe eMthethweni futhi liyahambisana

nezinhlinzeko zoMthetho, zale mithethonqubo nezanoma imuphi omunye umthetho; futhi

(c) adalule kwiKomidi konke okuphathekayo nolwazi okungasiza iKomidi ekuthatheni izinyathelo noma izinqumo zalo.

#### **Imihlangano yeKomidi**

4.(1) USihlalo angabiza umhlangano ojwayelekile noma nini, kodwa okungenani kathathu ngonyaka njengoba kuhlangozwe esigabeni 32 soMthetho.

(2) USihlalo angabiza umhlangano ophuthumayo weKomidi noma nini –

(a) uma kucela uSihlalo kumalungu ekomidi ngencwadi; noma

(b) ezinsukwini eziyishumi kutholakale incwadi yesicelo esayinwe okungenani yingxenye eyodwa kokuthathu yamalungu wonke eKomidi.

(3) Isicelo esibhalwe phansi esihlongozwe kwisigaba somthethonqubo (4) kumele sibeke ngokucacile inhloso yokubizwa komhlangano.

#### **Isibalo sabangabamba umhlangano nenqubo yemihlangano**

5.(1) Isibalo sabangabamba noma imuphi umhlangano weKomidi yingxenye yamalungu ewonke ekomidi nelungu elilodwa ngaphezulu.

(2) IKomidi kumele linqume inqubo ezolandelwa emihlanganweni yalo.

(3) Emhlanganweni wokuqala weKomidi kumele kuqokwe isekela likaSihlalo amalungu akhona.

(4) Kuyona yonke imihlangano yeKomidi, uSihlalo noma iSekela likaSihlalo, noma uma bengekho, noma liphi elinye ilungu eliqokwe amalungu ekomidi lingengamela umhlangano.

(5) Isinqumo seningi lamalungu eKomidi akhona kunoma imuphi umhlangano kuyoba yisona sinqumo seKomidi, futhi, uma kwenzeka kuba nokulingana kwamavoti, umuntu owengamele umhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

(6) UMnyango kumele ugcine irejista enamagama abo bonke abantu abebethamele umhlangano ngamunye, namagama amalungu aphuthile ebikile noma engabikanga.

(7)(a) Ilungu leKomidi, elithinteka ngqo noma ngandlela thile kunoma iluphi udaba oludingidwa noma oluzodingidwa iKomidi, kumele lidalule lokho kuthinteka kwalo kwiKomidi nakho konke okuphathekayo nolwazi okungaba nomthelela ngandlela thile ezinqumweni noma ezinyathelweni ezithathwa yiKomidi.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) Ilungu okukhulunywe ngalo endimeni (a) kumele lihoxiswe uSihlalo, futhi akumele libe khona noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zeKomidi mayelana nalolo daba.

### **Isikhathi sokuba sesikhundleni samalungu eKomidi**

6.(1) Amalungu eKomidi aqokwa yiLungu oMkhandlu oPhethe isikhathi esiyiminyaka emithathu.

(2) ILungu loMkhandlu oPhethe –

(a) lingashintsha ilungu uma kunesizathu esizwakalayo; futhi

(b) lingaphinde liqokele esikhundleni ilungu ekupheleni kweminyaka emithathu uma lelo lungu lisafanelekile.

(3) ILungu loMkhandlu oPhethe lingasusa esikhundleni ilungu leKomidi nganoma isiphi salezi zizathu:

(a) uma lehluleka ukwenza imisebenzi yesikhundla salo;

(b) uma lidlelwe impahla noma lingene esivumelwaneni sokubanjelwa impahla nabantu elibakweletayo;

(c) uma liziphatha budlabha;

(d) uma liphutha emihlanganweni engaphezu kwemibili elandelanayo yeKomidi ngaphandle kokuthola imvume yokuphutha eKomidini;

(e) uma lesula ngencwadi;

(f) uma lingasafanelekile ukuba kuleso sikhundla seKomidi elaliqokelwe kusona;

(g) uma lingasesona isakhamuzi saseNingizimu Afrika;

(h) uma ligula ngengqondo njengoba kuchazwe esigabeni 1 soMthetho wabaGula ngeNgqondo, 2002 (uMthetho No. 17 ka 2002);

(i) uma litholakale necala elibandakanya ukukhwabanisa, ukuqamba amanga noma ukungathembeki;

(j) uma litholakale necala lagwetshwa isigwebo sokubhadla ejele ngaphandle kokubonelelwa ngenhlawulo;

- (k) uma iLungu loMkhandlu oPhethe, ngokuzwelana nomphakathi nangesizathu esifanele, ngemuva kokubonisana nelungu, limisa ukuqokwa kwalo eKomidini; noma
- (l) uma ilungu lishona.

(4) Zonke izikhala ezivela eKomidini ngenxa yezizathu ezibalulwe kwisigatshana somthethonqubo (3) kumele zigcwaliswe yiLungu loMkhandlu oPhethe futhi noma iliphi ilungu eliqokelwe kuleso sikhundla kumele libambe leso sikhathi ebesisasele salelo lungu elishiyile.

**Isihloko esifingqiwe**

7. Le mithethonqubo ibizwa ngeMithethonqubo yeKomidi leziNhlelo zoLwazi lwezeMpilo lesiFundazwe saKwaZulu-Natali, 2012.

**No. 128****9 November 2012****KWAZULU-NATAL DEPARTMENT OF HEALTH****KWAZULU-NATAL PROVINCIAL HEALTH RESEARCH AND ETHICS COMMITTEE  
REGULATIONS, 2012**

I hereby make the Regulations contained in the Schedule hereto, under section 74(1)(b) of the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009), in order to regulate the KwaZulu-Natal Provincial Health Research and Ethics Committee.

Given under my Hand at Pietermaritzburg this 4<sup>th</sup> day of **July**, Two Thousand and Twelve.

**DR SM DHLOMO**

Member of the Executive Council of the Province of KwaZulu-Natal  
responsible for Health

## SCHEDULE

### Definitions

1. In these Regulations, "the Act" means the KwaZulu-Natal Health Act, 2009 (Act No. 1 of 2009) and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context indicates otherwise –

"**Chairperson**" means Chairperson of the Committee;

"**Committee**" means the KwaZulu-Natal Provincial Health Research and Ethics Committee established in terms of section 9 of the Act; and

"**vulnerable participants**" means children, pregnant and lactating women, persons with mental illnesses or physical disabilities, indigent persons, members of communities unfamiliar with medical concepts and persons with restricted freedom, such as prisoners.

### Duties of Committee

2.(1) The Committee must approve research proposals and protocols for all human subject health research projects undertaken within the Province for the purpose of ensuring the protection of the dignity, rights, safety and well-being of all human participants, especially vulnerable participants, from health-related research undertaken.

(2) The Committee must perform all its functions in accordance with the Research Ethics Guidelines issued by the National Department of Health as contemplated in section 72(6)(a) of the National Health Act, 2003 (Act No. 61 of 2003).

(3) In order to enable the Committee to perform the functions contemplated in section 11 of the Act, the Committee may –

- (a) apply any reasonable measures to ensure compliance with its directives emanating from its functions in the Act;
- (b) instruct any person to modify health research protocols or to cease health research projects conducted contrary to its directives; and
- (c) request any other information as it deems necessary in the execution of its functions.

(4) The Committee must keep a repository of all applications received.

(5) The Committee may engage with and advise relevant organizations, bodies or individuals involved in research on the Provincial priorities in respect of health research.

(6) The Committee may advise the responsible Member of the Executive Council on research proposals submitted to the Committee.



**Appointment of members on Committee**

3.(1) The Committee must comprise of members as set out in section 10 of the Act.

(2) Members are appointed by the responsible Member of the Executive Council after consultation with the heads of the respective institutions, organizations or entities referred to in section 10(1)(c) to (i) and section 10(2) of the Act.

**Term of office of Members of Committee**

4. A Member of the Committee holds office for a period not exceeding five years.

**Termination of membership of Committee**

5. A member ceases to be a Member of the Committee on any of the following grounds –

- (a) inability to perform the functions of his or her office;
- (b) his or her estate is sequestrated or he or she has entered into a compromise with the creditors of his or her estate;
- (c) misconduct;
- (d) absence from more than two consecutive meetings of the Committee without the Committee's leave;
- (e) written resignation;
- (f) he or she ceases to hold any qualification or office necessary for his or her appointment to the Committee;
- (g) he or she ceases to be a South African citizen;
- (h) he or she becomes a mental health care user as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
- (i) he or she is convicted of a criminal offence involving fraud, misrepresentation or any other breach of trust;
- (j) he or she is convicted of an offence in respect of which he or she is sentenced to imprisonment without the option of a fine;
- (k) the responsible Member of the Executive Council, in the interest of the public and for just cause, and after consultation with the member, terminates his or her appointment to the Committee; or
- (l) death of the member.

**Filling of vacancies**

6. Whenever a vacancy occurs on the Committee under circumstances contemplated in regulation 5, the responsible Member of the Executive must, subject to the provisions of regulation 3, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

**Meetings of Committee**

7.(1) The first meeting of the Committee must be held as soon as possible after the appointment of its members, at a time and place to be determined by the Head of Department, and all subsequent meetings must be held as determined by the Chairperson.

(2) A special meeting of the Committee –

(a) may be convened by the Chairperson at any time; or

(b) must be convened by the Chairperson at such place and time and on such date as he or she may determine and within 30 days of receipt of a written request by the Chairperson or a written request signed by at least a third of the members.

(3) A written request contemplated in subregulation (2) must state clearly the purpose for which the meeting is convened.

**Quorum, procedure at meetings and decision-making**

8.(1) A quorum of any meeting of the Committee is one half of the total number of members plus one.

(2) The Committee must determine the procedure to be followed at its meetings.

(3) The Committee must, at its first meeting, elect a Deputy Chairperson.

(4) At all meetings of the Committee the Chairperson or, in his or her absence, the Deputy Chairperson must preside.

(5) The decision of the majority of the members of the Committee present at any meeting thereof constitutes a decision of the Committee and, in the event of an equality of votes, the person presiding at the meeting in question must have a casting vote in addition to his or her deliberative vote.

(6) Ex officio members, as contemplated in section 10(1)(b) and (i) of the Act, do not have the voting rights on any matter on which the Committee is required to make a decision.

(7) The Committee may co-opt any person to attend and participate in its deliberations on any matter, but such person may not vote on any matter.

(8) A decision taken by the Committee or an act performed under the authority of the Committee is not invalid merely by reason of –

(a) an interim vacancy on the Committee; or

(b) a person who was erroneously appointed in terms of requirements contemplated in section 10 of the Act.

(9)(a) A member of the Committee who has any interest, whether direct or indirect, in any matter being considered or to be considered by the Committee must disclose the nature of his or her interest to the Committee.

- (b) The disclosure contemplated in paragraph (a) must be recorded in the minutes of the meeting.
- (c) The member must be recused by the Chairperson and may not be present during, or participate in, any deliberation or decision of the Committee relating to that matter.

### **Duties of Chairperson**

#### **9. The Chairperson of the Committee must –**

- (a) ensure that all research referred to the Committee is completed within the time frame specified in the proposal;
- (b) ensure that every member of the Committee conducts himself or herself in a manner that befits the status of the Committee;
- (c) where the Chairperson is the head of Department, liaise with or advise the responsible Member of the Executive Council on issues relating to the Committee;
- (d) where the Head of Department is not the Chairperson, the nominated representative in consultation with the Head of Department must liaise with or advise the responsible Member of the Executive Council on issues relating to the Committee; and
- (e) generally ensure that the Committee –
  - (i) performs its functions;
  - (ii) fulfils its objectives in terms of the Act; and
  - (iii) complies with the relevant provisions of the Act.

### **Manner of referral of research proposals, decision on research proposals**

#### **10.(1) Any person or organisation intending to conduct health-related research at any public health care establishment must submit a research proposal for approval by the Committee to –**

- (a) the Chairperson of the Committee at the address provided in regulation 14;
- (b) the head of the relevant health care establishment where the research, if approved, is to be conducted; and
- (c) the Head of Department, if he or she is not the Chairperson.

#### **(2) Each research proposal must contain, at least, the following information –**

- (a) the exact nature of the research;
- (b) the health care establishment or place where the research is to be conducted;
- (c) the likely impact of the research on the normal operation of the relevant health care establishment or place;
- (d) the likely impact of the research on the status of research participants or health care users utilizing the particular health care establishment;
- (e) any negative or undesirable consequences arising from the carrying out of the research; and
- (f) a project plan setting out and explaining the various stages of the research and time frames for each stage.

#### **(3) In addition to the information contemplated in subregulation (2), a research proposal must be accompanied by a research project plan containing –**

- (a) the study information;

- (b) the study title and principal investigators and abstract or summary of the study;
- (c) the motivation for conducting the study including the aim, purpose or objectives of the study;
- (d) the designated research area;
- (e) methodology of study;
- (f) the study design, study population, sampling and research pilot sites, where applicable;
- (g) data collection methods;
- (h) instruments and data analysis;
- (i) ethical considerations;
- (j) proposal on feedback and dissemination-of-findings mechanism;
- (k) budget and human resource allocations;
- (l) the various stages within which the research would be completed;
- (m) references and appendices; and
- (n) a letter of provisional permission from facilities, pending the Committee's approval.

(4) All research proposals must be submitted to the Committee in the manner set out in the KwaZulu-Natal Provincial Health Research and Ethics Policy issued by the KwaZulu-Natal Department of Health.

(5) The Committee must, within 30 days of receipt of any research proposal –

- (a) approve the research proposal;
- (b) reject the research proposal; or
- (c) approve the research proposal, with conditions; and
- (d) notify the researcher, in writing, of the decision and the reasons for the decision.

(6) Where the Committee has rejected the research proposal contemplated in subregulation (1), the applicant may, within the time frame contemplated in section 67(1) of the Act, lodge a notice of intention to appeal the decision of the Committee with the responsible Member of the Executive Committee.

(7) The provisions of section 67 of the Act apply, with the necessary changes, in relation to the procedure to be followed by the applicant contemplated in subregulation (6).

(8) When considering any research proposal, the Committee must have due regard for the subject matter of the research proposal, as well as any applicable national or provincial health policy and legislation which may impact on the subject matter of the research proposal.

### **Research findings**

**11.(1)** A report containing the findings of a research proposal contemplated in regulation 10 must, within 30 days after the finalization thereof, be submitted to –

- (a) the Chairperson of the Committee at the address provided in regulation 14;
- (b) the head of the relevant health care establishment where the research, if approved, is to be conducted; and
- (c) the Head of Department, if he or she is not the Chairperson, for review and final approval as contemplated in section 11(1) of the Act.

- (2) The report contemplated in subregulation (1) must contain, at least, the following information –
- (a) the findings;
  - (b) the health care establishment or place where the research was conducted;
  - (c) the likely impact of the research on the promotion of health and provincial priorities in respect of health research;
  - (d) the degree of the impact of the research on the status of research participants or health care users utilizing the particular health care establishment;
  - (e) any negative or undesirable consequences which arose from the conduct of the research; and
  - (f) any challenges encountered during the various stages of the research.
- (3) The findings of the report contemplated in subregulation (2) may be used by the Department for planning and decision-making.
- (4) The Head of Department must ensure that a hard copy of the report contemplated in subregulation (1) is kept in the Departmental library for future use by the Committee and the Department.
- (5) An electronic copy of the report contemplated in subregulation (1) may, subject to the researcher's permission, be published on the Departmental web site for use by the Committee and the Department for planning and decision-making.

### **Clinical trials**

- 12.(1)** Any person or organisation intending to conduct a clinical trial must submit a clinical trial proposal for approval by the Committee to the Head of Department.
- (2) Each clinical trial proposal must contain, at least, the following information –
- (a) the exact nature of the clinical trial;
  - (b) the applicant's name, be it a pharmaceutical company or an agent;
  - (c) the likely impact of the clinical trial on the participants;
  - (d) the Medicines Control Council approval of the experimental medicine;
  - (e) any negative or undesirable consequences arising from conducting the clinical trial;
  - (f) proof of insurance to cover unforeseen events during the trial; and
  - (g) the completed application form to conduct a clinical trial obtainable from the Department.
- (3) The proposal contemplated in subregulation (1) can be hand delivered, sent by post or courier, emailed or faxed to the Department.
- (4) Upon receipt of the proposal contemplated in subregulation (1), the Department must –
- (a) allocate a unique identifier number;
  - (b) check availability of all required documents and information;
  - (c) send the study protocol, if it is a clinical trial, to Pharmaceutical Systems Development for technical evaluation; and

(d) analyse the proposal and make recommendations to the Committee.

(5) The Committee must, within 60 days of the application being lodged, make a final decision and return the documents to the Department for recordkeeping.

#### **Extensions to conduct research**

**13.(1)** A person or organisation wishing to extend the period of research contemplated in regulation 10, must submit a request for approval by the Committee to –

- (a) the Chairperson of the Committee at the address provided in regulation 14;
- (b) the head of the relevant health care establishment where the extended research, if approved, is to be conducted; and
- (c) the Head of Department, if he or she is not the Chairperson.

(2) The request contemplated in subregulation (1) must be in writing.

(3) Where a researcher wishes to extend a study to other sites the provisions of subregulation (1), read with subregulation (2), apply, with the necessary changes.

(4) The request to extend a study to other sites as contemplated in subregulation (3) must be accompanied by a letter of support from the management of the site.

(5) The Committee must, within 30 days of lodgement of the written request contemplated in subregulation (1), read with subregulation (2), decide whether the study can be extended.

(6) In deciding whether the study contemplated in subregulation (3) can be extended, the Committee must take into account other research being conducted at the same time.

#### **Address of Committee**

**14.** For the purposes of these regulations the address of the Committee is –

Health Research and Knowledge Management  
10th Floor, Room 102, South Tower  
330 Langalibalele Street  
Natalia Building  
Pietermaritzburg  
3201

Tel.: (033) 395 3189/2805/3123  
Facsimile: (033) 394 3782/086 695 4533  
Email: [hrkm@kznhealth.gov.za](mailto:hrkm@kznhealth.gov.za)

#### **Short title**

**15.** These regulations are called the KwaZulu-Natal Provincial Health Research and Ethics Committee Regulations, 2012.

**No. 128****9 November 2012****KWAZULU-NATAL DEPARTEMENT VAN GESONDHEID****KWAZULU-NATAL PROVINSIALE REGULASIES OP GESONDHEIDSNVORSING- EN ETIEKKOMITEE, 2012**

Ek maak hiermee die regulasies soos vervat in die meegaande Bylae, kragtens artikel 74(1)(b) van die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009), ten einde die KwaZulu-Natal Provinsiale Gesondheidsnavorsing- en Etiekkomitee te reguleer.

Gegee onder my Hand te Pietermaritzburg hierdie **4th** dag van **July**, Tweeduisend-en-twaalf.

**DR SM DHLOMO**

Lid van die Uitvoerende Raad van die Provinsie van KwaZulu-Natal  
verantwoordelik vir Gesondheid

## BYLAE

### Omskrywings

1. In hierdie Regulasies, beteken "die Wet " die KwaZulu-Natal Wet op Gesondheid, 2009 (Wet No. 1 van 2009) en enige woord of uitdrukking waaraan 'n betekenis in die Wet geheg is, dra die betekenis aldus daaraan geheg en, tensy uit die samehang anders blyk, beteken –

**"Komitee"** die KwaZulu-Natal Provinsiale Gesondheidsnavorsing- en Etiekkomitee ingestel ingevolge artikel 9 van die Wet;

**"kwesbare deelnemers"** kinders, swanger en borsvoedende moeders, persone met geestessiektes of fisiese gestremdhede, behoeftige persone, lede van gemeenskappe nie vertrouwd met mediese beginsels nie en persone met beperkte vryheid, soos gevangenes; en

**Voorsitter"** die Voorsitter van die Komitee.

### Pligte van Komitee

2.(1) Die Komitee moet navorsingsvoorstelle en protokolle vir gesondheidsnavorsingsprojekte vir alle gesondheidsnavorsingsprojekte oor menselike subjekte goedkeur wat binne die Provinsie onderneem word, met die bedoeling om die beskerming van die waardigheid, regte, veiligheid en welstand van alle menslike deelnemers te verseker, in die besonder kwesbare deelnemers, teen gesondheidsverwante navorsing wat onderneem word.

(2) Die Komitee moet al sy funksies verrig in ooreenstemming met die Navorsingsetiekriglyne uitgevaardig deur die Nasionale Departement van Gesondheid soos bedoel in artikel 72(6)(a) van die Wet op Nasionale Gesondheid, 2003 (Wet No. 61 van 2003).

(3) Ten einde die Komitee in staat te stel om die funksies bedoel in artikel 11 van die Wet te verrig, mag die Komitee –

(a) enige redelike maatreëls toepas om nakoming van sy riglyne, wat voortspruit uit sy funksies in die Wet, te verseker;

(b) enige persoon gelas om die gesondheidsnavorsingsprotokol te wysig of om gesondheidsnavorsingsprojekte wat uitgevoer word teenstrydig met sy riglyne te staak; en

(c) enige ander inligting versoek wat hy nodig mag ag in die uitvoer van sy funksies.

(4) Die Komitee moet alle aansoeke ontvang in veilige bewaring plaas.

(5) Die Komitee mag betrokke wees by tersaaklike organisasies, liggame of individue wat gemoeid is met navorsing op die Provinsiale prioriteite ten opsigte van gesondheidsnavorsing en hulle ook adviseer.

(6) Die Komitee mag die verantwoordelike Lid van die Uitvoerende Raad adviseer oor navorsingsvoorstelle voorgelê aan die Komitee.



**Aanstelling van Lede op Komitee**

3.(1) Die Komitee moet bestaan uit lede soos uiteengesit in artikel 10 van die Wet.

(2) Lede word aangestel deur die verantwoordelike Lid van die Uitvoerende Raad na oorlegpleging met die hoofde van die onderskeidelike instellings, organisasies of entiteite verwys na in artikel 10(1)(c) tot (i) en artikel 10(2) van die Wet.

**Ampstermyn van Lede van Komitee**

4. 'n Lid van die Komitee beklee die amp vir 'n periode wat nie langer is as vyf jaar nie.

**Beëindiging van lidmaatskap van die Komitee**

5. 'n Lid se lidmaatskap van die Komitee word beëindig op enige van die volgende gronde –

- (a) onvermoë om die funksies van sy of haar amp te uit te voer;
- (b) sy of haar boedel is gesekwestreer of hy of sy het 'n kompromie aangegaan met die krediteure van sy of haar boedel betreffende 'n afkoopsom;
- (c) wangedrag;
- (d) afwesigheid van meer as twee opeenvolgende vergaderings van die Komitee sonder toestemming van die Komitee;
- (e) skriftelike bedanking;
- (f) hy of sy besit nie langer 'n kwalifikasie of beklee 'n amp wat noodsaaklik is vir sy of haar aanstelling op die Komitee nie;
- (g) hy of sy nie langer 'n Suid-Afrikaanse burger is nie;
- (h) hy of sy 'n geestesgesondheidsorg-gebruiker word, soos omskryf in artikel 1 van die Wet op Geestesgesondheidsorg, 2002 (Wet No. 17 van 2002);
- (i) hy of sy is skuldig bevind aan 'n kriminele oortreding wat bedrog, wanvoorstelling of enige ander skending van vertroue insluit;
- (j) hy of sy is skuldig bevind aan 'n misdryf ten opsigte waarvan hy of sy tot gevangenisstraf gevonnissen is sonder die opsie van 'n boete;
- (k) die verantwoordelike lid van die Uitvoerende Raad, in openbare belang en vir regverdige beweegredes, en na oorlegpleging met die lid, sy of haar aanstelling tot die Komitee beëindig; of
- (l) die dood van die lid.

**Vul van vakatures**

6. Wanneer 'n vakature op die Komitee ontstaan onder omstandighede soos bedoel in regulasie 5, moet die verantwoordelike Lid van die Uitvoerende Komitee, onderhewig aan die bepalings van regulasie 3, 'n persoon aanstel om die vakature te vul vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek sodanige persoon aangestel is.

**Vergaderings van die Komitee**

7.(1) Die eerste vergadering van die komitee moet gehou word so gou as moontlik na die aanstelling van sy lede, op 'n tyd en plek soos bepaal deur die Hoof van die Departement en alle daaropvolgende vergaderings moet gehou word soos bepaal deur die Voorsitter.

(2) 'n Spesiale vergadering van die Komitee –

(a) mag te enige tyd deur die Voorsitter belê word; of

(b) moet deur die Voorsitter belê word op sodanige tyd, plek en datum soos hy of sy mag bepaal en binne 30 dae na ontvangs van 'n skriftelike versoek deur die Voorsitter of 'n skriftelike versoek onderteken deur minstens 'n derde van die lede.

(3) 'n Skriftelike versoek bedoel in subregulasie (2) moet die doel waarvoor die vergadering belê word duidelik uiteensit.

**Kworum, prosedure van vergaderings en besluitneming**

8.(1) 'n Kworum van enige vergadering van die Komitee bestaan uit een helfte van die totale getal lede plus een.

(2) Die Komitee moet die prosedure bepaal wat by sy vergaderings gevolg moet word.

(3) Die Komitee moet, tydens sy eerste vergadering, 'n Ondervoorsitter verkies.

(4) By alle vergaderings van die Komitee moet die Voorsitter of, in sy of haar afwesigheid, die Ondervoorsitter voorsit.

(5) Die besluit van die meerderheid van die Lede van die Komitee teenwoordig by enige vergadering van die Komitee vorm die besluit van die Komitee en, in die geval van 'n staking van stemme, moet die persoon wat by die betrokke vergadering voorsit 'n beslissende stem hê, bykomend tot sy of haar beraadslagende stem.

(6) Ex officio-lede, soos bedoel in artikel 10(1)(b) en (i) van die Wet, het nie stemreg op enige saak waaroor daar van die Komitee vereis word om 'n besluit te neem nie.

(7) Die Komitee mag enige persoon koöpteer om sy beraadslagings oor enige saak by te woon en daaraan deel te neem, maar sodanige persoon mag nie stem oor enige aangeleentheid nie.

(8) 'n Besluit geneem deur die Komitee of 'n handeling uitgevoer onder die gesag van die Komitee is nie ongeldig nie bloot op grond van –

(a) 'n tussentydse vakature op die Komitee; of

(b) 'n persoon wat foutiewelik aangestel is ingevolge die vereistes bedoel in artikel 10 van die Wet.

- (9)(a) 'n Lid van die Komitee wat enige belang het, hetsy direk of indirek, by enige aangeleentheid wat oorweeg word of wat oorweeg sal word deur die Komitee, moet die aard van sy of haar belang openbaar maak aan die Komitee;
- (b) Die openbaarmaking bedoel in paragraaf (a) moet genotuleer word; en
- (c) Die Lid moet deur die Voorsitter onttrek word en mag nie teenwoordig wees tydens, of deelneem aan, enige beraadslaging of besluit van die Komitee met betrekking tot daardie aangeleentheid nie.

### **Pligte van Voorsitter**

#### **9. Die Voorsitter van die Komitee moet –**

- (a) verseker dat alle navorsing verwys na die Komitee voltooi word binne die tydraamwerk uiteengesit in die voorlegging;
- (b) verseker dat elke Lid van die Komitee se gedrag van so 'n aard is dat dit betaamlik is vir die status van die Komitee;
- (c) indien die Voorsitter die Hoof van die Departement is, met die verantwoordelike Lid van die Uitvoerende Raad skakel of adviseer oor aangeleenthede betreffende die Komitee;
- (d) indien die Hoof van die Departement nie die Voorsitter is nie, moet die genomineerde verteenwoordiger, in oorleg met die Hoof van die Departement, met die verantwoordelike Lid van die Uitvoerende Raad skakel of adviseer oor aangeleenthede betreffende die Komitee;
- (e) in die algemeen verseker dat die Komitee –
- (i) sy funksies verrig;
  - (ii) voldoen aan sy doelwitte ingevolge die Wet; en
  - (iii) voldoen aan die tersaaklike bepalings van die Wet.

### **Metode van verwysing van navorsingsvoorstelle, besluit op navorsingsvoorstelle**

**10.(1)** Enige persoon of organisasie wat van voorneme is om gesondheidsverwante navorsing te doen by enige openbare gesondheidsorginstelling moet 'n navorsingsvoorstel om goedkeuring deur die Komitee indien by –

- (a) die Voorsitter van die Komitee, by die adres voorsien in regulasie 14;
- (b) die hoof van die betrokke gesondheidsorginstelling waar die navorsing, indien goedgekeur, gedoen sal word, en
- (c) die Hoof van die Departement, indien hy of sy nie die Voorsitter is nie.

**(2)** Elke navorsingsvoorstel moet die volgende minimum inligting insluit –

- (a) die presiese aard van die navorsing;
- (b) die gesondheidsorginstelling of plek waar die navorsing gedoen sal word;
- (c) die waarskynlike impak van die navorsing op die normale bedryf van die betrokke gesondheidsorginstelling of plek;
- (d) die waarskynlike impak van die navorsing op die stand van deelnemers aan die navorsing of gesondheidsorggebruikers wat gebruik maak van die spesifieke gesondheidsorginstelling;
- (e) enige negatiewe of ongewenste gevolge wat voortspruit uit die uitvoer van die navorsing; en
- (f) 'n plan vir 'n projek wat die verskeie stadiums van die navorsing en tydraamwerke vir elke stadium uiteensit en verduidelik.

(3) Bykomend tot die inligting bedoel in subregulasie (2) moet 'n navorsingsvoorstel vergesel gaan van 'n plan vir 'n navorsingsprojek insluitend –

- (a) inligting oor die studie;
- (b) die titel van die studie en hoofondersoekbeamptes asook 'n samevatting of opsomming van die studie;
- (c) die motivering vir die uitvoer van die studie, insluitend die oogmerk, doelwit of doelstellings van die studie;
- (d) die aangewese navorsingsterrein;
- (e) metodologie van die studie;
- (f) die ontwerp van die studie, studiepopulasie, steekproefneming en loodsterreine vir navorsing, indien van toepassing;
- (g) metodes vir versameling van data;
- (h) instrumente en analise van data;
- (i) etiese oorwegings;
- (j) 'n voorstel vir terugvoer en 'n meganisme vir disseminasie-van-bevindings;
- (k) 'n begroting en menslike hulpbrontoewysings;
- (l) verskeie stadiums waarbinne die navorsing voltooi sal word;
- (m) verwysings en bylaes, en
- (n) 'n brief van voorlopige toestemming deur fasiliteite, hangende goedkeuring deur die Komitee.

(4) Alle navorsingsvoorstelle moet aan die Komitee voorgelê word op die wyse uiteengesit in die KwaZulu-Natal Gesondheidsnavorsing- en Etiese Beleid uitgevaardig deur die KwaZulu-Natal Departement van Gesondheid.

(5) Die Komitee moet, binne 30 dae vanaf ontvangs van enige navorsingsvoorstel –

- (a) die navorsingsvoorstel goedkeur;
- (b) die navorsingsvoorstel afkeur; of
- (c) die navorsingsvoorstel goedkeur, met voorwaardes; en
- (d) die navorser skriftelik in kennis stel van die besluit, asook die redes vir die besluit verskaf.

(6) Indien die Komitee die navorsingsvoorstel bedoel in subregulasie (1) afgekeur het, mag die aansoeker, binne die tydraamwerk bedoel in artikel 67(1) van die Wet, 'n kennisgewing van voorneme om te appelleer teen die besluit van die Komitee indien by die verantwoordelike Lid van die Uitvoerende Raad.

(7) Die bepalinge van artikel 67 van die Wet is van toepassing, met die nodige veranderings, betreffende die prosedure wat gevolg moet word deur die aansoeker bedoel in subregulasie (6).

(8) Wanneer enige voorstel oorweeg word, moet die Komitee die onderwerp van die navorsingsvoorstel behoorlik in ag neem, asook enige toepaslike nasionale of provinsiale gesondheidsbeleid en wetgewing wat 'n impak mag hê op die onderwerp van navorsing van die navorsingsvoorstel.

**Navorsingsbevindings**

11.(1) 'n Verslag wat bevindings van 'n navorsingsvoorstel, bedoel in regulasie 10, bevat moet binne 30 dae vanaf die finalisering daarvan, ingedien word by –

- (a) die Voorsitter van die Komitee, by die adres voorsien in regulasie 14;
- (b) die hoof van die betrokke gesondheidsorginstelling waar die navorsing, indien goedgekeur, gedoen sal word, en
- (c) die Hoof van die Departement, indien hy of sy nie die Voorsitter is nie, vir beskouing en finale goedkeuring soos bedoel in artikel 11(1) van die Wet.

(2) Die verslag bedoel in subregulasie (1) moet die volgende minimum inligting insluit –

- (a) die bevindings;
- (b) die gesondheidsorginstelling of plek waar die navorsing gedoen was;
- (c) die waarskynlike impak van die navorsing op die bevordering van gesondheid en provinsiale prioriteite ten opsigte van gesondheidsnavorsing;
- (d) die graad van die navorsingsimpak op die stand van die navorsingsdeelnemers of gesondheidsorgsgebruikers wat gebruik maak van die spesifieke gesondheidsorginstelling;
- (e) enige negatiewe of ongewenste gevolge wat voortgespruit het uit die uitvoer van die navorsing; en
- (f) enige uitdagings ondervind tydens die verskeie fases van die navorsing.

(3) Die bevindinge van die verslag bedoel in subregulasie (2) mag gebruik word deur die Departement vir beplanning en besluitneming.

(4) Die Hoof van die Departement moet verseker dat 'n drukstuk van die verslag bedoel in subregulasie (1) in die Departementele biblioteek gehou word vir toekomstige gebruik deur die Komitee en die Departement.

(5) 'n Elektroniese afskrif van die verslag bedoel in subregulasie (1) mag, onderhewig aan die navorser se toestemming, gepubliseer word op die Departementele webwerf vir gebruik deur die Komitee en die Departement vir beplanning en besluitneming.

**Kliniese proefnemings**

12.(1) Enige persoon of organisasie wat van voorneme is om 'n kliniese proefneming uit te voer moet 'n kliniese proefnemingsvoorstel voorlê, vir goedkeuring deur die Komitee, aan die Hoof van die Departement.

(2) Elke kliniese proefnemingsvoorstel moet minstens die volgende inligting bevat –

- (a) die presiese aard van die kliniese proefneming;
- (b) die aansoeker se naam, hetsy 'n farmaseutiese maatskappy of 'n agent;
- (c) die waarskynlike impak van die kliniese proefneming op die deelnemers;
- (d) goedkeuring van die eksperimentele medisyne deur die Medisynebeheerraad;

- (e) enige negatiewe en ongewenste gevolge wat voortspruit uit die uitvoering van die kliniese proefnemings;
- (f) bewys van versekering wat onvoorsiene gebeure sal dek tydens die proefnemings; en
- (g) die voltooide aansoekvorm om 'n kliniese proefneming uit te voer, verkrygbaar by die Departement.

(3) Die voorstel bedoel in subregulasie (1) kan per hand afgelewer word, gestuur word per pos, koerier, e-pos of gefaks word aan die Departement.

(4) By ontvangs van die voorstel bedoel in subregulasie (1), moet die Departement –

- (a) 'n unieke identifikasienommer toeken;
- (b) seker maak van die beskikbaarheid van alle dokumente en inligting soos vereis;
- (c) indien dit 'n kliniese proefneming is, die studieprotokol aan die Ontwikkeling van Farmaseutiese Stelsels stuur vir tegniese evaluering; en
- (d) die voorstel analiseer en aanbevelings aan die Komitee maak.

(5) Die Komitee moet, binne 60 dae vanaf die indien van die aansoek, 'n finale besluit neem en die dokumente terugbesorg aan die Departement vir rekordhouding.

#### **Verlengings van navorsingstydperk**

13.(1) 'n Persoon of organisasie wat verlang om die tydperk vir navorsing bedoel in regulasie 10 te verleng, moet 'n versoek om goedkeuring deur die Komitee indien by –

- (a) die Voorsitter van die Komitee, by die adres voorsien in regulasie 14;
- (b) die hoof van die betrokke gesondheidsorginstelling waar die verlengde navorsing, indien goedgekeur, uitgevoer sal word, en
- (c) die Hoof van die Departement, indien hy of sy nie die Voorsitter is nie.

(2) Die versoek bedoel in subregulasie (1) moet skriftelik wees.

(3) Indien 'n navorser 'n studie wil uitbrei na ander terreine, is die bepaling van subregulasie (1), saamgelees met subregulasie (2), van toepassing, met die nodige veranderinge.

(4) Die versoek om 'n studie uit te brei na ander terreine, soos bedoel in subregulasie (3), moet vergesel gaan van 'n brief vanaf die bestuur van die perseel ten effekte dat dit die versoek ondersteun.

(5) Die Komitee moet, binne 30 dae vanaf die indiening van die skriftelike versoek bedoel in subregulasie (1), saamgelees met subregulasie (2), beslis of die studie verleng of uitgebrei kan word.

(6) Die Komitee moet ander navorsing wat terselfdertyd plaasvind in ag neem wanneer die beslissing oorweeg word dat die studie, bedoel in subregulasie (3), uitgebrei kan word.

**Adres van Komitee**

14. Vir die doeleindes van hierdie regulasies is die adres van die Komitee –

Gesondheidsnavorsing en Kennisbestuur  
10de Vloer, Kamer 102, Suid-toring  
Langalibalelestraat 330  
Nataliagebou  
Pietermaritzburg  
3201

Tel: (033) 395 3189/2805/3123  
Faksimilee: (033) 394 3782/086 695 4533  
Epos: [hrkm@kznhealth.gov.za](mailto:hrkm@kznhealth.gov.za)

**Kort titel**

15. Hierdie regulasies word die KwaZulu-Natal Regulasies op Gesondheidsnavorsing- en Etiekkomitee, 2012 genoem.

**No. 128****9 kuLwezi 2012****UMNYANGO WEZEMPILO WAKWAZULU-NATALI****IMITHETHONQUBO YEKOMIDI LEZOCWANINGO NEZINQUBO ZEZEEMPILO LESIFUNDAZWE SAKWAZULU-NATALI, 2012**

Ngalokhu ngisungula iMithethonqubo equkethwe oHlelweni olungezansi, ngokwesigaba 74(1)(b) soMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), ukuze kulawulwe iKomidi lezoCwaningo neziNqubo zezeMpilo lesiFundazwe saKwaZulu-Natali.

Sikhishwe ngaphansi kwesandla sami eMgungundlovu ngalolu suku mhla zi 4<sup>th</sup> ku July oNyakeni weziNkulungwane eziMbili neShumi naMbili.

**DKT. SM DHLOMO**

iLungu loMkhandlu oPhethe esiFundazweni saKwaZulu-Natali  
elibhekele ezeMpilo



## UHLELO

### Izincazelo

1. Kule Mithethonqubo, “uMthetho” kushiwo uMthetho wezeMpilo waKwaZulu-Natali, 2009 (uMthetho No. 1 ka 2009), futhi noma iliphi igama noma isisho esincazelo yaso ikhona eMthethweni sinaleyo ncazelo esinikezwe yona, ngaphandle uma ingqikithi isho okwehlukile –

“**uSihlalo**” kushiwo uSihlalo weKomidi;

“**iKomidi**” kushiwo iKomidi lezoCwaningo neziNqubo zezeMpilo lesiFundazwe saKwaZulu-Natali elisungulwe ngokwesigaba 9 soMthetho; futhi

“**ababuthaka ababambe iqhaza**” kushiwo izingane, abesifazane abakhulelwe nabancelisayo, abantu abagula ngengqondo noma abakhubazekile emzimbeni, abantu abahlwempu, abantu emphakathini abangakwejwayele ukwelashwa odokotela nabantu abenqatshelwe inkululeko njengeziboshwa.

### Imisebenzi yeKomidi

2.(1) IKomidi kumele ligunyaze izicelo zocwaningo nezinqubo zayo yonke imiklamo yocwaningo okusetshenziswa kuyona abantu eyenziwa esiFundazweni, ngezinhloso zokuqinisekisa ukuvikelwa kwesithunzi, kwamalungelo, kwezokuphepha nenhlalalakahle yabo bonke abantu ababambe iqhaza, ikakhulukazi abantu ababuthaka, kulolo cwaningo lwezempilo olwenziwayo.

(2) IKomidi kumele lenze yonke imisebenzi yalo ngokuhambisana nemikhombandlela yemigomo yezoCwaningo ekhishwe uMnyango wezeMpilo kaZwelonke njengoba kuhlongozwe esigabeni 72(6)(a) soMthetho wezeMpilo kaZwelonke.

(3) Ukuze iKomidi likwazi ukwenza imisebenzi yalo ehlongozwe esigabeni 11 soMthetho, iKomidi –

- (a) lingasebenzisa noma iziphi izindlela ezifanele ukuqinisekisa ukuthi liyayilandela imiyalelo evela emisebenzini yalo eseMthethweni;
- (b) lingayalela noma imuphi umuntu ukuba aphucule izinqubo zocwaningo lwezempilo noma ukuba amise imiklamo yocwaningo lwezempilo eyenziwe ngokushayisana nemiyalelo yalo; futhi
- (c) lingacela noma iluphi olunye ulwazi elilubona lufanele ukuze lenze imisebenzi yalo.

(4) IKomidi kumele ligcine kahle zonke izicelo ezitholakele.

(5) IKomidi lingabonisana futhi leluleke izinhlangano, imigwamanda noma abantu abathintekayo ocwaningweni, mayelana nezinto ezidingwa isifundazwe eziphathelene nocwaningo lwezempilo.

(6) IKomidi lingazisa iLungu loMkhandlu oPhethe mayelana nezicelo zokwenza ucwaningo ezitholwa yiKomidi.

**Ukuqokwa kwamalungu eKomidi**

3.(1) IKomidi kumele lakhiwe amalungu njengoba kubekwe esigabeni 10 soMthetho.

(2) Amalungu aqokwa iLungu loMkhandlu oPhethe ngemuva kokubonisana nezinhloko zezikhungo, zezinhlango noma zamabhizinisi ngokuhlukana kwawo okukhulunywe ngawo esigabeni 10(1)(c) kuya ku (i) nesigaba 10(2) soMthetho.

**Isikhathi sokuba sesikhundleni samalungu eKomidi**

4. Ilungu leKomidi liqokelwa esikhundleni isikhathi ezingeqile eminyakeni emihlanu.

**Ukunqanyulwa kobulungu eKomidini**

5. Ilungu liyashiya eKomidi ngenxa yesinye salezi zizathu ezilandelayo:

- (a) uma lehluleka ukwenza imisebenzi yesikhundla salo;
- (b) uma lidlelwe impahla noma lingene esivumelwaneni sokubanjelwa impahla nabantu elibakweletayo;
- (c) uma liziphatha budlabha;
- (d) uma liphutha emihlanganweni engaphezu kwemibili elandelayo yeKomidi ngaphandle kokuthola imvume yokuphutha eKomidini;
- (e) uma lesula ngenchwadi;
- (f) uma lingasafanekile ukuba sesikhundleni seKomidi eliqokelwe kusona;
- (g) uma lingasesona isakhamuzi saseNingizimu Afrika;
- (h) uma ligula ngengqondo njengoba kuchazwe esigabeni 1 soMthetho wabaGula ngeNgqondo, 2002 (uMthetho No. 17 ka 2002);
- (i) uma litholakale necala elibandakanya ukukhwabanisa, ukuqamba amanga noma ukungathembeki;
- (j) uma litholakale necala lagwetshwa isigwebo sokubhadla ejele ngaphandle kokubonelelwa ngenhlawulo;
- (k) uma iLungu loMkhandlu oPhethe, ngokuzwelana nomphakathi nangesizathu esifanele, ngemuva kokubonisana nelungu, limisa ukuqokwa kwalo eKomidini; noma
- (l) uma ilungu lishona.

**Ukugcwaliswa kwezikhala**

6. Noma nini uma kuvela isikhala eKomidini ngenxa yezimo ezibalulwe kumthethonqubo 5, iLungu loMkhandlu oPhethe kumele, kuncike ezinhlinzekweni zomthethonqubo 3, liqoke umuntu ozogcwalisa isikhala leso sikhathi ebesisasele salelo lungu elishiyile.

**Imihlangano yeKomidi**

7.(1) Umhlangano wokuqala weKomidi kumele ubanjwe ngokushesha ngemuva kokuba kuqokwe amalungu alo, ngesikhathi nasendaweni enqunywe yiNhlolo yoMnyango futhi yonke imihlangano elandelayo kumele ibanjwe njengokunquma kukaSihlalo.

(2) Umhlangano ophuthumayo weKomidi –

(a) ungabizwa uSihlalo noma nini; noma

(b) ungabizwa uSihlalo kuleyo ndawo nesikhathi nosuku angalunquma, ezinsukwini ezingama-30 ethole isicelo esibhalwe phansi uSihlalo noma ngesicelo esibhalwe phansi sasayinwa amalungu ayingxenye eyodwa kokuthathu awo wonke amalungu.

(3) Isicelo esibhalwe phansi ngokwesigatshana somthethonqubo (2) kumele sibeke izizathu zokubizwa kwalowo mhlangano.

**Isibalo sabangabamba umhlangano, inqubo yemihlangano kanye nokuthathwa kwezinqumo**

**8.(1)** Isibalo sabangabamba umhlangano weKomidi yingxenye eyodwa yesibalo esiphelele samalungu ekomidi nelungu elilodwa ngaphezulu.

(2) IKomidi kumele linqume inqubo okumele ilandelwe emihlanganweni yalo.

(3) IKomidi kumele emhlanganweni wokuqala likhethe isekela likaSihlalo.

(4) Kuyona yonke imihlangano yeKomidi, uSihlalo noma, uma engekho, isekela likaSihlalo kumele lengamele.

(5) Isinqumo seningi lamalungu eKomidi akhona kunoma imuphi umhlangano obanjiwe kuyoba yisona sinqumo seKomidi, futhi uma kuba nokulingana kwamavoti, umuntu owengamele kulowo mhlangano uyokuba nevoti elingujuqu ngaphezu kwevoti lakhe elisemthethweni.

(6) Amalungu engeziwe njengoba kuhlongozwe esigabeni 10(1)(b) no (i) soMthetho, awanawo amalungelo okuvota kunoma iluphi udaba okumele iKomidi lithathe kulo isinqumo.

(7) IKomidi lingamema noma imuphi umuntu ukuba ethamele futhi abambe iqhaza ezingxoxweni zalo nganoma iluphi udaba kodwa lowo muntu angeke avote kunoma iluphi udaba.

(8) Isinqumo esithathwe iKomidi noma isenzo esenziwe ngokwemvume yeKomidi angeke sithathwe njengesingekho emthethweni ngezizathu sokuthi –

(a) kunesikhala esingakagcwaliswa eKomidini; noma

(b) umuntu othile uqokwe ngephutha ngokwezidingo ezihlongozwe esigabeni 10 soMthetho.

(9)(a) Ilungu leKomidi, elithinteka ngqo noma ngandlela thile kunoma iluphi udaba oludingidwa iKomidi, kumele lidalule lokho kuthinteka kwalo kwiKomidi.

(b) Ukudalula okuhlongozwe endimeni (a) kumele kuqoshwe kumaminithi omhlangano.

(c) Ilungu elihlongozwe endimeni (a) kumele lihoxiswe uSihlalo emhlanganweni, futhi akumele libe khona noma libambe iqhaza kunoma iziphi izingxoxo noma izinqumo zeKomidi mayelana nalolo daba.

**Imisebenzi kaSihlalo****9.(1) USihlalo weKomidi kumele –**

- (a) aqinisekise ukuthi lonke ucwaningo oludluliselwe eKomidini luphothulwa ngesikhathi esinqunyiwe esibalulwe esicelweni;
- (b) aqinisekise ukuthi wonke amalungu eKomidi aziphatha ngendlela ehlonipha isithunzi seKomidi;
- (c) uma uSihlalo kuyiNhlolo yoMnyango, abonisane noma azise iLungu loMkhandlu oPhethe ngezinto ezithinta iKomidi;
- (d) uma iNhlolo yoMnyango ingeyena uSihlalo, lowo muntu oqokiwe ngokubambisana nenhlolo yoMnyango kumele babonise noma bazise iLungu loMkhandlu oPhethe ngezinto ezithinta iKomidi; futhi
- (e) aqinisekise ukuthi iKomidi –
  - (i) lenza imisebenzi yalo;
  - (ii) lifezekisa izinjongo zalo ngokoMthetho; futhi
  - (iii) liyahambisana nezinhlinzeko zoMthetho.

**Indlela yokudlulisa izicelo zocwaningo, izinqumo mayelana nezicelo zocwaningo**

**10.(1)** Noma imuphi umuntu noma inhlango ehlose ukuqhuba ucwaningo oluhlobene nezempilo kunoma isiphi isikhungo sezempilo sikahulumeni, kumele ifake isicelo sokwenza ucwaningo ukuze sigunyazwe yiKomidi –

- (a) kuSihlalo weKomidi ekhelini elihlinzekiwe kumthethonqubo 14;
- (b) kwiNhlolo yaleso sikhungo sezempilo lapho ucwaningo, uma lugunyaziwe, luzokwenziwa khona;
- (c) nakwiNhlolo yoMnyango, uma ingesiyena uSihlalo.

(2) Isicelo ngasinye kumele siqukathe okungenani lolu lwazi olulandelayo:

- (a) uhlobo locwaningo;
- (b) isikhungo sezempilo noma indawo lapho kuzokwenziwa khona ucwaningo;
- (c) umthelela ongase ube khona wocwaningo ekusebenzeni okwejawlekile kwaleso sikhungo sezempilo noma kwaleyo ndawo;
- (d) umthelela ongase ube khona wocwaningo esimweni salabo ababambe iqhaza noma kwabasebenzisa isikhungo sezempilo uma besebenzisa lesa sikhungo sezempilo;
- (e) noma iziphi izimo ezingezinhle noma ezingadingekile ezingaqhamuka uma kwenziwa ucwaningo; kanye
- (f) nepulani yocwaningo eveza futhi echaza izigaba zocwaningo ngokuhlukana kwazo kanjalo nesikhathi sesigaba ngasinye.

(3) Ngaphezu kolwazi oluhlongozwe kwisigatshana somthethonqubo (2), isicelo socwaningo kumele sihambisane nepulani yocwaningo equkethe –

- (a) ulwazi ngocwaningo;
- (b) isihloko socwaningo kanye nabacwaningi abayinhloko, namanqampunqampu mayelana nocwaningo;

- (c) izincomo ngokwenziwa kocwaningo, kubandakanya inhloso, injongo kanye nokuphokophelwe mayelana nocwaningo;
- (d) indawo eqokiwe okuzokwenziwa kuyo ucwaningo;
- (e) amasu azosetshenziswa ukwenza ucwaningo;
- (f) ukuma kocwaningo, abantu abazosetshenziswa, amasampula, kanye nezindawo okuzohlolwa kuzo ucwaningo, uma kukhona;
- (g) izindlela zokuqoqa ulwazi;
- (h) imishini ezosetshenziswa kanye nokucutshungulwa kwemininingwane;
- (i) ukuhlonishwa kwemigomo;
- (j) isicelo mayelana nohlelo lokudalula okutholakele kanye nokusabalalisa imiphumela;
- (k) isabelomali kanye nabasebenzi abakhona;
- (l) izigaba okuzodlulwa kuzo kuze kuphothulwe ucwaningo;
- (m) izinkomba kanye nezithasiselo; kanye
- (n) nencwadi yokugunyazwa kuqala yisikhungo ngaphambi kokuba kugunyaze iKomidi.

(4) Zonke izicelo zocwaningo kumele zithunyelwe eKomidini ngendlela ebekwe kwiNqubomgomo yezoCwaningo neziNqubo zezeMpilo yesiFundazwe saKwaZulu-Natali ekhishwe uMnyango wezeMpilo waKwaZulu-Natali.

(5) iKomidi kumele, ezinsukwini ezingama-30 lithole isicelo sokwenza ucwaningo –

- (a) ligunyaze isicelo socwaningo;
- (b) lichithe isicelo socwaningo; noma
- (c) ligunyaze isicelo socwaningo nemibandela ethile; futhi
- (d) lazise umcwaningi ngencwadi ngesinqumo salo nezizathu zesinqumo salo.

(6) Uma iKomidi lisichithile isicelo sokwenza ucwaningo njengoba kuhlongozwe kwisigatshana somthethonqubo (1), umfakisicelo, ngesikhathi esinqunyiwe njengoba kuhlongozwe esigabeni 67(1) soMthetho, angafaka isaziso senhloso yokukhalaza ngesinqumo seKomidi, kwiLungu leKomidi elikhulu elibhekele lokho.

(7) Izinhlinzeko zesigaba 67 soMthetho zisebenza nezinguquko ezidingekayo mayelana nenqubo elandelwa umfakisicelo ehlongozwe kwisigatshana somthethonqubo (6).

(8) Uma selicubungula isicelo socwaningo, iKomidi kumele libhekelele lokho okuhlosiwe ngesicelo socwaningo, kanjalo nezinqubomgomo nemithetho kazwelonke neyesifundazwe esebenzayo engaba nomthelela ekunqumeni mayelana nesicelo socwaningo.

### **Imiphumela yocwaningo**

**11.(1)** Umbiko oqukethe umphumela wesicelo socwaningo ohlongozwe kumthethonqubo 10 kumele, ezinsukwini ezingama-30 uphothuliwe, uthunyelwe –

- (a) kuSihlalo weKomidi ekhelini elihlinzekwe kumthethonqubo 14;
- (b) kwiNhloko yaleso sikhungo sezempilo lapho kuzokwenziwa khona ucwaningo, uma kugunyaziwe; kanye
- (c) nakwiNhloko yoMnyango, uma ingesiyena uSihlalo,

ukuze ubuyekwezwe futhi kukhishwe imvume yokucina njengoba kulongozwe esigabeni 11(1) soMthetho.

(2) Umbiko ohlongozwe kwisigatshana somthethonqubo (1) kumele uqukathe, okungenani le mininingwane elandelayo –

- (a) okutholakele;
- (b) isikhungo sezempilo noma indawo lapho kwenziwe khona ucwaningo;
- (c) umthelela ongaba khona wocwaningo ukugqugquzela ezempilo kanye nezinhloso zesifundazwe mayelana nokwenziwa kocwaningo lwezempilo;
- (d) izinga lomthelela wocwaningo esimweni salabo ababambe iqhaza ocwaningweni noma kulabo abasebenzisa lesi sikhungo sezempilo;
- (e) noma imiphi imiphumela engemihle nengadingekile eqhamukile ngesikhathi kwenziwa ucwaningo; kanye
- (f) nanoma iziphi izinselelo okuhlangatshezwene nazo emazingeni ehlukehlukene ocwaningo.

(3) Umbiko wemiphumela ohlongozwe kwisigatshana somthethonqubo (2) ungasetshenziswa umnyango ukuhlela nokuthatha izinqumo.

(4) INhloko yoMnyango kumele iqinisekise ukuthi kunekhophi eyiphepha yombiko ohlongozwe kwisigatshana somthethonqubo (1) egcinwe kumtapo wolwazi woMnyango ukuze isetshenziswe ngelinye ilanga yiKomidi kanye nomnyango ukuhlela nokuthatha izinqumo.

(5) Ikhophi egcinwe ngomshini yombiko ohlongozwe kwisigatshana somthethonqubo (1) kuncike kwimvume yoMchwani, ingashicilelwa kwiwebhusayithi yomnyango ukuze isetshenziswe yiKomidi kanye nomnyango ukuhlela nokuthatha izinqumo.

### **Ukuvivinywa kwamakhambi**

**12.(1)** Noma imuphi umuntu noma inhlango ehlose ukuvivinya amakhambi kumele ithumele isicelo sokuvivinya amakhambi ukuze sigunyazwe yiKomidi, kwiNhloko yoMnyango.

(2) Isicelo ngasinye sokuvivinya amakhambi kumele siqukathe, okungenani le mininingwane elandelayo –

- (a) uhlobo lokuvivinywa kwamakhambi okuzokwenziwa;
- (b) igama lomfakisisicelo, okungaba yinkampani yamakhambi okwelapha noma i-ejenti;
- (c) umthelela ongaba khona uma kuvivinywa amakhambi kwababambe iqhaza;
- (d) imvume yoMkhandlu oLawula ezokwelapha mayelana nokuvivinywa kwamakhambi;
- (e) imiphumela engemihle nengadingekile evelayo ngesikhathi kuvivinywa amakhambi;
- (f) ubufakazi bomshwalense wokuqapha izimo ezingalindelekile ngesikhathi kuvivinywa amakhambi; kanye
- (g) nefomu lesicelo sokuqhuba izivivinyo zamakhambi elitholakala eMnyangweni.

(3) Isicelo esihlongozwe kwisigatshana somthethonqubo (1) singahanjiswa ngesandla, singathunyelwa ngeposi noma ngekhoriya, nge-imeyili noma ngefeksi eMnyangweni.

- (4) Uma uthola isicelo esihlongozwe kwisigatshana somthethonqubo (1), uMnyango kumele –
- (a) usifake inombolo yaso ehlukile yokusihlonza;
  - (b) ubheke ukuthi ikhona yonke imibhalo neminingwane edingekayo;
  - (c) uma kuyizivivinyo zamakhambi, uhambise uhlelo lwezivivinyo oPhikweni lwezokuThuthukiswa kweziNhlelo zamaKhambi oKwelapha ukuze lucutshungulwe;
  - (d) uhlaziye isicelo bese wenza izincomo eKomidini.
- (5) IKomidi kumele ezinsukwini ezingama-60 kufakwe isicelo, lithathe isinqumo esingujuqu futhi libuyisele imibhalo eMnyangweni ukuze igcinwe kahle.

#### **Ukwelulelwa isikhathi sokwenza ucwaningo**

13.(1) Umuntu noma inhlango efa ukwelulelwa isikhathi sokwenza ucwaningo okuhlongozwe kumthethonqubo 10, kumele ithumele isicelo zokugunyazwa yiKomidi –

- (a) kuSihlalo weKomidi ekhelini elihlinzekwe kumthethonqubo 14;
- (b) kwiNhloko yesikhungo sezempilo esithintekayo lapho kuzokwenziwa khona ucwaningo olwelulelwe isikhathi, uma lugunyaziwe; kanye
- (c) nakwiNhloko yoMnyango, uma ingeyena uSihlalo.

(2) Isicelo okukhulunywe ngaso kwisigatshana somthethonqubo (1) kumele sibhalwe phansi.

(3) Uma umcwaningi efa ukwelulela ucwaningo kwenye indawo, izinhlinzeko zesigatshana somthethonqubo (1), zifundwa nesigatshana somthethonqubo (2) ziyosebenza, nezinguquko ezidingekayo.

(4) Isicelo sokwelulela ucwaningo kwenye indawo njengoba kuhlongozwe kwisigatshana somthethonqubo (3), kumele sihambisane nencwadi yokuseseka evela ehhovisi labaphathi.

(5) IKomidi kumele ezinsukwini ezingama-30 kufakwe isicelo esibhalwe phansi esihlongozwe kwisigatshana somthethonqubo (1) sifundwa nesigatshana somthethonqubo (2), lithathe isinqumo sokuthi lungelulwa yini ucwaningo.

(6) Uma selithatha isinqumo sokuthi lungelulwa yini ucwaningo okukhulunywe ngalo kwisigatshana somthethonqubo (3), iKomidi kumele libhekelele olunye ucwaningo olwenziwayo ngesikhathi esifanayo.

**Ikheli leKomidi****14. Ngokwezinhloso zale mithethonqubo, ikheli leKomidi yileli:**

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**Isihloko esifingqiwe**

**15. Le mithethonqubo ibizwa ngeMithethonqubo yeKomidi lezoCwaningo neziNqubo zezeMpilo yesiFundazwe saKwaZulu-Natali, 2012.**