



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette  
Extraordinary**

**Buitengewone  
Provinsiale Koerant**

**Isongezelelo  
kwiGazethi yePhondo**

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**INHOUD**

**IZIQULATHO**

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(\*Ushicilelo oLutsha lufumaneka kwigumbi M21, kwiSakhiwo sePhondo seNdlu yoWiso Mthetho, 7 Wale Street, eKapa 8001.)

**Provincial Notice**

The following Bill is hereby published for general information.

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Interested persons are invited to submit any substantiated comments or representations on the proposed amendments on/or before: 23 May 2012.

All comments must be addressed to:

(a) by posting it to:  
The Head of Department  
Department of Health  
P.O. Box 2060  
Cape Town  
(For attention: Mr K. Vili within one month of the date of publication of this notice)  
Telephone (021) 483 4001

(b) by e-mail to:  
Kholekile.vili@pgwc.gov.za

(c) By fax to:  
Mr K. Vili (021) 483 3205

Copies of the draft Bills and regulation are available on website: [www.westerncape.gov.za/treasury](http://www.westerncape.gov.za/treasury)

**Provinsiale Kennisgewing**

Die volgende Wetsontwerp word hierby gepubliseer vir algemene inligting.

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Belanghebbende persone word uitgenooi om enige gemotiveerde kommentaar of vertoë voor te lê in verband met die voorgestelde wysiging voor of op: 23 Mei 2012.

Alle kommentaar moet gerig word aan:

(a) Deur dit te pos aan:  
The Head of Department  
Department of Health  
Posbus 2060  
Kaapstad  
(Vir aandag: Mr. K Vili)  
Tel (021) 483 4401

(b) Deur e-pos aan:  
Kholekile.vili@pgwc.gov.za

(c) Deur dit te faks aan:  
mnr K. Vili (021) 483 3205

Afskrifte van die wysiging van die konsepwetsontwerpe en regulasie is beskikbaar op die volgende webtuiste: [www.westerncape.gov.za/treasury](http://www.westerncape.gov.za/treasury)

**Isibhengezo**

Lo Mthetho ulandelayo upapashelwa ulwazi oluphangaleleyo.

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Nabani na onqwenela ukuphawula ngalo Mthetho usaYilwayo kuthethwa ngawo uyacelwa ukuba afake izimvo zakhe ngokubhaliweyo: 23 Meyi 2012.

Zonke izimvomazithunyelwe ku:

(a) ngokuposela kwi:  
The Head of Department  
Department of Health  
P.O. Box 2060  
Cape Town  
(Attention: Mr K. Vili)  
Tel (021) 483 4401

(b) nge-imeyile ku:  
Kholekile.vili@pgwc.gov.za

(c) By fax to:  
Mr K. Vili (021) 483 3205

Iikopi zeMithetho esayilwayo kunye nemigaqo zifumaneka apha: [www.westerncape.gov.za/treasury](http://www.westerncape.gov.za/treasury)

**PROVINCIAL NOTICES**

The following Provincial Notices are published for general information.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWINGS**

Die volgende Provinsiale Kennisgewings word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale-gebou,  
Waalstraat,  
Kaapstad.

**ISIBHENGZO**

Ezi zaziso zilandelayo zipapashelwe ukunika ulwazi ngokubanzi.

ADV. B. GERBER,  
UMLA WULI-JIKELELE

iSakhiwo sePhondo,  
Wale Street,  
eKapa.

**PROVINCIAL NOTICE**

P.N. 86/2012

20 April 2012

**AMENDMENT BILL****WESTERN CAPE HEALTH FACILITY BOARDS AMENDMENT BILL, 2012****GENERAL EXPLANATORY NOTE**

[ ] Words in bold type and square brackets indicate omissions from existing enactments

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

**BILL**

To amend the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001), so as to regulate the manner in which the provincial Department of Health monitors the financial affairs of Health Facility Boards; to provide for a procedure that will ensure sound financial governance of the Boards; and to provide for matters connected therewith.

**B**E IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

**Amendment of section 1 of Act 7 of 2001**

1. Section 1 of the Western Cape Health Facility Boards Act, 2001 (the principal Act) is amended by inserting the following definition before the definition for “Board”:

“ **‘auditor’** means a person registered as an auditor in terms of the Auditing Professions Act, 2005 (Act 26 of 2005);”.

**Amendment of section 21 of Act 7 of 2001**

2. Section 21 of the principal Act is amended—

- (a) by the substitution for subsection (5) of the following subsection:

“(5) A Board must annually within two months of the end of its financial year, submit to the Head of Department **[and to the Auditor-General]** financial statements compiled according to **[generally accepted accounting practice]** the reporting framework determined by the Minister in consultation with the Provincial Minister responsible for finance in the Western Cape.”;

- (b) by the substitution for subsection (6) of the following subsection:

“(6) An auditor, appointed by the Board, must subject to subsection (6A), audit [The] the records and annual financial statements of the Board [must be audited by the Auditor-General who] and must submit an audit report to the Head of Department and the Board concerned within two months of the receipt of the statements referred to in subsection (5).”;

- (c) the following subsection is hereby inserted after subsection (6):

“(6A) (a) The Minister may determine that a Board referred to in subsection (6) be exempted from being audited.

(b) The Minister must, after consultation with the Head of Department, consider the following when making his or her determination as contemplated in paragraph (a):

(i) whether the total asset value including investments of the Board in the previous financial year exceeded R 5 000 000.00;

(ii) the financial statements of the Board of the previous financial year;

(iii) the location of the hospital that the Board serves; and

(iv) whether the Board has complied with its duties in terms of this Act in the previous financial year.

(c) Where the Minister has exempted a Board in terms of paragraph (a), the Minister must direct that the Board submit financial statements to the Head of Department in a manner that the Minister deems necessary and in terms of the reporting framework that the Minister has determined in consultation with the Provincial Minister for finance in the Western Cape.

- (d) Despite the provisions of this section, the Minister may nevertheless still require a Board contemplated in paragraphs (a) and (b) to be audited as set out in subsection (6).”;
- (d) by the substitution for subsection (8) of the following subsection:
- “(8) If a Board does not comply with the requirements of subsection (5), or in the event of any financial mismanagement by a Board, the **[Head of Department] Minister** may take reasonable [whatever] remedial steps which he or she considers [are considered] necessary including the:
- (a) appointment of an administrator to administer the financial affairs or operational functions of the Board;
- (b) suspension or removal of Board members from office; and
- (c) alteration of the powers and functions of the Board despite the provisions of section 11 of this Act.”;
- (e) by the addition of the following subsections after subsection (8):
- “(9) Before the Minister takes any remedial steps as contemplated in subsection (8), the Head of Department must issue to the Board a compliance notice and copies thereof to its members setting out—
- (a) the name and location of the Board to which it applies;
- (b) a description of the transgression constituting the non-compliance;
- (c) the steps that the Board is required to take and the period within which those steps must be taken; and
- (d) a notification to the Board that if it fails to take any steps referred to in paragraph (c), the Head of Department must refer the non-compliance to the Minister to take remedial steps in terms of subsection (8).
- (10) (a) If a Board complies with all the steps referred to in subsection 9(c) within the time period specified in the compliance notice, the Head of Department must notify the Minister in writing of that fact accordingly and submit a copy of such notification to the Board.
- (b) The Minister must within 30 days of receipt of the notification in subsection 10(a) notify the Board of its compliance with the requirements of subsection (5).
- (11) (a) If a Board fails to comply with any or all of the steps referred to in subsection 9(c) within the time period specified in the compliance notice the—
- (i) Head of Department must notify the Minister on the expiry of the time period specified in the compliance notice in writing of the non-compliance or partial non-compliance by the Board;
- (ii) Minister must within 30 days notify the Board of its non-compliance or partial non-compliance as the case may be with the requirements of subsection (5); and
- (iii) Minister must in the notice referred to in subsection 11(b) notify the Board that it has failed to comply with the requirements of subsection (5).
- (b) If a Board has partially complied with the steps in the compliance notice, the Minister must take that fact into account when considering any reasonable remedial steps against the Board.
- (12) If an administrator is appointed in terms of section 21(8), he or she must:
- (a) within six months of his or her appointment, furnish a report on the financial affairs of the Board concerned to the Head of Department;
- (b) thereafter in consultation with the Head of Department, propose a recovery plan for the Board concerned; and
- (c) upon completion of the implementation of the proposed recovery plan deliver to the Minister and Head of Department a final report on the financial affairs of the Board.
- (13) The Minister may, after consultation with the Head of Department, upon receipt of the final report, determine that:
- (a) the administrator’s term should be extended for a period as deemed necessary;
- (b) the Board is capable of administering its own financial affairs; or
- (c) the Board is able to administer its own financial affairs with the assistance of an administrator appointed by the Minister on such further terms and conditions as determined by the Minister.”.

### Short title and commencement

3. This Act is called the Western Cape Health Facility Boards Amendment Act, 2012, and is regarded as taking effect on 1 April 2012.

**MEMORANDUM ON THE OBJECTS OF THE BILL****WESTERN CAPE HEALTH FACILITY BOARDS AMENDMENT BILL, 2012****1. BACKGROUND**

- 1.1 The Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001), (principal Act) provides for, among other matters, the submission of the financial statements of Health Facility Boards to the Head of Department and to the Auditor-General. These statements are compiled according to generally accepted accounting practices and must be audited by the Auditor-General and submitted to the Head of Department in the form of an annual audited report.
- 1.2 One percent of the auditing costs of Health Facility Boards are paid for by the Health Facility Boards themselves and the remainder by National Treasury. The Provincial Department of Health reports that a decision by the National Treasury to withdraw its funding of these audit costs is imminent. These costs will consequently have to be borne by the Health Facility Boards and the Provincial Department of Health.
- 1.3 Notwithstanding the fact that the Health Facility Boards of smaller health establishments do not have inexhaustible assets or funds, their auditing costs nevertheless remain exorbitant and the accounting standard prescribed by the principal Act, is onerous. The Provincial Department of Health has decided to curtail these auditing costs in respect of the smaller Health Facility Boards. This Bill consequently proposes to create a procedure to do so.
- 1.4 The Provincial Department of Health reports that the Auditor-General requested that its office be relieved of its audit responsibility in respect of the Health Facility Boards. The proposed Bill makes provision for this request.

**2. OBJECTS OF THE BILL**

- 2.1 The Bill seeks to relieve the Auditor-General of its auditing responsibility in respect of Health Facility Boards. It further seeks to simplify the reporting framework to be complied with by smaller Health Facility Boards and to ensure the compliance of all Health Facility Boards with the auditing requirements of the principal Act.
- 2.2 The Bill proposes to regulate the manner in which the Provincial Department of Health monitors the financial affairs of Health Facility Boards and provides for a procedure that will ensure good financial governance of the Health Facility Boards. The provisions of the Bill can be summarised as follows:

**3. CONTENTS OF THE BILL**

- 3.1 Clause 1  
Inserts a definition for the term "auditor".
- 3.2 Clause 2  
Amends section 21 of the principal Act by:
  - authorising the Minister to determine in consultation with the Provincial Minister responsible for finance in the Western Cape the reporting framework required for the compilation of financial statements;
  - providing for auditors to conduct the audit of the Health Facility Boards and no longer the Auditor-General;
  - empowering the Minister to exempt smaller Health Facility Boards from being audited; and
  - empowering the Minister to take various forms of remedial steps against non-complying Health Facility Boards.
- 3.3 Clause 3
  - Provides for the short title and the commencement date of this legislation.

**4. LEGISLATIVE COMPETENCE**

The Provincial Minister responsible for health is satisfied that the provisions of the Bill fall within the legislative competence of the Province.

**5. CONSULTATION**

Department of the Premier: Legal Services  
Health Facility Boards  
Office of the Auditor General

**6. FINANCIAL IMPLICATIONS**

The Provincial Department of Health through its Chief Financial Officer will administer and carry the costs of implementing the envisaged amendment legislation. There are no cost implications as all auditing costs will be paid for by the individual Health Facility Boards.

**7. PERSONNEL IMPLICATIONS**

None

## PROVINSIALE KENNISGEWING

P.K. 86/2012

20 April 2012

## WYSIGINGSWETSONTWERP

## SEWENTIENDE WES-KAAPSE WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDRENNE, 2012

## ALGEMENE VERDUIDELIKENDE NOTA

[ ] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan

\_\_\_\_\_ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

## WETSONTWERP

Om die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001), te wysig om die wyse waarop die provinsiale Departement van Gesondheid die finansiële sake van Gesondheidsfasiliteitsrade monitor, te reguleer; om voorsiening te maak vir 'n prosedure wat gesonde finansiële bestuur van die Rade sal verseker; en om voorsiening te maak vir verwante aangeleenthede.

**D**AAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

## Wysiging van artikel 1 van Wet 7 van 2001

1. Artikel 1 van die Wes-Kaapse Wet op Fasiliteitsrade, 2001 (die Hoofwet) word gewysig deur die volgende omskrywing na die omskrywing vir “openbare sektor-gesondheidsfasiliteit” in te voeg:

“ ‘**ouditeur**’ ’n persoon geregistreer as ’n ouditeur ingevolge die “Auditing Professions Act, 2005” (Wet 26 van 2005)<sup>1</sup>”.

## Wysiging van artikel 1 van Wet 7 van 2001

2. Artikel 21 van die Hoofwet word gewysig—

- (a) deur subartikel (5) met die volgende subartikel te vervang:

“(5) ’n Raad moet jaarliks binne twee maande van die einde van sy boekjaar, finansiële state wat opgestel is volgens **[algemene aanvaarbare rekenkundige praktyk]** die verslaglewingsraamwerk bepaal deur die Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies in die Wes-Kaap **[opgestel is]**, aan die Departementshoof **[en aan die Ouditeur-generaal]** voorlê.”;

- (b) deur subartikel (6) met die volgende subartikel te vervang:

“(6) ’n Ouditeur, aangestel deur die Raad, moet behoudens subartikel (6A), **[Die ouditering van]** die aantekeninge en jaarlikse finansiële state van die Raad ouditeer [moet gedoen word deur die Ouditeur-generaal, wat] en moet ’n ouditsverslag aan die Departementshoof en die betrokke Raad [moet] voorlê binne twee maande van die ontvangs van die state [waarna verwys word] bedoel in subartikel (5).”;

- (c) deur die volgende subartikel in te voeg na subartikel (6):

“(6A) (a) Die Minister mag bepaal dat ’n Raad soos bedoel in subartikel (6) daarvan vrygestel word om geouditeer te word.

(b) Die Minister moet, na oorlegpleging met die Departementshoof, die volgende in ag neem wanneer hy of sy sy of haar bepaling soos beoog deur paragraaf (a) maak:

(i) of die totale batewaarde ingeslote beleggings van die Raad in die vorige boekjaar R5 000 000.00 oorskry het;

(ii) die finansiële state van die Raad van die vorige boekjaar;

(iii) die ligging van die hospitaal wat die Raad bedien; en

(iv) of die Raad in die vorige boekjaar sy pligte ingevolge hierdie Wet nagekom het.

(c) Waar die Minister ’n Raad ingevolge paragraaf (a) vrygestel het, moet die Minister beveel dat die Raad finansiële state aan die Departementshoof voorlê op ’n wyse wat die Minister nodig ag en ingevolge die verslaglewingsraamwerk wat die Minister bepaal het in oorleg met die Provinsiale Minister vir finansies in die Wes-Kaap.

(d) Ondanks die bepalinge van hierdie artikel, kan die Minister nietemin steeds van ’n Raad beoog in paragrawe (a) en (b) vereis om geouditeer te word soos uiteengesit in subartikel (6).”;

- (d) deur subartikel (8) met die volgende subartikel te vervang:

“(8) Indien ’n Raad nie aan die vereistes van subartikel (5) voldoen nie, of in die geval van enige finansiële wanbestuur deur ’n Raad, mag die **[Departementshoof] Minister redelike [enige] remediërende stappe** wat hy of sy nodig **[ge]ag [word]**, doen, insluitende die:

- (a) aanstelling van ’n administrateur om die finansiële sake of bedryfsfunksies van die Raad te administreer;
- (b) skorsing of ontslag van ’n Raadslid uit sy of haar amp; en
- (c) verandering van die bevoegdhede en funksies van die Raad ondanks die bepalinge van artikel 11 van hierdie Wet.”;

<sup>1</sup>Hierdie wet is nie in Afrikaans vertaal nie.

(e) deur die volgende subartikels in te voeg na subartikel (8):

- “(9) Alvorens die Minister remediërende stappe soos beoog in subartikel (8) doen, moet die Departementshoof aan die Raad en sy lede ’n kennisgewing van nakoming en afdrukke daarvan uitreik waarin die volgende uiteengesit word—
- (a) die naam en ligging van die Raad waarop dit van toepassing is;
- (b) ’n beskrywing van die oortreding wat die nievoldoening uitmaak;
- (c) die stappe wat die Raad vereis word om te doen en die tydperk waarbinne daardie stappe gedoen moet word; en
- (d) ’n kennisgewing aan die Raad dat as dit versuim om enige van die stappe bedoel in paragraaf (c) te doen, die Departementshoof die nievoldoening na die Minister moet verwys om remediërende stappe ingevolge subartikel (8) te doen.
- (10) (a) Indien ’n Raad aan al die stappe soos bedoel in subartikel 9(c) voldoen binne die tydperk gespesifiseer in die kennisgewing van nakoming, moet die Departementshoof die Minister van daardie feit dienoreenkomstig skriftelik in kennis stel en ’n afskrif van sodanige kennisgewing voorlê aan die Raad.
- (b) Die Minister moet binne 30 dae van ontvangs van die kennisgewing in subartikel 10(a) die Raad van sy voldoening aan die vereistes van subartikel 5 in kennis stel.
- (11) (a) Indien ’n Raad versuim om aan enige of al die stappe soos bedoel in subartikel 9(c) te voldoen binne die tydperk gespesifiseer in die kennisgewing van nakoming, moet die—
- (i) Departementshoof die Minister, by verstryking van die tydperk gespesifiseer in die kennisgewing van nakoming, skriftelik in kennis stel van die nievoldoening of gedeeltelike nievoldoening deur die Raad;
- (ii) Minister binne 30 dae die Raad in kennis stel van die Raad se nievoldoening of gedeeltelike nievoldoening na gelang van die geval aan die vereistes van subartikel (5); en
- (iii) Minister in die kennisgewing soos bedoel in subartikel 11(b) die Raad in kennis stel dat hy versuim het om aan die vereistes van subartikel (5) te voldoen.
- (b) Indien ’n Raad gedeeltelik aan die kennisgewing van nakoming voldoen het, moet die Minister daardie feit in ag neem wanneer hy of sy enige redelike remediërende stappe teen die Raad oorweeg.
- (12) Indien ’n administrateur ingevolge artikel 21(8) aangestel word, moet hy of sy:
- (a) binne ses maande van sy of haar aanstelling die Departementshoof voorsien van ’n verslag oor die finansiële sake van die betrokke Raad;
- (b) daarna in oorlegpleging met die Departementshoof, ’n herstelplan vir die betrokke Raad voorstel; en
- (c) by voltooiing van die implementering van die voorgestelde herstelplan ’n finale verslag oor die finansiële sake van die Raad aan die Minister en die Departementshoof lewer.
- (13) Die Minister kan, na oorlegpleging met die Departementshoof, by ontvangs van die finale verslag, bepaal dat:
- (a) die administrateur se termyn verleng behoort te word vir ’n tydperk soos nodig geag word;
- (b) die Raad bekwaam is om sy eie finansiële sake te administreer; of
- (c) die Raad in staat is om sy eie finansiële sake te administreer met die bystand van ’n administrateur aangestel deur die Minister.”.

#### **Kort titel en datum van inwerkingtreding**

3. Hierdie Wet heet die Wes-Kaapse Wysigingswet op Gesondheidsfasiliteitsrade, 2012, en word geag om in werking te tree op 1 April 2012.

**MEMORANDUM OOR DIE OOGMERKE VAN DIE WES-KAAPSE  
KONSEPWYSIGINGSWET OP GESONDHEIDSFASILITEITSRADE, 2011**

**1. AGTERGROND**

- 1.1 Die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001), (Hoofwet) maak voorsiening vir onder meer die voorlegging van die finansiële state van Gesondheidsfasiliteitsrade aan die Departementshoof en aan die Ouditeur-Generaal. Hierdie state word volgens algemeen aanvaarbare rekenkundige praktyke opgestel en moet deur die Ouditeur-Generaal geouditeer word en aan die Departementshoof in die vorm van 'n jaarlikse ouditsverslag voorgelê moet word.
- 1.2 Een persent van die ouditskoste van Gesondheidsfasiliteitsrade word voor betaal deur die Gesondheidsfasiliteitsrade self en die restant word voor betaal deur die Nasionale Tesourie. Die Provinsiale Departement van Gesondheid berig dat 'n beslissing deur die Nasionale Tesourie om sy befonding van hierdie ouditskoste te onttrek op hande is. Hierdie kostes sal gevolglik gedra moet word deur die Gesondheidsfasiliteitsrade en die Provinsiale Departement van Gesondheid.
- 1.3 Ondanks die feit dat die Gesondheidsfasiliteitsrade van kleiner gesondheidsinstellings nie onuitputlike bates of fondse het nie, bly hul ouditskoste steeds buitensporig en is die rekeningkundige standaard wat deur die Hoofwet voorgeskryf word veeleisend. Die Provinsiale Departement van Gesondheid het besluit om hierdie ouditskoste ten opsigte van kleiner Gesondheidsfasiliteitsrade te verminder. Hierdie Wetsontwerp stel gevolglik voor om 'n nuwe prosedure te skep om dit te doen.
- 1.4 Die Provinsiale Departement van Gesondheid berig dat die Ouditeur-Generaal versoek het dat sy kantore vrygestel word van sy ouditsverantwoordelikheid ten opsigte van Gesondheidsfasiliteitsrade. Die voorgename Wetsontwerp maak voorsiening vir hierdie versoek.

**2. OOGMERKE VAN DIE WETSONTWERP**

- 2.1 Die Wetsontwerp beoog om die Ouditeur-Generaal vry te stel van sy ouditsverantwoordelikheid ten opsigte van Gesondheidsfasiliteitsrade. Dit beoog verder om die rekeningkundige standaard wat nagekom moet word deur kleiner Gesondheidsfasiliteitsrade te vereenvoudig en om die nakoming deur alle Gesondheidsfasiliteitsrade van die ouditsvereistes van die Hoofwet te verseker.
- 2.2 Die Wetsontwerp stel voor om die wyse waarop die Provinsiale Departement van Gesondheid die finansiële sake van die Gesondheidsfasiliteitsrade monitor, te reguleer en maak voorsiening vir 'n prosedure wat goeie finansiële bestuur van die Gesondheidsfasiliteitsrade sal verseker. Die bepalings van die Wetsontwerp kan soos volg saamgevat word:

**3. INDELING VAN KLOUSULES**

- 3.1 Klousule 1  
Voeg 'n nuwe omskrywing vir die term "ouditeur" in.
- 3.2 Klousule 2  
Wysig artikel 21 van die Hoofwet deur:
  - die Minister te magtig om die rekeningkundige standaard vir oudits te bepaal in oorleg met die Provinsiale Minister verantwoordelik vir finansies in die Wes-Kaap;
  - voorsiening te maak vir ouditeurs om die audit van die Gesondheidsfasiliteitsrade te doen en nie meer die Ouditeur-Generaal nie;
  - die Minister die mag te gee om kleiner Gesondheidsfasiliteitsrade vry te stel van geouditeer te word; en
  - die Minister die mag te gee om verskeie vorme van remediërende stappe teen nienakomende Gesondheidsfasiliteitsrade te doen.
- 3.3 Klousule 3
  - maak voorsiening vir die kort titel en inwerkingtreeding van hierdie wetgewing.

**4. WETGEWENDE BEVOEGDHEID**

Die Provinsiale Minister verantwoordelik vir gesondheid is tevrede dat die bepalings van die Wetsontwerp binne die wetgewende bevoegdheid van die Provinsie val.

**5. OORLEGPLEGING**

Departement van die Premier: Regsdienste  
Gesondheidsfasiliteitsrade  
Kantoor van die Ouditeur-Generaal

**6. FINANSIËLE IMPLIKASIES**

Die Provinsiale Departement van Gesondheid deur sy Hoof- Finansiële Beampte sal die implementering van die beoogde wysigingswetgewing administreer en die koste daarvan dra. Daar is geen koste-implikasies nie aangesien alle ouditskoste betaal gaan word deur die individuele Gesondheidsfasiliteitsrade.

**7. PERSONEEL-IMPLIKASIES**

Geen

## ISIBHENGEZO SEPHONDO

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## UMTHETHO

## WESTERN CAPE HEALTH FACILITY BOARDS AMENDMENT BILL, 2012

## INQAKWANA LOKUCACISA NGOKUBANZI

[ ] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere abonisa loo magama ashayiweyo kwimithetho ekhoyo ngoku.

\_\_\_\_\_ Amagama akwelwe ngaphantsi ngomgca ongqindilili abonisa oko kuye kwafakelwa kwimithetho ekhoyo ngoku.

## UMTHETHO

Ukulungisa umthetho oyi-Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001), ngenjongo yokulawula indlela eliyijonge ngayo iSebe lezeMpilo lephondo imicimbi yezimali yeeBhodi zamaZiko eMpilo; ukuchaza inkqubo eya kuqinisekisa ngolawulo lwezimali oluthembekileyo lweeBhodi; ukuchaza imicimbi enxulumene noko.

**X** A UTHE LO MTHETHO WAPHUNYEZWA yiPalamente yePhondo leNtshona Koloni, ngokwale ndlela ilandelayo:—

## Ukulungiswa kwecandelo 1 le-Act 7 of 2001

3. ICandelo 1 lomthetho oyi- Western Cape Health Facility Boards Act, 2001 (uMthetho oyiNtloko) ulungiswa ngokufakela le nkcazelo ilandelayo emva kwenkcazelo “UMphathiswa”:

“**‘umphicothi zincwadi’** uthetha umntu obhaliswe njengomphicothi zincwadi ngokomthetho oyi-Auditing Professions Act, 2005 (Act 26 of 2005);”.

## Izilungiso zecandelo 21 zeAct 7 of 2001

2. ICandelo 21 loMthetho oyiNtloko lilungiswa—

(a) ngokufakela icandelwana (5) leli candelwana lilandelayo endaweni yalo:

“(5) IBhodi iya kuthi rhoqho ngonyaka kwisithuba seenyanga ezimbini zokuphela konyaka-mali wayo, ingenise kwiNtloko yeSebe [nakuMphicothi Zincwadi-Jikelele] iingxelo zemali ezihlanganise ngokwe[nkqubo esemthethweni yocwangciso-mali jikelele] isicwangciso-nkqubo soniko-ngxelo esamiselwa nguMphathiswa ebonisene noMphathiswa wePhondo ophethe ezeMali eNtshona Koloni.”;

(b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (6):

“(6) UMphicothi Zincwadi, oqeshwe yiBhodi, kulindeleke ukuba athi ngokwecandelwana (6A), [I] irekhodi neengxelo zonyaka zemali zeBhodi [kufuneka ziphicothwe nguMphicothi—Jikelele oya kungenisa] nolindeleke ukuba angenise iingxelo yophicotho kwiNtloko yeSebe nakwiBhodi echaphazelekayo kwisithuba seenyanga ezimbini zifumanekile iingxelo ekubhekiselelwa kuzo kwicandelwana (5).”;

(c) eli candelwana lilandelayo liyahlonyelwa emva kwecandelwana (6):

(6A) (a) UMphathiswa nguye oya kuthi ngokwecandelwana (6) amisele ukuba ixolelwe iBhodi ingaphicothwa.

(b) UMphathiswa kulindeleke ukuba athi, akuba ebonisene neNtloko yeSebe, aqwalasele oku kulandelayo xa esenza ummiselo wakhe njengoko kuchaziwe ku(a) ukuba:

(i) ixabiso le-asethi lilonke kuqukwa neemali ezityaliweyo zeBhodi kunyaka-mali ogqithileyo zidlulile kuma R5 000 000.00;

(ii) aqwalasele iingxelo zemali zeBhodi zonyaka-mali odlulileyo;

(iii) anike ingqalelo indawo esikuyo isibhedlele esebenzela sona iBhodi; kunye

(iv) ingaba iBhodi yakwazi ukuyithobela imimiselo yokwenza imisebenzi yayo ngokwalo Mthetho kwiminyaka-mali egqithileyo.

(c) Apho uMphathiswa eye wayixolela iBhodi ngokomhlathi (a), uMphathiswa uya kuyiyalela loo Bhodi ukuba ingenise iingxelo neenkcazo ngemali kwiNtloko yeSebe nengndlela aya kuyibona ifanelekile uMphathiswa ngokwesicwangciso —nkqubo soniko-ngxelo awasimiselayo uMphathiswa akuba ebonisene noMphathiswa wePhondo wezeMali eNtshona Koloni.

(d) Nangona ingatyeshelwanga imimiselo yeli candelo, uMphathiswa uya kuyimisela iBhodi echazwe kumhlathi (a) no-(b) ukuba iphicothwe njengoko kuchaziwe kwicandelwana (6).”;

(d) ngokufaka endaweni yecandelwana (8) eli candelwana lilandelayo:

“(8) Ukuba iBhodi iyasilela ukuthobela imimiselo yecandelwana (5), okanye xa ibe nolawulo olugwenxa emalini, [iNtloko yeSebe] uMphathiswa uya kuthatha amanyathelo afanelekileyo olungiso awabona eyimfuneko kuquka: u—

(a) kuqeshwa komlawuli wezemali ukuze alawule imicimbi yemali okanye imisebenzi eqhutywayo yeBhodi;



- (b) kurhoxiswa okanye ukususwa kwamalungu eBhodi esikhundleni; kwaye
- (c) kutshintshwa kwamagunya nemisebenzi yeBhodi nangona ingatyeshelwanga imimiselo yeli candelo (11) lalo mthetho.”;
- (e) ngokongeza la macandelwana alandelayo emva kwecandelwana (8):
- “(9) Ngaphambi kokuba uMphathiswa athabathe amanyathelo olungiso njengoko echaziwe kwicandelwana (8), iNtloko yeSebe kufuneka ikhuphele iBhodi isaziso ngendlela yokuthobela imimiselo aze amalungu azinikwe neekopi ezichaza—
- (a) igama lendawo ekuyo iBhodi;
- (b) inkcazelo ngendlela yokuziphatha echaphazela ukungathobeli;
- (c) amanyathelo ekufuneka ethatyathwe yiBhodi nexesha ekufuneka athatyathwe ngalo loo manyathelo; kunye
- (d) nesaziso esiya kwiBhodi esichaza ukuba xa ithe yasilela ukuthatha amanyathelo ekubhekiselelwa kuwo kumhlathi (c) iNtloko yeSebe iya kuwugqithisela kuMphathiswa umcimbi wokusilela kweBhodi ukuthobela imimiselo ukuze ibe nguye othabatha amanyathelo olungiso ngokwecandelwana (8).
- (10) (a) Ukuba ibhodi iyavumelana namanyathelo okubhekiselelwe kuwo kwicandelwana 9(c). Ukuba ibhodi ithe yathobela kweli xesha libekiweyo kwisaziso sokuthobela, INtloko yeSebe kufuneka ibhalele uMphathiswa malunga naloo nto kwaye anikezele ngekopi yesaziso kwiBhodi.
- (b) ISebe kufuneka ngeentsuku nje ezingama-30 efumene isaziso kwicandelwana 10(a) azise iBhodi ngokuthobela azise uMphathiswa ngokuthobela kwayo imimiselo yecandelwana(5).
- (11) (a) Ukuba iBhodi ithe yatyeshelela neliphi na inyathelo okanye onke amanyathelo ekubhekiselele kuwo kwicandelwana 9(c) kweli xesha libekiweyo kwisaziso sokuthobela—
- (i) INtloko yeSebe mayazise uMphathiswa ngexesha lokuphelelwa kwesaziso okanye ukungathobeli ngokupheleleyo kweBhodi;
- (ii) UMphathiswa makazise iBhodi kwiintsuku ezingamashumi amathathu ngokungathobeli okanye ukungathobeli ngokupheleleyo ngokwemimiselo yecandelwana lesi (5); kwaye
- (iii) UMphathiswa makazise kwisaziso ekubhekiselelwe kuso kwiparagrafu 11(b) azise iBhodi ukuba ayikwazanga kuthobela imimiselo yecandelwana lesi (5).
- (b) Ukuba iBhodi ayithobelanga ngokupheleleyo amanyathelo akwisaziso sokuthobela, UMphathiswa makayithathele inggalelo loo nto xa kuza kuthatyathwa amanyathelo oluleko kwiBhodi.
- (12) Ukuba aqeshe umlawuli ngokwecandelo 21(8), kufuneka athi:
- (a) kwisithuba seenyanga ezintandathu eqeshiwe, angenise ingxelo engemicimbi yemali yeBhodi echaphazelekayo kwiNtloko yeSebe;
- (b) emva koko akuba ebonisene neNtloko yeSebe, enze isicwangciso sokubuyiselwa kwemali esenzela iBhodi echaphazelekayo; ize
- (c) sakuba sesiwenzile umsebenzi waso isicwangciso sokubuyiselwa kwemali kungeniswe kuMphathiswa nakwiNtloko yeSebe ingxelo egqibeleleyo yemicimbi yemali yeBhodi.
- (13) UMphathiswa uya kuthi, akuba ebonisene neNtloko yeSebe, emva kokuba efumene ingxelo egqibeleleyo, amisele ukuba:
- (a) landiswe ixesha lokuba sesikhundleni komlawuli kangangexesha elifanelekileyo;
- (b) iBhodi inako ukuyilawula ngokwayo imicimbi yayo yemali; okanye
- (c) iBhodi iyakwazi ukuyilawula ngokwayo imicimbi yayo yemali ngoncedo lomlawuli oqeshwe nguMphathiswa ngokwemimiselo nemiqathango njengoko imiselweyo nguMphathiswa.”.

### **ISihloko esifutshane nokuqala ukusebenza komthetho**

3. Lo Mthetho ubizwa ngokuba ngumthetho oyi-Western Cape Health Facility Boards Amendment Act, 2012, nothathwa njengoya kuqalisa ukusebenza ngomhla 1 ku-Epreli 2012.

**MEMORANDAM YEMIBA YOKULUNGISWA KOMTHETHO OSAYILWAYO KA-2012 WEEBHODI ZAMAZIKO EZEMPILO  
ENTSHONA KOLONI**

**1. INKCAZELO**

- 1.1 Umthetho oyi-Western Cape Health Facility Boards Act, 2001(Act 7 of 2001), (umthetho oyintloko) uyalela ukuba kufakwe amaxwebhu ezimali eeBhodi zamaZiko eMpilo kwiNtloko yeSebe nakuMphathi Jikelele. La maxwebhu ezemali ahlanganiswe ngokwenkqubo yokuphendula elandelayo ekufuneka ihlolwe nguMphicoti Zincwadi—Jikelele ze anikezelwe kwiNtloko yeSebe njengengxelo yonyaka ehloliweyo .
- 1.2 Umyinge omnye ekhulwini weendleko zohlolo lweeBhodi zamaZiko eMpilo zihlawulwa ziiBhodi zamaZiko ezeMpilo ngokwazo ze ezishiyekileyo ibe nguNondyebo kaZwelonke. ISebe lezeMpilo kwiPhondo linika ingxelo ngesigqibo sikaNondyebo weSizwe sokurhoxisa intlawulo yezi ndleko zokuhlola kufuneka siphunyeziwe nakanjani. Ezi ndleko ziya kuba luxanduva lweeBhodi zamaZiko ezeMpilo ezingaxolelekanga neziphantsi kwecandelo elisacetywayo elingu 21(6).
- 1.3 Nangona iiBhodi zamaZiko ezeMpilo eendawo ezincinane engenazimpahla okanye mali yoneleyo, iindleko zazo zokuhlola zihleli zigqithisile kwaye imimiselo yocwangciso zimali ngokomthetho oyintloko igqithisile. ISebe lezeMpilo kwiPhondo ligqibe ekubeni licuthe ezi ndleko zohlolo ngokuphathelwe kwiiBhodi zamaZiko ezeMpilo ezincinane. Lo mthetho uyilwayo uceba ukwenza inkqubo emayilandelwe ukwenza oku.
- 1.4 Ingxelo yeSebe lezeMpilo kwiPhondo ithi uMphicothi Zincwadi-Jikelele ucele ukuba luguzulwe uxanduva lokuhlola ngokuphathelwe kwiiBhodi zamaZiko ezeMpilo. Umthetho uyilwayo ulungiselela oko.

**2. IMIBA YOMTHETHO OSAYILWAYO**

- 2.1 Umthetho uyilwayo uceba ukuguzula kuMphicothi ziNcwadi—Jikelele uxanduva lokuhlola iincwadi ngokuphathelwe kwiiBhodi zamaZiko ezeMpilo. Ukwajonge ukwenza lula indlela yokucwangcisa imali emayilandelwe ziiBhodi zamaZiko eMpilo amancinane kwanokuqinisekisa ukuba zonke iiBhodi amaZiko eMpilo ziyazithobela iimfuno zomthetho oyintloko.
- 2.2 Umthetho osayilwayo uceba ukulawula indlela iSebe lezeMpilo kwiPhondo elithi liyibeke iliso ngayo imiba yeebhodi ephathelene nezimali zamaZiko ezeMpilo kwaye unikezela ngenkqubo eya kuthi iqinisekise ngolawulo olulungileyo lwezimali kwiiBhodi zeSebe lezeMpilo. Okumalunga nalo mthetho uyilwayo kungashwankathelwa ngolu hlobo:

**3. OKUQULETHWE NGUMTHETHO OYILWAYO**

- 3.1 Igaty 1  
Liqulathe uhlomelo nkcazelo ye binzana “umphicothi zincwadi”.
- 3.2 Igaty 2  
Lilungisa icandelo 21 lomthetho oyintloko ngoku—:
  - gunyazisa koMphathiswa ukuba athi akuba ebonisene noMphathiswa wePhondo ophethe ezeMali eNtshona Koloni anike isikhokhelo sengxelo esingummiselo ngendlela yokuhlenganiswa kweengxelo zemali;
  - Misela abaphicothi zincwadi ukuba bahlale iiBhodi zeZiko lezeMpilo ingabi nguMphicothi Zincwadi-Jikelele;
  - Nika uMphathiswa igunya lokuxolela iiBhodi zamaZiko ezeMpilo ezincinane ekubeni zihlolwe; nangoku
  - Nika uMphathiswa igunya lokuthabatha amanyathelo ahlukeneyo olungiso kwezo Bhodi zamaZiko ezeMpilo angathobeliyo.

**4. AMAGUNYA OKUWISA UMTHETHO**

UMphathiswa wePhondo ophethe iSebe lezeMpilo wanelisekile ukuba okuqulethwe kuloMthetho oYilwayo, iPhondo linegunya lokuba liwise umthetho.

**5. ISEBE EKHULANGENWE NALO**

ISebe leNkulumbuso: Iinkonzo zoMthetho.  
IiBhodi zamaZiko ezeMpilo  
I-ofisi yoMphicothi Zincwadi-Jikelele

**6. IMALI EZA KUSETYENZISWA**

Iindleko zokuphunyezwa komthetho ziya kusingathwa liSebe lezeMpilo kwiPhondo phantsi kolawulo lwegosa eliyiNtloko lezeziMali. Akukho zindleko zamali njengoko iintlawulo zabaphicothi ziNcwadi ziya kuhlulwa ziiBhodi zamaZiko ezeMpilo ngokunokwawo.

**7. ABASEBENZI ABAZA KUFUNEKA**

Abakho.



