



health

Department of Health
NORTHERN CAPE

Policy on the Functions and Powers of a Mental Health Review Board (MHRB)

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1. Policy Aim

- 1.1. This Policy aims to regulate the establishment and the operations of the Mental Health Review Board(s), whose function is to conduct reviews and hear appeals of involuntary treatments under the mental health act within the Northern Cape Province.

2. Policy Scope

- 2.1. This Policy applies to all Mental Health Review Boards, to assisted or involuntary mental health users (including mentally ill prisoners), and to all health establishments (public or private) providing involuntarily mental health care, treatment and rehabilitation detention in the Northern Cape.

3. Policy Statement

- 3.1. It is the policy of the Northern Cape Department of Health that:
- 3.1.1. It is committed to establish a public authority to uphold the human rights of all people in the Northern Cape, including those with a mental illness.
- 3.1.2. It will establish and maintain a provincial Mental Health Review Boards that will review and make recommendations on the care, treatment and rehabilitation of assisted or involuntary mental health users and services, appeals of involuntary treatment under the Mental Health Act.

4. Criteria for the establishment of the Mental Health Review Board

- 4.1. The MEC for health shall place a notice in the Provincial and local print media calling for nominations to the boards or committees, stating the criteria for nominations and the closing date.
- 4.2. The selection criteria for prospective Mental Health Review Board(s) member is:
- 4.2.1. Be South African citizen and permanent residence aged 18 years or older;

4.2.2. Be of sound mind and not have a criminal record, unless a free pardon has been received or a period of three years has expired since release from prison and certified as fully rehabilitated by the Department of Correctional Services.

4.2.3. Demonstrate commitment to community service and support for the vision, mission and values of the Department of Health;

4.2.4. Demonstrate a high level of personal integrity and honesty;

4.2.5. Able to communicate effectively;

4.2.6. Demonstrate an understanding of the Mental Health Care Act and General Regulations

5. Composition of the Mental Health Review Board

5.1. Membership of the Mental Review Board will have a minimum of three members and a maximum of five members, composed of:-

5.1.1. A lawyer, magistrate, attorney or an advocate admitted in terms of the law of the Republic of South Africa.

5.1.2. A Mental Health Care Practitioner (psychologist, psychiatrist, professional nurse).

5.1.3. A member of the Northern Cape Community.

6. Standards of Conduct of the Members of the Review Board

6.1. In carrying out their functions, Review Board members need to adhere to following standards of conduct:

6.1.1. The Rights of Mental Health Care User's shall guide the Review Board's decision and actions.

6.1.2. Display positive attitudes and respect towards Mental Health Care users at all times.

- 6.1.3. Avoid a narrow legalistic approach, which focuses on technicalities, especially when this delays access to appropriate treatment, care and rehabilitation
- 6.1.4. Should apply their minds to each case before them to ensure thorough review of the case(s).
- 6.1.5. Should adopt an attitude of active enquiry, meaning looking beyond the documents or other evidence before them, in order to assess whether particular recommendations or decisions are indeed in the best interest of the user.
- 6.1.6. Should be seen to be an independent in reaching decisions about treatment orders
- 6.1.7. Should avoid conflict of interest whether real or perceived meaning Review Board members have a duty to disclose any personal or professional links with a case (e.g. where the Review Board member has a family or work relationship with the user or on mental health practitioners involved in the case) and if necessary, recuse themselves from further involvement in such cases.
- 6.1.8. Have a duty to maintain confidentiality regarding information provided to them.
- 6.1.9. It has a legal power in carrying out their functions in line with the act.

7. Roles and Responsibilities

7.1 The Member of the Executive Council shall:

- 7.1.1. Establish a Provincial Mental Health Review Board that is accountable to the MEC for its activities.
- 7.1.2. Determine the procedure for appointing an acting chairperson and its own procedures for conducting business.
- 7.1.3. Remove a member of the Mental Health Review Board, if he/she:
 - 7.1.3.1 Ceases to practice the profession or role in terms of which they were appointed;

7.1.3.2. Fails to perform their duties effectively;

7.1.3.3. Ceases to be a South African citizen; or

7.1.3.4. No longer acts in the public interest.

7.1.4. Designate one of the members of the Mental Health Review Board as chairperson to preside at the meetings.

7.1.5. After agreement with the MEC for Treasury, determine the remuneration, travelling expenses, subsistence allowance and other allowances to be paid to members of the Mental Health Review Board who are not in the full-time employment of the State. Such remuneration, travelling expenses, subsistence allowance and other allowances must be appropriated out of the monies of the Provincial Legislature.

7.2. The **Head of Department** shall:

7.2.1. Appoint, second or designate a person in its employ to provide administrative support to the Mental Health Review Board

7.2.2. Avail resources to the Mental Health Review Board to enable it to hold its meetings and perform its administrative functions

7.3. The **Mental Health Review Board** shall:

7.3.1. Review the requirements to receive compulsory treatment.

7.3.2. Execute the following powers and functions as prescribed in the Mental Health Care Act and General Regulations:

7.3.2.1. Consider appeals against decisions of the Hospital Chief Executive Officers;

7.3.2.2. Make decisions with regard to assisted or involuntary mental health care, treatment and rehabilitation services;

7.3.2.3. Consider reviews and make decisions on assisted or involuntary mental health care users;

- 7.3.2.4. Consider 72-hours assessments made by Hospital Chief Executive Officers and make decisions to provide further involuntary care, treatment and rehabilitation;
- 7.3.2.5. Consider applications for transfer of mental health care users to maximum security facilities;
- 7.3.2.6. Consider period reports on the mental health status of mentally ill prisoner's.
- 7.3.2.7. Receive notification of abuse against mental health users;
- 7.3.2.8. Receive registers of all electro-convulsive therapy, mechanical restraints and seclusion;
- 7.3.2.9. Consult or obtain representation from any person, including a person with expertise.
- 7.3.2.10. Visit the health care establishments
- 7.3.2.11. Work in close collaboration with the Hospital Boards and the South African Human Rights Commission
- 7.3.2.12. Whenever the Mental Health Review Board is considering a matter that involves a health establishment at which one of the members of the Review Board is a Mental Health Care Practitioner, that practitioner may not be involved in the consideration of the matter.

8. Review and Distribution

- 8.1. The **Chief Director for Health Programmes** is the responsible manager for this Policy and for ensuring it is reviewed and updated.
- 8.2. This Policy will be reviewed after 3 years but not later than 5 years from the publishing date. If necessary an updated version will be issued, if not a formal cover

letter will be issued to supplement the cover of this policy (identifying a revised publication date).

8.3. The Director for Policy & Planning will distribute updated versions to:

- Member of the Executive Council for Health
- Head of Department of Health
- All Chief Directors, Directors and Deputy Directors (who will in turn distribute to their staff as appropriate.)
- The Chairperson(s) of the Mental Health Review Board(s)

9. Acknowledgements and Sources

9.1. Mental Health Care Act (No. 17 of 2002)

9.2. Mental Health Care Act General Regulations (2003)

9.3. Policy and Guidelines on 72-Hour Assessment of Involuntary Mental Health Care Users. National Department of Health (2012)