



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

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

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OFFICE OF THE PREMIER
OF THE PROVINCE OF THE
WESTERN CAPE

P.N. 370/2012 7 December 2012

It is hereby notified that the Premier of the Province of the Western Cape has assented to the following Act, which is hereby published for general information:

No. 7 of 2012: Western Cape Health Facility Boards Amendment Act, 2012

*As 'n nuusblad by die Poskantoor geregistreer
(Afskrifte is verkrygbaar by Kamer M21,
Provinsiale Wetgewer-gebou, Waalstraat 7,
Kaapstad 8001.)*

KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP

P.K. 370/2012 7 Desember 2012

Hiermee word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet, wat hiermee ter algemene inligting gepubliseer word, bekragtig het:

Nr. 7 van 2012: Wes-Kaapse Wysigingswet op Gesondheidsfasiliteitsrade, 2012

*Ibhaliswe ePosini njengePhephandaba
(Iikopi zifumaneka kwigumbi M21, kwiSakhiwo
seNdlu yoWiso Mthetho yePhondo, e 7 Wale Street,
eKapa 8001.)*

I-OFISI YENKULUMBUSO
YEPHONDO LENTSHONA
KOLONI

P.N. 370/2012 7 Disemba 2012

Kwenziwa isaziso apha sokuba iNkulumbuso yePalamente yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala apha:

Nomb. 7 ka-2012: uMthetho woLungiso weeBhodi zeZiko lezeMpilo weNtshona Koloni, 2012

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(Afrikaans text signed by the Premier)
(Assented to 5 December 2012)

ACT

To amend the Western Cape Health Facility Boards Act, 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.

BE 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”:
- 5 “**‘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: 10
- “(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.”; 15
- (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 20
- 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) by the insertion of the following subsections after subsection (6):
- “(6A) The Minister may determine that a Board referred to in subsection (6) may be exempted from being audited.
- (6B) The Minister must, after consultation with the Head of Department, consider the following when making his or her determination as contemplated in subsection (6A)—
- (a) whether the total asset value including investments of the Board in the previous financial year exceeded R5 000 000;
 - (b) the financial statements of the Board of the previous financial year;
 - (c) the location of the health facility that the Board serves; and
 - (d) whether the Board has complied with its duties in terms of this Act in the previous financial year.
- (6C) Where the Minister has exempted a Board in terms of subsection (6A), the Minister must direct that the Board submits to the Head of Department financial statements compiled according to the reporting framework which the Minister has determined in consultation with the Provincial Minister responsible for finance in the Western Cape.
- (6D) Despite the provisions of this section, the Minister may still require a Board contemplated in subsection (6A) 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 (6C), or in the event of any financial mismanagement by a Board, the **[Head of Department] Minister** may take **[whatever]** reasonable 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.”; and
- (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) a description of the transgression constituting the non-compliance;
 - (b) the steps which the Board is required to take and the period within which those steps must be taken to remedy the transgression; and
 - (c) a notification to the Board that if it fails to take any steps referred to in paragraph (b) the Head of Department must refer the non-compliance to the Minister to take remedial steps in terms of subsection (8).
- (10) If a Board complies with all the steps referred to in subsection (9)(b) within the time period specified in the compliance notice, the Head of Department must notify the Board in writing of its compliance with the terms of the compliance notice.
- (11) If a Board fails to comply with any or all of the steps referred to in subsection (9)(b) within the time period specified in the compliance notice—
- (a) the Head of Department must, on the expiry of the time period specified in the compliance notice, notify the Minister in writing of the non-compliance or partial compliance by the Board; and
 - (b) the Minister must within 30 days of the receipt of a notification of non-compliance or partial compliance as contemplated in paragraph (a) notify the Board in writing of its non-compliance or partial compliance, as the case may be, with the terms of the compliance notice.
- (12) The notice contemplated in subsection (11)(b) must state—
- (a) the proposed remedial steps to be taken in terms of subsection (8); and
 - (b) that the Board is entitled to make written representations to the Minister within 14 days of the receipt of the notice regarding the proposed remedial steps.

(13) On expiry of the 14 days specified in subsection 12(b), whether the Minister has or has not received any written representations from the Board, the Minister may, after due consideration of all relevant facts, including the partial compliance of the Board with the terms of a compliance notice issued in terms of subsection (9) and any written representations by the Board, take the proposed remedial steps. 5

(14) If an administrator is appointed in terms of subsection (8)(a), he or she must—

(a) within six months of his or her appointment, furnish the Head of Department with a report on the financial affairs of the Board concerned; 10

(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— 15

(i) if necessary, recommend to the Minister and Head of Department an extension of the recovery plan for a period not exceeding six months; or

(ii) deliver to the Minister and Head of Department a final report on the financial affairs of the Board. 20

(15) The Minister may, after consultation with the Head of Department and upon receipt of the final report contemplated in subsection 14(c)(ii), determine that—

(a) the Board is capable of administering its own financial affairs; or

(b) subject to subsection (16), the Board is capable of administering 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. 25

(16) Before the Minister makes a determination in terms of subsection 15(b), he or she must notify the Board in writing of his or her intention to make such a determination. 30

(17) The notice contemplated in subsection (16) must state—

(a) the proposed determination which the Minister intends to make; and

(b) that the Board is entitled to make written representations to the Minister within 14 days of the receipt of the notice regarding the proposed determination. 35

(18) On expiry of the 14 days specified in subsection 17(b), whether the Minister has or has not received any written representations from the Board, the Minister may, after due consideration of all relevant facts, including any representations by the Board, make the proposed determination.”. 40

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.

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hakies dui skappings uit bestaande verordenings aan.

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

(Afrikaanse teks deur die Premier geteken)
(Bekragtig op 5 Desember 2012)

WET

Tot wysiging van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001, ten einde die wyse waarop die Provinsiale Departement van Gesondheid die finansiële sake van Gesondheidsfasiliteitsrade monitor, te reguleer; ten einde voorsiening te maak vir 'n prosedure wat sal toesien dat gesonde finansiële bestuur van die Rade geskied; en ten einde voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR 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: 5

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

Wysiging van artikel 21 van Wet 7 van 2001

2. Artikel 21 van die Hoofwet word gewysig— 10

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

“(5) 'n Raad moet jaarliks, binne twee maande van die einde van sy boekjaar, finansiële state wat opgestel word volgens [algemene aanvaarbare rekenkundige praktyk] die verslagleweringstraamwerk 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.”; 15

(b) deur subartikel (6) deur 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 ouditeur [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 in subartikel (5).” 20

¹ Hierdie wet is nie in Afrikaans vertaal nie.

- (c) deur die volgende subartikels na subartikel (6) in te voeg:
- “(6A) Die Minister kan bepaal dat ’n Raad in subartikel (6) bedoel daarvan vrygestel kan word om geouditeer te word.
- (6B) Die Minister moet, na oorlegpleging met die Departementshoof, die volgende in ag neem wanneer hy of sy sy of haar bepaling soos beoog in subartikel (6A) maak—
- (a) of die totale batewaarde in begrip van beleggings van die Raad in die vorige boekjaar wat R5 000 000 oorskry het;
- (b) die finansiële state van die Raad van die vorige boekjaar;
- (c) die ligging van die gesondheidsfasiliteit wat deur die Raad gedien word; en
- (d) of die Raad in die vorige boekjaar aan sy pligte ingevolge hierdie Wet voldoen het.
- (6C) Waar die Minister ’n Raad ingevolge subartikel (6A) vrygestel het, moet die Minister beveel dat die Raad aan die Departementshoof finansiële state voorlê wat ooreenkomstig die verslagleweringssraamwerk wat die Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies in die Wes-Kaap bepaal het, saamgestel word.
- (6D) Ondanks die bepalings van hierdie artikel, kan die Minister steeds van ’n Raad beoog in subartikel (6A) vereis om geouditeer te word soos in subartikel (6) uiteengesit.”;
- (d) deur subartikel (8) deur die volgende subartikel te vervang:
- “(8) Indien ’n Raad nie aan die vereistes van subartikel (5) of (6C) voldoen nie, of in die geval van enige finansiële wanbestuur deur ’n Raad, kan die [Departementshoof] Minister redelike [enige] remediërende stappe wat hy of sy nodig [ge]ag [word], doen, met in begrip van die—
- (a) aanstelling van ’n administrateur om die finansiële sake of bedryfsfunksies van die Raad te administreer;
- (b) skorsing of ontslag van Raadslede uit hul amp; en
- (c) verandering van die bevoegdhede en funksies van die Raad ondanks die bepalings van artikel 11 van hierdie Wet.”; en
- (e) deur die volgende subartikels na subartikel (8) by te voeg:
- “(9) Vóór die Minister enige remediërende stappe soos beoog in subartikel (8) doen, moet die Departementshoof aan die Raad ’n kennisgewing van voldoening en afskrifte daarvan aan sy lede uitreik waarin die volgende uiteengesit word—
- (a) ’n beskrywing van die oortreding wat die nievoldoening uitmaak;
- (b) die stappe wat die Raad vereis word om te doen en die tydperk waarbinne dié stappe gedoen moet word ten einde die oortreding te remedieer; en
- (c) ’n kennisgewing aan die Raad dat indien dit versuim om enige van die stappe bedoel in paragraaf (b) te doen, die Departementshoof die nievoldoening na die Minister moet verwys ten einde remediërende stappe ingevolge subartikel (8) te doen.
- (10) Indien ’n Raad aan al die stappe bedoel in subartikel (9)(b) voldoen binne die tydperk wat in die kennisgewing van voldoening gespesifiseer word, moet die Departementshoof die Raad skriftelik in kennis stel van die Raad se voldoening aan die bepalings van die kennisgewing van voldoening.
- (11) Indien ’n Raad versuim om aan enige of al die stappe bedoel in subartikel (9)(b) te voldoen binne die tydperk gespesifiseer in die kennisgewing van voldoening—
- (a) moet die Departementshoof, by verstryking van die tydperk gespesifiseer in die kennisgewing van voldoening, die Minister skriftelik verwittig van die nievoldoening of gedeeltelike voldoening deur die Raad; en
- (b) moet die Minister binne 30 dae van die ontvangs van ’n verwittiging van nievoldoening of gedeeltelike voldoening soos beoog in paragraaf (a) die Raad skriftelik in kennis stel van sy nievoldoening of gedeeltelike voldoening, na gelang van die geval, aan die bepalings van die kennisgewing van voldoening.
- (12) Die kennisgewing beoog in subartikel (11)(b) moet die volgende

uiteensit—

- (a) die voorgestelde remediërende stappe wat ingevolge subartikel (8) gedoen moet word; en
- (b) dat die Raad daartoe geregtig is om binne 14 dae van die ontvangs van 'n kennisgewing skriftelike versoë betreffende die voorgestelde remediërende stappe aan die Minister te rig.

(13) By verstryking van die 14 dae vermeld in subartikel 12(b), of die Minister enige skriftelike versoë van die Raad ontvang het al dan nie, kan die Minister, na rype oorweging van alle tersaaklike feite, met inbegrip van die gedeeltelike voldoening van die Raad aan die bepalings van 'n kennisgewing van voldoening wat ingevolge subartikel (9) uitgereik is en enige skriftelike versoë deur die Raad, die voorgestelde remediërende stappe doen.

(14) Indien 'n administrateur aangestel word ingevolge subartikel (8)(a), 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 oorleg met die Departementshoof, 'n herstelplan vir die betrokke Raad voorstel; en
- (c) by voltooiing van die implementering van die voorgestelde herstelplan—
 - (i) indien nodig, 'n verlenging van die herstelplan vir 'n tydperk van hoogstens ses maande aan die Minister en Departementshoof aanbeveel; of
 - (ii) 'n finale verslag oor die finansiële sake van die Raad aan die Minister en die Departementshoof lewer.

(15) Die Minister kan, na oorlegpleging met die Departementshoof en by ontvangs van die finale verslag beoog in subartikel 14(c)(ii), bepaal dat—

- (a) die Raad bekwaam is om sy eie finansiële sake te administreer; of
- (b) behoudens subartikel (16), die Raad in staat is om sy eie finansiële sake te administreer met die bystand van 'n administrateur wat deur die Minister aangestel word op sodanige verdere bepalings en voorwaardes soos bepaal deur die Minister.

(16) Vóór die Minister 'n bepaling ingevolge subartikel 15(b) maak, moet hy of sy die Raad skriftelik in kennis stel van sy of haar voorneme om so 'n bepaling te maak.

(17) Die kennisgewing beoog in subartikel (16) moet die volgende uiteensit—

- (a) die voorgestelde bepaling wat die Minister van voorneme is om te maak; en
- (b) dat die Raad daartoe geregtig is om binne 14 dae van die ontvangs van die kennisgewing skriftelike versoë betreffende die voorgestelde bepaling aan die Minister te rig.

(18) By verstryking van die 14 dae vermeld in subartikel 17(b), of die Minister enige skriftelike versoë van die Raad ontvang het al dan nie, kan die Minister, na rype oorweging van alle tersaaklike feite, met inbegrip van enige versoë deur die Raad, die voorgestelde bepaling maak.”.

Kort titel en inwerkingtreding

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

INQAKU ELICHAZAYO NGOKUBANZI:

- [] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere achaza okushiyelelo kwimithetho esele ikho.
- _____ Amagama akwelwe umgca ongqindilili ngaphantsi achaza okufakelweyo kwimithetho esele ikho.

(*Umxholo wesiBhulu utyikitywe yiNkulumbuso*)
(*Wamkelwe ngowe- 7 Disemba 2012*)

UMTHETHO

Ukulungisa umthetho oyi- Western Cape Health Facility Boards Act , 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 loMthetho 7 ka 2001

1. ICandelo 1 lomthetho oyi- Western Cape Health Facility Boards Act, 2001 (uMthetho oyiNtloko) ulungiswa ngokufakela le nkcazelo ilandelayo emva 5 kwenkcazelo “UMphathiswa”:

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

Izilungiso zecandelo 21 zoMthetho 7 ka 2001

2. ICandelo 21 loMthetho oyiNtloko lilungiswa— 10

(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 ezihlanganiswe ngokwe **[nkqubo esemthethweni yocwangciso-mali jikelele]** isicwa- 15 ngciso-nkqubo soniko-ngxelo esamiselwa nguMphathiswa ebonisene noMphathiswa wePhondo ophethe ezeMali eNtshona Koloni.”.

(b) ngokufakela eli candelwana lilandelayo endaweni yecandelwana:

“(6) UMphicothi Zincwadi, oqeshwe yiBhodi, kulindeleke ukuba athi ngokwecandelwana (6A), [I] irekhodi neengxelo zonyaka zemali 20 zeBhodi [kufuneka ziphicothwe nguMphicothi-Jikelele oya kuthi a] olindeleke ukuba angenise ingxelo yophicotho kwiNtloko yeSebe nakwiBhodi echaphazelekayo kwisithuba seenyanga ezimbini zifumanekile iingxelo ekubhekiselelwa kuzo kwicandelwana (5).”.

- (c) ngokuhlomela la macandelwana alandelayo emva kwecandelwana (6):
- “(6A) UMphathiswa nguye oya kuthi amisele ukuba iBhodi ekubhekiselelwa kuyo kwicandelwana (6) ixolelwe ingaphicothwa.
- (6B) UMphathiswa uya kuthi akuba ebonisene neNtloko yeSebe, aqwalasele oku kulandelayo xa esenza ummiselo wakhe njengoko kuchaziwe ku(6A) ukuba—
- (a) ixabiso le-asethi lilonke kuqukwa neemali ezityaliweyo zeBhodi kunyaka-mali ogqithileyo zidlulile kuma R5 000 000,00;
- (b) aqwalasele iingxelo zemali zeBhodi zonyaka-mali odlulileyo;
- (c) anike ingqalelo indawo esikuyo isibhedlele esebenzela sona iBhodi; kunye
- (d) ingaba iBhodi yakwazi ukuyithobela imimiselo yokwenza imisebenzi yayo ngokwalo Mthetho koonyaka-mali abagqithileyo.
- (6C) Apho uMphathiswa eye wayixolela iBhodi ngokomhlathi (6A), uMphathiswa uya kuyiyalela loo Bhodi ukuba ingenise kwiNtloko yeSebe iingxelo neenkcazo ngemali ngokwesicwangciso-nkqubo soniko-ngxelo awasimiselayo uMphathiswa akuba ebonisene noMphathiswa wePhondo wezeMali eNtshona Koloni.
- (6D) Nangona ingatyeshelwanga imimiselo yeli candelo, uMphathiswa uya kuyimisela iBhodi echazwe kumhlathi (6A) ukuba iphicothwe njengoko kuchaziwe kwicandelwana (6).”;
- (d) ngokufaka endaweni yecandelwana (8) eli candelwana lilandelayo:
- “(8) Ukuba iBhodi iyasilela ukuthobela imimiselo yecandelwana (5), okanye (6C), okanye xa ibe nolawulo olugwenxa emalini, **[iNtloko yeSebe]** uMphathiswa uya kuthabatha **[nawaphi na]** amanyathelo afanelekileyo olungiso awabona **[abonakala]** efanelekile kuquka—
- (a) ukuqeshwa komlawuli wezemali ukuze alawule imicimbi yemali okanye imisebenzi eqhutywayo yeBhodi;
- (b) ukurhoxiswa okanye ukususwa kwamalungu eBhodi esikhundleni; kananjalo
- (c) nokukutshintshwa kwamagunya nemisebenzi yeBhodi ingatyeshelwanga imimiselo yecandelo 11 lalo Mthetho;”;
- (e) nokongeza la macandelwana alandelayo emva kwecandelwana (8):
- “(9) Ngaphambi kokuba uMphathiswa athabathe amanyathelo olungiso njengoko echaziwe kwicandelwana (8), iNtloko yeSebe iya kukhuphela iBhodi isaziso ngendlela yokuthobela imimiselo aze amalungu azinikwe neekopi ezichaza—
- (a) inkcaza ngokusilela ukuthobela imimiselo nekhokelela ukungathotyelwa kwayo;
- (b) amanyathelo ekufuneka ethatyathiwe yiBhodi nexesha ekufuneka athatyathwe ngalo loo manyathelo ukulungisa ukusilela okuthe kwakho; kananjalo
- (c) nesaziso esiya kwiBhodi esichaza ukuba xa ithe yasilela ukuthatha amanyathelo ekubhekiselelwa kuwo kumhlathi (b) iNtloko yeSebe iya kuwugqithisela kuMphathiswa umcimbi wokusilela kweBhodi ukuthobela imimiselo ukuze ibe nguye othabatha amanyathelo olungiso ngokwecandelwana (8).
- (10) Ukuba iBhodi iyakhawulelana namanyathelo ekubhekiselelwe kuwo kwicandelwana 9(b) kweli xesha libekiweyo kwisaziso sokuthobela, iNtloko yeSebe iya kuyazisa iBhodi ngembalelwano ngemimiselo yesaziso sokuthobela.
- (11) Ukuba iBhodi ithe yatyeshela naliphi na inyathelo okanye onke amanyathelo ekubhekiselele kuwo kwicandelwana 9(b) kweli xesha libekiweyo kwisaziso sokuthobela—
- (a) INtloko yeSebe iya kuthi ngomhla eliphela ngawo ixesha elichazwe kwisaziso sokuthobela, yazise uMphathiswa ngembalelwano ngokusilela ukuthobela okanye ukungathobeli ngokupheleleyo kweBhodi ; kananjalo
- (b) UMphathiswa uya kuthi kwisithuba seentsuku ezingama 30 akuba esifumene isaziso sokungathobeli okanye ukusilela ukuthobela ngokupheleleyo njengoko kuchaziwe kumhlathi (a) ayazise iBhodi ngembalelwano ngokusilela ukuthobela okanye ukungathobeli ngokwemeko leyo ngokwemimiselo yesivumelwano sesaziso

- sokuthobela.
- (12) Isaziso esichazwe kwicandelwana 11(b) liya kuchaza amanyathelo olungiso ekufuneka athatyathwe ngokwe—
- (a) candelwana (8); kananjalo
- (b) iBhodi kufuneka yenze ulwandlalo olubhaliweyo luthunyelwe kuMphathiswa kwisithuba seentsuku ezili 14 sifumanekile isaziso esimalunga namanyathelo aphakanyiswayo olungiso. 5
- (13) Zakuba ziphelile iintsuku ezili 14 ezichaziweyo kwicandelwana 12(b), nokuba uMphathiswa ulufumene ulwandlalo olubhaliweyo okanye akalufumananga kwiBhodi, uMphathiswa uya kuthi emva kokuqwalasela onke amanqaku anokwenza noku, kuqukwa nokungathobeli ngokupheleleyo kweBhodi enze izingqibo ezimalunga nesaziso sokuthobela ngokwecandelwana (9) kunye nalo naluphi na ulwandlalo olubhaliweyo lweBhodi, athabathe amanyathelo aphakanyisiweyo olungiso. 10
- (14) Ukuba aqeshe umlawuli ngokwecandelo (8), uya kuthi—
- (a) kwisithuba seenyanga ezintandathu eqeshiwe, angenise ingxelo engemicimbi yemali yeBhodi echaphazelekayo kwiNtloko yeSebe;
- (b) emva koko akuba ebonisene neNtloko yeSebe, enze isicwangciso sokubuyiselwa kwemali yeBhodi echaphazelekayo; kananjalo 15
- (c) sakuba sesigqityiwe ukwenziwa isicwangciso sokubuyiselwa kwemali esicetywayo—
- (i) xa ikho imfuneko kwenziwe isiphakamiso kuMphathiswa nakwiNtloko yeSebe mayela nokwandiswa kwexesha lesicwangciso ukuba sithathe ixesha elingayi kuba ngaphezulu kwiinyanga ezintandathu; okanye 20
- (ii) kungeniswe kuMphathiswa nakwiNtloko yeSebe ingxelo egqibeleleyo yemicimbi yemali yeBhodi. 25
- (15) UMphathiswa emva kokuba ebonisene neNtloko yeSebe naxa sele eyifumene ingxelo egqibeleleyo echaziweyo kwicandelwana 14(c)(ii), abone ukuba—
- (a) iBhodi iyakwazi ukuyilawula ngokwayo imicimbi yayo yemali; okanye
- (b) ngokuxhomekeke kwicandelwana (16), iBhodi iyakwazi ukuyilawula ngokwayo imicimbi yayo yemali ngokuncediswa ngumlawuli oqeshwe nguMphathiswa ngokwaloo mimiselo nemiqathango yongezelelweyo njengoko imiselweyo nguMphathiswa. 30
- (16) Ngaphambi kokuba uMphathiswa enze isigqibo ngokwecandelwana 15(b), kufuneka ayazise iBhodi ngembalelwano ngeenjongo zokuba enze eso sigqibo. 35
- (17) Isaziso esichazwe kwicandelwana (16) kufuneka sikhankanye—
- (a) isigqibo esiphakanyisiweyo afuna ukusenza uMphathiswa; kanokuba
- (b) iBhodi kufuneka yenze ulwandlalo olubhaliweyo kuMphathiswa kwisithuba seentsuku ezili 14 sifumanekile isaziso esiphathelele kwisigqibo esiphakanyiswayo. 40
- (18) Zakuba ziphelile iintsuku ezili 14 ezichaziweyo kwicandelwana 17(b), nokuba uMphathiswa ulufumene ulwandlalo olubhaliweyo okanye akalufumananga kwiBhodi, uMphathiswa uya kuthi emva kokuqwalasela onke amanqaku anokwenza noku, kuqukwa nokungathobeli ngokupheleleyo kweBhodi enze izingqibo ezimalunga nesaziso sokuthobela ngokwecandelwana (9) kunye nalo naluphi na ulwandlalo olubhaliweyo lweBhodi, athabathe amanyathelo aphakanyisiweyo olungiso.”. 45
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ISihloko esifutshane nokuqalisa ukusebenza komthetho

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

