

(23 December 2016 – to date)

MENTAL HEALTH CARE ACT 17 OF 2002

(Government Notice 1386 in Government Gazette 24024 dated 6 November 2002. Commencement date:
15 December 2004 [Proc. No. R.61 in Government Gazette 27116 dated 15 December 2004])

GENERAL REGULATIONS

Government Notice R1467 in Government Gazette 27117 dated 15 December 2004. Commencement date:
15 December 2004.

as amended by:

Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005.

Government Notice 1590 in Government Gazette 40515 dated 23 December 2016. Commencement date:
23 December 2016.

Publisher's note:

- The Regulations have been amended by regulation 2(2) of Government Notice 1590 dated 23 December 2016 by the substitution for the expression "72-hours" of the expression "72-hour" wherever it appears in the said regulations.
- The Regulations have been amended by regulation 2(3) of Government Notice 1590 dated 23 December 2016 by the substitution for the word "center" of the word "centre" wherever it appears in the said regulations.
- The Regulations have been amended by regulation 2(4) of Government Notice 1590 dated 23 December 2016 by the substitution for the phrase "health establishment administered under the auspices of the State" of the phrase "health establishment" wherever it appears in the said regulations.

The Minister of Health has under sections 9(2)(a), 12(2), 16, 27(2), 29(2)(a), 33(2), 34(1)(b), (3)(b)(i), (5(a) and (7)(a), 35(2)(c) 44(4), 47(2), 48(6), 57(4), 66 and 67 of the Mental Health Care Act, 2002 (Act No. 17 of 2002), in accordance with section 68 of the said Act, made the regulations in the Schedule.

SCHEDULE

INDEX

1. Definitions

Chapter 1: Quality standards and norms

Prepared by:

2. Co-ordination and implementation of mental health services
3. Decision by Head of health establishments
4. Home visits
5. Community care
6. Subsidies or transfers to non-governmental organizations or volunteer organizations
7. Report on exploitation and abuse

Chapter 2: Application for mental health care and assessment

8. Emergency admission or treatment without consent
9. Application for assisted mental health care
10. Application for involuntary mental health care and assessment
11. 72-hour assessment after head of health establishment grants application for involuntary care, treatment and rehabilitation
12. Information regarding health establishments that provide assessment

Chapter 3: Appeals

13. Appeals against decision of head of health establishment to approve application for assisted care, treatment and rehabilitation
14. Appeal against decision of head of health establishment on involuntary care, treatment and rehabilitation
15. Consideration of appeals by Review Board
16. Order by High Court on further involuntary care, treatment and rehabilitation

Chapter 4: Transfer and discharge

17. Discharge report
18. Involuntary outpatient mental health care user
19. Transfer of involuntary mental health care user
20. Transfer of involuntary mental health care user from inpatient basis to outpatient basis and vice versa
21. Periodical reports
22. Application for transfers of mental health care users to maximum security facilities
23. Order for transfer of mental health care users to maximum security facilities
24. Notice of transfers of State patient or mentally ill prisoner between health establishments
25. Transfer of State patient from detention centre to a designated health establishment and between designated health establishments
26. Leave of absence
27. Transfer of an assisted or involuntary mental health care user, State patient or mentally ill prisoner under sections 27(1), 33(9), 34(4)(b), 34(6) and 39 of the Act with the assistance of the South African Police Service
28. Apprehension and handing over of person to a health establishment by South African Police Service

29. Return of an absconded person who has been apprehended and is being held in the custody by the South African Police Service
30. Application for discharge of State patient
31. Procedure on expiry of term of imprisonment of mentally ill prisoner

Chapter 5: Surgical procedures, medical or therapeutic treatment

32. Psycho-surgery
33. Electro-convulsive treatment
34. Sleep therapy
35. Consent to treatment and operations for illness other than mental illness
36. Use of mechanical means of restraint
37. Seclusion

Chapter 6: Maximum security facilities

38.

Chapter 7: Compulsory records

- 39.
40. Monthly Report

Chapter 8: Observation and treatment

41. Observation and treatment of mental health care users referred to a health establishment by a court of law

Chapter 9: Authorization and licensing

42. Authorization and licensing of private hospital providing mental health services
43. Licensing of community facilities

Chapter 10: Educational programmes

44. Establishment and implementation of educational programmes for mental health care users admitted at health establishments

Chapter 11: Care and administration of property of mentally ill person or person with severe or profound intellectual disability

45. Application to Master of High Court for appointment of administrator

Chapter 12: General provisions

46. Payment of maintenance costs and expenses in health establishments
47. Estimated property value and annual income
48. Repeal

ANNEXURES 1 – 48

1. Definitions

In these Regulations any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and unless the context otherwise indicates -

“custodian” means a person who undertakes and is entrusted with the responsibility of ensuring that the conditions prescribed in terms of sections 34(5)(a) and 45 of the Act are adhered to by the user or state patient;

(Definition of “custodian” inserted by regulation 2(1)(a) of Government Notice 1590 dated 23 December 2016)

“health establishment” means -

- (a) a public health establishment; or
- (b) a health establishment contracted to and funded by the State to provide mental health care services on behalf of the State;

“maximum security facility” means a ward or unit within a psychiatric hospital, designated by or such the head of that psychiatric hospital.

“mechanical restraint” means the use of any instrument or appliance whereby the movements of the body or any of the limbs of a user are restrained or impeded;

(Definition of “mechanical restraint” inserted by regulation 2(1)(b) of Government Notice 1590 dated 23 December 2016)

“non-governmental organizations” means non-profit, voluntary citizens’ groups which are task-orientated and driven by people with common interests and who perform a variety of services and humanitarian functions;

(Definition of “non-governmental organizations” inserted by regulation 2(1)(b) of Government Notice 1590 dated 23 December 2016)

“organ of the state” has the meaning assigned to “organ of state” in Section 239 of the Constitution;

(Definition of “organ of the state” inserted by regulation 2(1)(b) of Government Notice 1590 dated 23 December 2016)

“physical means of restraint” means temporarily physically restraining the movement of the body by one or more persons in order to prevent that the person so restrained harm himself or herself or others.

“primary health care facility” means a health establishment which provides primary health care;

“private hospital” means a hospital, which is not owned or funded by the State;

“seclusion” means the isolation of a user in a space where his or her freedom of movement is restricted;

“the Act” means the Mental Health Care Act, 2002 (Act No. 17 of 2002).

“volunteer organizations” means a group of individuals who enter into an agreement as volunteers to form an organization to accomplish a purpose.

(Definition of “volunteer organizations” inserted by regulation 2(1)(c) of Government Notice 1590 dated 23 December 2016)

CHAPTER 1: QUALITY STANDARDS AND NORMS

2. Co-ordination and implementation of mental health services

- (1) A person requiring, or deemed to require, mental health services must ordinarily present himself or herself at a health establishment that provides primary health care.
- (2) A mental health care user must be assessed and, if such user requires care, treatment and rehabilitation services he or she must be -
 - (a) treated and cared for at such primary health care health establishment;
(Regulation 2(2)(a) substituted by regulation 3 of Government Notice 1590 dated 23 December 2016)
 - (b) referred to a community based mental health care practitioner to be assessed and if treatment is required, be treated in the community; or
 - (c) referred to a hospital for assessment and/or admission.
- (3) A mental health care user who requires tertiary or specialized mental health care must be referred to a health establishment that provides tertiary or specialized services.
- (4) A mental health care user referred to a secondary or tertiary level who, following his or her discharge requires follow-up services at primary health or community levels must be referred back to the latter

level and shall be provided with the relevant care, treatment and rehabilitation programme within the available resources.

3. Decision by Head of health establishment

- (1) When a head of a health establishment makes a decision in terms of these Regulations that falls outside his or her scope of professional practice, he or she must act after consultation with the mental health care practitioner that conducted the assessment or any other mental health care practitioner.
- (2) The duties and functions to be performed by the head of a health establishment in terms of the Act or these Regulations may in the absence of such head, be performed by the person appointed in writing by the head of the health establishment to act as head of such health establishment in his or her absence.

(Regulation 3 amended by regulation 1.1.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

(Regulation 3 substituted by regulation 4 of Government Notice 1590 dated 23 December 2016)

4. Home visits

Providers of mental health care may visit homes and places of employment of persons who are deemed to be mentally ill or intellectually disabled, within the catchment areas in which they operate, if such home visit is required for the care, treatment or rehabilitation of a mental health care user.

(Regulation 4 substituted by regulation 1.2.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

5. Community care

- (1) Programmes and facilities for the community care, treatment and rehabilitation of people with mental health problems must be provided where possible.
- (2) Community programmes or facilities may be run by -
 - (a) organs of the State;
 - (b) health establishments under the auspices of the State;
 - (c) non-profit organizations;
 - (d) volunteer or consumer groups;

- (e) profit making organizations;
 - (f) individuals registered with a relevant health or social service statutory council; or
 - (g) registered training institutions.
- (3) Services by a grouping referred to in sub-regulation (2) may, within their professional scope of practice, include medical care, residential community accommodation, day-care centres, counselling, support or therapeutic groups, psychotherapy, vocational rehabilitation programmes, psychosocial rehabilitation programmes or other services, which would assist the recovery of the person to optimal functioning.
- (Regulation 5(3) substituted by regulation 1.3.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)*

6. Subsidies or transfers to non-government organizations or volunteer organizations

Within available resources the State must provide subsidies to appropriate non-government organizations or volunteer organizations for the provision of community care, treatment and rehabilitation to meet the objectives of the Act.

(Regulation 6 substituted by regulation 5 of Government Notice 1590 dated 23 December 2016)

7. Report on exploitation and abuse

- (1) A victim to abuse or a person witnessing any form of abuse, exploitation or degrading treatment against a mental health care user as contemplated in section 1(1) of the Act—
- (a) may report this fact to the Review Board concerned in the form of Form MHCA 02 of the Annexure; or
 - (b) may lay a charge with the South African Police Service who shall investigate the matter and take appropriate action, and thereafter in writing notify the Review Board concerned of that charge.
- (2) When a Review Board receives a report contemplated in subregulation (1)(a) that Board must investigate that report and if necessary, lay a charge with the South African Police Service and may decide to hold a complaint hearing.
- (3) Should the Review Board decide to hold a complaint hearing, the secretariat of the Review Board must in writing and by registered post inform—
- (a) the person who witnessed the abuse, exploitation or degrading treatment of a mental health care user;

- (b) the relevant mental health care practitioners;
- (c) the head of the health establishment concerned;
- (d) the mental health care user concerned; and
- (e) any other person whom the Review Board considers to be relevant to the hearing,

of the complaint, the date of hearing and whether written or oral representation, as appropriate, must be made to the Review Board and advise of the right of representation as required.

- (4) The Review Board must give notice of the hearing contemplated in subregulation (3) at least two weeks before the date of such hearing.
- (5) The Review Board may issue a summons in the form of Form MHCA 18 of the Annexure to any person to appear before it as a witness to give evidence or to produce any book, record, document or other item, which in the opinion of the Review Board is relevant to the hearing.

(Regulation 7 amended 1.4.1 + 1.4.2 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

(Regulation 7 substituted by regulation 6 of Government Notice 1590 dated 23 December 2016)

CHAPTER 2: APPLICATION FOR MENTAL HEALTH CARE AND ASSESSMENT

8. Emergency admission or treatment without consent

Any person or health establishment that provides care, treatment and rehabilitation services to a mental health care user or admits such user in circumstances contemplated in section 9(1)(c) of the Act must report that fact in writing in the form of form MHCA 01 of the Annexure to the relevant Review Board.

(Regulation 8 substituted by regulation 2.1.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

9. Application for assisted mental health care

- (1) An application for assisted mental health care by a person contemplated in section 27(1) of the Act must be made in the form of form MHCA 04 of the Annexure.

(Regulation 9(1) substituted by regulation 2.2.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

- (2) Where an applicant is unable, for whatever reason, to complete a written application, that applicant must be assisted by a staff member at the health establishment concerned.

- (3) An application form referred to in sub-regulation (1) must be available at all health establishments where there are at least two mental health care practitioners able to examine such person in terms of section 27(4) of the Act.
- (4) The application form contemplated in sub-regulation (1) must when it has been completed, be submitted to the head of a health establishment.
- (5) On completion of the examination referred to in sub-regulation (3), the mental health care practitioners must submit their finding in the form of form MHCA 05 of the Annexure to the head of the health establishment concerned.

(Regulation 9(5) substituted by regulation 2.2.2 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

- (6) A health establishment that is unable to provide the examination contemplated in section 27(4) of the Act, must refer an applicant to a health establishment within the closest proximity that provides that examination.

- (7) The head of the health establishment concerned must give notice in terms of section 27(9) of the Act to the applicant in the form of form MHCA 07 of the Annexure of his or her decision concerning the application for assisted care, treatment and rehabilitation in question and reasons thereof.

(Regulation 9(7) substituted by regulation 2.2.3 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

- (8) The head of the health establishment concerned must in terms of section 28(1) of the Act, within seven days of his or her decision referred to in sub-regulation (7), send a copy of the application for assisted care, treatment and rehabilitation to the relevant Review Board together with a copy of the findings of the two mental health care practitioners referred to in sub-regulation (5) and a copy of the notice referred to in sub-regulation (7).

- (9) The Review Board concerned must, after receiving the documentation referred to in sub-regulation (8) and after completing an investigation in terms of section 28(3) of the Act within 30 days, report on its findings and decision to the head of the health establishment concerned, the applicant and the head of the relevant provincial department in the form of form MHCA 14 of the Annexure.

(Regulation 9(9) substituted by regulation 2.2.4 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

10. Application for involuntary mental health care and assessment

- (1) An application for involuntary mental health care by a person contemplated in section 33(1) of the Act must be made in the form of form MHCA 04 of the Annexure.

- (2) Where an applicant is unable, for whatever reason, to complete in the written application, that applicant must be assisted by a staff member at the health establishment concerned.
- (3) The application form contemplated in sub-regulation (1) must be available at all health establishments where there are at least two mental health care practitioners who are able to examine a person in accordance with section 33(4) of the Act.
- (4) An application form contemplated to in sub-regulation (1) must when it has been completed, be submitted to the head of a health establishment.
- (5) On completion of the examination referred to in sub-regulation (3), the mental health care practitioners must submit their findings in the form of form MHCA 05 of the Annexure to the head of the health establishment concerned.
- (6) A health establishment that is unable to provide an examination contemplated in section 33(4) of the Act, must refer an applicant to a health establishment within the closest proximity which provides that examination.
- (7) The head of the health establishment concerned must give notice in terms of section 33(8) of the Act to the applicant in the form of form MHCA 07 of the Annexure of his or her decision concerning the application for involuntary care, treatment and rehabilitation in question and reasons thereof.

11. 72-Hour assessment after head of health establishment grants application for involuntary care, treatment and rehabilitation

- (1) The assessment contemplated in section 34 of the Act must be done in accordance with form MHCA 06 of the Annexure.
- (2) A medical practitioner conducting an assessment contemplated in section 34 of the Act may determine the treatment programme and the place within the hospital where the mental health care user must be kept during the 72-hour assessment period to ensure the safety of such user and others.
- (3) If the facilities at the health establishment concerned are unsuitable for the 72-hour assessment or personnel within that health establishment are unable to cope with a mental health care user due to the potential harm which that user may inflict on himself, herself, others or property if he or she remains in that health establishment, that health establishment must transfer that user to another health establishment with suitable personnel or facilities to conduct the assessment.
- (4) The medical practitioner contemplated to in sub-regulation (2) must make a provisional diagnosis of any mental illness and initiate treatment according to standard treatment guidelines or protocols as soon as possible.

- (5) A medical practitioner must monitor the condition of the mental health care user closely and give a written report to the head of the health establishment concerned on such user's mental status at least every 24 hours during the 72-hour assessment period.
- (6) The medical practitioner and another mental health care practitioner who conducted the 72-hour assessment must within 12 hours after the expiry of the 72-hour assessment period each submit a written report in the form of Form MHCA 06 of the Annexure to the head of the health establishment concerned, indicating his or her assessment on the physical and mental health status of the mental health care user and his or her recommendations concerning further treatment.
(Regulation 11(6) amended by regulation 2.3.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)
(Regulation 11(6) substituted by regulation 7 of Government Notice 1590 dated 23 December 2016)
- (7) The head of a health establishment concerned may discharge or transfer a mental health care user to voluntary status during the 72-hour assessment if that user's mental condition warrants it.
- (8) If the head of the health establishment concerned, following the 72-hour assessment, is of the opinion that the mental health status of the mental health care user warrants further involuntary care, treatment and rehabilitation services on an outpatient basis, he or she must inform the Review Board in the form of form MHCA 09 of the Annexure thereof.
- (9) If the head of the health establishment concerned, following the 72-hour assessment, is of the opinion that the mental health status of the mental health care user warrants further involuntary care, treatment and rehabilitation services on an inpatient basis, he or she must request the Review Board in the form of form MHCA 08 of the Annexure to approve such further care, treatment and rehabilitation.
(Regulation 11(9) substituted by regulation 2.3.2 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)
- (10) The Review Board must within 30 days of receipt of documents referred to in section 34(3)(c)(i) of the Act send a decision on further involuntary care, treatment and rehabilitation on an inpatient basis in the form of form MHCA 14 of the Annexure with reasons to the applicant and the head of the health establishment.

12. Information regarding health establishments that provide assessment

- (1) The head of a provincial department must submit to all health establishments within the province concerned, the South African Police Service and the national department a list of the health establishments in each district in that province that provide the 72-hour assessment contemplated in section 34 of the Act.

- (2) The head of such provincial department must update and publish in the Government Gazette the list contemplated in subregulation (1) on an annual basis indicating which health establishment falls in which district and submit that updated list to the bodies referred to in subregulation (1).

(Regulation 12 substituted by regulation 8 of Government Notice 1590 dated 23 December 2016)

CHAPTER 3: APPEALS

13. Appeal against decision of head of health establishment to approve application for assisted care, treatment and rehabilitation

- (1) A person referred to in section 29(1) of the Act may within 30 days of the date of the written notice issued in terms of section 27(9), appeal in the form of form MHCA 15 of the Annexure against the decision of the head of the health establishment to the Review Board.
- (2) An appeal contemplated to in section 29(1) of the Act may be -
 - (a) made directly to the Review Board concerned; or
 - (b) submitted to the head of the health establishment where the application in terms of section 27 of the Act was made, who must immediately submit that appeal to the Review Board concerned.

14. Appeal against decision of head of health establishment on involuntary care, treatment and rehabilitation

- (1) A person referred to in section 35(1) of the Act may within 30 days of the date of the written notice issued in terms of section 33(8), appeal in the form of form MHCA 15 of Annexure against the decision of the head of the health establishment.
- (2) An appeal contemplated in section 35(1) of the Act -
 - (a) made directly to the Review Board concerned; or
 - (b) submitted to the head of the health establishment where the application in terms of section 33 of the Act was made, who must immediately submit that appeal to the Review Board concerned.

15. Consideration of appeals by Review Board

- (1) If an appeal against a decision contemplated in section 27(9) and 33(8) to provide assisted or involuntary care, treatment and rehabilitation is made to a Review Board, the secretariat of that Review Board must ensure that all documentation in terms of section 29 and 35 of the Act is obtained and delivered to the

members of that Review Board at least one week prior to the appeal being considered by that Review Board.

- (2) The secretariat of a Review Board must in writing and by registered post inform the appellant, the person referred to in section 27(1) or 33(1) of the Act, the relevant mental health care practitioners, the head of the health establishment concerned and any other person whom the Review Board considers to be important to the appeal hearing, of the date of the appeal and whether written or oral representation, as appropriate, must be made to the Review Board.
- (3) The Review Board may specifically invite the persons referred to in sub-regulation (2) to the appeal hearing.
- (4) The Review Board must give notice of the appeal hearing at least two weeks before the date of such hearing.
- (5) The Review Board may summon any person in the form of form MHCA 18 of the Annexure to appear before it as a witness to give evidence or to produce any book, record, document or other item, which in the opinion of the Review Board is relevant to the appeal.
- (6) A person referred to in sub-regulation (5) must be compensated by funds appropriated by the provincial department concerned for any reasonable expenses which such person may have incurred in order to attend the appeal hearing.

16. Order by High Court on further involuntary care, treatment and rehabilitation

Within 30 days after receipt of the documents submitted by the Review Board in terms of sections 34(7) or 35(4), the High Court must in terms of section 36 of the Act in the form of form MHCA 16 of the Annexure order -

- (a) further hospitalization of the mental health care user and, if necessary, that the financial affairs of such user be managed and administered according to provisions of Chapter VIII of the Act; or
- (b) immediate discharge of such user.

CHAPTER 4: TRANSFER AND DISCHARGE

17. Discharge report

The head of a health establishment must in terms of sections 16, 31(3)(a), 34(5)(a), 48(4)(a) and 56(a) of the Act issue a discharge report by way of Form MHCA 03 of the Annexure.

(Regulation 17 substituted by regulation 3.1.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

(Regulation 17 substituted by regulation 9 of Government Notice 1590 dated 23 December 2016)

18. Involuntary outpatient mental health care user

(1) If a mental health care user's mental health care status warrants further involuntary care, treatment and rehabilitation services on an outpatient basis in terms of section 34(3) or section 34(5) of the Act, the head of the health establishment concerned must provide that user and his or her custodian with a schedule of conditions relating to his or her outpatient care, treatment and rehabilitation in the form of form MHCA 10 of the Annexure.

(2) The schedule of conditions contemplated in subregulation (1) must be read and explained to the mental health care user and to his or her custodian or read and translated into one of the official languages that such user can understand.

(Regulation 18(2) substituted by regulation 10(a) of Government Notice 1590 dated 23 December 2016)

(3) The conditions contemplated in sub-regulation (1) must include -

- (a) the name of a custodian into whose care the mental health care user must be given;
- (b) the name of the health establishment where the mental health care user's mental health status must be monitored or reviewed and the timeframe of each review; and
- (c) the name of the health establishment where treatment will be provided if such treatment is not provided in the health establishment referred to in paragraph (b);
- (d) behavior which must be adhered to by the mental health care user; and
- (e) the name of the psychiatric hospital or care and rehabilitation centre concerned where the mental health care user is to be admitted if -
 - (i) he or she relapses to the extent of being a danger to himself, herself or others if he or she remains an involuntary outpatient; or
 - (ii) the conditions of outpatient care are violated.

(4) The health establishment concerned must forward the schedule of conditions to -

- (a) the mental health care user;
- (b) the custodian contemplated in sub-regulation 3(a);

Prepared by:

- (c) every health establishment(s) contemplated in sub-regulation (3)(b) and (c); and
 - (d) the Review Board concerned.
- (5) A mental health care user who does not accept the conditions regarding his or her involuntary outpatient care, treatment and rehabilitation must remain an involuntary inpatient mental health care user.
- (6) A custodian into whose control a mental health care user has been entrusted must take over the responsibility for that user when the user is discharged from the health establishment concerned where he or she received inpatient care.
- (7) If a custodian into whose control a mental health care user has been entrusted when that user was discharged, intends to change the place where that user resides and that change requires using another health establishment -
- (a) where that user's mental health status will be monitored or reviewed; and
 - (b) where treatment will be provided,
- that custodian must apply in writing to the head of the current health establishment for transfer of that user to the other health establishment.
- (8) If the head of the current health establishment and the head of the health establishment to where the mental health care user is to be transferred approve the application contemplated in sub-regulation (7), that mental health care user can be transferred to the other health establishment.
- (9) Where a mental health care user does not present himself or herself for monitoring and review according to the conditions referred to in sub-regulation (1), and after the necessary measures have been taken by the health establishment concerned to locate such user, such user must be deemed to have absconded in terms of section 40(4) of the Act and in such a case the health establishment concerned must inform the South African Police Service in the form of form MHCA 25 of the Annexure.

(Regulation 18(9) amended by regulation 10(b) of Government Notice 1590 dated 23 December 2016)

19. Transfer of involuntary mental health care user

Arrangement for a transfer contemplated in section 34(4)(b) of the Act must be made in accordance with Form MHCA 11 of the Annexure between the head of the psychiatric hospital, care and rehabilitation centre concerned and the head of the health establishment where the involuntary mental health care user is currently admitted.

(Regulation 19 substituted by regulation 11 of Government Notice 1590 dated 23 December 2016)

Prepared by:

20. Transfer of involuntary mental health care user from inpatient basis to outpatient basis and vice versa

- (1) Where required in terms of sections 8(3) or 34(5) or (6) of the Act, a mental health care user may be transferred from inpatient to outpatient care and vice versa, using form MHCA 12 of the Annexure.
- (2) Arrangements for a transfer referred to in sub-regulation (1) must be made between the head of the psychiatric hospital concerned and the head of a health establishment where the involuntary outpatient mental health care user is being reviewed.
- (3) Where such a transfer has taken place, notice of such transfer must be given within two weeks thereafter by the head of the health establishment concerned to the Review Board concerned for their consideration in terms of section 34(7) of the Act.

21. Periodical reports

- (1) A periodic review must be done on—
 - (a) an assisted mental health care user in terms of section 30 of the Act using Form MHCA 13A;
 - (b) an involuntary mental health care user in terms of section 37 of the Act using Form MHCA 13A;
 - (c) a state patient in terms of section 46 of the Act using Form MHCA 13B;
 - (d) a mentally ill prisoner in terms of section 55 of the Act using Form MHCA 13A.
(Regulation 21(1) amended by regulation 3.2.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)
(Regulation 21(1) substituted by regulation 12(a) of Government Notice 1590 dated 23 December 2016)
- (2) With regard to a person referred to in sub-regulation (1)(a), (b) or (c) -
 - (a) the first review must be done by a psychiatrist or medical practitioner six months after the commencement of care, treatment and rehabilitation services;
(Regulation 21(2)(a) substituted by regulation 12(b) of Government Notice 1590 dated 23 December 2016)
 - (b) the second review must be done by any mental health care practitioner 12 months after the first review referred to in paragraph (a); and
 - (c) the reviews thereafter must be done every 12 months, provided that every alternate review shall be done by a psychiatrist or medical practitioner.
(Regulation 21(2)(c) substituted by regulation 12(b) of Government Notice 1590 dated 23 December 2016)

- (3) With regard to a person referred to in subregulation (1)(d) periodic reviews must be done every six months by a psychiatrist or a medical practitioner.

(Regulation 21(3) substituted by regulation 12(c) of Government Notice 1590 dated 23 December 2016)

- (4) Within 30 days after the Review Board concerned has received a summary report of a periodic review referred to in sub-regulation (1)(a), (b) and (d), such Review Board must decide on the review in the form of form MHCA 17 of the Annexure.

22. Application for the transfer of a mental health care user to a maximum security facility

The head of a health establishment may in terms of section 39(1), 43 or 54(2) of the Act in the form of form MHCA 19 of the Annexure request the Review Board concerned to order the transfer of an assisted-or/[sic] involuntary mental health care user and a State patient or mentally ill prisoner to another health establishment or a designated health establishment with a maximum security facility.

(Regulation 22 substituted by regulation 3.3.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

23. Order for transfer of mental health care user to maximum security facility

- (1) If the Review Board concerned approves in terms of section 39(4) of the Act the request of a head of a health establishment referred to in regulation 20(1), such Review Board may in the form of form MHCA 20 of the Annexure order the transfer of an assisted or involuntary mental health care user to a health establishment with maximum security facilities.
- (2) If the Review Board concerned approves in terms of section 43(3) or 54(1) of the Act the request of a head of a health establishment referred to in regulation 20(2) or (3), such Review Board may in the form of form MHCA 20 of the Annexure order the transfer of a State patient or mentally ill prisoner to another designated health establishment with a maximum security facility.
- (3) Arrangements for the transfer of a mental health care user to another health establishment must be made between the heads of the two health establishments concerned.

(Regulation 23(3) added by regulation 13 of Government Notice 1590 dated 23 December 2016)

24. Notice of transfer of State patient or mentally ill prisoner between health establishments

- (1) The person responsible for effecting a transfer of a State patient in terms of section 43 of the Act, must in the form of form MHCA 21 of the Annexure, notify the official *curator ad litem*.

- (2) The person or body ordering the transfer in terms of section 54 of the Act, must, within 14 days of such transfer, in the form of form MHCA 21 of the Annexure notify the head of the prison where the prisoner is detained of the details of the transfer.

25. Transfer of State patient from detention centre to designated health establishment and between designated health establishments

- (1) The head of the national department of Health must immediately after receipt of an order referred to in section 42(1) of the Act make arrangements in terms of section 42(3) of the Act in the form of form MHCA 23 of the Annexure for the transfer of the State patient concerned from the detention centre to the health establishment designated in terms of section 41 of the Act.
- (2) Despite the determination by the head of the national department in terms of section 42(3) as to which health establishment the State patient concerned must be transferred to from the detention centre, a head of the relevant provincial department may thereafter in terms of section 43(1) of the Act make arrangements in the form of form MHCA 24 of the Annexure for the transfer of such State patient to another health establishment designated in terms of section 41.

26. Leave of absence

- (1) The head of the health establishment concerned may grant leave of absence in the form of form MHCA 27 of the Annexure to an assisted- or involuntary mental health care user for a period not exceeding two months at a time: Provided that the terms and conditions to be complied with during such period of leave are stipulated on such form.
- (2) The head of a health establishment concerned may grant leave of absence in the form of form MHCA 27 of the Annexure to a State patient for a period not exceeding six months at a time: Provided that the terms and conditions to be complied with during such period of leave is stipulated on such form.
- (3) The head of a health establishment concerned may, during a period of leave, contemplated in terms of section 45 of the Act, cancel the leave when he or she is authorized to do so in the form of form MHCA 28 of the Annexure and direct on that form that the State patient, assisted- or involuntary mental health care user concerned be returned to the health establishment by the custodian or in terms of regulations 28 or 29.

27. Transfer of assisted or involuntary mental health care user, State patient or mentally ill prisoner with the assistance of the South African Police Service

- (1) The head of the health establishment concerned may only in exceptional circumstances and upon the recommendation of a mental health care practitioner, request assistance of the South African Police Service with the transfer of an assisted or an involuntary mental health care user, state patient or mentally ill prisoner.

- (2) A request contemplated in sub-regulation (1) must only be made if the head of the health establishment is satisfied that medical care has been provided to such user or that an attempt was made to provide such care and such head is of the opinion that such mental health care user, state patient or mentally ill prisoner is too dangerous to be transferred in a vehicle staffed only by health personnel or is likely to abscond during such transfer unless guarded.
- (3) A mental health care user contemplated in sub-regulation (1) who has to be transferred, may be held in custody at a police station for a period of not more than 24 hours in order to effect the transfer.
- (4) A health care practitioner must accompany the mental health care user contemplated in sub-regulation (1) during transfer.

28. Apprehension and handing over of person to health establishment by South African Police Service

If a member of the South African Police Services apprehends a person in terms of section 40(1) of the Act, that member must cause that person to be -

- (a) taken to a health establishment, listed in terms of regulation 12 by the provincial department concerned, for assessment of the mental health status of that person; and
- (b) handed over using form MHCA 22 of the Annexure into the custody of the head of the health establishment or any other person designated by the head of the health establishment to receive such persons.

29. Return of an absconded person who has been apprehended and is being held in custody by South African Police Service

- (1) If a mental health care user has absconded or is deemed to have absconded, the head of the health establishment concerned may in terms of section 40(4), of the Act and in the form of form MHCA 25 of the Annexure notify and request assistance from the South African Police Service to locate, apprehend and return the user to the health establishment concerned.
- (2) If a mental health care user referred to in sub-regulation (1) is apprehended by the South African Police Service in terms of section 40(4), of the Act in the vicinity of such health establishment, the South African Police Service must return such user immediately to such establishment and hand over to the head of such health establishment or any other person so designated by that head to receive such user, provided that form MHCA 26 of the Annexure must be completed at the time the user is handed over.

- (3) If a mental health care user who has absconded from a health establishment is apprehended by the South African Police Service in terms of sections 40(4), 44(1) or 57(1) of the Act and that apprehension does not take place in the vicinity of that health establishment, the South African Police Service must -
- (a) notify the head of the health establishment that such user has been apprehended and is in the custody of the South African Police Service; and
 - (b) provide the information with regard to the physical and mental condition of that user that the notifying member is able to provide.
- (4) The head of the health establishment contemplated in sub-regulation (1) must, if circumstances so require, take steps to ensure that a mental health care practitioner from a health establishment nearest to the police station where the mental health care user is held in custody or another suitable mental health care practitioner, examines that mental health care user and provides the treatment that may be required at the police station or the nearest local health establishment.

(Regulation 29(4) amended by regulation 14 of Government Notice 1590 dated 23 December 2016)

- (5) After an examination contemplated in sub-regulation (4), it is the responsibility of the member in command of the South African Police Service station where the mental health care user is being detained, to consult with the head of the health establishment concerned and to make arrangements for the return of such mental health care user, taking into account the physical and mental condition of such user: Provided that if that user is -
- (a) too dangerous to be transferred in a vehicle staffed only by health personnel;
 - (b) likely to abscond during the transfer, unless guarded,

that user must be conveyed by the South African Police Service or a member of the South African Police Service must accompany that user while being conveyed.

- (6) A mental health care user may be held in custody at a police station for a period of not more than 24 hours to effect the return of that user.

30. Application for discharge of State patient

(Heading of regulation 30 substituted by regulation 15(a) of Government Notice 1590 dated 23 December 2016)

- (1) A person contemplated in section 47(1) of the Act who is not the official *curator ad litem* or administrator of a State patient may apply in the form of form MHCA 29 of the Annexure to a judge in chambers for the discharge of that State patient.

- (2) The official *curator ad litem* or administrator of a State patient may apply in the form of form MHCA 30 of the Annexure to a judge in chambers for the discharge of a State patient.
- (3)
(Regulation 30(3) deleted by regulation 15(b) of Government Notice 1590 dated 23 December 2016)
- (4) If the head of a health establishment, after receiving a report contemplated in section 41(3) of the Act, has reason to believe that the State patient has not fully complied with the terms and conditions applicable to the discharge or that the mental health status of the State patient has deteriorated, that head must use form MHCA 34 of the Annexure for the purpose of section 48(5) of the Act.
(Regulation 30(4) substituted by regulation 3.4.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)
- (5) A State patient who has been discharged conditionally must for the purpose of section 48(6) of the Act, make an application in the form of form MHCA 35 of the Annexure.

31. Procedure on expiry of term of imprisonment of mentally ill prisoner

An application in terms of section 58(3) of the Act must be made in the form of form MHCA 38 of the Annexure.

CHAPTER 5: SURGICAL PROCEDURES, MEDICAL OR THERAPEUTIC TREATMENT

32. Psycho-surgery

- (1) No psychosurgery may be performed on a mental health care user who is not capable of giving informed consent for such surgery.
- (2) Before any psychosurgery is performed on a mental health care user, a medical report constructed and signed by at least two independent psychiatrists must state whether in their opinion, all mental health treatment previously applied has failed and psychosurgery is necessary.
- (3) Psycho-surgery may only be performed by a registered neuro-surgeon who has agreed to perform the operation.
- (4) Psycho-surgery shall be approved by the provincial head of health after duly considering the reports referred to in subregulation (2).
(Regulation 32(4) added by regulation 16 of Government Notice 1590 dated 23 December 2016)

33. Electro-convulsive treatment

- (1) Electro-convulsive treatment must be conducted by a psychiatrist or a medical practitioner with special training in mental health and may only be carried out under a general anaesthetic together with a muscle relaxant.

(Regulation 33(1) substituted by regulation 17(a) of Government Notice 1590 dated 23 December 2016)

- (2) No mental health care user may have more than one electro convulsive treatment carried out in a 24-hour period and such treatment may not be administered more frequently than on alternate days.

- (3) The provisions of regulation 35 relating to consent must be adhered to in the case of electro-convulsive treatment.

- (4) A health establishment that wishes to perform electro-convulsive treatment must apply in writing and shall be authorized by the provincial head of department concerned.

(Regulation 33(4) substituted by regulation 17(b) of Government Notice 1590 dated 23 December 2016)

- (5) Whenever electro-convulsive treatment is performed a register kept for that purpose must be signed and completed by the relevant psychiatrist or medical practitioner and a transcript of the register must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of Form MHCA 47 of the Annexure to give effect to section 19(1)(b) of the Act.

(Regulation 33(5) substituted by regulation 17(c) of Government Notice 1590 dated 23 December 2016)

34. Sleep therapy

The use of "sleep therapy" is prohibited in respect of mental health care users.

35. Consent to treatment or operations for illness other than mental illness

- (1)

(Regulation 35(1) deleted by regulation 18(a) of Government Notice 1590 dated 23 December 2016)

- (1) Where a mental health care practitioner deems a user to be incapable of consenting to treatment or an operation due to mental illness or intellectual disability, informed consent must be obtained in accordance with section 7 of the National Health Act, 2003 (Act No. 61 of 2003).

(Regulation 35(2) substituted and re-numbered to 35(1) by regulation 18(b) of Government Notice 1590 dated 23 December 2016)

- (2) The head of the health establishment where the mental health care user resides or the head of a facility licensed in terms of regulation 42(1) where the mental health care user resides, may grant consent to treatment or an operation if -

- (a) none of the persons contemplated in sub-regulation (2) is available and unsuccessful attempts have been made to locate them and this has been confirmed in writing;

- (b) the relevant alternatives have been discussed with the head of the health establishment or the head of the licensed facility concerned above and that head is satisfied that the most appropriate intervention is to be performed; and
- (c) the medical practitioner who is going to perform that operation recommends the treatment or operation.

(Regulation 35(3) re-numbered to 35(2) by regulation 18(c) of Government Notice 1590 dated 23 December 2016)

- (3) The information requested in paragraphs (a), (b) and (c) of sub-regulation (2) must be documented in the clinical record of the mental health care user concerned before the treatment or operation.

(Regulation 35(4) re-numbered to 35(3) by regulation 18(c) and amended by regulation 18(d) of Government Notice 1590 dated 23 December 2016)

36. Use of mechanical means of restraint

- (1) Mechanical means of restraint may not be used during the transfer of a mental health care user or within a health establishment unless pharmacological or other means of calming, physical means of restraint or seclusion of the user are inadequate to ensure that the user does not harm himself or herself or others.
- (2) Where mechanical means of restraint is required in order to administer pharmacological treatment, such means should be applied for as short a period, depending on the condition of the mental health care user concerned, as is necessary to effect the treatment.
- (3) While the mental health care user is *[sic]* under restraint, he or she must be subject to observation as prescribed by the psychiatrist or medical practitioner and such observations should be recorded in the clinical notes.

(Regulation 36(3) substituted by regulation 19(a) of Government Notice 1590 dated 23 December 2016)

- (4) Whenever mechanical means of restraint is utilized -

- (a) a register kept for that purpose must be signed and completed by the relevant medical practitioner;

(Regulation 36(4)(a) substituted by regulation 19(b) of Government Notice 1590 dated 23 December 2016)

- (b) the form of mechanical means of restraint, the time period used, the times when the mental health care user was observed and the reason for administering such means of restraint must be outlined by the psychiatrist or medical practitioner in the register contemplated in paragraph (a);

(Regulation 36(4)(b) substituted by regulation 19(b) of Government Notice 1590 dated 23 December 2016)

- (c) the head of the health establishment concerned must receive a report on a daily basis that indicates all incidents involving the use of mechanical means of restraint.
- (5) A transcript of the register contemplated in sub-regulation (4) must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of form MHCA 48 of the Annexure.
- (6) Mechanical means of restraint may not be used as punishment.

37. Seclusion

- (1) Seclusion of a mental health care user may—
 - (a) only be used to contain severely disturbed behaviour, which is likely to cause harm to self, others or property; and
 - (b) not be used as a punishment.

(Regulation 37(1) substituted by regulation 20(a) of Government Notice 1590 dated 23 December 2016)

- (2) While a mental health care user is secluded, he or she must be subject to observations prescribed by the psychiatrist or a medical practitioner and that observation should be recorded in the clinical notes.

(Regulation 37(2) substituted by regulation 20(a) of Government Notice 1590 dated 23 December 2016)

- (3) Whenever seclusion is utilized -

- (a) a register, signed by a medical practitioner, must be completed;
- (b) the time period that the mental health care user concerned needed to be secluded and the reason for secluding that mental health care user must be outlined and the seclusion must be recorded in the relevant register by the medical practitioner; and

(Regulation 37(3)(b) substituted by regulation 20(b) of Government Notice 1590 dated 23 December 2016)

- (c) the head of the health establishment concerned must on a daily basis receive a report indicating all incidents of seclusion.

- (4) A transcript of the register referred to in sub-regulation (2) must be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of form MHCA 48 of the Annexure.

CHAPTER 6: MAXIMUM-SECURITY FACILITIES

38.

(Regulation 38 repealed by regulation 21 of Government Notice 1590 dated 23 December 2016)

Prepared by:

CHAPTER 7: COMPULSORY RECORDS

39. The following records must be kept in a health establishment that is designated in terms of section 5 of the Act:
- (a) A register recording the admission, discharge, death, transfer and change in legal status of every mental health care user in that facility and leaves of absence or abscondments;
 - (b) a medical record of all information concerning the physical and mental health of a mental health care user and records of treatments which have been prescribed and administered including the date on which an entry into such records has been made, the full signature, name in print and all the qualifications of the mental health care practitioner who made that entry;
 - (c) administrative records of legal documents and copies of correspondence concerning the mental health care user; and
 - (d) a record of any minor or major injury sustained by a mental health care user in that psychiatric hospital or care and rehabilitation centre.

(Regulation 39 substituted by regulation 22 of Government Notice 1590 dated 23 December 2016)

40. Monthly Reports

The head of a health establishment contemplated in regulation 44 must on a monthly basis submit to the head of the provincial department a return of the number of patients, their legal status and the information contemplated in regulation 44.

CHAPTER 8: OBSERVATION AND TREATMENT

41. Observation and treatment of mental health care users referred to health establishment by a court of law in terms of the Criminal Procedures[sic] Act, 1977 (Act No. 51 of 1977)

- (1) A person referred by a court of law to a health establishment in terms of section 79 of the Criminal Procedure Act, 1977 for observation, must be informed that a report will be submitted by a mental health care practitioner to the court of law and that he or she is under no obligation to divulge information.

(Regulation 41(1) substituted by regulation 4.1.1 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)

- (2) If a person contemplated in sub-regulation (1) is found to be mentally ill to the degree that he or she is a danger to himself or herself or others and psychiatric treatment has become a matter of urgency, such

treatment must be commenced immediately even before the report contemplated in sub-regulation (1) has been submitted to a court of law.

- (3) Where a person has been referred by a court of law to a health establishment for observation, such person may, with the assistance of the South African Police Services, be taken to a health establishment for any neuro-psychiatric or physical health investigation that cannot be done at the place where that person is being detained provided that, while the person is undergoing investigation at the health establishment, the South African Police Services shall remain responsible for the safe custody of that person.
- (4) When the person contemplated in sub-regulation (2) has undergone that investigation contemplated in sub-regulation (3), that person must be transferred with the assistance of the South African Police Services to the place where that person is being detained, or that alternative place, including a psychiatric hospital, that may have been arranged arising from the investigation, provided that the documentation relating to that investigation must be sent together with the person to the place where he or she is being transferred.*[sic]*

CHAPTER 9: AUTHORISATION AND LICENSING

42. Authorization and licensing of private hospital providing mental health services

- (1) An application for a licence to operate a hospital must be made in accordance with the applicable general health legislation.
- (2) A hospital, which wishes to admit assisted or involuntary mental health care users, such hospital must in addition to a licence contemplated in sub-regulation (1), apply in writing to the national department for a licence to admit such users.
- (3) A written application for a licence contemplated in sub-regulation (2) must indicate that -
 - (a) the mental health care practitioners who are involved in the procedures contemplated in sections 27 and 33 of the Act may be employees of the health establishments concerned, but may not have any other material or financial interest in that health establishment;
(Regulation 42(3)(a) substituted by regulation 23(a) of Government Notice 1590 dated 23 December 2016)
 - (b) the hospital has been inspected and audited by designated officials of the provincial department concerned and found to be suitable to accommodate assisted and/or involuntary mental health care users or assisted and voluntary mental health care users, as the case may be; and
- (4) "Suitable to accommodate" in sub-regulation 3(b) includes -

- (a) a lockable ward in addition to an open ward;
 - (b) suitable mental health care practitioners, including a psychiatrist, as well as other trained staff deemed necessary to carry out all necessary duties in accordance with the minimum norms and standards of the Department of Health;
(Regulation 42(4)(b) substituted by regulation 23(b) of Government Notice 1590 dated 23 December 2016)
 - (c) procedures for ensuring the safety of assisted and involuntary mental health care users and other health users in that hospital; and
 - (d) an approved activity or psychosocial rehabilitation ward programme, *[sic]*
- (5) The conditions of a licence contemplated in subregulation (2) must be clearly stipulated by the national department, and must include—
- (a) the number of people to be accommodated;
 - (b) whether such service is to be used for children, adults or geriatrics;
 - (c) service requirements;
 - (d) duration of the licence;
 - (e) that the licence is not transferable; and
 - (f) that the renewal of a licence must be done by the province, based on an inspection.
(Regulation 42(5) substituted by regulation 23(c) of Government Notice 1590 dated 23 December 2016)
- (6) If a condition of a licence contemplated in subregulation (5) is not complied with, the provincial department may withdraw that licence and must inform the Head of the National Department of Health.
(Regulation 42(6) substituted by regulation 23(c) of Government Notice 1590 dated 23 December 2016)

43. Licensing of community facilities

- (1) Any service which is not a designated psychiatric hospital or care and rehabilitation centre, but which provides residential or day-care facilities for 5 people or more with mental disorders must in terms of the Act –
- (a) obtain a licence from the provincial department concerned to operate; and
 - (b) be subjected to at least an annual audit by designated officials of the provincial department concerned.

(Regulation 43(1) amended by regulation 4.2.2 of Government Notice R98 (Correction Notice) in Government Gazette 27236 dated 11 February 2005)
(Regulation 43(1) substituted by regulation 24 of Government Notice 1590 dated 23 December 2016)

- (2) The conditions of a licence contemplated in subregulation (1) must be clearly stipulated by the provincial department concerned and must include –
- (a) the physical address of the relevant service;
 - (b) the number of people to be accommodated;
 - (c) whether such service is to be used for children, adults or geriatrics;
 - (d) service requirements;
 - (e) the duration of the licence; and
 - (f) that the licence is not transferable.

(Regulation 43(2) substituted by regulation 24 of Government Notice 1590 dated 23 December 2016)

- (3) If a condition of a licence as contemplated in sub-regulation (1) or (2) is not complied with, the provincial department concerned may withdraw that licence.

CHAPTER 10: EDUCATIONAL PROGRAMMES

44. Establishment and implementation of educational programmes for mental health care users admitted at health establishments

The National and Provincial Departments of Education shall be responsible for the establishment of educational programmes of learners in the compulsory age group or those entitled to basic education programmes.

(Regulation 44 substituted by regulation 25 of Government Notice 1590 dated 23 December 2016)

CHAPTER 11: CARE AND ADMINISTRATION OF PROPERTY OF MENTALLY ILL PERSON OR PERSON WITH SEVERE OR PROFOUND INTELLECTUAL DISABILITY

45. Application to Master of High Court for appointment of an administrator

The Master of a High Court must make a decision contemplated in section 60(8) of the Act in terms of form MHCA 40.

CHAPTER 12: GENERAL PROVISIONS

46. Payment of maintenance costs and expenses in health establishments

(Heading of regulation 46 substituted by regulation 26 of Government Notice 1590 dated 23 December 2016)

- (1) Voluntary or assisted mental health care users must be assessed and charged according to a patient fee structure.
- (2) Appeals against a fee contemplated in sub-regulation (1) must be directed for consideration to the head of the health establishment concerned.
- (3) An involuntary mental health care user is exempted from payment of a fee contemplated in sub-regulation (1).
- (4) An awaiting trial prisoner who is admitted for observation in terms of the Criminal Procedure Act, must be charged in accordance with the tariff agreed to between the Department of Health and the Department of Justice and Constitutional Development and must be paid by the latter Department.
- (5) A mentally ill prisoner who is admitted for treatment must be charged in accordance with the tariff agreed to between the Department of Health and the Department of Correctional Services and must be paid by the latter Department.

47. Estimated property value and annual income

- (1) The estimated property value for the purposes of sections 60(4)(b), 60(5)(c) and 61(4)(b) of the Act is R200 000.
- (2) The annual income for the purposes of sections 60(4)(b), 60(5)(c) and 61(4)(b) of the Act is R24 000.

48. Repeal

- (1) Government Notice No. R. 565 of 27 March 1975 as amended by Government Notices Nos. R. 1000 of 11 June 1976, R. 599 of 15 April 1977, R. 2315 of 24 November 1978, R. 2295 of 19 October 1979, R. 2629 of 10 December 1982, R.943 of 6 May 1983 and R.858 of 19 April 1985 is hereby repealed.
- (2) Government Notice No. R. 1061 of 4 June 1982 is hereby repealed.

(Signed)

ME TSHABALALA-MSIMANG
MINISTER OF HEALTH

Prepared by:

(Forms MHCA 01 - 46 substituted by regulation 27 of Government Notice 1590 dated 23 December 2016)

Prepared by:

ANNEXURE

FORM MHCA 01

DEPARTMENT OF HEALTH

REPORT TO MENTAL HEALTH REVIEW BOARD ON PROVISION OF CARE, TREATMENT AND REHABILITATION WITHOUT CONSENT OR EMERGENCY ADMISSION [Section 9(2) of the Act]

Surname of User
First name(s) of User
Date of birthor estimated age

Gender: Male [] Female []

Occupation

Marital status: S [] M [] D [] W []

Residential address:
.....
.....
.....

Date of admission:
Time of admission:.....
Name of health establishment:

Reason for admission without consent:

Based on my/practitioners at this health establishment's assessment, any delay in providing care, treatment and rehabilitation services / admission may, due to mental illness, result in:

- (a) the death or irreversible harm to the User
Reasons for this assessment (including mental health status and behavioural reasons)
(b) the User inflicting serious harm to him/herself or others
Reasons for this assessment (including mental health status and behavioural reasons)

-

 (c) theUser causing serious damage to or loss of property belonging to him/herself or to others
 Reasons for this assessment (including mental health status and behavioural reasons)

I (name of mental health care practitioner)
 hereby declare that I have personally assessed
 (name of mental health care user) at
 (name of health establishment) on(date).

Designation:.....
 Contact Numbers:

.....
 Signature:

Outcome of assessment within 24 hours-

- (a) An application for involuntary or assisted care, treatment and rehabilitation was made—
 Date of application Time of application.....
 (b) The User agreed to voluntary care, treatment and rehabilitation.
 (c) Patient discharged as a mental health care user .

Print initials and surname.....

.....
 Signature:

(Health care provider or Head of health establishment)

Date:

(Submit to relevant Review Board)

FORM MHCA 02

DEPARTMENT OF HEALTH

**REPORT ON EXPLOITATION, PHYSICAL OR OTHER ABUSE, NEGLECT OR
DEGRADING TREATMENT OF A MENTAL HEALTH CARE USER
[Section 11(2) of the Act]**

(All the information contained in this Form will be held strictly confidential).

I.....
(name/s)

.....
(address)

hereby declare that I have witnessed exploitation, physical or other abuse, neglect or degrading treatment of the following mental health care user:

hereby declare that I have been through exploitation, physical or other abuse, neglect or degrading treatment

A. Details of User (where known)

First Name and Surname of User.....

Date of birth or estimated age

Gender: Male Female

Occupation Marital status: S M D W

Residential address:
.....
.....
.....

B. Name of health establishment or other place where the alleged incident occurred

.....
Address:
.....
.....
.....

C. Date of incident

D. Brief description of the User:

E. Description of the alleged incident:

.....

FORM MHCA 04

DEPARTMENT OF HEALTH

**APPLICATION TO THE HEAD OF HEALTH ESTABLISHMENT CONCERNED
FOR ASSISTED OR INVOLUNTARY CARE, TREATMENT AND
REHABILITATION**

[Section 27(1) and 27(2) or 33(1) and 33(2) of the Act]

(A staff member assisting the Applicant in completing this form must record his/her name, surname and designation)

Name, surname and designation of staff member-.....

A. INFORMATION REGARDING THE USER

I hereby apply for—

assisted care or involuntary care :

Surname of User:

First name(s) of User:

Date of birth: or estimated age

Gender: Male Female

Marital status: S M D W

Employment: Yes or No

Property: Yes or No

Income source: Pension

Grant

Other (Specify).....

None

Is there a reason to believe that an administrator or curator needs to be appointed to manage the financial affairs of the User Yes No

Residential address and contact details:
.....
.....

B. INFORMATION REGARDING APPLICANT

Surname of applicant:
First name(s) of applicant:.....
Date of birth of applicant: (must be over 18 years of age)
Residential address and contact details:
.....
.....

C. Relationship between applicant and mental health care user: (mark with a cross)

Spouse Partner Associate Parent

Guardian Health care provider Other(specify)

(If User is under 18 this application must be made by the parent, caregiver, guardian or person with parental right and responsibilities)

I last saw the User on..... at
(date) (time) (place)

(The applicant must have seen the User within seven days of making this application)

D. Why is the applicant the health care provider?:

The spouse, next of kin, partner, associate, parent or guardian of the User is:

(i) Unwilling (State reasons for this conclusion):
.....
.....
.....

or

(ii) Incapable (State Reasons for this conclusions for this conclusion):
.....
.....
.....

or

(iii) Unknown/Untraceable (state efforts made to trace)
.....
.....

E. Reasons for the Application:

I, the undersigned, am of the opinion that the above-mentioned person is suffering from a mental illness / intellectual disability for the following reasons(e.g. what did he/she do or say?):

.....
.....
.....
.....

F. In the case of an application for involuntary care:

In your opinion:

(i) Is the User a danger to self and others due to his/her mental illness?

Yes No

(ii) Is the User willing to receive care, treatment and rehabilitation if needed?

Yes No

(iii) Is the User able to make an informed decision?

Yes No

I also attach the following information in support of my application (if available)

Medical certificates:..

History of past mental illness: / intellectual disability:

Other:

.....
.....
.....

I wish to have representation/Legal Representation/Legal Aid

for myself Yes No

on behalf of the User Yes No

Print initials and surname (Applicant).....

Signature (Applicant):.....

Date:

Place:

Note: Applicant must sign under oath

F. OATH/AFFIRMATION

I certify that:

- iii. The deponent acknowledged to me that:
 - a. He/she knows and understands the contents of this declaration;
 - b. He/she has no objection to taking the prescribed oath;
 - c. He/she considers the prescribed oath to be binding on his/her conscience;
- iv. The deponent signed this declaration in my presence at on this day of 20.....

Signature: Commissioner of Oath: Ex-Officio

Name:

Rank / Designation:

(Submit original to Review Board)

FORM MHCA 05

DEPARTMENT OF HEALTH

**REPORT ON COMPLETION OF EXAMINATION AND FINDINGS BY
MENTAL HEALTH CARE PRACTITIONER FOLLOWING AN APPLICATION
FOR ASSISTED OR INVOLUNTARY CARE TREATMENT AND
REHABILITATION
[Section 27(5) or 33(5) of the Act]**

Section 1

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male Female

Occupation Marital status: S M D W

Residential address:
.....
.....
.....

Section 2

Date of examination: Place of examination:
Physical health status (filled in only by mental health care practitioner qualified to
conduct physical examination):

(a) General physical health:
.....
.....
.....

(b) Are there signs of injuries? Yes No
If yes, please indicated whether you believe this is as a result of abuse?
Yes No Unsure

If yes, was this abuse reported/investigated? Yes No

(c) Are there signs of communicable diseases? Yes No

If the answer to (b) or (c) is Yes, give further particulars:

.....
.....
.....
.....

Section 3

Information on User received from other person(s) or family (state names and contact details):

.....
.....
.....

Section 4

Previous mental health history if known (State dates and places):

.....
.....
.....
.....

Section 5

Mental health status of the User at the time of the present examination (describe symptoms or diagnostic criteria):

.....
.....
.....
.....
.....

Section 6

Type of illness (provisional diagnosis):

.....
.....
.....

Section 7

In my opinion the above-mentioned User—

has homicidal tendencies due to mental illness Yes No

has suicidal tendencies due to mental illness Yes No
 is a risk to inflicting serious harm to him/herself or others or causing serious damage to
 property belong to him/her or other due to mental illness Yes No

Section 8

Recommendation to head of health establishment on an application for assisted care,
 treatment and rehabilitation services only (**do not complete section 9 of this form if
 section 8 is applicable**)—

An application was made for assisted care, treatment and rehabilitation services or
 involuntary care , treatment and rehabilitation services

1. Is the User suffering from a mental illness and as a consequence of this requires care,
 treatment and rehabilitation services for their own health and safety or the health and
 safety of others? Yes No

2. Is the User capable of making an informed decision on the need to receive care,
 treatment and rehabilitation services? Yes No

3. Is the User willing to receive care, treatment and rehabilitation services? Yes
 No

Section 9

Recommendation to head of health establishment on an application for Involuntary care,
 treatment and rehabilitation services only (**Do not complete section 8 of this form if
 section 9 is applicable**)

1. Is the User suffering from a mental illness and as a consequence of this requires care,
 treatment and rehabilitation services? Yes No

2. Is the User capable of making an informed decision on the need to receive care,
 treatment and rehabilitation services? Yes No

3. Does the User refuse to receive care, treatment and rehabilitation services?
 Yes No

4. Is the User in your view, likely to inflict serious harm on him/herself or others?
 Yes No

5. Is care, treatment and rehabilitation services, in your view necessary for the protection of the User's financial interests or reputation? Yes No

Section 10

Based on the abovementioned information my recommendation to the head of health establishment is that the User should—

- 1. Receive voluntary care, treatment and rehabilitation services
- 2. Receive assisted in-patient care, treatment and rehabilitation services
- 3. Undergo 72 hour assessment following the application for involuntary care, treatment and rehabilitation services to determine the need for further care, treatment and rehabilitation services

Section 11

I declare that I have personally informed the mental health care User of his/her rights, including his/her right to representation including the right to legal representation and/or Legal Aid, and the right to have his/her financial interests or reputation safeguarded and his/her right to have an administrator or curator appointed.

Comment:
.....
.....

I (name of mental health care practitioner) hereby declare that I have personally assessed (name of mental health care user) at (name of health establishment) on (date).
.....

Signature:
Category of designated mental health care practitioner:
Registration number with relevant Council:
Date:
Place:

FORM MHCA 06

DEPARTMENT OF HEALTH

72-HOUR ASSESSMENT AND FINDINGS OF MEDICAL PRACTITIONER AND ANOTHER MENTAL HEALTH CARE PRACTITIONER AFTER HEAD OF HEALTH ESTABLISHMENT HAS APPROVED INVOLUNTARY CARE, TREATMENT AND REHABILITATION SERVICES [Section 34(1) of the Act]

Section 1

Surname of User

First name(s) of User

Date of birth or estimated age

Gender: Male [] Female []

Occupation Marital status: S [] M [] D [] W []

Residential address:.....

.....
.....
.....
.....

Section 2

Date and time of the beginning of 72-hour assessment:

Place of assessment:

Section 3

(a) General physical health (To be completed by medical practitioners only):

.....
.....
.....

(b) Are there signs of injuries? Yes [] No []

If yes, please indicated whether you believe this is as a result of abuse?

Yes [] No []

If yes, was this abuse reported/investigated? Yes [] No [] Not known []

(c) Are there signs of communicable diseases? Yes No

If the answer to (b) or (c) is Yes, give further particulars:

.....
.....
.....
.....

Section 4

Past mental health history of the User(State dates and places):

.....
.....
.....

Section 5

Mental health status of the User during the 72 hours assessment period:

.....
.....
.....

Section 6

Type of illness (provisional diagnosis):

.....
.....
.....

In my opinion the above-mentioned User—

has homicidal tendencies due to mental illness Yes No

has suicidal tendencies due to mental illness Yes No

is at risk due to mental illness Yes No

Section 7

Recommendation to head of health establishment - application for involuntary care:

Is the User capable of making an informed decision on the need to receive care, treatment and rehabilitation services?: Yes No

Does the User refuse to receive care, treatment and rehabilitation services? Yes No

Is the User in your view, likely to inflict serious harm on him /herself or others?

Yes No

Is the care, treatment and rehabilitation, in your view necessary for the User's financial interests and reputation? Yes No

Section 8

Based on the abovementioned information my recommendation to the head of health establishment is that the User should either:

1. Receive voluntary care, treatment and rehabilitation service
or

2. Receive assisted care, treatment and rehabilitation services
or

3. Continue to receive involuntary in-patient care, treatment and rehabilitation services
or

4. Receive involuntary out-patient care, treatment and rehabilitation services
or

5. Be discharged from the Mental Health Care Act

Section 9

I declare that I have personally informed the mental health care User of his/her rights, including his/her right to representation including the right to legal representation and/or Legal Aid, and the right to have his/her financial interests and/or reputation safeguarded.

Comment:.....
.....
.....
.....
.....

Section 10

Print initials and surname:.....
Registration Category:
Signature:
Date:

Category of designated mental health care practitioner for example 'nurse', psychologist or 'medical practitioner':
Date:
Place:

FORM MHCA 07

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT ON HIS/HER DECISION
WHETHER TO PROVIDE ASSISTED- OR INVOLUNTARY INPATIENT CARE,
TREATMENT AND REHABILITATION SERVICES
[Sections 27(9), 28(1), 33(7) and 33(8) of the Act]**

Section 1

I(name of head of health establishment)
hereby:

Approve the application

Do not approve the application

to the assisted care, treatment and rehabilitation

to the in-patient involuntary care, treatment and rehabilitation

of(name of User).

Section 2

Whereas the findings of the medical practitioner and another mental health care practitioner concur that the User—

(a) should should not receive assisted care, treatment and rehabilitation services ; or

(b) must must not receive involuntary care, treatment and rehabilitation services

I am satisfied not satisfied that the restrictions and instructions on the mental health care User's right to movement, privacy and dignity are proportionate to the care, treatment and rehabilitative services contemplated.

The reasons for consenting are as follows:

.....
.....
.....

Print initials and surname:

Signature:.....(head of health establishment)

Date: Time:

Place:

[Copy to Applicant and original to the Review Board]

FORM MHCA 08

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT TO REVIEW BOARD
REQUESTING APPROVAL FOR FURTHER INVOLUNTARY CARE,
TREATMENT AND REHABILITATION ON AN INPATIENT BASIS
[Section 34(3)(c) of the Act]**

Ihereby request the
.....
(name of head of health establishment)
approval from the Review Board for further involuntary care, treatment and
rehabilitation on an inpatient basis of:.....
.....(name of User)

The findings of the mental health care practitioner and medical practitioner are that the
User requires further involuntary care, treatment and rehabilitation.
I am satisfied that the restrictions and intrusions on the mental health care user's right to
movement, privacy and dignity are proportionate to the care, treatment and rehabilitative
services contemplated.
The basis of this request for further involuntary care, treatment and rehabilitation on an
inpatient basis is that:

.....
.....
.....
.....

Attached hereto please find the copies of the following—

- (a) the application to obtain involuntary care, treatment and rehabilitation [MHCA 04];
- (b) the written findings given in terms of sections 27(5) and 33(5) [MHCA 05]
- (c) the notice given in terms of section 33(8) [MHCA 07]; and
- (d) the assessment findings [MHCA 06].

Signature:.....
(Head of health establishment)
Date:
Place:

(Original to Review Board & Copy (excluding attachments) to applicant)

FORM MHCA 09

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT AFTER 72-HOUR
ASSESSMENT PERIOD INFORMING REVIEW BOARD THAT MENTAL
HEALTH CARE USER WARRANTS FURTHER INVOLUNTARY CARE,
TREATMENT AND REHABILITATION ON AN OUTPATIENT BASIS
[Section 34(3)(b) of the Act]**

Ihereby inform
(name of head of health establishment)
the Review Board that
(name of mental health care user)
requires further involuntary care, treatment and rehabilitation on an outpatient basis.
I am satisfied that the restrictions and intrusions on the mental health care user's right to
movement, privacy and dignity are proportionate to the care, treatment and rehabilitative
services contemplated.

The basis of this request for further involuntary care, treatment and rehabilitation on an
outpatient basis is that:

- (a) The User is suffering from a mental illness or severe/profound mental disability
and requires care, treatment and rehabilitation services for his/her health or safety or the
health or safety of other people or for the protection of the financial interests or
reputation of the User;
- (b) The User is currently incapable of making an informed decision on the need for
the care, treatment and rehabilitation services
- (c) The User is refusing care, treatment and rehabilitation services

Signature:
(Head of health establishment)

Date:

Place:

[Copy to mental health care user and original to Review Board]

FORM MHCA 10

DEPARTMENT OF HEALTH

TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER - SCHEDULE OF CONDITIONS RELATING TO HIS OR HER INVOLUNTARY OUTPATIENT CARE, TREATMENT AND REHABILITATION SERVICES [Section 34(3)(b) or (5) of the Act]

Surname of User First name(s) of User

Date of birth or estimated age

Gender: Male [] Female []

Occupation Marital status: S [] M [] D [] W []

Residential address:

Name of custodian into whose charge the User is discharged:

Address of custodian:

- i. The User's mental health status will be monitored and reviewed at (name of health establishment)
ii. The User is to present him / herself to this health establishment everyweeks / months to have his or her mental health status reviewed.
iii. Name of health establishment(s) where involuntary mental health care, treatment and rehabilitation will be provided on an outpatient basis if different from preceding health establishment:
iv. Conditions of behaviour which must be adhered to by the User:.....

Name of psychiatric hospital and/or care and rehabilitation centre where the User is to be admitted if he / she relapses to the extent of being a danger to him / herself or others if he / she remains an involuntary outpatient, or to which he / she is to be admitted if the conditions of outpatient care are violated

(name of health establishment)

Print initials and surname

.....

Signature(head of health establishment)

Date:

Place:

.....
Signature of User (understands and accepts the stipulated conditions)

.....
Signature of custodian (understands and accepts the stipulated conditions)

[Original to Review Board and copy to User, custodian and head of health establishment to whom User was referred on outpatient basis]

FORM MHCA 11

DEPARTMENT OF HEALTH

**TRANSFER OF ASSISTED / INVOLUNTARY MENTAL HEALTH CARE USER
ON INPATIENT BASIS TO ANOTHER HEALTH ESTABLISHMENT
[Section 27(10) and 34(4), of the Act]**

.....
(name and surname of mental health care user)

an assisted or

involuntary mental health care user

on an inpatient basis who was admitted to

..... (name of health establishment)

on (date) must be

transferred to (name of health establishment)

Print initials and surname
(head of health establishment)

Signature:
(Head of health establishment)

Date:

Place:

[Copy to Review Board]

FORM MHCA 12

DEPARTMENT OF HEALTH

DISCHARGE OF INVOLUNTARY MENTAL HEALTH CARE USER FROM INPATIENT TO OUTPATIENT CARE OR CANCELLATION OF THE DISCHARGE

[Section 34(3) and 34(6) of the Act]

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male [] Female []

Occupation Marital status: S [] M [] D [] W []

Residential address:
.....
.....
.....

A. Discharge from inpatient to outpatient care

This involuntary inpatient at
(name of health establishment) has improved to such an extent that he/she should be provided with care, treatment and rehabilitation services as an outpatient as dated on the schedule of conditions attached to this transfer as outlined in the attached MHCA 10.

B. Cancellation of the discharge

This involuntary outpatient previously discharged with prescribed conditions on and being monitored and reviewed at has not complied with the terms and conditions applicable to his / her discharge / relapsed to the extent of being a danger to him / herself or others if he / she remains an involuntary outpatient, and must be admitted as an involuntary inpatient to (name of health establishment)

Specific reasons for transfer to inpatient care are:
.....
.....

Print initials and surname
Signature:
(Head of health establishment)

Date:
Place:

FORM MHCA 13A

DEPARTMENT OF HEALTH

**PERIODICAL REPORT ON MENTAL HEALTH CARE USER
(ASSISTED/INVOLUNTARY USER/MENTALLY ILL PRISONER)
[Sections 30(2), 37(2) and 55(1) of the Act]**

Section 1: Biographical information

Surname of User

First name(s) of User

Date of birth or estimated age

Gender Male Female

The User is an: (mark with a cross)

Assisted User Involuntary User Mentally ill prisoner

Name of health establishment concerned:

Registration number (if any):

Date of first admission of mental health care user under this section:

Section 2: Assessment

Mental health status: (Short statement of the mental health status before and since admission, since the last report, and the present condition, with special reference to any symptom indicating homicidal, suicidal or dangerous tendencies)

Before admission:

.....
.....
.....

Since admission / previous periodical report:

.....
.....
.....
.....

Present mental status:

.....
.....
.....
.....

Physical condition of User:

.....
.....
.....
.....

Diagnosis:

.....
.....
.....
.....

Section 3: Clinical management, treatment and rehabilitation plan

Present treatment programme to be followed, including psycho-pharmacological, ECT, occupational therapy or psychotherapy social work intervention with family, leave of absence to family, etc):

Medical:

.....
.....
.....
.....

Psychological:

.....
.....
.....
.....

Social (including the safeguarding of the User's financial interests):

.....
.....
.....
.....

Occupational:

.....
.....
.....
.....

Physiotherapy (if required):

.....
.....
.....
.....
.....

Family contacts:

Personal Correspondence Regular Seldom Never

In the case of never, what has been done to trace the family?

.....
.....
.....

Section 4: Recommendation in terms of Section 30 or 37 or 55(1)

(a) The User is suffering from a mental illness or severe/profound mental disability and requires care, treatment and rehabilitation services for his/her health or safety or the health or safety of other people or for the protection of the financial interests or reputation of the User;

(b) The User is currently incapable of making an informed decision on the need for the care, treatment and rehabilitation services

and

(c) The User is refusing / not refusing care, treatment and rehabilitation services

Should the User status remain unchanged? Yes No

Briefly motivate:

.....
.....

If the User is an involuntary inpatient, should he / she be transferred to involuntary outpatient care?

Yes No

Briefly motivate:

.....
.....
.....

Please add additional paper if required, as this is extremely important:

.....
.....
.....

FORM MHCA 13B

DEPARTMENT OF HEALTH

**PERIODICAL REPORT ON STATE PATIENT
[Section 46(2) of the Act]**

Surname of State patient

First name(s) of State patient

Date of birthor estimated age

Gender: Male Female

Name of health establishment concerned:

Registration number (if any):

Date of first admission of the state patient under this section:

Mental health status: (Short statement of the mental health status before and since admission, since the last report, and the present condition, with special reference to any symptom indicating homicidal, suicidal or dangerous tendencies)

Before admission:

.....
.....
.....
.....

Since admission / previous report:

.....
.....
.....
.....

Present mental status:

.....
.....
.....
.....

Present treatment for example psycho-pharmacological treatment, ECT, occupational therapy or psychotherapy:.....

.....
.....
.....

.....

Present physical condition:

.....

.....

.....

.....

Diagnosis at present date:

.....

.....

.....

Family contacts:

Personal Correspondence Regular Seldom Never

In the case of never, what has been done to trace the family?

.....

.....

.....

State patients (section 46 of the Act)

Charge faced:

.....

.....

Should the User be discharged conditionally? Yes No

Comment:

.....

.....

.....

Should the User be discharged unconditionally? Yes No

Comment:

.....

.....

.....

Give reasons if the 'present mental status' reflects a normal picture and further confinement is recommended:

.....

.....

.....
.....

Comment on the merit of granting the User leave of absence:

.....
.....
.....

Recommendation on a plan for further care, treatment and rehabilitation (to be completed for any of assisted and involuntary Users and mentally ill prisoners)
(Specify treatment programme followed, give details of psychiatric interviews, counselling, group therapy sessions etc., stating clearly the aims of treatment, progress made, assessments done, changes made and patient's reactions to changes);
Please add additional paper as this is extremely important!!

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Print initials and surname of assessing practitioner:

Signature:
(assessing practitioner)

Date:

Place:

Instructions and remarks:

.....
.....
.....

Signature:
(head of health establishment)

Date:

Place:

STATE PATIENTS

[This part must be completed by head of national department (or designated official)]

Considerations and remarks:

.....
.....
.....
.....

Recommendations:

(a) Further care and treatment:

.....
.....

b) Leave of absence (State patients):

.....
.....

(c) Discharge of User:

.....
.....

Signature:
(Head of National Department):

Date:

Place:

[Copy to be sent back to the Head of health establishment]

FORM MHCA 14

DEPARTMENT OF HEALTH

DECISION BY REVIEW BOARD CONCERNING—

- (a) assisted mental care, treatment and rehabilitation [section 28(3) of the Act];
- (b) appeal against decision of head of health establishment concerning assisted care, treatment and rehabilitation [section 29(2) of the Act];
- (c) further involuntary care, treatment and rehabilitation on an inpatient basis [section 34(7) of the Act]; or
- (d) appeal against decision of head of health establishment on involuntary care, treatment and rehabilitation [section 35(2) of the Act]

Surname of User
 First name(s) of User

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:.....

The Review Board of
 (name of review Board)
 have considered documentation and issues relevant to:

Application for assisted/involuntary care, treatment and rehabilitation of the above User:

- The Review Board have considered (inter alia) whether:
- (a) the User is capable of making an informed decision on the need to receive care, treatment and rehabilitation services.
 - (b) the User is suffering from a mental illness or severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for his / her health and safety or the health and safety of others.
 - (c) the User is willing unwilling to receive care, treatment and rehabilitation services.
 - (d) the User is likely to inflict serious harm on him / herself or others.

- (e) care, treatment and rehabilitation is necessary for the User's financial interest and reputation.
- (f) the User's right to movement, privacy and dignity will be unnecessarily restricted.

Application to appeal against decision of head of health establishment on assisted/ involuntary care, treatment and rehabilitation

The Review Board has requested / provided the opportunity for the following to make oral or written representations on the merits of the request:

- (a) Applicant
- (b) Appellant
- (c) Independent mental health care practitioner(s)
- (d) Head of health establishment
- (e) Others

The Review Board has considered the appeal in the prescribed procedure and has decided that—

- (a) the User should be discharged from the health establishment
- (b) the User should receive care, treatment and rehabilitation services as a voluntary User
- (c) the User should receive assisted care, treatment and rehabilitation services as an assisted inpatient
- (d) the User should receive involuntary care, treatment and rehabilitation services as an inpatient outpatient .

Reasons for this decision:

.....

Print initials and surname

Signature:

(Chairperson of Review Board)

Date:
Place:

[Copy to be sent (as applicable) to: applicant, appellant, head of health establishment concerned, head of provincial department and High Court Judge]

FORM MHCA 15

DEPARTMENT OF HEALTH

**APPEAL TO REVIEW BOARD AGAINST DECISION OF HEAD OF HEALTH
ESTABLISHMENT ON ASSISTED- OR INVOLUNTARY MENTAL HEALTH
CARE, TREATMENT AND REHABILITATION
[Sections 29(1) and 35(1) of the Act]**

Details of User

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....

Is the User the appellant? Yes No

If No to the above:

Surname of appellant:
First name(s) of appellant:
Contact number of appellant:
Residential address:
.....
.....

Relationship between appellant and mental health care user: (mark with a cross)

Spouse Partner Associate Next of kin Parent Guardian

Other (specify)

Grounds for the appeal:

.....
.....
.....
.....

.....
Facts on which the appeal is based:
.....
.....
.....
.....
.....
.....

I, the undersigned wish to have representation/Legal Representation / Legal Aid
for myself or on behalf of(put in a tick box for yes or no).....

Signature:
(appellant)

Date:
Place:

FORM MHCA 16

DEPARTMENT OF HEALTH

**ORDER BY THE HIGH COURT FOR FURTHER
HOSPITALISATION/IMMEDIATE DISCHARGE OF AN INVOLUNTARY
MENTAL HEALTH CARE USER
[Section 36(c) of the Act]**

In the High Court of South Africa Division
In the matter of
(involuntary mental health care user's name)

at present being confined at
(name and health establishment)

as an involuntary mental health care User following the decision of the Review Board
datedunder sections 34(7) or 35(4) of the Act.

IT IS HEREBY ORDERED

That the said/('s)
(name of User)

- (a) (i) be further kept / provided with care, treatment and rehabilitation services until the said User has recovered or is otherwise legally discharged;
- (ii) financial affairs be managed and administered according to the provisions of Chapter VIII of the Act; or
- (b) be discharged immediately.
- (c) Other (specify)

By order of the Honourable Justice

Date:
Place:
Registrar:

[Copy to be sent applicant, appellant, Review Board and head of health establishment]

FORM MHCA 17

DEPARTMENT OF HEALTH

**DECISION/RECOMMENDATION BY REVIEW BOARD FOLLOWING
PERIODIC REVIEWS/ REPORTS ON ASSISTED OR INVOLUNTARY
MENTAL HEALTH CARE USERS OR MENTALLY ILL PRISONERS
[Sections 30(4), 37(4) or 55(4) of the Act]**

Surname of User

First name(s) of User

Date of birth or estimated age

Gender: Male Female Occupation: Marital status: S M D W Health establishment concerned
(name of health establishment)The Review Board of have considered
(name of Review Board)

documentation and issues relevant to the periodic review of the above User.

The Review Board has considered (inter alia) whether:

- (a) The User is capable of making an informed decision on the need to receive care, treatment and rehabilitation services.
- (b) The User is suffering from a mental illness or severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for his / her health and safety or the health and safety of others.
- (c) The User is willing to receive care, treatment and rehabilitation services.
- (d) The User is likely to inflict serious harm on him / herself or others.
- (e) care, treatment and rehabilitation is necessary for the User's financial interest and reputation.
- (f) The User's right to movement, privacy and dignity will be unnecessarily restricted.

The Review Board have requested the following people to make oral or written representations:

- (a) Applicant
- (b) Independent mental health care practitioner(s)
- (c) Head of health establishment
- (d) Others (Specify)

The Review Board has decided/recommended that:

- (a) The User should be discharged
- (b) The User should receive care, treatment and rehabilitation services as a voluntary User
- (c) The User should receive care, treatment and rehabilitation services as an assisted inpatient
- (d) The User should receive involuntary care, treatment and rehabilitation services as an inpatient / outpatient .

Reasons for this decision/recommendation:

.....

Print initials and surname

Signature:

(Chairperson of Review Board)

Date:

Place:

[Copies to be sent in the case of:

Assisted or involuntary User: to the mental health care user, applicant, head of health establishment concerned and head of provincial department;

Mental ill prisoners: mentally ill prisoner, administrator/curator (if appointed) head of health establishment concerned, relevant magistrate, head of relevant prison and head national department.]

Periodic Report No.....is due on

FORM MHCA 18

DEPARTMENT OF HEALTH

SUMMONS TO APPEAR BEFORE A REVIEW BOARD
[Section 11(2), 29(2)(a) and 35(2)(c) of the Act]

.....
(name of person summoned and his or her address)

is hereby summoned to appear at(place)

on (date and time) before the Review Board of

..... (name of health establishment)

to give evidence in respect of

.....
.....
.....

(if the person summonsed is to produce any book, record, document or any other item(s))and you are hereby directed to produce:

.....
.....
.....
.....

(specify the book, record, document or any other item(s) concerned)

Given under the hand of the Chairperson of the Review Board, thisday
of

Signature:

(Chairperson of Review Board)

FORM MHCA 19

DEPARTMENT OF HEALTH

REQUEST BY HEAD OF HEALTH ESTABLISHMENT TO REVIEW BOARD TO TRANSFER MENTAL HEALTH CARE USER/STATE/MENTALLY ILL PRISONER

- (a) an assisted or involuntary mental health care user in terms of section 39(1) of the Act to maximum security facilities;
- (b) a State patient between designated health establishments in terms of section 43 of the Act; or
- (c) a mentally ill prisoner between designated health establishments in terms of section 54(2) of the Act. /

Surname of mental health care user/state patient/mentally ill prisoner

First name(s) of mental health care user/state patient/mentally ill prisoner

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Health establishment from where the request is made:

State clearly the reason(s) for the request:

.....
.....
.....
.....

Has the User previously absconded or attempted to abscond? Yes No

Explain circumstances:

.....
.....
.....
.....

Has the User inflicted harm on others at the health establishment? Yes No

Explain circumstances:

.....
.....
.....
.....

In your opinion is the User likely to inflict harm on others in the health establishment?

Yes No

Explain:

.....
.....
.....
.....

Other reason(s) for making the request:

.....
.....
.....
.....

Print initials and surname

Signature:

(Head of health establishment)

Date:

Place:

FORM MHCA 20

DEPARTMENT OF HEALTH

ORDER BY REVIEW BOARD TO TRANSFER MENTAL HEALTH CARE USER/STATEPATIENT/MENTALLY ILL PRISONER

- (a) an assisted- or involuntary mental health care user in terms of section 39(4) of the Act to maximum security facilities;
- (b) a State patient between designated health establishments in terms of section 43(3) of this Act; or
- (c) a mentally ill prisoner between designated health establishments in terms of section 54(2) of the Act.

Surname of mental health care user/state patient/mentally ill prisoner

First name(s) of mental health care user/state patient/mentally ill prisoner.....

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Health establishment making the request:

The Review Board of
(name of Review Board)

has considered documentation and representation relevant to the transfer of the above User to a maximum security facility.

The Review Board has considered inter alia whether-

- (a) the transfer is not being done in order to punish the User.
- (b) The transfer is warranted taking cognizance of the mental health status of the User.

Reason(s) for transfer:

.....

.....

.....

.....

.....

.....

.....

The above mental health care user/state patient/mentally ill prisoner must be transferred to a health establishment with maximum security facilities.

Print initials and surname

Signature:

(Chairperson of Review Board)

Date:
Place:

[Copy to:

With respect to assisted- and involuntary mental health care Users, this order must be sent to the head of the provincial department and the Head of health establishment.

With respect to state patients and mentally ill prisoners the order must be sent to the head of the national department]

FORM MHCA 21

DEPARTMENT OF HEALTH

NOTICE OF TRANSFER OF STATE PATIENT OR MENTALLY ILL PRISONER

[sections 43(8) or 54(6) of the Act]

Surname of state patient/mentally ill prisoner
First name(s) of state patient/mentally ill prisoner.....
Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

The above state patient or mentally ill prisoner has been transferred:

From:
(name of health establishment)

To:
(name of health establishment)

Reasons for transfer:
.....
.....

Date of transfer:

Print initials and surname

Signature:
(person effecting the transfer)

Date:

Place:

[Copy:
In respect of state patient to be sent to official curator ad litem and National Department.
In respect of mentally ill prisoner to be sent to the head of the relevant prison, Review Board and national department as well as to the administrator where appointed]

FORM MHCA 22

DEPARTMENT OF HEALTH

**HANDING OVER CUSTODY BY THE SOUTH AFRICAN POLICE SERVICES
(SAPS) OF A PERSON SUSPECTED OF BEING MENTALLY ILL AND LIKELY
TO INFLICT SERIOUS HARM TO HIM/HERSELF OR OTHERS
[Section 40(1) of the Act]**

A.I.....
(print rank, initials and surname of member of SAPS)

have reason to believe from personal observation

or from information obtained from a mental health care practitioner

that

.....
.....
.....

(User's name or description if no name is available)
is suffering from a mental illness and is likely to inflict serious harm to him/herself or
others.

I have apprehended the person and have brought him / her to

.....
(name of health establishment)

for assessment by a mental health care practitioner.

Name and address of next of kin (where possible)

.....
.....
.....

I hereby hand over custody of the said person to the head of the health establishment or
his / her designate.

Signature:Force No.....
(Member of SAPS)

Date:

Time:

Place:

B.I.....
... (Name of head of health establishment or designated person)

accept custody of
(Name of User or description if no name is available)

at the
(Name of health establishment)

The User's physical condition is as follows (describe any bruises, lacerations etc):
.....
.....
.....
.....

The mental status of the person will be assessed and an application will be made in terms of section 33 if applicable

Signature:
(Head of health establishment or designated person)

Date:

Time:

Place:

[Copy to be sent to SAPS to confirm in writing the physical condition as stated above during handing over of custody]

C. The SAPS hereby confirms that the physical condition as stated above was present during the handing over the User in terms of section 40(1) of the Act.

Print initials and surname:

Signature:
(Member of SAPS who handed over custody)

Date:

Place:

[Copy to Review Board]

FORM MHCA 23

DEPARTMENT OF HEALTH

TRANSFER OF STATE PATIENTS FROM DETENTION CENTRE TO A DESIGNATED HEALTH ESTABLISHMENT

[Sections 42(3) of the Act]

OR

TRANSFER OF MENTALLY ILL PRISONERS FROM PRISON TO DESIGNATED HEALTH ESTABLISHMENT

[Section 53(2) of the Act]

Surname of state patient/mentally ill prisoner
First name(s) of state patient/mentally ill prisoner.....
Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....
.....

The above state patient, currently held in detention at (name of detention centre) must be transferred to (name of health establishment) for care, treatment and rehabilitation services.

Signature:
(Head of national department)

Date:
Place:

[Copy to be forwarded to head of detention centre and the official curator ad litem]
[On receipt of a court order in terms of section 42(1) of the Act, Form J105, the national department must complete MHCA 23 and forward a copy to the detention centre and head of health establishment concerned]

FORM MHCA 24

DEPARTMENT OF HEALTH

**TRANSFER OF STATE PATIENTS AND MENTALLY ILL PRISONERS
BETWEEN DESIGNATED HEALTH ESTABLISHMENTS
[Sections 43(1) and 54(1) of the Act]**

Surname of state patient/mentally ill prisoner

First name(s) of state patient/mentally ill prisoner.....

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

The above state patient or mentally ill prisoner shall be transferred:

From: (name of health establishment)

To: (name of health establishment)

Reasons to transfer:

.....
.....
.....

Print Initials and Surname:

Signature:

(Head of provincial department)

Date:

Place:

Concurrence of Head of Province to where the state patient or mentally ill prisoner is to be transferred must be obtained where inter-provincial transfers are contemplated.

Signature:

(Head of provincial department)

Date:

Place:

(Copy to be forwarded to official *curator ad litem*, head of national department and head of health establishment to where state patient or mentally ill prisoner is transferred)

FORM MHCA 25

DEPARTMENT OF HEALTH

**NOTICE OF ABSCONDMENT TO SOUTH AFRICAN POLICE SERVICE
(SAPS) AND REQUEST FOR ASSISTANCE TO LOCATE, APPREHEND AND
RETURN USER**

[Sections 40(4), 44(1) or 57(1) of the Act]

Surname of assisted user/involuntary user/state patient/mentally ill prisoner:
.....

First name(s) of assisted user/involuntary user/state patient/mentally ill prisoner:
.....

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Date of admission to health establishment:

The above assisted user/involuntary user/state patient/mentally ill prisoner absconded
from:(name of health establishment)

Address:.....
.....
.....
.....

Date of abscondment:

Absconder is: (mark with a cross)

Assisted User Involuntary User State patient Mentally ill

prisoner

Diagnosis on medical condition:
.....
.....
.....
.....

Estimation of likelihood of doing harm to self or others: (mark with a cross)

Little chance Reasonable chance High likely Extremely likely

Circumstances of abscondment:

.....
.....
.....
.....

Attach full report (if available)

Your assistance in locating and apprehending the above assisted/involuntary user/state patient/mentally ill prisoner is appreciated

Print initials and surname:

Signature:

(Head of health establishment)

Date:

Place:

[In case of an assisted- or involuntary User: copy of this notice to be submitted to head of provincial department]

[In case of a state patient: copy of this notice to be submitted to Registrar or Clerk of the relevant Court official *curator ad litem* and head of national department]

[In the case of a mentally ill prisoner: copy of this notice to be submitted to head of the prison from where the User was initially transferred and to head of national department]

FORM MHCA 26

DEPARTMENT OF HEALTH

NOTICE OF THE RETURN OF AN ABSCONDED ASSISTED USER/INVOLUNTARY USER/STATE PATIENT/MENTALLY ILL PRISONER [Section 40(4), 44(1) or 57(1) of the Act] [to be completed by the head of Health Establishment]

Surname of assisted user/involuntary user/state patient/mentally ill prisoner:

First name(s) of assisted user/involuntary user/state patient/mentally ill prisoner

Date of birth or estimated age

Gender: Male [] Female []

Occupation: Marital status: S [] M [] D [] W []

Date of admission to health establishment:

The above assisted user/involuntary user/state patient/mentally ill prisoner absconded from:(name of health establishment)

Address:.....

.....
.....
.....

Date of abscondment:

Date of return:

Returned by (e.g. SAPS, self, relative):

Print Initials and Surname:.....

Force Number if applicable:.....

Date:.....

State physical / mental condition:

.....
.....
.....
.....
.....

Print initials and surname:

(head of health establishment)

Signature:

Date:

Place:

[In case of an assisted or involuntary mental health care user: copy of this notice to be submitted to the Review Board and head of provincial department]

[In case of state patient: copy of this notice to be submitted to Registrar or Clerk of the relevant Court, official *curator ad litem* and head of national department]

[In case of a mentally ill prisoner: copy of this notice to be submitted to the Magistrate, head of the prison from where the User was initially transferred and to head of national department]

FORM MHCA 27

DEPARTMENT OF HEALTH

**GRANTING OF LEAVE OF ABSENCE TO A STATE PATIENT,
ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USERS
[Section 45, 66(1)(j) of the Act]**

Surname of assisted or involuntary mental health care user.....

First name(s) of assisted or involuntary mental health care user

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address or custodian's name and address whilst on leave of absence:

.....
.....
.....
.....

The User is: (mark with a cross)

State patient Assisted User Involuntary User

Date of commencement of leave:

Due date of return from leave:

Name of health establishment where the User's mental health status will be monitored and reviewed:

The User is to present him- / herself to this health establishment every weeks / months to be monitored and his / her health status reviewed.

Name of health establishment(s) where care, treatment and rehabilitation will be provided and the nature of this:

Conditions of behaviour which must be adhered to by the User:

.....
.....
.....
.....
.....
.....

Name of psychiatric hospital where the User is to be admitted if he / she relapses and / or is not complying with the terms and conditions applicable to the leave:

.....

Print initials and surname:

Signature:

(Head of health establishment)

Date:

Place:

Print initials and surname:

Signature:

(custodian)

Date:

Place:

FORM MHCA 28

DEPARTMENT OF HEALTH

**CANCELLATION OF LEAVE OF ABSENCE OF A STATE PATIENT OR AN ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USER
[Section 45(3), 66(1)(j) of the Act]**

I hereby cancel the leave of absence of
(name of state patient, assisted or involuntary mental health care user)

File No.

You are not complying with the terms and conditions applicable to the leave of absence and/or have/has relapsed to the extent of requiring hospitalization.

Reasons for cancellation of leave of absence:

.....
.....
.....
.....
.....

You must return to
(name of detention centre)

by (date) or you will be reported to the South African Police Services as absconded.

Print initials and surname:

Signature:
(head of health establishment)

Date:

Place:

(Copy to custodian)

FORM MHCA 29

DEPARTMENT OF HEALTH

APPLICATION FOR DISCHARGE OF STATE PATIENT TO JUDGE IN CHAMBERS (WHERE APPLICANT IS NOT AN OFFICIAL CURATOR AD LITEM OR ADMINISTRATOR)

[Section 47(2)(e) of the Act]

Surname of state patient

First name(s) of state patient.....

File No. (if known)

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....
.....

Charge against state patient:

Person making application (mark with a cross):

State patient him/herself Head of health establishment

Responsible medical practitioner Spouse Associate Next of kin

Other

Reasons for application:

.....
.....
.....
.....

Has an application been made for discharge of state patient within the preceding 12 months by any application other than an official curator ad litem? Yes No

If Yes provide details of the status of that application (and no need to proceed further with this form):

.....
.....
.....

Report from psychologist (if available): Yes No

In your opinion does the official curator ad litem have a conflict of interest with the state patient? Yes No

Give reasons:

.....
.....
.....

Supply proof that a copy of the application has been given to the official curator ad litem concerned.

Where the applicant is an 'associate' state the nature of the substantial or material interest in the state patient:

.....
.....
.....

Attach all reports you have available relevant to this application.

Provide details of any prior application for discharge that you are aware of:

.....
.....
.....

Print initials and surname:

Signature:

(Applicant)

Date:

Place:

FORM MHCA 30

DEPARTMENT OF HEALTH

APPLICATION FOR DISCHARGE OF STATE PATIENT TO JUDGE IN CHAMBERS (WHERE APPLICANT IS AN OFFICIAL CURATOR AD LITEM OR ADMINISTRATOR) [Section 47(2)(c) of the Act]

Surname of state patient
First name(s) of state patient
File No. (if known)
Date of birth or estimated age

Gender: Male [] Female []

Address:

Date of admission:

Charge against User:

Date declared a state patient:

Health establishment where User is being treated:

Application for discharge made by official curator ad litem / other

If other, state whom:

Has an application been made for discharge of the state patient within the preceding 12 months by any applicant other than official curator ad litem?

Yes [] No []

If yes, provide details of the status of that application (and no need to further with this form)

.....
.....
.....

Report from psychologist (attach if available) Yes [] No []

Attach reports containing the history of the User's mental health status and a prognosis concerning their mental health status from:

- (a) Head of the relevant health establishment
(b) Two mental health care practitioners at least one of whom should be a psychiatrist

Recommendations and comments on whether the application should be granted:

.....
.....
.....

.....
Print initials and surname:

Signature:
(Official *curator ad litem*/administrator)

Date:

Place:

Psychiatric report in terms of section 47(2) and 47(3)(a) of the Act

General information regarding:

- (a) escapes / attempted escapes
- (b) violent behaviour
- (c) seclusions and reason for this
- (d) attempts at obtaining alcohol and dagga
- (e) any other unacceptable behaviour

Summarized history of User's mental health status:

.....
.....
.....
.....

Description of present mental condition:

.....
.....
.....
.....

Prognosis:

.....
.....
.....
.....

Recommendation(s):

.....
.....
.....
.....

Print initials and surname:

(head of health establishment)

Signature:

Date:

Place:

**Psychiatric report in terms of section 47(2) and 47(3)(a) of the Act by a psychiatrist /
medical practitioner**

Educational qualifications:.....

Occupation of state patient before admission:.....

Nature of charge

Review of medical and psychiatric history before admission:

Present mental state and duration:

Diagnosis:

Treatment received in hospital:

Prognosis:

Recommendations:

Print initials and surname:

Signature:

(psychiatrist / medical practitioner)

Date:

Place:

Psychiatric report in terms of section 47(2) and 47(3)(a) of the Act by a psychiatrist /
medical practitioner

Educational qualifications

Occupation before admission

Nature of charge

Review of medical and psychiatric history before admission:

.....
.....
.....

Present mental state and duration:

.....
.....
.....

Diagnosis:

.....
.....
.....

Treatment received in hospital:

.....
.....
.....

Prognosis:

.....
.....
.....

Recommendations:

.....
.....
.....

Signature:
(psychiatrist / medical practitioner)

Date:

Place:

FORM MHCA 32

DEPARTMENT OF HEALTH

SIX-MONTHLY REPORT ON CONDITIONALLY DISCHARGED STATE PATIENT

[Section 48(3) of the Act]

Surname of state patient:.....
First name(s) of state patient:.....
File No. (if known)
Date of birth or estimated age

Gender: Male Female

Address:

Nature of charge:

Date of conditional discharge:

Date of last report:

Comment on the extent to which the state patient is adhering to the terms and conditions of the discharge:

.....
.....
.....

Current mental health status of state patient:

.....
.....
.....

Recommendation to head of health establishment from where the state patient was conditionally discharged

.....
.....
.....

Print initials and surname:

Signature:

(person monitoring the state patient)

Date:

Place:

(Copies to be forwarded to the state patient, head of relevant health establishment, clerk of the court and head of national department)

FORM MHCA 33

DEPARTMENT OF HEALTH

**UNCONDITIONAL DISCHARGE BY HEAD OF HEALTH ESTABLISHMENT
OF STATE PATIENT PREVIOUSLY DISCHARGED CONDITIONALLY
[Section 48(4)(a) of the Act]**

Surname of state patient:.....

First name(s) of state patient:.....

File No. (if known)

Date of birth or estimated age

Gender: Male Female

Address:
.....

Date of conditional discharge:

Date of expiry of conditional discharge:

I hereby state that the period of the above state patient's conditional discharge has expired, that he / she has complied with the terms and conditions applicable to his / her mental health status and that his / her mental health status and that his / her mental health status has not deteriorated.

The above state patient is hereby unconditionally discharged.

Print initials and surname:

Signature:

(head of health establishment)

Date:

Place:

(Copy to be forwarded to the state patient, registrar of the court concerned, the official *curator ad litem* and national department)

FORM MHCA 34

DEPARTMENT OF HEALTH

**APPLICATION TO REGISTRAR OF THE HIGH COURT FOR AN ORDER
AMENDING THE CONDITIONS/REVOKING THE CONDITIONAL
DISCHARGE OF A STATE PATIENT
[Section 48(5) of the Act]**

Surname of state patient:.....
First name(s) of state patient:.....
File No. (if known)
Date of birth or estimated age
Gender: Male Female
Address:
.....
Nature of charge:
Residential address:
.....
.....
.....

I hereby request that the conditional discharge of the above state patient be amended or revoked.

The above state patient has not complied with the following terms and conditions of his/her conditional discharge (explain)

.....
.....
.....
and his/her mental health status has deteriorated (explain)
.....
.....
.....

(if applicable) I recommend that the terms and conditions of the discharge be amended along the following lines:

.....
.....
.....
.....

Print initials and surname:

Signature:

(head of health establishment)

Date:

Place:

(Copies to be forwarded to the official curator ad litem and national department)

FORM MHCA 35

DEPARTMENT OF HEALTH

**APPLICATION BY STATE PATIENT TO JUDGE IN CHAMBERS FOR
AMENDMENT TO ANY CONDITION APPLICABLE TO DISCHARGE
REQUESTING UNCONDITIONAL DISCHARGE
[Section 48(6) and (7) of the Act]**

Surname of state Patient:

First name(s) of state patient:

File No. (if known)

Date of birth or estimated age

Gender: Male Female

Residential address:

.....

.....

.....

Date of conditional discharge:

Date of last request for amendment / revocation of conditional discharge:

(may not be within six months of current application)

I hereby request that the following terms(s), condition(s) of my discharge be amended:

.....

.....

.....

.....

Reasons for amending condition / requesting unconditional discharge:

.....

.....

.....

.....

.....

Print initials and surname:

Signature:

(State patient)

Date:

Place:

Decision by Judge in Chambers:

.....
.....
.....
.....
.....
.....

Print initials and surname:

Signature:

(Judge in Chambers)

Date:

Place:

(Copy to state patient, head of health established, head of the national department, registrar of the High Court and *curator ad litem*)

FORM MHCA 36

DEPARTMENT OF HEALTH

ASSESSMENT OF MENTAL HEALTH STATUS OF PRISONER FOLLOWING REQUEST FROM HEAD OF A PRISON AND/OR MAGISTRATE [Sections 50(2) or 52 of the Act]

Surname of the prisoner:.....
First name(s) of the prisoner:.....
File No. (if known)
Date of birth or estimated age
Gender: Male [] Female []
Occupation: Marital status: S [] M [] D [] W []
Residential address:
Nature of charge:
Prison number:
Date of examination: Place of examination:
Category of designated mental health care practitioner:

Physical health status (filled in only by practitioner qualified to conduct physical examination)

(a) General physical health:
.....
.....
.....

(b) Are there signs of injuries? Yes [] No []

(c) Are there signs of communicable disease? Yes [] No []

If the answer to (b) or (c) if Yes, give further particulars:
.....
.....
.....

Reports facts on previous observations of mental illness (state who provided this information):

.....
.....
.....

Facts concerning the mental condition of the prisoner which were observed on previous occasions (State dates and places);

.....
.....
.....

Mental health status of the User at the time of the present examination:

.....
.....
.....

Type of illness (provisional):

.....
.....
.....

In my opinion the above-mentioned prisoner—

has homicidal tendencies: Yes No

has suicidal tendencies: Yes No

is dangerous: Yes No

Recommendation to head of prison

The prisoner is mentally ill and requires care, treatment and rehabilitation; Yes No

In my opinion the prisoner can be given care, treatment and rehabilitation within the prison and/or in a prison hospital; Yes No

In my opinion the mental illness is of such a nature that the prisoner should be sent to a psychiatric hospital for care, treatment and rehabilitation:

.....
.....

FORM MHCA 37

DEPARTMENT OF HEALTH

MAGISTERIAL ORDER TO HEAD OF PRISON TO -
(a) TRANSFER PRISONER TO HEALTH ESTABLISHMENT; OR
(b) TAKE NECESSARY STEPS TO ENSURE THAT THE REQUIRED LEVELS
OF CARE AND TREATMENT ARE PROVIDED TO THE PRISONER
CONCERNED[Sections 52(3)(a) or (b) of the Act]

Surname of the prisoner:
First name(s) of the prisoner:
Date of birth or estimated age
Gender: Male Female
Occupation: Marital status: S M D W
Residential address:
Prison number:
Charge against prisoner:

I hereby order that due to mental illness / intellectual disability the above User be transferred to a designated health establishment for care, treatment and rehabilitation in accordance with the procedure in section 54 of the Act.

Note: attach copy of MHCA 36 as completed by person who assessed the mental health care status of the prisoner concerned.

OR

I hereby order that the above User be provided with the required levels of care within the prison / prison hospital*

Print initials and surname:
Signature:
(magistrate)

Date:
Place:

[Copy to be forwarded to the Review Board Curator/Administrator (if appointed) and the head of the national department]

FORM MHCA 38

DEPARTMENT OF HEALTH

**APPLICATION TO MAGISTRATE FOR CONTINUED DETENTION OF A
MENTALLY ILL PRISONER
[Sections 58(3) of the Act]**

Surname of mentally ill prisoner:.....

First name(s) of mentally ill prisoner:.....

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Health establishment concerned:

File No:

Prison number:

Charge against person:

The above mentally ill prisoner has been admitted at:
.....(name of health establishment) as a mentally ill
prisoner since: (date of admission) .

The date of expiry of his / her prison sentence is :(date of
expiry of sentence)

Application for further confinement of the User in terms of Chapter V of this Act was
made onby

In terms of section 58(3) of the Act, I hereby request permission to keep this User at this
health establishment and provided care, treatment and rehabilitation pending the outcome
of the application.

Print initials and surname:

Signature:
(head of health establishment)

Date:

Place:

FORM MHCA 39

DEPARTMENT OF HEALTH

**APPLICATION TO MASTER OF HIGH COURT
FOR THE APPOINTMENT OF ADMINISTRATOR
[Sections 60(1) and (2) of the Act]**

Surname of User in respect of whom application is made

First name(s) of User

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Name of applicant:(print initials and surname)

The above User has been admitted at:(name of health establishment)

Relationship of applicant to the User:

If the applicant is not the spouse or next of kin:

Give reasons why the spouse or next of kin are not making the application:
.....
.....
.....

If the spouse or next of kin are not available:
What steps have been made to trace the whereabouts of the spouse or next of kin?
.....
.....
.....

All medical certificates or relevant reports related to mental health status and the ability of the User to manage his / her own property (enclose and list)
.....
.....
.....

On what grounds do you believe that the User is incapable of managing his / her property?

.....
.....
.....

Have you seen the User within seven days of this application? Yes No

Give details:

.....
.....
.....

Give the particulars and estimated value of the property of the User:

.....
.....
.....

What is the annual income of the User?

.....

Who, in your opinion, would be most suited to be an administrator for the property of the User?

.....

Provide further particulars of the person (e.g. relationship with User, occupation):

.....
.....
.....

Give the name(s) and contact details of people who may be able to provide further information relating to the mental health status of the User:

.....
.....
.....

Attach proof that a copy of this application has been given to or served on the person in respect of whom this application is made:

.....

Signature:

(applicant)

Date:

Place:

Affidavit to be signed by a Justice of the Peace / Commissioner of Oaths

I, the undersigned and applicant, hereby affirm that:

I am 18 years of age or older:

I am a relative, being

I am not a relative, being

Signature:

The above statements was solemnly declared or sworn before me at:

The respondent has acknowledged that he / she knows and understands the content of the affidavit which was sworn to / affirmed before me

Print initials and surname:

Signature:

(Justice of the Peace / Commissioner of Oaths)

Date:

Place:

Decision of Master of the High Court in terms of section 60(13) of the Act

Having considered the allegations and facts related to this application, I hereby-

- (a) appoint.....(name of person) as an interim administrator pending the outcome of an investigation to be conducted;
- (b) appoint(name of person) as the administrator of the above User's property;
- (c) order that an investigation be conducted in terms of section 60(4) of the Act;
- (d) assert that no administrator should be appointed.

Print initials and surname:

Signature:

(Master of the High Court)

Date:

Place:

FORM MHCA 40

DEPARTMENT OF HEALTH

DECISION BY MASTER OF THE HIGH COURT ON APPOINTMENT OF AN ADMINISTRATOR
[Section 60(8) of the Act]

Following an investigation as set out in section 60(5) of the Act, I hereby order that:

- (a)(name of person)
be appointed as the administrator of the property of:
..... (User's name)
- (b) no administrator be appointed with respect to the property of:
.....(User's name)
- (c) refer the matter for the consideration of a High Court Judge in chambers.

Reason for this decision:

.....
.....
.....
.....

The powers, functions and duties of the administrator, if appointed, will be carried out in accordance with section 63 of the Act.

Print initials and surname:

Signature:

(Master of High Court)

Date:

Place:

(Copy to be forwarded to the applicant, person in respect of whom the application was made and to the head of the health establishment where the person concerned has been admitted)

FORM MHCA 41

DEPARTMENT OF HEALTH

**NOTICE OF APPEAL TO HIGH COURT JUDGE IN CHAMBERS REGARDING
THE DECISION OF THE MASTER OF THE HIGH COURT TO APPOINT OR
NOT TO APPOINT AN ADMINISTRATOR
[Sections 60(10) of the Act]**

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....

Surname of applicant:

First name(s) of applicant:

Residential address:
.....
.....

Relationship between applicant and mental health care User: (mark with a cross)

Spouse Next of kin Other (state relationship or capacity)

Grounds of the appeal:
.....
.....
.....

Facts on which the appeal is based:
.....
.....
.....

Print initials and surname:

Signature:
(Applicant)

Date:

Place:

FORM MHCA 42

DEPARTMENT OF HEALTH

**NOTICE OF DECISION OF HIGH COURT TO APPOINT AN ADMINISTRATOR OR TO TERMINATE THE APPOINTMENT OF AN ADMINISTRATOR
[Sections 61(3) and 64(3) of the Act]**

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....

Appointment of administrator

Having considered all the relevant facts relating to the appointment of an administrator for the property of the above User in terms of section 61(3) of the Act, I hereby order that:

an administrator be appointed / no administrator be appointed (delete which is not applicable)

Reasons for decision:

.....
.....

Continuance / termination of administratorship:

Having considered all the relevant facts relating to the termination of the administratorship of the property of the above User in terms of section 64(3) of the Act, I hereby order that:

The powers, functions and duties of the administrator of the above User's property shall henceforth be terminated / shall continue (delete which is not applicable)

Print initials and surname:

Signature:

(Judge in the High Court)

Date:

Place:

[Copy to appellant, applicant, head of relevant health establishment, head of provincial department and, in the case of a decision regarding termination of administratorship, the administrator]

FORM MHCA 43

DEPARTMENT OF HEALTH

**NOTICE OF APPOINTMENT OF ADMINISTRATOR
[Section 62 of the Act]**

I hereby appoint:

..... (name of administrator) to be the
administrator of the property of (name of User)

Address of administrator:
.....
.....
.....

With the effect from: (date)

As the administrator you will take care of, and administer the property of the above person and perform all acts incidental thereto and subject to any other law you will carry on the business or other undertakings of the person concerned.
You will continue to act as the administrator until your duties have been legally terminated.

Print initials and surname:

Signature:
(Master of High Court)

Date:

Place:

FORM MHCA 44

DEPARTMENT OF HEALTH

APPLICATION FOR TERMINATION OF TERM OF OFFICE OF AN ADMINISTRATOR AND THE DECISION OF THE MASTER OF THE HIGH COURT

[Section 64 of the Act]

Name of administrator:

Application made by: (initials and surname)

- (a) person in respect of whom an administrator was appointed;
- (b) the administrator;
- (c) person who made the application for the appointment of an administrator.

Grounds on which the application is made:

.....

.....

.....

.....

.....

N.B. All medical certificates or relevant reports subsequent to appointment of an administrator are to be enclosed.

Estimated property value:

Signature:

(Applicant)

Date:

Place:

Decision of Master of High Court

Having considered the facts relevant to this application I hereby:

- (a) terminate the appointment of the administrator;
- (b) decline to terminate the appointment of the administrator;
- (c) refer the matter for the consideration of a High Court Judge in chambers.

Reasons for decision:

.....

.....

.....

.....

.....

.....

.....

.....

Print initials and surname:

Signature:

(Master of High Court)

Date:

Place:

[Copy to applicant and head of health establishment]

FORM MHCA 45

DEPARTMENT OF HEALTH

**NOTICE OF APPEAL TO HIGH COURT JUDGE IN CHAMBERS REGARDING
THE APPLICATION FOR THE TERMINATION OF THE TERM OF OFFICE
OF AN ADMINISTRATOR
[Section 64(5) of the Act]**

Surname of User
First name(s) of User
Date of birth or estimated age

Gender: Male Female

Name of applicant:

Appeal made by:
(print initials and surname)

who is a (delete where not applicable)

- (a) person in respect of whom an administrator was appointed;
- (b) the administrator;
- (c) person who made the application for the appointment of an administrator.

Grounds for appeal:

.....
.....
.....
.....
.....
.....
.....

Facts on which the appeal is based:

.....
.....
.....
.....
.....
.....
.....

Signature:

(Appellant)

Date:

Place:

[Copies to Master of High Court]

FORM MHCA 46

DEPARTMENT OF HEALTH

**NOTICE OF DECISION OF HIGH COURT JUDGE IN CHAMBERS
REGARDING APPEAL AGAINST DECISION OF MASTER OF HIGH COURT
[Sections 60(12) and 64(7) of the Act]**

Surname of User

First name(s) of User

Date of birth or estimated age

Gender: Male Female

Occupation: Marital status: S M D W

Residential address:
.....
.....
.....

Appointment of administrator

Having considered all relevant facts relating to the appointment of an administrator of the property of the above User in terms of section 61(12) of the Act, I hereby order that-
An administrator be appointed / no administrator be appointed (delete which is not applicable)

Reasons for this decision:
.....
.....
.....
.....
.....
.....
.....
.....

Termination of term of office of administrator

Having considered all the relevant facts relating to the termination of the administrator of the property of the above User in terms of section 64(7) of the Act, I hereby order that The powers, functions and duties of the administrator of the above User's property shall henceforth be terminated / shall continue (delete which is not applicable)

Reasons for this decision:

.....
.....
.....
.....
.....
.....
.....
.....
.....

Print initials and surname:

Signature:

(Judge of the High Court)

Date:

Place:

[Copy to appellant, applicant, head of relevant health establishment, head of provincial department and, in the case of a decision regarding termination of administratorship, the administrator]"

