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GOVERNMENT NOTICE

DEPARTMENT OF HEALTH

No. R. 233

14 February 2003

MENTAL HEALTH CARE ACT, 2002 (ACT NO. 17 OF 2002)

GENERAL REGULATIONS

The Minister of Health intends, in terms of section 66 of the Mental Health Care Act, 2002 (Act No. 17 of 2002), make the regulations in the Schedule.

Interested persons are invited to submit substantiated comments on, or representations to the Department of Health (for attention of the Directorate: Mental Health and Substance Abuse), Private Bag X828, Pretoria, 0001 within a period of two months of publication of the notice.

SCHEDULE

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Definitions

1. In these Regulations any expression to which a meaning has been assigned in the Act shall bear such meaning unless the context indicates otherwise -

"health establishment administered under the auspices of the State" means –

- (a) a public health establishment; or
- (b) an institution 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, so designated, to ensure that a mental health care user is securely held and where personnel with security training are deployed to ensure that such mental health care user does not abscond;

“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;

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

“private hospital” means a hospital which is not owned or controlled by or run under the State or auspices of 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).

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 shall present himself or herself at a health establishment that provides primary health care.
- (2) A mental health care user shall be assessed and, if such user requires care, treatment and rehabilitation services he or she shall be -
 - (a) treated and cared for at such primary health care facility;
 - (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 shall 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 discharge also requires follow-up at primary health or community levels shall be referred back to the latter level and shall be provided with the relevant care, treatment and rehabilitation programme within available resources.

3. Head of a health establishments

A head of a health establishment when taking decisions in terms of these regulations that fall outside his or her scope of professional practice must act in consultation with the relevant mental health care practitioners.

4. Home visits

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

5. Community care

- (1) Programmes and facilities for the community care, treatment and rehabilitation of people with mental health problems shall 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-government organizations;
 - (d) volunteer or consumer groups;
 - (e) profit making organizations; or
 - (f) individuals registered with a relevant health or social service statutory council.
- (3) Services by a grouping referred to in subregulation (2) may, within their professional scopes of practices, include medical care, residential community accommodation, day-care centres, counselling, support or therapeutic groups, psychotherapy, occupational programmes or other services, which would assist the recovery of the person to optimal functioning.

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

The State shall 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.

7. Report on exploitation and abuse

- (1) A person witnessing any form of abuse set out in section 11(1) of the Act against a mental health care user -
 - (a) must report this fact to the Review Board concerned in the form of MHCA 02 attached hereto; or
 - (b) may lay a charge with the South African Police Service.
- (2) A report referred to in subregulation (1) received by the Review Board must be investigated by such Review Board and if necessary a charge be laid by such Review Board with the South African Police Service.

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 referred to in section 9(1)(c) of the Act must report this fact in writing in the form of MHCA 01 attached hereto to the relevant Review Board.

9. Application for assisted mental health care

- (1) An application for assisted mental health care by a person referred to in section 27(1) of the Act must be made in the form of MHCA 04 attached hereto.
- (2) An application form referred to in subregulation (1) shall 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.

- (3) An application form referred to in subregulation (1) must be submitted to the head of a health establishment.
- (4) On completion of the examination referred to in subregulation (1), the mental health care practitioners must submit their finding in the form of MHCA 05 attached hereto to the head of the health establishment concerned.
- (5) A health establishment that does not provide the examination referred to in subregulation (2), shall refer such applicant to a health establishment within the closest proximity, that provides such examination.
- (6) Where an applicant is unable, for whatever reason, to fill in the written application, such applicant shall be assisted by a staff member at the health establishment concerned.
- (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 MHCA 07 attached hereto of his or her decision concerning the application for assisted care, treatment and rehabilitation in question and reasons thereof.
- (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 subregulation (7), send a copy of the application for assisted care, treatment and rehabilitation to the relevant Review Board together with a copy of the notice referred to in subregulation (7).
- (9) The Review Board concerned must after receiving the documentation referred to in subregulation (8) and after completing an investigation in terms of section 28(2) of the Act within 30 days report on its findings and the steps taken to the head of the relevant provincial department in the form of MHCA 14 attached hereto.

10. Application for involuntary mental health care and assessment

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

- (2) An application form referred to in subregulation (1) shall 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 33(4) of the Act.
- (3) An application form referred to in subregulation (1) must be submitted to the head of a health establishment.
- (4) On completion of the examination referred to in subregulation (1), the mental health care practitioners must submit their finding in the form of MHCA 05 attached hereto to the head of the health establishment concerned.
- (5) A health establishment that does not provide an examination referred to in subregulation (1), shall refer such applicant to a health establishment within the closest proximity, which provides such assessment.
- (6) Where an applicant is unable, for whatever reason, to fill in the written application, such applicant shall be assisted by a staff member at the health establishment concerned.
- (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 MHCA 07 attached hereto 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) Two mental health care practitioners of which one shall be a medical practitioner, shall in terms of section 34 of the Act assess the mental health care user for a continuous period of 72-hour in the manner indicated on form MHCA 06 attached hereto.
- (2) The medical practitioner conducting an assessment shall determine the treatment programme and the place within the hospital where the mental health care user shall 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 or personnel within such health establishment are unable to cope with a mental health care user

due to the potential harm which such user may inflict on himself, herself, others or property if he or she remains in such health establishment, such health establishment may transfer such user to another health establishment with suitable personnel or facilities to conduct the assessment.

- (4) The medical practitioner referred to in subregulation (2) shall make a provisional diagnosis of any mental illness and initiate treatment as soon as possible.
- (5) The medical practitioner referred to in subregulation (2) shall 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 referred to in subregulation (2) shall submit within 12 hours after the expiry of the 72-hour assessment period a written report in the form of MHCA 06 attached hereto to the head of the health establishment concerned, indicating his or her recommendations on the physical and mental health status of the mental health care user.
- (7) The head of a health establishment concerned may discharge or transfer the mental health care user to voluntary status during the 72-hour assessment if such 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 MHCA 09 attached hereto 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 MHCA 07 attached hereto to approve such further care, treatment and rehabilitation.
- (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 MHCA 14 attached hereto 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 shall submit to all health establishments under the auspices of the State, private health establishments within the province concerned, the South African Police Service and national department a list of health establishments in each district in such province that provide assessments referred to in regulations 9 and 10.
- (2) The head of such provincial department shall update such list on an annual basis indicating which health establishment falls in which district and submit such updated list to the health establishments and South African Police Service and national department referred to in subregulation (1).

CHAPTER 13: 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 MHCA 15 against the decision of the head of the health establishment to the Review Board.
- (2) An appeal referred to in subregulation (1) may be -
 - (a) made directly to the Review Board; or
 - (b) submitted to the head of the health establishment where an application was made, who must immediately submit such appeal to the Review Board.
- (3) Within 30 days after receipt of an appeal in terms of section 29(1) of the Act, the Review Board concerned must send a written notice in the form of MHCA 14 attached hereto of its decision together with reasons for such decision to the appellant, applicant, head of the health establishment concerned and the relevant mental health care practitioner.

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 MHCA 15 against the decision of the head of the health establishment.
- (2) An appeal referred to in subregulation (1) may be -
 - (a) made directly to the Review Board; or
 - (b) submitted to the head of the health establishment where an application was made, who must immediately submit such appeal to the Review Board.
- (3) Within 30 days after receipt of an appeal in terms of section 29(1) of the Act, the Review Board concerned must send a written notice in the form of MHCA 14 attached hereto of its decision together with reasons for such decision to the appellant, applicant, head of the health establishment concerned and head of the provincial department concerned.

15. Consideration of appeals by Review Board

- (1) If an appeal against a decision to provide assisted or involuntary care, treatment and rehabilitation is made to a Review Board, the secretariat of such Review Board must ensure that all documentation in terms of section 29 and 35 of the Act is obtained and delivered to members of such Review Board at least one week prior to the appeal being considered by such Review Board.
- (2) The secretariat of the Review Board shall 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 give them an opportunity to make written or oral representations to the Review Board.
- (3) The Review Board may specifically invite a person referred to in regulation (2) to the appeal hearing.

- (4) The Review Board shall 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 MHCA 18 to appear before it as a witness to give evidence or to produce any book, record, document or thing, which in the opinion of the Review Board is relevant to the appeal.
- (6) A person referred to in subregulation (5) shall 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 MHCA 16 attached hereto 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 section 16 of the Act issue a discharge report in the form of MHCA 03 to the user who was admitted for purposes of receiving care, treatment and rehabilitation services.

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 an outpatient basis in terms of section 34(5), the head of the health establishment concerned must provide such 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 MHCA 10 attached hereto.

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

(3) The conditions referred to in subregulation (1) shall include -

(a) the name of a custodian into whose care the mental health care user shall be given;

(b) the name of the health establishment concerned where the mental health care user's mental health status shall be monitored or reviewed and timeframe of each review;

(c) the name of the health establishment(s) concerned where treatment will be provided and the nature of such treatment;

(d) behavior which must be adhered to by the mental health care user; and

(e) the name of the psychiatric hospital, care and rehabilitation center 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 shall forward the schedule of conditions to -

(a) the mental health care user;

(b) the custodian;

(b) the health establishment(s) referred to in subregulation (3)(b) and (c); and

(c) the Review Board.

- (5) A mental health care user who does not accept such conditions regarding his or her involuntary outpatient care, treatment and rehabilitation shall remain an involuntary inpatient mental health care user.
- (6) The custodian into whose control the mental health care user has been entrusted shall take over responsibility for such user when discharged from the health establishment concerned where he or she received inpatient care.
- (7) If the custodian into whose control the mental health care user has been entrusted when such user was discharged, intends to change the place where such user resides and such change requires using another health establishment -
 - (a) where such user's mental health status will be monitored or reviewed; and
 - (b) where treatment will be provided,the custodian shall apply in writing to the head of the current health establishment for transfer of such user to the other health establishment.
- (8) If the head of the current health establishment as well as the head of the health establishment to where the mental health care user is to be transferred approve the application referred to in subregulation (6), the 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 subregulation (1), and after the necessary measures have been taken by the health establishment concerned to locate such user, such user shall be deemed to have absconded in terms of section 40(4) of the Act and in such case the health establishment concerned shall inform the SAPS in the form of MHCA 25 attached hereto.

19. Transfer of involuntary mental health care user

- (1) If, following the 72-hour assessment period, a mental health care user is to be cared for, treated and rehabilitated on an inpatient basis and such user has been admitted to a health establishment which is not a psychiatric hospital, such user must be transferred in terms of section 34(4)(b) of the Act to a psychiatric hospital for care,

treatment and rehabilitation services until the Review Board concerned makes a decision.

- (2) Arrangement for a transfer referred to in subregulation (1) shall be made in the form of MHCA 11 attached hereto between the head of the psychiatric hospital, care and rehabilitation centre concerned and the head of a health establishment where the involuntary user was admitted.

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

- (1) Where required in terms of section 8(3) or 34(5) or (6), a mental health care user may be transferred from inpatient to outpatient care and vice versa, using form MHCA 12 attached hereto.
- (2) Arrangements for a transfer referred to in subregulation (1) shall 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 on –
 - (a) an assisted mental health care user in terms of section 30 of the Act;
 - (b) an involuntary mental health care user in terms of section 37 of the Act;
 - (c) a state patient in terms of section 46 of the Act;
 - (d) a mentally ill prisoner in terms of section 55 of the Act,must be done on form MHCA 13 attached hereto.
- (2) With regard to a person referred to in subregulation (1)(a), (b) or (c) -

- (a) the first review must be done by a medical practitioner six months after the commencement of care, treatment and rehabilitation services;
 - (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 by a medical practitioner who shall conduct at least every second review.
- (3) With regard to a person referred to in subregulation (1)(d) periodic reviews must be done every six months by a medical practitioner.
- (4) Within 30 days after the Review Board concerned received a summary report of a periodic review referred to in subregulation (1)(a), (b) and (d), such Review Board must decide on the review in the form of MHCA 17 attached hereto.

22. Application for transfers of mental health care users to maximum security facilities

- (1) The head of a health establishment may in terms of section 39(1) of the Act submit a request to the relevant Review Board in the form of MHCA 19 attached hereto for an order to transfer an assisted or involuntary mental health care user to a health establishment with maximum security facilities if such user has -
- (a) previously absconded or attempted to abscond; or
 - (b) inflicted or is likely to inflict harm on others in the health establishment.
- (2) The head of a health establishment may in terms of section 43 or 54(2) of the Act in the form of MHCA 19 attached hereto request the Review Board concerned to order the transfer of a State patient or mentally ill prisoner to another designated health establishment with maximum security facilities.

23. Order for transfers of mental health care users to maximum security facilities

- (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 MHCA 20 attached hereto 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 MHCA 20 attached hereto order the transfer of a State patient or mentally ill prisoner to another designated health establishment with maximum security facilities

24. Notice of transfers 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 MHCA 21 attached hereto, 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 MHCA 21 attached hereto notify the head of the prison where the prisoner is detained of the details of the transfer.

25. Transfer of State patient from detention center to a 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 MHCA 23 attached hereto for the transfer of the State patient concerned from the detention center 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 center, a head of the relevant provincial department may thereafter in terms of section 43(1) of the Act make arrangements in the form of MHCA 24 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 MHCA 27 attached hereto 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 is stipulated on such form.
- (2) The head of the health establishment concerned may grant leave of absence in the form of MHCA 27 attached hereto 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 the health establishment concerned may, during the period of leave, if he or she has reason to believe that the State patient, assisted- or involuntary mental health care user does not comply with the terms and conditions applicable to such leave, cancel the leave in the form of MHCA 28 attached hereto and direct 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 an assisted or involuntary mental health care user, State patient or mentally ill prisoners under sections 27(1), 33(9), 34(4)(b)(b), 34(6) and 39 of the Act 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 referred to in subregulation (1) shall 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 referred to in subregulation (1) who has to be transferred, may be held in custody at a police station for a period of not more than 24 hours to effect the transfer.

- (4) A mental health care practitioner shall accompany the mental health care user referred to in subregulation (1) during transfer.

28. Apprehension and handing over of person to a 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, such member must cause that person to be -

- (a) taken to an appropriate health establishment administered under the auspices of the State for assessment of the mental health status of that person; and
- (b) handed over using form MHCA 22 attached hereto into 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 the custody by the 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 sections 40(4), 44(1) or 57(1) of the Act and in the form of MHCA 25 attached hereto 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 subregulation (1) is apprehended by the South African Police Service in terms of sections 40(4), 44(1) or 57(1) of the Act in the vicinity of such health establishment, the South African Police Service shall return the person immediately to such establishment using form MHCA 26 and hand over such person to the head of such health establishment.
- (3) If a mental health care user who has absconded from the health establishment concerned is apprehended by the South African Police Service in terms of sections 40(4), 44(1) or 57(1) of the Act outside the vicinity of such health establishment, the South African Police Service shall -
 - (a) notify the head of the such health establishment that such user has been apprehended and is in the custody of the South African Police Service; and

- (b) provide such information with regard to the physical and mental condition of such user as the notifying member will be able to provide.
- (4) The head of the health establishment referred to in subregulation (1) shall, if circumstances so require, take steps to ensure that a mental health care practitioner from the 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 such mental health care user and provides such treatment as may be required at such police station.
- (5) After the examination referred to in subregulation (4), it is the responsibility of the member in command of the South African Police Service facility where the mental health care user is being detained, to consult with the head of the health establishment concerned and to make such arrangements in the form of MHCA 26 for the return of such mental health care user as may be feasible in the circumstances, taking into account the physical and mental condition of the such user: Provided that if such user is -
 - (a) too dangerous to be transferred in a vehicle staffed only by health personnel;
or
 - (b) likely to abscond during the transfer, unless guarded,such user must be conveyed by the South African Police Service or a member of the South African Police Service must accompany such user while being conveyed.
- (6) The 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 such user.

30. Discharge of State patient

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

- (2) A person referred to in section 47(1) of the Act who is the official *curator ad litem* or administrator may apply in the form of MHCA 30 attached hereto to a judge in chambers for the discharge of a State patient.
- (3) On considering an application, the judge in chambers may order in the form of MHCA 31 attached hereto that the State patient be discharged conditionally.
- (4) The person monitoring the State patient referred to in subregulation (3) must in terms of section 48(3) of the Act in the form of MHCA 32 attached hereto submit a report to the head of the health establishment at which the State patient was discharged relating to any terms and conditions applicable to such discharge.
- (5) If at the end of the conditional discharge, the head of the health establishment is satisfied that the State patient has fully complied with the terms and conditions applicable to the discharge, and that the mental health status of the State patient has not deteriorated, the head of the health establishment must in terms of section 48(4) of the Act immediately discharge the State patient unconditionally using form MHCA 33 attached hereto.
- (6) If the head of the health establishment concerned, after receiving a report referred to in subregulation (4), 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, such head may in terms of section 48(5) of the Act apply to the Registrar of the High Court in the form of MHCA 34 attached hereto for an order amending the conditions or revoking the conditional discharge, and forward a copy of such application to the official *curator ad litem*.
- (7) A state patient who has been discharged conditionally may at any time after six months from the date on which the order was made, and thereafter, at no less than six months intervals, apply in terms of section 48(6) of the Act in the form of MHCA 35 attached hereto to the judge in chambers concerned for an amendment of any condition applicable to the discharge or for unconditional discharge.

31. Inquiry into mental health status of prisoner

A person conducting an inquiry in terms of section 50(1) of the Act into the mental health status of a prisoner, must in the form of MHCA 36 attached hereto, report to the head of the

prison and must specify in such report the mental health status of the prisoner and a plan for the care, treatment and rehabilitation of such prisoner.

32. Magisterial enquiry concerning transfer to designated health establishments

- (1) The magistrate must in terms of section 52(2) of the Act commission two mental health care practitioners of whom at least one must be a psychiatrist, clinical psychologist or medical practitioner with special training in mental health to enquire into the mental health status of the prisoner concerned and make recommendations in the form of MHCA 36 attached hereto on whether the prisoner concerned should be transferred to a health establishment designated in terms of section 49 of the Act.
- (2) If the mental health care practitioners recommend that the prisoner should be cared for, treated and rehabilitated at a health establishment designated in terms of section 49 of the Act, the magistrate must in terms of section 52(3) of the Act issue an order in the form of MHCA 37 attached hereto, to the head of the prison to transfer of prisoner concerned to such health establishment according to the procedure set out in section 54 of the Act.

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

At least 30 days before the expiry of the term of imprisonment, an application in terms of section 58(3) of the Act in the form of MHCA 38 attached hereto, may be made to a magistrate for the continued detention of a mentally ill prisoner in the designated health establishment where such prisoner was cared for, treated and rehabilitated pending the finalisation of the application referred to in section 58(2) of the Act.

CHAPTER 5: SURGICAL PROCEDURES, MEDICAL OR THERAPEUTIC TREATMENT

34. Psycho-surgery

- (1) No psycho-surgery shall be performed on a mental health care user who is not capable of giving informed consent for such surgery and such consent shall be given in writing by such mental health care user.
- (2) A person at a health establishment who intends to perform any form of psycho-surgery as therapeutic intervention for mental illness shall, within a period not less

than 30 days before the intended date of such surgery request written approval from the head of the provincial department concerned.

- (3) A medical report constructed and signed by at least two independent psychiatrists shall state whether in their opinion, all mental health treatment previously applied has failed and psycho-surgery is necessary.
- (4) The psycho-surgery shall be performed only by a registered neuro-surgeon who has agreed to perform the operation.

35. Electro-convulsive treatment

- (1) Electro-convulsive treatment (ECT) shall be conducted by a medical practitioner with special training in mental health and shall only be carried out under a general anaesthetic together with a muscle relaxant.
- (2) No mental health care user shall have more than one treatment carried out in a 24-hour period and not more than three treatments within a week.
- (3) All standard operating procedures relating to written consent for an operation shall be adhered to.
- (4) A health establishment under the auspices of the State or a private health establishment must be approved by the head of the provincial department concerned to perform ECT.
- (5) Whenever ECT is utilized a register signed by a medical practitioner shall be completed and a transcript of the register referred to in subregulation (3) shall be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of MHCA 47.

36. Sleep therapy

The prescription of neuroleptics, benzodiazopines and/or intravenous anti-depressants at doses and durations sufficient to cause significant sedation for several days is not permitted.

37. Consent to treatment and operations for illness other than mental illness

- (1) An involuntary mental health care user, an assisted mental health care user, a state patient or a mentally ill prisoner who is capable of consenting to treatment or an operation, must decide whether to have treatment or an operation or not.
- (2) 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 then a curator, if a court has appointed one, a spouse, next of kin, a parent or guardian, a child over the age of 18, a brother or sister, or a partner or associate, may consent to the treatment or operation.
- (3) The head of the health establishment where the mental health care user resides may only grant consent to treatment or an operation if –
 - (a) none of the persons referred to in subregulation (2) is available and 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 concerned and such head is satisfied that the most appropriate intervention is to be performed; and
 - (c) the medical practitioner who is going to perform such operation recommends the treatment or operation.
- (4) The information stated in subregulation (1) and in paragraphs (a), (b) and (c) of subregulation (3) must be documented in the clinical record of the mental health care user concerned before such treatment or operation

38. Use of mechanical means of restraint

- (1) Mechanical means of restraint should not be used during the transfer of a mental health care user or within a health establishment unless pharmacological or other means of calming or sedating such user are inadequate to ensure that such user does not harm him, 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 as is necessary to effect the treatment.

- (3) While the mental health care user is under restraint, he or she shall be subject to observation at least every 30 minutes.
- (4) Whenever mechanical means of restraint is utilized -
 - (a) a register, signed by a medical practitioner, shall be completed; and
 - (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 shall be outlined in such register by such medical practitioner;
- (5) A transcript of the register referred to in subregulation (3) shall be submitted by the health establishment concerned to the Review Board on a quarterly basis in the form of MHCA 48.
- (6) Mechanical means of restraint may only be used in a health establishment run under the auspices of an organ of the State or in a private health establishment which has been licenced in terms of the Act.

39. Seclusion

- (1) A mental health care user shall not be secluded as a punishment and seclusion may only be used to contain severely disturbed behaviour, which is likely to cause harm to others and where other treatment techniques have failed
- (2) While the mental health care user is secluded, he or she shall be subject to observation at least every 30 minutes.
- (3) Whenever seclusion is utilized -
 - (a) a register, signed by a medical practitioner, shall be completed;
 - (b) the time period of seclusion and the reason for secluding such mental health care user shall be outlined in such register by such medical practitioner; and
 - (c) the head of the health establishment concerned shall receive a report on a daily basis indicating all incidents of seclusion.

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

CHAPTER 6: MAXIMUM-SECURITY FACILITIES

40. The head of a psychiatric hospital where there are maximum security facilities must ensure that personnel with security training are deployed to ensure that mental health care users do not abscond.
41. The South African Police Service shall assist in the guarding of observation cases in terms of section 79 of the Criminal Procedures Act, 1977 (Act 51 of 1977).
42. Health workers in a psychiatric hospital are not expected to deal with security related matters.
43. Arrangements for the transfer of a mental health care user to another health establishment shall be made between the heads of the two health establishments concerned.

CHAPTER 7: RECORDS

44. The following records shall be kept in a psychiatric hospital and a care and rehabilitation center designated in terms of section 5 of the Act -
 - (1) a register recording the admission, discharge, death, transfer and shift of legal status of every mental health care user in such facility and leaves of absence or abscondments;
 - (2) 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;
 - (3) The records referred to in subregulation (2) shall indicate the date on which an entry into such records has been made and the full signature of the person who made such entry;
 - (4) administrative records of legal documents and copies of correspondence concerning the mental health care user; and

- (5) a record of any minor or major injury sustained by a mental health care user in such psychiatric hospital or care and rehabilitation center.

45. The head of a psychiatric hospital or a care and rehabilitation center referred to in regulation 44 shall on a monthly basis submit to the head of the provincial department a return of the number of patients, their legal status and information referred to in regulation 44(1).

CHAPTER 8: OBSERVATION AND TREATMENT

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

- (1) A person referred by a court of law for observation shall be informed that a mental health status 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.
- (2) The report referred to in subregulation (1) shall include brief notes on the following -
- (a) A review of the medical and psychiatric history;
 - (b) clinical findings during the time of observation;
 - (c) a summary of the relevant facts and circumstances of the offence as supplied by the prosecutor;
 - (d) the estimated (where possible psychologically assessed) intelligence level of such person;
 - (e) the psychiatric diagnosis (if any);
 - (f) an assessment of whether the person can cooperate in his or her own defence;
 - (g) an assessment of whether the person at the time of the offence would have been disturbed to the extent that he or she was not responsible for his or her acts from a psychiatric point of view; and

- (h) an assessment of the type of treatment (if any) which will be fairest to such person and safest for the community.
- (3) If a person referred to in subregulation (1) is found to be mentally ill to such a degree that he or she is a danger to himself, herself or others and where psychiatric treatment has become a matter of urgency, such treatment shall be commenced immediately even before a report referred to in subregulation (2) has been submitted to a court of law.
- (4) Where a person has been referred by a court of law for observation, such person may be taken to a hospital for any neuro-psychiatric or physical health investigation that cannot be done at the place where such person is being detained.
- (5) A person referred to in subregulation (1) shall not be kept at the hospital concerned for longer than eight hours.
- (6) A letter of referral by the hospital concerned shall accompany the person to the hospital.

CHAPTER 9: AUTHORISATION AND LICENSING

47. 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) In addition to a licence referred to in subregulation (1), if a hospital wishes to admit assisted or involuntary mental health care users, such hospital shall apply in writing to the national department for a licence to admit such users.
- (3) A written application referred to in subregulation (2) must indicate that:
 - (a) the mental health care practitioners who will examine such assisted or involuntary mental health care users in terms of sections 27 and 33 of the Act, will not be employed as staff at such hospital and will have no material or financial interest in such hospital;

- (b) on each admission of an assisted or involuntary mental health care user, the applicant must sign an affidavit stipulating that all expenses relating to the costs of hospitalization will be borne by such user, his or her medical insurance or the applicant him/herself;
 - (c) such hospital has been inspected and audited by a member of the provincial department concerned and found to be suitable to accommodate assisted and involuntary mental health care users; and
- (4) Suitability referred to in regulation 3(c) must include -
 - (a) a locked ward in addition to an open ward;
 - (b) trained staff including at least one psychiatrist; and
 - (c) procedures for ensuring the safety of assisted and involuntary mental health care users and other health users in such hospital.
- (5) The conditions of a licence referred to in subregulation (2) must be clearly stipulated by the national department concerned including -
 - (a) the number of people to be accommodated;
 - (b) whether such service is to be used for children, adults or geriatrics;
 - (c) the infrastructure requirements;
 - (d) service outputs;
 - (e) the length of time the licence operates for; and
 - (f) that the licence is not transferable.
- (6) If a condition of a licence referred to in subregulation (5) is not complied with, the national department concerned may withdraw such a licence.

48. Licensing of community facilities

- (1) Any service not directly run under the auspices of an organ of the State and which is not a designated hospital, but which provides residential or day-care facilities for people with mental disorders and which provides such services for 5 people or more shall in terms of the Act -
 - (a) obtain a licence to operate from the provincial department concerned; and
 - (b) be subject to an ongoing inspection by a designated provincial inspectorate.
- (2) The conditions of a licence referred to in subregulation (1) must be clearly stipulated by the provincial department concerned including -
 - (a) the number of people to be accommodated;
 - (b) whether such service is to be used for children, adults or geriatrics;
 - (c) the infrastructure requirements;
 - (d) service outputs;
 - (e) the length of time the licence operates for; and
 - (f) that the licence is not transferable.
- (3) If a condition of a licence referred to in subregulation (1) and (2) is not complied with, the provincial department concerned may withdraw such a licence.

49. Mental health care practitioners

- (1) A psychologist acting as a mental health care practitioner in terms of the Act shall be registered as a clinical- or counselling psychologist with the Health Professions Council of South Africa.
- (2) A nurse acting as a mental health care practitioner in terms of the Act shall be registered as a psychiatric nurse with the Nursing Council of South Africa and must have at least one year practical experience working in a health establishment, where at least 50% of the users have a primary diagnosis of mental disorder or intellectual disability.

- (3) An occupational therapist acting as a mental health care practitioner in terms of the Act shall be registered with the Health Professions Council of South Africa and must have at least one year practical experience working in a health establishment, where at least 50% of the users have a primary diagnosis of mental disorder or intellectual disability.
- (4) A social worker acting as a mental health care practitioner in terms of the Act shall be registered with the South African Council for Social Service Professions and have at least a post graduate social work qualification in mental health care or in clinical social work or have practical experience as a social worker in the mental health care field of at least three years.

CHAPTER 10: EDUCATIONAL PROGRAMMES

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

The Department of Education shall be responsible for the establishment of educational programmes of learners in the compulsory age group or those entitled to basic adult education programmes.

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

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

- (1) A person referred to in section 60(1) of the Act may apply in the form of MHCA 39 attached hereto to a Master of a High Court for the appointment of an administrator for a mentally ill person or person with severe or profound intellectual disability.
- (2) The Master of a High Court must in terms of section 60(8) of the Act, within 14 days after considering the report referred to in section 60(6) of the Act, in the form of MHCA 40 attached hereto appoint an administrator.
- (3) A person referred to in section 60(10) of the Act may appeal against the decision of the Master of the High Court by submitting a notice in the form of MHCA 41 attached

hereto to a High Court Judge in chambers and a copy to the Master setting out the grounds of the appeal.

- (4) The High Court Judge in chambers must, within 30 days of receipt of the relevant documentation referred to in section 60(11) of the Act, consider the appeal against the decision of the Master of the High Court referred to in subregulation (3), make a recommendation and send a notice in the form of MHCA 46 attached hereto to the relevant Master of the High Court, the head of the relevant provincial department and the persons referred to in section 60(12)(a) of the Act.

52. Recommendation to appoint an administrator by a High Court during enquiry or in course of legal proceedings

If on completion of an investigation in terms of section 61(1) of the Act, the High Court finds that the mental health status of the person concerned is of such a nature that such person is incapable of managing his or her property, the High Court may recommend that an administrator be appointed in respect of that person and notify that person and a Master of a High Court in the form of MHCA 42 attached hereto of the finding and recommendation and the reasons thereof.

53. Confirmation of appointment of an administrator

An appointment of an administrator is effective from the date on which a Master of a High Court signs an official notice in the form of MHCA 43 attached hereto of such appointment.

54. Termination of an administrator

- (1) A person referred to in section 64(1) of the Act may apply to the Master of a High Court in the form of MHCA 44 attached hereto for the term of office of an administrator to be terminated.
- (2) If the Master of the High Court terminates the appointment of an administrator in terms of section 64 of the Act, such termination must be done in the form of MHCA 42 attached hereto.
- (3) If the Master of the High Court declines the application referred to in subregulation (1) or refuses to refer such application for consideration by a High Court Judge in chambers, the applicant may, within 30 days of receipt of the notice referred to in

section 64(4) appeal against the decision of the Master by submitting a notice of appeal in the form of MHCA 45 attached hereto to a High Court Judge in chambers setting out the grounds of appeal

- (4) The High Court must within 30 days of receipt of the relevant documents referred to in section 64(6) of the Act consider the application or appeal referred to in subregulations (1) or (3) and inform the persons referred to in section 64(7)(c) of his or her decision and the reasons thereof in the form of MHCA 46.

CHAPTER 12: GENERAL PROVISIONS

55. Payment of maintenance costs and expenses in facilities run under the auspices of the State

- (1) Voluntary or assisted mental health care users shall be assessed and charged according to a patient fee structure.
- (2) Appeals against a fee referred to in subregulation (1) shall be directed for consideration to the head of the health establishment concerned whose decision shall be final.
- (3) An involuntary mental health care user shall be exempted from payment of a fee referred to in subregulation (1).
- (4) An awaiting trial prisoner who is admitted for observation in terms of the Criminal Procedure Act, 1977, shall be charged in accordance with the tariff agreed to between the Department of Health and the Department of Justice and Constitutional Development and shall be paid by the latter Department.
- (5) A mentally ill prisoner who is admitted for treatment shall be charged in accordance with the tariff agreed to between the Department of Health and the Department of Correctional Services and shall be paid by the latter Department.

56. Estimated property value and annual income

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

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

57. Repeal

- (1) The General Regulations published under 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 are hereby repealed.
- (2) The Notice regarding Officers who, in terms of section 74(1) of the Mental Health Act, 1973 (Act 18 of 1973), may sign an order, warrant or document published under Government Notice No. R. 1061 of 4 June 1982 is hereby repealed.



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 01

DEPARTMENT OF HEALTH

EMERGENCY ADMISSION OR TREATMENT WITHOUT CONSENT

REPORT TO MENTAL HEALTH REVIEW BOARD

[Section 9(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:

.....

.....

.....

.....

Date of admission of person for emergency care without their consent

Time of admission of person for emergency care without their consent

Name of health establishment

Reason for admission without consent:

In my/practitioners at this health establishment's assessment, due to mental illness, any delay in providing care, treatment and rehabilitation services / admitting may have resulted 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) the user 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)

.....

.....

Within 24 hours -

- (a) An application for involuntary care, treatment and rehabilitation was made
Date of application Time of application.....
- (b) The user agreed to voluntary care, treatment and rehabilitation.
- (c) The user was discharged.

Print initials and surname.....

Signature:
(health care provider or head of health establishment)

Date:



DEPARTMENT OF HEALTH
Republic of South Africa

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]

I
(name)

.....
..... (address)

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

(where known)

Surname of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation Marital status: ☐ S ☐ M ☐ D ☐ W

Residential address:

.....

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Name of health establishment or other place where exploitation, physical or other abuse,
neglect or degrading treatment occurred

Address:

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Description of exploitation, physical or other abuse, neglect or degrading treatment:

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Print initials and surname.....

Signature:
(person who witnessed abuse)

Date:



MHCA 04

DEPARTMENT OF HEALTH

APPLICATION FOR ASSISTED OR INVOLUNTARY CARE, TREATMENT AND
REHABILITATION
[Section 27(1) or 33(1) of the Act]

I hereby apply for assisted care or involuntary care for:

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

Date of birth of applicant (must be over 18 years of age)

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

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

Spouse ☐ Next of kin ☐ Partner ☐ Associate ☐
Guardian ☐ Health care provider ☐ Parent ☐

(If user is under 18 this application must be made by the parent or guardian)

I last saw the user on at
(date) (time) (place)

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

Where the applicant is the health care provider:

If the spouse, next of kin, partner, associate, parent or guardian is unwilling to make the application, state the reasons why:

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

If the spouse, next of kin, partner, associate, parent or guardian is incapable or not available to make the application, state the steps that have been taken to locate them:

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

I, the undersigned, am of the opinion that the above-mentioned person is suffering from a mental illness / intellectual disability for the following reasons:

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

and believe that assisted- or involuntary care, treatment and rehabilitation is needed because

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

In the case of an application for involuntary care:

I further give reasons which show that the person is so ill that he / she will not accept treatment as a voluntary mental health care user or cannot be admitted as an assisted mental health care user

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

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

- Medical certificates
 - History of past mental illness / intellectual disability
 - Other:
-

Print initials and surname.....

Signature:

(Applicant)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 05

DEPARTMENT OF HEALTH

**EXAMINATION AND FINDING OF MENTAL HEALTH CARE PRACTITIONER
FOLLOWING AN APPLICATION FOR ASSISTED- OR INVOLUNTARY CARE,
TREATMENT AND REHABILITATION
[Sections 27(5) and 33(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:

.....

.....

.....

.....

Date of examination: Place of examination:

Category of designated mental health care practitioner:

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

(a) General physical health

.....

.....

.....

.....

(a)	Are there signs of injuries?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
(b)	Are there signs of communicable diseases?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>

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

.....

.....

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

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

Facts concerning the mental condition of the user 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 diagnosis):

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

In my opinion the above-mentioned user

Has homicidal tendencies

Yes

No

Has suicidal tendencies

Yes

No

Is dangerous

Yes

No

Recommendation to head of health establishment – application for assisted care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes

No

The user is suffering from a mental illness / severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for their own health and safety or the health and safety of others

Yes

No

If Yes, this should be on an inpatient or outpatient basis:

Inpatient

Outpatient

Give reasons:

.....
.....

Recommendation to head of health establishment – application for involuntary care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services: Yes ☐ No ☐

The user is willing to receive care, treatment and rehabilitation services

Yes ☐ No ☐

In my view, the user is likely to inflict serious harm on him / herself or others

Yes ☐ No ☐

In my view, care, treatment and rehabilitation is necessary for the user's financial interests and reputation

Yes ☐ No ☐

The user should receive involuntary care, treatment and rehabilitation

Yes ☐ No ☐

If No, would you recommend that the user receive assisted care?

Yes ☐ No ☐

Print initials and surname.....

Signature:

(mental health care practitioner)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 06

DEPARTMENT OF HEALTH

**72-HOUR ASSESSMENT AND FINDING OF MEDICAL PRACTITIONER OR MENTAL
HEALTH CARE PRACTITIONER AFTER HEAD OF HEALTH ESTABLISHMENT
GRANTED APPLICATION FOR INVOLUNTARY CARE, TREATMENT AND REHABILITATION
[Section 34(1) 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:

.....

.....

.....

.....

Date of 72-hour assessment: Place of assessment:

Category of designated mental health care practitioner or medical practitioner:

.....

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

(a) General physical health

.....

.....

.....

.....

(a) Are there signs of injuries?

Yes

☐

No

☐

(b) Are there signs of communicable diseases?

Yes

☐

No

☐

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

.....

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

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

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

Mental health status of the user at the time of the present assessment:

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

Type of illness (provisional diagnosis):

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

In my opinion the above-mentioned user

Has homicidal tendencies

Yes ☐

No ☐

Has suicidal tendencies

Yes ☐

No ☐

Is dangerous

Yes ☐

No ☐

Recommendation to head of health establishment – application for assisted care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes ☐

No ☐

The user is suffering from a mental illness / severe or profound intellectual disability, and as a consequence of this requires care, treatment and rehabilitation for their own health and

safety or the health and safety of others

Yes

☐

No

☐

If Yes, this should be on an inpatient or outpatient basis:

Inpatient

☐

Outpatient

☐

Give reasons:

.....
.....

Recommendation to head of health establishment – application for involuntary care

The user is capable of making an informed decision on the need to receive care, treatment and rehabilitation services:

Yes

☐

No

☐

The user is willing to receive care, treatment and rehabilitation services

Yes

☐

No

☐

In my view, the user is likely to inflict serious harm on him / herself or others

Yes

☐

No

☐

In my view, care, treatment and rehabilitation is necessary for the user's financial interests and reputation

Yes

☐

No

☐

The user should receive involuntary care, treatment and rehabilitation

Yes

☐

No

☐

If No, would you recommend that the user receive assisted care?

Yes

☐

No

☐

Print initials and surname.....

Signature:

(mental health care practitioner / medical practitioner)

Date:

Place:



MHCA 07

DEPARTMENT OF HEALTH

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

I hereby consent / do not consent

(name of head of health establishment)

to the inpatient assisted care, treatment and rehabilitation or involuntary care, treatment and
rehabilitation of

(name of user)

The findings of two mental health care practitioners concur that the user –

- (a) should / should not receive assisted care, treatment and rehabilitation services as an
outpatient / inpatient; 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 / not consenting are as follows:

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

Print initials and surname.....

Signature:

(head of health establishment)

Date:

Place:

(Copy to applicant)



DEPARTMENT OF HEALTH
Republic of South Africa

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]**

I hereby request
(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 / not 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.

Attached hereto please find –

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

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

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

Signature:

(head of health establishment)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

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)(c) of the Act]

I hereby inform

(name of head of health establishment)

the Review Board that

(name of user)

requires further involuntary care, treatment and rehabilitation on an inpatient basis.

I am satisfied / not 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.

Signature:

(head of health establishment)

Date:

Place:

(Copy to mental health care user)



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 10

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER –
SCHEDULE OF CONDITIONS RELATING TO HIS OR HER OUTPATIENT CARE,
TREATMENT AND REHABILITATION
[Sections 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:

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

The user's mental health status will be monitored and reviewed at

..... (name of health establishment)

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

Name of health establishment(s) where involuntary mental health care, treatment and rehabilitation will be provided on an outpatient basis:

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

Name of psychiatric hospital / 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:

(accepting the stipulated conditions)

Signature of custodian:

(accepting the stipulated conditions)

(Copy to Review Board, user, custodian and head of health establishment to whom user was referred to on outpatient basis)



MHCA 11

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER ON
INPATIENT BASIS TO PSYCHIATRIC HOSPITAL**
[Section 34(4), (5) or (6) of the Act]

..... an involuntary
(name and surname of user)
mental health care user on an inpatient basis who was admitted to
..... (name of health establishment)
which is not a psychiatric hospital on (date) must be
transferred to (name of psychiatric hospital).

Print initials and surname
(head of health establishment)

Signature:
(head of health establishment)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 12

DEPARTMENT OF HEALTH

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER FROM
INPATIENT TO OUTPATIENT CARE AND VICE VERSA**

[Section 34(4) or (5) of the Act]

Transfer from inpatient to outpatient care

The mental health status of

(name and surname of user)

an involuntary inpatient at

(name of health establishment)

has improved / altered to such an extent that he / she should be provided with care, treatment and rehabilitation services as an outpatient. The schedule of conditions attached to this transfer are outlined in the attached MHCA 10.

Transfer from outpatient to inpatient care

..... an involuntary outpatient being

(name and surname of user)

monitored and reviewed at

(name of health establishment)

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:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 13

DEPARTMENT OF HEALTH

PERIODICAL REPORT NO. ON MENTAL HEALTH CARE USER
[Sections 30(2), 37(2), 46(2) or 55(1) of the Act]

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 ☐
State patient ☐

Involuntary inpatient ☐
Mentally ill prisoner ☐

Involuntary outpatient ☐

Name of health establishment concerned:

Registration number (if any):

Date of first admission of mental health care user 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 psycho-pharmaceutical treatment:

.....

.....

.....

.....

.....

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?

.....

.....

.....

Assisted mental health care user (section 30 of the Act)Does the user have the capacity to express him / herself on the need for care, treatment and rehabilitation? Yes ☐ No ☐

Comment:

Is there other care, treatment or rehabilitation which is less restrictive or intrusive on the user's

rights to movement, privacy and dignity? Yes ☐ No ☐

Comment:

Should the user be discharged? Yes ☐ No ☐

Comment:

Involuntary mental health care user (section 37 of the Act)Does the user have the capacity to express him / herself on the need for care, treatment and rehabilitation? Yes ☐ No ☐

Comment:

Is the user likely to inflict serious harm on him / herself or others?

Yes

☐

No

☐

Comment:

.....

Is the other care, treatment or rehabilitation which is less restrictive or intrusive on the user's rights to movement, privacy and dignity?

Yes

☐

No

☐

Comment:

.....

Should the user be discharge?

Yes

☐

No

☐

Comment:

.....

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

Yes

☐

No

☐

Comment:

.....

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:

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

Mentally ill prisoner

Comment on the merits of returning the user to the prison from which he / she was transferred:

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

Recommendation on a plan for further care, treatment and rehabilitation

(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 an 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 AND MENTALLY ILL PRISONERS

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

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 head of health establishment)



DEPARTMENT OF HEALTH
Republic of South Africa

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- or 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 use 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.

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

The Review Board have 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 concludes that:

- (a) the user should not receive care, treatment and rehabilitation services without his / her consent either as an assisted- or involuntary user.
- (b) the user should receive care, treatment and rehabilitation services as an assisted user.
- (c) the user should receive involuntary care, treatment and rehabilitation services as an inpatient.
- (d) the user should receive involuntary care, treatment and rehabilitation services as an outpatient.

Reasons for this decision:

.....

.....

.....

.....

Print initials and surname

Signature:

(chair 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]

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 applicant? Yes ☐ No ☐

If No to the above:

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

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

Spouse <input type="checkbox"/>	Partner <input type="checkbox"/>	Associate <input type="checkbox"/>
Next of kin <input type="checkbox"/>	Parent <input type="checkbox"/>	Guardian <input type="checkbox"/>

Grounds for the appeal:

.....

.....

.....

.....

.....

.....

Facts on which the appeal is based:

.....

.....

.....

.....

.....

.....

Signature:
(appellant)

Date:

Place:

MHCA 16



DEPARTMENT OF HEALTH

**ORDER BY HIGH COURT FOR FURTHER TREATMENT AND
REHABILITATION / DISCHARGE OF AN INVOLUNTARY USER ON AN
INPATIENT BASIS
[Section 36(c) of the Act]**

In the High Court of South Africa Division

In the matter of

(involuntary user's name)

at present being confined at

(name of health establishment)

as an involuntary user following the decision of the Review Board under sections 34(7) or
35(4) of the Act dated the

IT IS HEREBY ORDERED

That the said

(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) the financial affairs of the said user be managed and administered according to
the provisions of Chapter VIII of the Act; or
- (b) the said user be discharged immediately.

By order of the Honourable Justice

Date:

Place:

Registrar:



MHCA 17

DEPARTMENT OF HEALTH

**DECISION BY REVIEW BOARD FOLLOWING SUMMARY REPORT OF REVIEW
ON ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USERS AND
MENTALLY ILL PRISONERS
[Sections 30(4), 37(4) or 55(2)(a) 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 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 use 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

The Review Board concludes that:

- (a) the user should cease to receive care, treatment and rehabilitation services without his / her consent.
- (b) the user should continue to receive care, treatment and rehabilitation services as an assisted user.
- (c) the user should continue to receive involuntary care, treatment and rehabilitation services as an inpatient.
- (d) the user should continue his / her confinement within a psychiatric hospital / care and rehabilitation center, but should not be subjected to treatment against his / her wishes.
- (e) the user should continue to receive involuntary care, treatment and rehabilitation services as an outpatient.
- (f) the user should be transferred from being an involuntary inpatient to being an involuntary outpatient.

Reasons for this decision:

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

Print initials and surname

Signature:

(chair of Review Board)

Date:

Place:

[Copy to be sent to mental health care user, applicant, head of health establishment and to the head of the national department in respect of mentally ill prisoners and to the High Court Judge in respect of an involuntary mental health care user]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 18

DEPARTMENT OF HEALTH

SUMMONS TO APPEAR BEFORE A REVIEW BOARD
[Sections 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 summoned is to produce any book, record, document or thing, add)
and you are hereby directed to produce:

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

(specify the book, record, document or thing concerned)

Given under the hand of the chairperson of the Review Board, this day
of

Signature:

(chairperson of Review Board)



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 19

DEPARTMENT OF HEALTH

REQUEST BY HEAD OF HEALTH ESTABLISHMENT TO REVIEW BOARD TO
TRANSFER -

- (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 this Act; or
 (c) a mentally ill prisoner between designated health establishments in terms of section 54(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

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:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 20

DEPARTMENT OF HEALTH

ORDER BY REVIEW BOARD TO TRANSFER -

- (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 user

First name(s) of user

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)

have considered documentation and representation relevant to the transfer of the above user to a maximum security facility.

The Review Board have considered *inter alia* that:

- (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 user 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.
- With respect to State patients and mentally ill prisoners the order must be sent to the head of the national department]



DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

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 affecting 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 and national department as well as to the administrator where appointed]



MHCA 22

DEPARTMENT OF HEALTH

**HANDING OVER CUSTODY BY THE SOUTH AFRICAN POLICE SERVICES
(SAPS) OF A PERSON SUSPECTED OF BEING MENTALLY ILL OR
SEVERELY OR PROFOUNDLY INTELLECTUALLY DISABLED AND LIKELY TO
INFLECT SERIOUS HARM
[section 40(1) of the Act]**

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 professional that

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

(user's name or description if no name is available)

is suffering from a mental disability and is likely to inflict serious harm.

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:

(member of SAPS)

Date:

Time:

Place:

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 user will be assessed by two mental health care practitioners in terms of section 33 of the Act.

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]

The SAPS hereby confirms that the physical condition as stated above was present during the handing over of 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:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 23

DEPARTMENT OF HEALTH

**TRANSFER OF STATE PATIENTS FROM DETENTION CENTRE TO A DESIGNATED
HEALTH ESTABLISHMENT**
[Section 42(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:

.....

.....

.....

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]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 24

DEPARTMENT OF HEALTH

TRANSFER OF STATE PATIENTS BETWEEN DESIGNATED HEALTH
ESTABLISHMENTS

[Section 43(1) 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

The above State patient shall be transferred:

From: (name of health establishment)

To: (name of health establishment)

Reasons for transfer:

.....

.....

.....

.....

Print initials and surname:

Signature:

(head of provincial department)

Date:

Place:

Concurrence of head of province to where the State patient 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 is transferred)



DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

Date of birth or estimated age

Gender: Male ☐ Female ☐

Occupation: Marital status: ☐ S ☐ M ☐ D ☐ W

Date of admission to health establishment:

The above user absconded from:
(name of health establishment)

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

Date of abscondment:

User 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 ☐

Self/others ☐

Reasonable chance ☐

Self/others ☐

Highly likely ☐

Self/others ☐

Extremely likely ☐

Self/others ☐

Circumstances of abscondment:

.....

.....

.....

.....

Attach full report (if available)

Your assistance in locating and apprehending the above user 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 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]

DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 26

DEPARTMENT OF HEALTH

NOTICE OF RETURN OF ABSCONDED USER TO THE HEALTH
ESTABLISHMENT

[Sections 40(4), 44(1) or 57(1) 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

Date of admission to health establishment:

The above user absconded from:
(name of health establishment)Address:
.....
.....
.....
.....

Date of abscondment:

Date of return:

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

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 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 head of the prison from where the user was initially transferred and to head of national department]



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 27

DEPARTMENT OF HEALTH

LEAVE OF ABSENCE TO –
STATE PATIENTS IN TERMS OF SECTION 45 OF THE ACT; OR
ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USERS IN TERMS OF
SECTION 66(1)(j) 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 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:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 28

DEPARTMENT OF HEALTH

**CANCELLATION OF LEAVE OF ABSENCE –
A STATE PATIENT IN TERMS OF SECTION 45 OF THE ACT; OR
AN ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USER IN TERMS
OF SECTION 66(1)(j) OF THE ACT**

I hereby cancel the leave of absence of
(name of State patient, assistant- 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 health establishment)
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)

MHCA 29

DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

File No. (if known)

Date of birth or estimated age

Gender: Male ☐ Female ☐Occupation: Marital status: ☐ S ☐ M ☐ D ☐ W
 Residential address:

Charge against user:

Person making application (mark with a cross)
 State patient him/herself ☐ Administrator ☐ Head of health establishment ☐
 (state what)

 Responsible medical practitioner ☐ Spouse ☐ Associate ☐ Next of kin ☐ Other ☐

Reason for application:

 Has an application been made for discharge of the user 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 user?

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 user

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

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:



DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

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 user within the preceding 12 months by any applicant 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 (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:

- Head of the relevant health establishment
- 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*)

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 reasons 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 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

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

Print initials and surname:

Signature:

(psychiatrist / medical practitioner)

Date:

Place:



MHCA 31

DEPARTMENT OF HEALTH

**ORDER BY JUDGE IN CHAMBERS FOR CONDITIONAL DISCHARGE OF STATE
PATIENT**
[Section 47(6) of the Act]

Surname of user

First name(s) of user

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:

The above-mentioned State patient is hereby ordered to be conditionally discharged under the following terms and conditions:

.....

.....

.....

.....

Period of conditional discharge (years)

Name and address of custodian into whose charge the user is transferred:

.....

.....

.....

.....

Where the user's mental health status will be monitored and reviewed:

.....
(name of health establishment)

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

Name of the 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 / care and rehabilitation center where the user is to be admitted if he / she
relapses or if the conditions of the conditional discharge are violated.
.....

Print initials and surname:

Signature:
(Judge in chambers)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 32

DEPARTMENT OF HEALTH

SIX MONTHLY REPORT ON CONDITIONALLY DISCHARGED STATE PATIENT

[Section 48(3) of the Act]

Surname of user

First name(s) of user

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 user is adhering to the terms and conditions of the discharge:

.....

Current mental health status of user:

.....

Recommendation to head of health establishment from where the user 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)



DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

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 user'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 has not deteriorated.

The above user is hereby unconditionally discharged.

Print initials and surname:

Signature:

(head of health establishment)

Date:

Place:

(Copies to be forwarded to the State patient, Registrar of the Court concerned, the official *curator ad litem* and national department)



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 user

First name(s) of user

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 deteriorate (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)



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 35

DEPARTMENT OF HEALTH

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

Surname of user

First name(s) of user

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 Chamber:

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

Print initials and surname:

Signature:

(Judge in Chambers)

Date:

Place:

(Copy to State patient, head of health establishment, head of the national department,
Registrar of the High Court and *curator ad litem*)



DEPARTMENT OF HEALTH
Republic of South Africa

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 user

First name(s) of user

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:

.....

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

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

Facts concerning the mental condition of the user 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 user:

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:

.....
.....

Plan for care, treatment and rehabilitation for prisoner:

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

.....

Print initials and surname:

Signature:
(person who assessed mental health status of prisoner)

Date:

Place:

MHCA 37



DEPARTMENT OF HEALTH
Republic of South Africa

DEPARTMENT OF HEALTH

**MAGISTERIAL ORDER TO HEAD OF PRISON TO TRANSFER PRISONER TO HEALTH
ESTABLISHMENT FOR PURPOSES OF PROVIDING CARE, TREATMENT AND
REHABILITATION
[Sections 52(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:

.....

.....

Prison number:

Charge against prisoner:

Where a prisoner must be transferred to

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 45 of the Act.

Where the prisoner must be provided with care, treatment and rehabilitation within the prison environment.

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 Administrator (if appointed) and the head of the national department]

Facts concerning the mental condition of the user 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 user:

Has homicidal tendencies	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Has suicidal tendencies	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Is dangerous	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Recommendation to head of prison

The prisoner is mentally ill and requires care, treatment and rehabilitation	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	------------------------------	-----------------------------

In my opinion the prisoner can be given care, treatment and rehabilitation within the prison and/or in a prison hospital	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	------------------------------	-----------------------------

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:

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

Plan for care, treatment and rehabilitation for prisoner:

[illegible]

Print initials and surname:

Signature:

(Magistrate)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 38

DEPARTMENT OF HEALTH

APPLICATION TO MAGISTRATE FOR CONTINUED DETENTION OF A MENTALLY ILL PRISONER

[Sections 58(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

Health establishment concerned:

File No:

Prison number:

Charge against person:

The above user 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 on

..... by

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

Print initials and surname:

Signature:

(head of health establishment)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

MHCA 39

DEPARTMENT OF HEALTH

APPLICATION TO MASTER OF A HIGH COURT TO APPOINT ADMINISTRATOR

[Section 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:

.....

Name and surname of applicant:

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 were 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:



DEPARTMENT OF HEALTH
Republic of South Africa

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)



DEPARTMENT OF HEALTH
Republic of South Africa

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 what) ☐

Grounds of the appeal:

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

Facts on which the appeal is based:

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

Print initials and surname:

Signature:

(Applicant)

Date:

Place:



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]



MHCA 43

DEPARTMENT OF HEALTH

CONFIRMATION OF APPOINTMENT OF ADMINISTRATOR
[Section 62 of the Act]

I here appoint:

(name of administrator)

to be the administrator of the property of

(name of user)

Address of administrator:

.....

.....

.....

With 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 the High Court)

Date:

Place:



DEPARTMENT OF HEALTH
Republic of South Africa

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:

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Print initials and surname:

Signature:

(Master of the High Court)

Date:

Place:

[Copy to applicant and head of health establishment]



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:

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Facts on which the appeal is based:

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Signature:

(Appellant)

Date:

Place:

[Copies to Master of High Court]



DEPARTMENT OF HEALTH
Republic of South Africa

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:

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Appointment of administrator

Having considered all the 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:

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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:

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Print initials and surname:

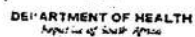
Signature:

(Judge of the High Court)

Date:

Place:

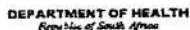
[Copy to appellant, applicant, head of relevant health establishment, head of provincial department and, in the case of a decision regarding termination of administratorship, the administrator]



DEPARTMENT OF HEALTH

REGISTER
[Regulation 35 of the Regulations]

[illegible]

MHCA 48

DEPARTMENT OF HEALTH
REGISTER
[Regulations 38 and 39 of the Regulations]

[illegible]