

REPORT OF THE PORTFOLIO COMMITTEE ON HEALTH AND SOCIAL DEVELOPMENT ON MENTAL HEALTH CARE AMENDMENT BILL, [B39B-2012]

1. INTRODUCTION

The Speaker referred the Mental Health Care Amendment Bill, [B39-2012] to the Portfolio Committee on Health and Social Development (the Committee) for consideration and report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of section 118(1) of the Constitution of the Republic of South Africa, Act 108 of 1996, the Legislature has a mandate to facilitate public involvement in the legislative and other processes of the Legislature and its committees. It is against this background that the Committee conducted a public hearing to solicit inputs and views from members of the public on the above-mentioned Bill.

After forwarding the negotiating mandate on the above-mentioned Bill to the NCOP, the Committee met again in order to consider the revised Bill [B39B-2012], for purposes of deciding on the final mandate.

2. OBJECTIVES OF THE BILL

The purpose of the Bill is mainly;

- To amend the Mental Health Care Act, 2002, so as to insert a new section;
- To provide for the delegation of powers by the head of the national department to officials in the national department;
- To repeal the Mental Health Act, 1973 and
- To provide for matters connected therewith.

3. METHOD OF WORK

The Committee met with the NCOP permanent delegate, Hon MG Boroto, the Acting Director Legal Services from the National Department of Health, as well as Mpumalanga Department of Health on 12 June 2013 for a briefing on the Bill. The Committee then decided to conduct a public hearing after publishing an invitation in the print media (Lowvelder and Daily Sun) in order to solicit inputs/comments from members of the public.

The Public hearings were conducted on Thursday, 08 August 2013, from 09h00 – 13h00 in the following Districts.

DISTRICT	VENUE	No. of Attendees
Ehlanzeni	KwaMhlushwa Community Hall	228
Nkangala	Verena Multi-purpose Centre	118
Gert Sibande	Elukwatini Community Hall	125

The committee thereafter met on 14 August 2013 to consider the draft report and the negotiating mandate on the Mental Health Care Amendment Bill [B39-2012] and such mandate was duly submitted to the NCOP.

After interacting on the Bill, the Committee met again on 18 September 2013 in order to consider the minutes of the NCOP's Select Committee on Social Services for the meeting held on 10 September 2013, for purposes of making a determination regarding the conferral of a final mandate on the Bill [B39B-2012].

4. INTERACTION BY THE COMMITTEE WITH NCOP PERMANENT DELEGATE AND DEPARTMENT OF HEALTH ON THE BILL

The permanent delegate representing Mpumalanga Provincial Legislature in the NCOP and the Director Legal Services from the Department of Health made a presentation regarding the Bill. The Committee made some comments, asked clarity seeking questions.

The permanent delegate highlighted the background, current power to be delegated and the benefits of the delegation as follows;

- (a) Main objective of the Bill is to amend the Mental Health Act, 2002 ("the Act");
- (b) Aim is to provide for the delegation of powers by the Director-General ("DG") of the National Department of Health ("NDOH") to officials in the NDOH for effective implementation of the Act;
- (c) When passed into law, the DG will be able to delegate some of the powers in the Act so as to improve service delivery in the area of State Patients and Mentally Ill Prisoners;
- (d) Bill also seeks to repeal Chapter 8 of the Mental Health Act, 1973, as a whole. This Chapter dealt with the Hospital Boards and is no longer necessary since Chapter 6 of the National Health Act, 2003, now deals with the subject;

The Act, amongst others currently provides the DG with the following powers:

- (e) Power to determine the transfer of State patients from detention centres to health establishments pursuant to court orders issued in terms of the Criminal Procedure Act, 1977;

- (f) Power to determine the transfer of State patients between the designated health establishments upon an order issued by the Review Board;
- (g) Power to review the mental health status of State patients after 6 months from the date on which care, treatment and rehabilitation services were commenced, and every 12 months thereafter.
- (h) It has become necessary for the delegations of these powers in the interest of effective administration and expeditious health care service delivery.

5. INTERACTION BY THE COMMITTEE WITH STAKEHOLDERS ON THE BILL

The following stakeholders were invited by the Committee to attend the public hearing held on 08 August 2013;

- ❖ Community Members
- ❖ Department of Health (DOH)
- ❖ Department of Culture, Sport and Recreation
- ❖ Mpumalanga House of Traditional Leaders (HTL)
- ❖ Right to Care
- ❖ ACTS
- ❖ Treatment Action Campaign (TAC)
- ❖ NEHAWU
- ❖ HOSPERSA
- ❖ South African Local Government Association (SALGA)
- ❖ African National Congress (ANC)
- ❖ Democratic Alliance (DA)
- ❖ Congress of the People (COPE)
- ❖ South African Medical Association (SAMA)
- ❖ AIDS Council

During the public hearings, members of the committee explained the Bill thoroughly, that is seeks to insert section 72A after section 72 which allows the Director General (DG) to be able to delegate powers to any person in the employ of the national department so as to improve service delivery in the area of State Patients and Mentally-ill prisoners. Previously, the DG was required to authorise the transfer of state patients to health establishments and process periodic reviews of state patients. This amendment is necessary for the interests of effective administration and also responded to the questions of clarity raised thereafter.

The stakeholders who were present at the public hearing generally supported the Bill but raised concerns which were not related to the Bill as follows;

- (a) The community members wanted to know on why are mentally disturbed people roaming in the streets and not taken to relevant institutions and further wanted to know on whose duty is it to take them to relevant institutions;

The Department responded by indicating that the people who are mentally disturbed fall under the group of involuntary patients therefore a person can volunteer and apply for him/her to be admitted at the hospital and get help.

- (b) The community also wanted to know what happens to people that are mentally disturbed who are discharged from the hospitals and they seem to causing problems in the communities

The Department in its response reported that people who are discharged, they can still be admitted at a facility where they keep mentally disturbed people and there is no one to take care of them but the admission is very strict because they have an intake of 200 people per the Institution.

6. OBSERVATIONS AND FINDINGS BY THE COMMITTEE

Generally, members of the public were in support of the Bill.

7. INTERACTION ON THE MENTAL HEALTH AMENDMENT BILL [B39B-2012]

The Portfolio Committee met on 18 September to consider the feedback on the negotiating mandate and the Bill, as amended by the Select Committee on Social Services during a meeting that was held on 10 September 2013. After consideration of the feedback and the B version of the bill, the Committee then resolved to accept the Bill as being finalised.

The Portfolio Committee on Health and Social Development after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to vote in favour of the Bill with its amendments.


8. RECOMMENDATIONS

The Portfolio Committee on Health and Social Development after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to vote in favour of the Bill.

9. CONCLUSION

The Chairperson wishes to thank all members of the public for their worthwhile participation in the public hearings and for the inputs or comments they have made.

A word of gratitude to the NCOP Permanent Delegate, Hon Boroto, the Director Legal Services from the Department of Health, Mpumalanga Department of Health and Members of the Portfolio Committee on Health and Social Development for their efforts in ensuring that the committee meets its obligation and the support staff who contributed to the success of the public hearings and the production of this report.



HON P NGOBENI

**CHAIRPERSON: PORTFOLIO COMMITTEE
ON HEALTH AND SOCIAL DEVELOPMENT**

18/09/2013
DATE