

DEPARTMENT OF HEALTH

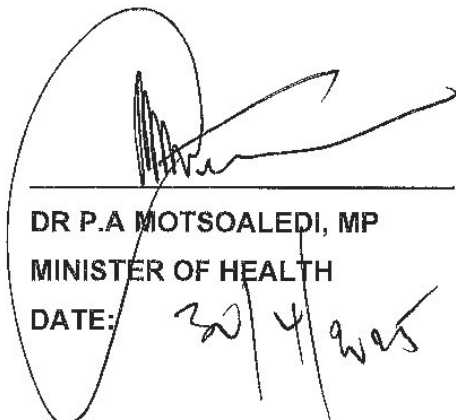
NO. 6326

20 June 2025

MENTAL HEALTH CARE ACT, 2002

**REGULATIONS FOR LICENSING COMMUNITY MENTAL HEALTH DAY CARE
AND RESIDENTIAL CARE FACILITIES FOR PEOPLE WITH MENTAL ILLNESS
AND OR SEVERE OR PROFOUND INTELLECTUAL DISABILITY**

The Minister of Health has, in terms of section 66 of the Mental Health Care Act, 2002 (Act No. 17 of 2002) and after consultation with all the Members of the Executive Council, made Regulations in the Schedule.



DR P.A. MOTSOALEDI, MP
MINISTER OF HEALTH
DATE: 20/4/2025

SCHEDULE

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act shall have the meaning so assigned and, unless the context otherwise indicates—

“applicant” means a person that applies for a licence to provide a mental health service or operate a mental health day care or residential care facility to five or more people with mental illness and or severe or profound intellectual disability;

“community care” means programmes and facilities for community care, treatment and rehabilitation for people with mental illness and or severe or profound intellectual disability;

“facility” means a building or structure which is ordinarily used in the course of providing mental health care, treatment and rehabilitation services and includes a mental health day care and residential care facility;

“halfway house” means a residential care facility for mental health care users who had either been cared for in their communities, or had been formerly treated in a psychiatric hospital or in a care and rehabilitation centre;

“health establishment” means health establishment as defined in section 1 of the National Health Act, 2006 (Act No. 61 of 2006);

“HOD” means the head of the relevant provincial department of health;

“licence” means a licence granted in terms of regulation 8;

“licensing administrator” means an official who performs all related tasks for processing applications for licence including processing new applications, evaluating credential documentation against requirements and follow up with applicants;

“day care facility” means a facility that provides day care, treatment and rehabilitation services to five or more people with mental illness and or severe or profound intellectual disability;

“residential care facility” means a facility which provides residential care, treatment, and rehabilitation services to five or more people with mental illness and or severe or profound intellectual disability; and

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

Application of regulations

2. These Regulations apply to every day care facility and residential care facility which provides care, treatment, and rehabilitation to five or more people with mental illness and or severe or profound intellectual disability.

Purpose of regulations

3. The purpose of these Regulations is to regulate the licensing of day care or residential care facilities for five or more people with mental illness and or severe or profound intellectual disability.

Eligibility to operate day care or residential care facilities

4. (1) Any service which is not a designated psychiatric hospital or care and rehabilitation centre, but which provides residential or day care facilities for five people or more with mental illness and or severe or profound intellectual disability must in terms of the Act—

- (a) obtain a licence from the provincial department concerned to operate; and
- (b) be subjected to at least an annual audit by designated officials of the provincial department concerned.

(2) The conditions of a licence contemplated in subregulation (1) must clearly be stipulated by the provincial department concerned and must include—

- (a) the physical address of the relevant service;
- (b) the number of people to be accommodated;
- (c) whether such service is to be used for children, adults, or geriatrics;
- (d) service requirements;
- (e) the duration of the licence; and
- (f) that the licence is not transferable.

Prohibition and penalties

5. (1) A person may not establish or operate a day care facility or a residential care facility which provides care to five or more people with mental illness and or severe or profound intellectual disability without a licence from the relevant provincial department of health.

(2) A person who operates a day care facility or residential care facility in contravention of subregulation (1) is, upon conviction, liable to a fine or to imprisonment for a period not exceeding 10 years or to both fine and such an imprisonment.

Application procedure

6. (1) An application for a licence to operate a day care facility or a residential care facility must be made by completing the application form similar to **Annexure A**, obtainable from the provincial department of health.

(2) The application contemplated in subregulation (1) must be submitted to the HOD.

(3) The completed application form must be accompanied by certified copies of the following:

- (a) registration documents for the entity;
- (b) a zoning or re-zoning certificate or special consent issued by the local municipality where applicable;
- (c) a certificate of occupation certifying that the building meets all building regulation requirements issued by the local authority in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and the national building regulations made thereunder;
- (d) a certificate of acceptability issued by Municipal Health Services where applicable;
- (e) a health certificate in relation to minimum health requirements issued by Municipal Health Services in terms of the National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for

Environmental Health Practitioners contained in General Notice 1229 published in *Government Gazette* No. 39561 of 24 December of 2015;

- (f) a health care risk waste management agreement or arrangement in terms of the National Environmental Health Norms and Standards for Premises and Acceptable Monitoring Standards for Environmental Health Practitioners contained in General Notice 1229 published in *Government Gazette* No. 39561 of 24 December of 2015;
- (g) a certificate of compliance in terms of the electrical requirements;
- (h) a clearance certificate for water supply if it is not a municipal water supply;
- (i) a proposed activity or psychosocial rehabilitation programme;
- (j) a maintenance plan for the facility;
- (k) evidence-based protocols for care, treatment, and rehabilitation services;
- (l) dietary plan approved by dietician where the facility provides meals for the mental health care users;
- (m) standard operating procedures and policy for the management of risks of infectious diseases including the reporting of notifiable diseases;
- (n) a proposed staff establishment for the facility;
- (o) a business plan;
- (p) proof of ownership of property or lease agreement;
- (q) a fire clearance certificate;
- (r) a gas compliance certificate where applicable;
- (s) emergency and disaster plan;
- (t) approved building plan; and
- (u) tax clearance.

Handling of application

7. (1) The HOD must, within 30 days of receipt of the application, constitute an inspection team to inspect a facility that applied for to operate or establish a mental health day care or residential care facility.

(2) The inspection team must include—

- (a) a minimum of two registered mental health care practitioners, one of which must be an occupational therapist and another being a psychiatric nurse, a medical officer, or a psychiatrist;
- (b) a dietician;
- (c) a social worker;
- (d) an environmental health practitioner;
- (e) a financial officer;
- (f) a licensing administrator or administrative officer; and
- (g) a mental health care user.

(3) The inspection team must conduct the physical inspection of the facility in respect of which the application for a licence is made.

(4) Where the application is incomplete or has insufficient information the HOD must inform the applicant, in writing, that the application will be considered only when all the requirements of the application have been met.

(5) The HOD must appoint an Adjudication Panel consisting of not less than five officials from the Department to consider the application and make recommendations to the HOD.

(6) The Adjudication Panel must include designated officials from the province responsible for—

- (a) mental health;
- (b) quality assurance;
- (c) risk management;
- (d) infrastructure;
- (e) financial management; and
- (f) legal practice.

(7) For the purposes of this clause, “financial officer” means an official who manages financial actions, including financial planning, management of financial risks, record keeping and financial reporting.

Granting or refusal of licence

8. (1) The HOD must, within 30 days after receiving the recommendation from the Adjudication Panel, issue or refuse to issue a licence to the applicant.

(2) If the application is approved, the HOD must issue a licence, valid for a maximum period of 12 months in the form provided for in **Annexure B**.

(3) A licence granted in term of subsection (2) is not transferrable,

(4) If the licensee ceases to operate or is unable to continue to operate, the licensee must surrender the licence to the HOD who may re-issue a licence after being satisfied that the new applicant or the new place complies with the requirements for licensing.

(5) The HOD must, if he or she refuses to issue a licence to an applicant, provide reasons for the refusal in writing and must advise the applicant of his or her rights to appeal the decision to the Member of the Executive Council for health in the relevant province.

Cancellation of licence

9. (1) A licence granted to a licensee may be cancelled by the HOD, if the: -

- (a) licence holder fails to comply with any condition subject to which the licence is granted;
- (b) relevant mental health day care facility or residential care facility is not maintained in accordance with the Norms and Standards Regulations Applicable to Different Health Establishments published in Government Gazette No. 41419, Notice No. 67 of 02 February 2018;
- (c) licensee is convicted of an offence and sentenced to 12 months imprisonment without an option of a fine;
- (d) licensee becomes insolvent; or
- (e) licensee relocates the mental health day care facility or residential care facility to another facility.

(2) Before the HOD cancels the licence, he or she must give notice in writing to the licensee of the intended cancellation.

(3) The notice referred to in subregulation (2) must set out the reasons for the intended cancellation and inform the licensee to furnish reasons within 30 days why the licence should not be cancelled.

(4) If the HOD cancels a licence, he or she must give notice in writing to the licensee that the licence has been cancelled and that the day care facility or the residential care facility must be closed down on or before the date specified in that notice.

(5) If the licence is cancelled, the HOD must assume administrative responsibility for the mental health care users who are in the facility concerned until the users are transferred to another suitable facility.

(6) The HOD must transfer the mental health care users, after informing the mental health care users or families concerned to another facility on or before the date contemplated in subregulation (4).

Appeal procedure

10. (1) The relevant Member of the Executive Council for health must constitute an appeal committee consisting of people not involved in the licensing process to adjudicate on appeals received in terms of regulations 5 and 9 above and make recommendations to the MEC.

(2) A licence holder whose licence has been cancelled by the HOD, may lodge an appeal with the Member of the Executive Council for health of the relevant province within 14 days after receipt of the notice from the HOD.

(3) The Member of the Executive Council for health concerned must, within 90 days of receipt of the appeal from the applicant, uphold or dismiss the appeal.

Renewal of licence

11. The HOD must annually assess or cause to be assessed all community mental health facilities 90 days before expiry of the current licence and renew the licence of the facility if satisfied that the facility still meets applicable licensing requirements.

Termination of operations

12. (1) A licence holder who decides to terminate the operation of the facility must inform the HOD in writing 90 days prior to the intended termination.

(2) Upon cancellation of the licence, the HOD must give notice in writing to the licence holder that the licence has been cancelled and that the facility in respect of which the licence is cancelled, must be closed on or before the date specified in that notice.

(3) Upon cancellation of the licence, the HOD must ensure that all mental health care users are transferred and placed in an alternative suitable facility with immediate effect.

Compliance, monitoring, and reporting

13. (1) The licensee must compile and keep daily statistics.

(2) The licensee must submit a detailed monthly report to the provincial department of health before or on the seventh day of the following month which include, the number of—

- (a) admissions;
- (b) vacancies;
- (c) discharges;
- (d) transfers;
- (e) deaths;
- (f) abscondments; and
- (g) adverse events.

(3) The manager must report adverse events immediately to the provincial department of health and submit a report on the incident within 24 hours.

(4) For the purposes of this clause, "manager" means the person who is responsible for the day-to-day management of the relevant day care facility or residential facility.

Norms and standards

14. All day care facilities and residential care facilities must comply with the Norms and Standards Regulations Applicable to Different Categories of Health Establishments published in *Government Gazette* No. 41419, Notice No. 67 of 02 February 2018.

Rights of mental health care users

15. All rights of mental health care users in accordance with the requirements of the Act and National Health Act, 2003 (Act No. 61 of 2003) must be upheld.

Mental health care user accommodation and infrastructure

16. (1) Mental health care user accommodation must meet minimum space as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).

(2) The rooms for mental health care users must be cleaned daily and kept hygienic and free from offensive odours in terms of National Environmental Health Norms and Standards for Premises for Acceptable Monitoring Standards for Environmental Health Practitioners, Notice 229 of 2015 *Government Gazette* No. 39561 of 03 December 2015.

(3) A mental health care user's room may not be used to accommodate children, adolescents, and adults together except users who are functionally dependent and accommodated in facilities that provide assisted or supported living.

(4) A mental health care user's room may not accommodate both males and females together in the room except users who are functionally dependent and accommodated in facilities that provide total care.

User health records

17. (1) The facility must open a file for every user for official purposes only, which include:

- (a) name and surname;
- (b) age and gender;
- (c) recent photo;

- (d) copy of identity document;
- (e) physical address;
- (f) next of kin details;
- (g) medical history and diagnosis;
- (h) current treatment intervention;
- (i) discharge or referral summary from the referring hospital or other facility; and
- (j) periodic reviews and reports in terms of sections 30 and 37 of the Act where applicable.

(2) All records must be stored in a locked and secured room within the facility where necessary.

(3) All documents and records relating to the governance of the facility must be kept in terms of National Archives and Record Service Act, 1996 (Act No. 43 of 1996).

Policies

18. The facility must obtain, develop, keep, and have available the relevant policies, which include but not limited to:

- (a) management of complaints and alleged abuses;
- (b) all aspects of sexual activity;
- (c) prevention and control of infections;
- (d) occupational health and safety;
- (e) visitation;
- (f) communication;
- (g) control of firearms, dangerous weapons, and illegal substances;

- (h) management of chronic and acute medical and psychiatric conditions;
- (i) management of mental health care users' assets;
- (j) smoking;
- (k) fees and tariffs;
- (l) management of dangerous and/or disruptive behavior;
- (m) management of medicines and medical supplies;
- (n) management of adverse events;
- (o) managing abscondment;
- (p) managing notifiable diseases;
- (q) transfer; and
- (r) security.

Clinical care and treatment

19. The licensee must ensure that: -

- (a) admissions of users are carried out according to the procedures of the Act;
- (b) all assessments (physical, functional, mental, and social) must be carried out by authorized and qualified staff;
- (c) regular vital signs are recorded in user's file;
- (d) records of the history, initial clinical assessment, and diagnosis of the users when they presented at the health establishment must be available and completed prior to or within 48hrs of admission;

- (e) record of the signature, name, qualification and subsequent assessments and intervention conducted by any healthcare provider is available in the user's file;
- (f) details of the user's care plan, daily treatment interventions and accounts of the user's response to treatment is recorded in the user's files by a registered professional;
- (g) user's clinical records are protected and comply with the legal and statutory requirements for record keeping;
- (h) periodic reviews of users in terms of sections 30 and 37 of the Act are conducted after every six months and reports are available in user's files;
- (i) psychiatric medication is reviewed every six months by an authorised mental health care practitioner who is designated to provide medication and review psychiatric treatment;
- (j) there is a system in place to prevent users from accessing dangerous materials, weapons, or drugs;
- (k) there is a register for recording users that have been secluded or restrained as prescribed;
- (l) the level of medical, nursing and healthcare professionals' intervention needed for each user and the source or place of this intervention is clearly indicated in the individualised management plan.

Psychosocial rehabilitation

20. (1) The facility must provide psychosocial rehabilitation programmes that must include, but not limited to—

- (a) stimulation;
- (b) activities of daily living;
- (c) cognitive enhancement;
- (d) psycho-motor skills improvement;
- (e) reality orientation;
- (f) personal safety and security awareness;
- (g) community re-integration;
- (h) pre-vocational and life skills training;
- (i) optimal mobility training;
- (j) psychosocial needs; or
- (k) leisure and social skills training.

(2) The licensee must ensure that—

- (a) there is a daily attendance register for all programmes.
- (b) there is evidence of all rehabilitation intervention and progress reports recorded in each user's file.
- (c) all therapeutic tools and equipment are available, maintained and stored appropriately.
- (d) tables and chairs are adequate for the number of users in the facility.
- (e) there is availability of appropriate assistive devices for all users in need of such.
- (f) all staff are trained in the correct use of assistive devices and a record is kept for the training done.
- (g) facility has an (SLA) Service Level Agreement with a local health facility for repairs of assistive devices.

- (h) there is access to community outreach rehabilitation services (Occupational Therapy, Physiotherapy and Speech Therapy and Audiology).
- (i) there is quarterly multi-disciplinary team visits and reports are compiled.
- (j) there are records of visits conducted by the multi-disciplinary team and copies or summary of the quarterly reports are available.
- (k) there is evidence of annual rehabilitation in-service training based on the training needs.

Repeal of laws

21. Regulation 43 of the General Regulations, Government No. R.1467 published in *Government Gazette* No. 27117 dated 15 December 2004 as amended by General Regulations: Amendment Government No. 1590 published in *Government Gazette* No. 40515 dated 23 December 2016, is hereby repealed.

Short title and commencement

22. (1) These Regulations are called the Regulations for Licensing Community Mental Health Day Care and Residential Care Facilities for People with Mental Illness and or Severe or Profound Intellectual Disability, 2025.

(2) These Regulations come into effect 18 months after the date of publication.

ANNEXURE A



health

Department:
Health
REPUBLIC OF SOUTH AFRICA

**APPLICATION FORM FOR LICENSING COMMUNITY
MENTAL HEALTH DAY CARE AND RESIDENTIAL CARE
FACILITIES FOR PEOPLE WITH MENTAL ILLNESS AND
OR SEVERE OR PROFOUND INTELLECTUAL DISABILITY**

1. PARTICULARS OF THE APPLICANT			
Name of Day-care/ Residential/ Half way house:			
Name of the APPLICANT			
Identity number:			
Physical address:			
Postal address:			
2. Name of the PERSON/BODY/ORGANIZATION TO MANAGE THE FACILITY:			
Physical address:			
Postal address:			
Telephone number:		Cell number:	
Fax number:		Email:	
NPO Registration Number:			
3. Background and history of organization			
4. Purpose of the service			

3

8. SUPPORTING DOCUMENTS: The following documents must accompany the application:	
Please tick checklist	
Registration documents as a legal person in terms of the South African law or NPO/NGO	
Valid zoning or re-zoning certificate or special consent issued by Municipality	
Certificate of occupancy	
Certificate of compliance	
Certificate of acceptability for food handling	
Health certificate	
Health care risk waste contract	
Erected or converted building, written proof that building plans have been approved	
Clearance certificates for water supply (if not supplied by municipality)	
Proposed activity or psychosocial rehabilitation programme	
Facility maintenance plan	
Fire certificate	
Gas compliance certificate where applicable	
Clinical protocol for care, treatment and rehabilitation	
Dietary plan approved by the Dietician	
Standard Operating Procedure/policy for management of risks	
Proposed staff establishment for the facility	
Copy of business plan with costing for proposed activities	
Proof of lease agreement/ ownership of property	
Approved building plan	
Bank account details and 3 months bank statement	
Valid tax clearance certificate or exemption letter from SARS	
Proof of screening against National Register for Sex offenders contemplated in Section 42(2) of the Criminal Law (Sexual Offences and Related Matters) Amendment Act.2007 (Act No.32 of 2007)	
9. GENERAL REMARKS BY THE APPLICANT IN SUPPORT OF THE APPLICATION:	

SUBMITTED BY:**RECEIVED BY:****PRINT NAME:****PRINT NAME:****SIGNATURE:****SIGNATURE:****DATE:****DATE:**

ANNEXURE B


health

 Department:
Health
REPUBLIC OF SOUTH AFRICA

**LICENCE FOR COMMUNITY MENTAL HEALTH DAY CARE AND RESIDENTIAL CARE FACILITIES
FOR PEOPLE WITH MENTAL ILLNESS AND OR SEVERE OR PROFOUND INTELLECTUAL
DISABILITY**

It is hereby certified that:

Name of Facility	
Physical address	
Postal address	

Is licensed in terms of Mental Health Care Act No 17 of 2002, to provide the following mental health care services to people with Mental Illness and or Severe or Profound Intellectual Disability

Type of Facility and Level of Care	Number of Mental Health Care Users		
	Child and adolescents (less than or equal to 18 years of age)	Adults (over 18 years of age)	Psycho-geriatrics
Residential			
Day Care			

Signed at:.....

this.....day of.....20.....

Head of Department

Certification number:

The duration of this licence is valid for one year
This certificate is not transferable and must be renewed annually based on monitoring and evaluation reports