

Zambia

## National Health Services Act, 1995

### Chapter 315

Legislation as at 31 December 1996

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# Zambia

## National Health Services Act, 1995

### Chapter 315

Published

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[22 of 1995]

**An Act to establish the Central Board of Health; provide for the procedures for establishing management boards for hospitals and health services; to define functions and powers of such boards and their relationship and to provide for matters connected to or incidental to the foregoing.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the National Health Services Act\*.

\*The National Health Services Act came into operation with effect from the 2nd March, 1996 (SI No. 36 of 1995)

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**assisted non-Governmental health provider**" means any non-Government health provider who or which receives a grant from Government; but does not include a hospital run by a management board;

"**Board**" means the Central Board of Health established under section three;

"**Chairperson**" means the person appointed Chairperson under sections eight and fifteen;

"**Director-General**" means the person appointed Director-General under section nine;

"**Executive Director**" means the person appointed Executive Director under section sixteen and includes Director;

"**Government hospital**" means a hospital or health service which is owned, fully financed or managed by or on behalf of the Government; but does not include an assisted non-Government health provider;

"**health provider**" means a person or an organisation who or which provides health services;

"**health service**" includes primary care services, public health services, clinical services, hospital services and palliative care;

"**hospital**" includes any medical institution, providing in patient health care including health services, surgery, obstetrics, gynaecology, medicine, paediatrics and laboratory or other specialised or supportive services;

"**management board**" means the management board established under section twelve;

"**professional staff**" means any person holding such qualifications in such health field as may be prescribed by the Minister by statutory instrument;

"**repealed Act**" means the Medical Services Act, 1985;

*[Act No. 14. of 1985]*

"**Secretary**" means the person appointed secretary under sections nine and sixteen;

"**specialist**" means any person holding such post-graduate qualifications as are recognised by the Medical Council of Zambia and who is registered on the specialist register;

"**Vice-Chairperson**" means the person appointed Vice-Chairperson under sections eight and sixteen;

## Part II – The Central Board of Health

### 3. Establishment of Board

- (1) There is hereby established the Central Board of Health which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power subject to the provisions of this Act, to do all such acts and things as a body corporate may by law perform.
- (2) The provisions of the Schedule shall apply to the Board with the necessary modifications.

### 4. Functions of Board

The functions of the Board shall be—

- (a) to supervise, advise and monitor the technical performance of management boards;
- (b) to set financial objectives and the framework for management boards;
- (c) to provide technical consultancy to management boards and assisted non-Governmental health provider;
- (d) to co-ordinate the technical capacity of management boards;
- (e) with the approval of the Minister, to perform the functions of failing management boards;
- (f) to advise the Minister on ways to encourage and promote a social and physical environment conducive to good health and all matters affecting public health;
- (g) to advise the Minister on the role of the public and private sector in providing health care; and
- (h) to do all such things connected to or incidental to the foregoing as the Minister may direct.

### 5. Power to direct inquiries

- (1) The Minister may, on the advice of the Board, direct that inquiries in relation to any matter concerning public health in a management board, health service or in any other place, be made.
- (2) When an inquiry is directed by the Minister, the Board shall have free access to all books, plans, maps, documents and other things relevant to the inquiry and shall have similar powers in relation to witnesses and the production of documents as those conferred on commissioners by the Inquiries Act; and may enter any building, premises or place for the purposes of such inquiry.

*[Cap. 42]*

### 6. General duty of Local Authority

- (1) Every Local Authority shall take necessary and reasonable measures to prevent the occurrence of any outbreak or prevalence of any infectious, communicable or preventable diseases to promote

public health and to exercise powers and perform the duties in respect of public health conferred upon it by the Public Health Act or any other written law:

Provided that environmental, sanitary, engineering, building inspection and licensing functions shall be performed by such Local Authority.

*[Cap. 295]*

- (2) Where any Local Authority fails to deal with any outbreak or prevalence of any infectious, communicable or preventable diseases, the Board shall takeover the function of the Local Authority in relation to public health and shall have all the powers of such Local Authority as provided for under the Public Health Act.

*[Cap. 295]*

## **7. Board to perform functions of failing Local Authority**

- (1) Where the public health in any locality is endangered by the failure or refusal on the part of any Local Authority to exercise the powers or perform its duties under the Public Health Act, the Board, if satisfied after due inquiry that the Local Authority is guilty of an alleged default, may make an order directing the Local Authority to perform its duty under such order within the time prescribed for such performance.
- (2) If the order referred to in subsection (1) is not obeyed within the prescribed time the Board shall perform the duties of such Local Authority in relation to such order.
- (3) The Local Authority concerned shall pay for the expenses incurred by the Board.

## **8. Composition of Board**

- (1) The Board shall consist of the following members—
  - (a) the Dean of the School of Medicine;
  - (b) the Chairperson of the Medical Council of Zambia;
  - (c) the Chairperson of the Nursing Council of Zambia;
  - (d) one representative of the Zambia Medical Association;
  - (e) one representative of the Churches Medical Association;
  - (f) a representative of the National Traditional Healers Association;
  - (g) a representative of the Zambia Association of Chambers of Commerce and Industry;
  - (h) a representative of the Attorney-General;
  - (i) a representative of the Ministry responsible for Local Government; and
  - (j) seven persons appointed by the Minister.
- (2) No person shall be qualified to be a member if he is an employee of the Board.
- (3) The Chairperson and the Vice-Chairperson shall be appointed by the Minister on part-time basis and shall be from amongst the members.

## **9. Director-General and other staff**

- (1) There shall be a Director-General who shall be the Chief Executive Officer of the Board and who shall, subject to the control of the Board, be responsible for the day to day administration of the Board.

- (2) The Director-General appointed by the Minister in consultation with the Board shall be a person who has distinguished himself in the field of health.
- (3) For the purposes of subsection (2), a person may have distinguished himself if he is a qualified medical practitioner in both the medico-clinical and public health field with at least ten years experience.
- (4) The Director-General shall be appointed for a three year renewable term of office.
- (5) The Director-General shall attend meetings of the Board and may address such meetings, but shall have no vote.
- (6) The Board may appoint, on such terms and conditions as it may determine in consultation with the Minister, such other staff as it considers necessary for the performance of its functions under this Act.

#### **10. Restriction on execution against property of Board**

Notwithstanding anything to the contrary contained in any written law, where any judgement or order has been obtained against the Board, no execution or attachment, or process of any nature, shall be issued against the Board or against any property of the Board, but the Director-General shall cause to be paid out of the revenue of the Board such amounts as may, by the judgement or order, be awarded against the Board to the person entitled thereto.

### **Part III – Management boards**

#### **11. Establishment of management boards**

- (1) The Minister may, by statutory instrument, establish a management board for any Government hospital or health service.
- (2) Any management board established under the repealed Act, shall be deemed to be a management board under this Act.  
*[14 of 1985]*
- (3) A management board established under subsection (1) shall be a body corporate with perpetual succession and a common seal capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such things as a body corporate may by law do or perform.
- (4) The provisions of the Schedule shall apply to the management board with the necessary modifications.

#### **12. Functions of management board**

- (1) The functions of the management board shall be to—
  - (a) administer the affairs of the hospital or health service;
  - (b) provide health services and care of patients;
  - (c) provide for and foster research in health and related fields and to encourage publication of the results thereof;
  - (d) develop, implement, monitor and review measures aimed at effectively running the hospital or health service;
  - (e) prepare an annual health plan and budget to be submitted through the Board to the Minister responsible for health;

- (f) provide training for its staff; and
  - (g) do all such things as the board may think necessary to promote health and to prevent disease or cure illness.
- (2) The management board may, by directions in writing and subject to such conditions as it thinks fit, delegate to any member, the Executive Director, Director or the Secretary any of its functions under this Act.
  - (3) The Board may require a hospital or health service to carry out such other related functions as may therein be specified.

### **13. Restriction on execution against property of management board**

Notwithstanding anything to the contrary contained in any written law, where any judgement or order has been obtained against the management board no execution or attachment, or process of any nature, shall be issued against the management board or against any property of the management board, but the Executive Director or Director, as the case may be, shall cause to be paid out the revenue of the management board such amounts as may, by the judgement or order, be awarded against the management board to the person entitled thereto.

### **14. Composition of management board**

- (1) A management board shall consist of not less than five and not more than fifteen members.
- (2) The members referred to in subsection (1) shall include—
  - (a) a representative from the Ministry of Community Development and Social Welfare; and
  - (b) a representative of the area health board.
- (3) The Minister may appoint a different number of members depending on the size of the hospital.
- (4) No person shall be qualified to be a member if he is an employee of the management board.
- (5) The members of the management board shall be appointed by the Minister on such terms and conditions as he may think fit.
- (6) The Chairperson and the Vice-Chairperson shall be appointed by the Minister.

## **Part IV – Members of staff, discoveries and discipline**

### **15. Executive Director and other staff**

- (1) The management board shall appoint on such terms and conditions as it may determine in consultation with the Minister, an Executive Director for a hospital board or a Director for a health service who shall be the Chief Executive Officer and Secretary of the management board and who, subject to the control of the management board, shall be responsible for the administration of the hospital or the health service.
- (2) The Executive Director or Director shall attend meetings of the management board and may address such meetings, but shall not vote on any matter.

### **16. Employment of staff**

The management board may employ such staff on such terms and conditions as it may determine in consultation with the Minister.

### **17. Transfer of staff from the public service**

- (1) The Minister may by statutory instrument, approve arrangements under which all or some of the public officers shall be transferred to the management board from the public service.
- (2) Where a person is transferred in accordance with the arrangements made under subsection (1), his terms and conditions with that management board shall be no less favourable than those enjoyed while in the public service, and for the purposes of determining his rights to or eligibility for any pension, gratuity, leave or other benefits, his previous service with the public service shall be treated as service with the management board.

### **18. Secondment to another management board**

- (1) A management board may, upon receiving a request from another management board to second an officer to that management board for such period and on such terms and conditions as may be agreed between the management board and the management board requesting the secondment.
- (2) A management board may, in accordance with the regulations issued by the Minister, make arrangements with the Ministry responsible for health for the secondment to the management board of any officer.

### **19. Relationship with outside specialists and teaching staff**

Subject to any regulations made under this Act, the management board may, in consultation with the Minister, determine the terms and conditions (including the payment of fees) on which—

- (a) any health professional not in full-time service of the management board may be contracted by the management board—
  - (i) to render ad hoc or part-time service to the management board; or
  - (ii) on part-time basis, to treat and attend upon patients of the hospital or health services;
- (b) any person not in the service of the management board may be permitted by the management board to carry out teaching, clinical duties or research at the hospital;
- (c) any hospital or health service may permit any specialist to use its facilities at a fee; or
- (d) a district health service may permit a registered medical practitioner to use its facilities at a fee.

### **20. Rights of board in discoveries**

Where any person employed by the management board on full-time or part-time basis, or carrying out teaching or clinical duties or research at the hospital, makes any discovery, invention, or improvement in the course of his duties, the management board shall be deemed to be the owner for all purposes of the rights therein:

Provided that the management board may pay to such persons such bonus, fees or royalties therefor, or make such arrangements for such person to share in the profits derived therefrom, as the management board may determine.

### **21. Discipline of staff**

The Minister may, by statutory instrument, regulate the procedures for disciplinary action by a management board over its staff, including the removal of any such staff from office.



## 22. Regulations

The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act.

## 23. Repeal

The Medical Services Act, 1985, Part II of the Public Health Act and item 40(a) of the Second Schedule of the Local Government Act are hereby repealed.

*[Act No. 14 of 1985; Cap. 535 of the old edition; Act No. 220 of 1991]*

# Schedule (Sections 3 and 9)

## Part I – Administration

### 1. Seal of Board

- (1) The Seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.
- (2) The affixing of the Seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Board.
- (3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person generally or specifically authorised by the Board in that behalf.
- (4) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

### 2. Tenure of office of member

- (1) Subject to other provisions, a member shall hold office for a period of three years from the date of appointment and may be re-appointed for a like period.
- (2) A member may resign by giving one month's notice in writing to the Minister.

### 3. Removal of member

Notwithstanding sections eight and fifteen, the Board may, at any time, with the approval of the Minister, remove any person from the office of member if that person has been absent from three consecutive meetings of the Board and that absence was in the opinion of the Board without reasonable excuse.

### 4. Filling of casual vacancy

Subject to paragraphs eight and fifteen, whenever the office of a member becomes vacant before the expiry of the term of office specified in paragraph two, the Minister, may appoint another person to be a member in place of the member who vacates the office

### 5. Proceedings of Board

- (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

- (2) The Board shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairperson may decide.
- (3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:  

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.
- (4) The quorum at any meeting of the Board shall be the Chairperson or the Vice-Chairperson or a person authorised to preside in accordance with sub-paragraph (c) of paragraph five and four other members.
- (5) There shall preside at any meeting of the Board—
  - (a) the Chairperson;
  - (b) in the absence of the Chairperson, the Vice-Chairperson; or
  - (c) in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.
- (6) A decision of the Board on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberate vote.
- (7) Where a member if for any reasonable cause is unable to attend any meeting of the Board, he may, in writing, nominate another person from the same organisation to attend such meeting in his stead and such person shall be deemed to be a member for the purposes of such meeting.
- (8) The Board may invite any person, whose presence in its opinion is desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.
- (9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.
- (10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and every meeting of any committee established by the Board.

## **6. Committees of Board**

- (1) The Board may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it thinks fit.
- (2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Board and such person shall hold office for such period as the Board may determine.
- (3) Subject to any specific or general direction of the Board, any committee established under subsection (1), may regulate its own procedure.

## **7. Disclosure of interest**

- (1) If a member is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter the member or a member's spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote, any question touching such matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

## 8. Immunity of members

No action or other proceedings shall be instituted against any member for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

## 9. Prohibition of publication or disclosure of information to unauthorised persons

- (1) No person, including any staff, shall without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act.
- (2) Any person who knowingly contravenes the provisions of sub-paragraph (1), shall be guilty of an offence and shall be liable, upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding one year, or to both.
- (3) If any person having any information which to his knowledge has been published or disclosed in contravention of sub-paragraph (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three years or to both.

*[As amended by Act [No 13 of 1994](#)]*

## Part II – Financial provisions

### 10. Funds of Board

- (1) The funds of the Board shall consist of such moneys as may—
  - (a) be appropriated by Parliament for the purposes of the Board;
  - (b) be paid to the Board by way of fees, levy, grants or donations; or
  - (c) vest in or accrue to the Board.
- (2) The Board may—
  - (a) accept moneys by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
  - (b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions;
  - (c) in accordance with the regulations made under this Act, charge and collect fees in respect of consultations, prescriptions, treatment and other medical services provided by the Board;
  - (d) charge and collect fees in respect of programmes, seminars, consultancy services and other services provided by the Board.
- (3) There shall be paid from the funds of the Board—
  - (a) the salaries, allowances and loans of the staff of the Board;
  - (b) such reasonable travelling, transport and subsistence allowances for members of any committee of the Board when engaged on the business of the Board, at such rates as the Minister may determine; and
  - (c) any other expenses incurred by the Board in the performance of its functions.

- (4) The Board may invest in such manner as it thinks fit such of its funds it does not immediately require for the performance of its functions.

### **11. Financial year**

The financial year of the Board shall be the period of twelve months ending on the 31st of December of every year.

### **12. Accounts**

The Board shall cause to be kept proper books of account and other records relating to its accounts.

### **13. Annual report**

- (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report concerning its activities during such financial year.
- (2) The report referred to in sub-paragraph (1) shall include information on the financial affairs of the Board and there shall be appended thereto-
  - (a) an audited balance sheet;
  - (b) an audited statement of income and expenditure; and
  - (c) such other information as the Minister may require.
- (3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after the receipt of the report referred to in sub-paragraph (1), lay it before the National Assembly.