

No. R. 1257

28 November 2008

HEALTH PROFESSIONS ACT, 1974 (ACT NO. 56 OF 1974)**REGULATIONS RELATING TO THE NOMINATIONS AND APPOINTMENTS OF MEMBERS OF A PROFESSIONAL BOARD**

The Minister of Health has, under section 15(5), read with section 61(1), of the Health Professions Act, 1974 (Act No. 56 of 1974) as amended by Act 29 of 2007, and after consultation with the Health Professions Council of South Africa, made the regulations in the Schedule.

SCHEDULE**1. Definitions**

In these regulations **"the Act"** means the Health Professions Act, 1974 (Act No. 56 of 1974) as amended by Act No. 29 of 2007, and any word or expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context indicates otherwise -

"board" means a professional board established in terms of section 15 of the Act;

"category" means a category of historically disadvantaged individuals, race, gender, provincial representation or permanent residential requirements;

"member" means a member of a board;

"nominee" means a person nominated for possible appointment as a member of the board; and

"valid nomination" means a nomination which complies with the requirements of these regulations.

2. Returning Officer and request for nominations

- (1) The registrar shall be the Returning Officer at the nomination of members of a board.
- (2) The Returning Officer shall, six months prior to the date of expiry of the term of office of members of a board, by notice in the *Gazette* in the form set out in Annexure A to these regulations, invite the submission of nominations during a period of not less than one month after publication of such notice.

3. Requirements for valid nominations

- (1) A nomination shall be made on a nomination form, in the format set out in Annexure B to these regulations, which must be duly completed.

- (2) The nomination form must be signed by persons registered under the Act and eligible to participate in the nominations in terms of the regulations relating to the constitution of the relevant professional board.
- (3) Each nomination form must propose only one person as a nominee.
- (4) The nominee must signify to the Returning Officer his or her acceptance of the nomination on the nomination form or by letter or facsimile transmission not later than the date referred to in regulation 2 (2).
- (5) Nominees must fall into one or more of the categories required for members of the board for which they are nominated.
- (6) A person shall not be considered for nomination if he or she has served two consecutive terms of office on a professional board: Provided that the board shall, for continuity purpose, comprise of at least twenty five percent of the members of the outgoing board.
- (7) No person shall be eligible for nomination and subsequent appointment as a member of the board if -
 - (a) he or she is not registered with the council;
 - (b) he or she is not a South African citizen and is not permanently resident in South Africa;
 - (c) he or she has entered into a composition with the creditors of his or her estate, or whose estate has been sequestrated;
 - (d) he or she is disqualified under the Act from practising his or her profession;
 - (e) he or she has been found guilty of improper or disgraceful conduct at an inquiry held under Chapter IV of the Act;
 - (f) he or she is a patient as defined in section 1 of the Mental Health Care Act, 2002 (Act No. 17 of 2002);
 - (g) he or she has been convicted of an offence in respect whereof he or she was sentenced to imprisonment without the option of a fine or in the case of fraud, a fine or imprisonment;
 - (h) he or she is a member of a municipal council, provincial legislature or parliament; or
 - (i) he or she is a provincial or national office bearer or employee of any party, organization or body of a political nature.
- (8) A person eligible to nominate shall only nominate and sign up to three nomination forms.
- (9) A nominee may at any time prior to the date referred to in regulation 2(2) notify the Returning Officer in writing of the withdrawal of his or her candidature.

4. Selection process

- (1) The Returning Officer shall, not later than 21 days after the close of nominations, submit a slate of all valid nominations to the Minister.
- (2) The Minister must appoint a panel/s comprising of at least four people, of whom at least two shall be persons registered in the relevant profession in terms of the Act, who have experience in the operations and functioning of the boards and who shall not have already been nominated, to consider and advise the Minister on the nominations received.
- (3) The Minister shall have the power to call for further nominations if the names of persons validly nominated are less than the required number or if the nominated persons do not meet the requirements contemplated in sub-regulation 5.
- (4) The Returning Officer must within 14 days of the date on which nominations close, publish by way of a notice in the *Gazette* -
 - (a) the names of the validly nominated persons; and
 - (b) a date, not less than one month after publication of the notice, on which the panel shall select and recommend candidates for appointment as members of the boards.
- (5) In recommending the candidates for appointment to the boards, the panel must take into account the following factors:-
 - (a) the number of candidates to be appointed on the basis of nominations in terms of the regulations relating to the constitution of each board;
 - (b) relevant expertise and experience in the profession for which the nominee is nominated;
 - (c) expertise in the provision of health services;
 - (d) expertise in policy formulation or in education and training of professionals within the profession;
 - (e) ethical standing of the nominee;
 - (f) distribution of nominees in terms of provinces, rural and urban areas;
 - (g) knowledge and experience in regulatory affairs, governance and professional ethics;
 - (h) representivity in terms of race, gender and disabilities; and
 - (i) any other relevant factor.
- (6) The panel may use a screening process and interviews of nominees in selecting candidates to be recommended for appointment by the Minister.

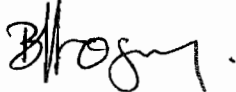
- (7) The panel must submit a report of the recommended candidates together with the list of all nominees and supporting documents to the Minister for consideration of appointment to the boards.
- (8) The Minister's powers to appoint members of the board shall not be limited to the recommended candidates.

5. Publication of names of the appointed members of the board

- (1) The Minister must publish the names of the appointed members and the date of commencement of their term of office in the Gazette as soon as possible.
- (2) The Minister must keep all valid nomination papers for a period of six months from the date on which the appointments were published in terms of sub-regulation (1).

6. Repeal

The regulations published as Government Notice No. R. 1055 of 23 July 2003 under Government Gazette No. 25235 are hereby repealed.



MINISTER OF HEALTH
DATE: 30/10/2008

ANNEXURE A

NOTICE OF NOMINATION

NOMINATION OF MEMBERS OF THE *.....

(1) Notice is hereby given in terms of the provisions of the Regulations relating to the nomination of Members of the *..... that an appointment of **..... members of such board to serve during the period ending the day of 2..... is about to be made, as follows:

(2) ***.....

(3) Any person whose name appears on the relevant register or registers kept under section 18 of Act 56 of 1974-

- (a) who has not entered into a composition with the creditors of his or her estate, or whose estate has not been sequestrated;
- (b) who is not disqualified under the Act from practising his or her profession;
- (c) who is registered with the council under the Act;
- (d) who is a South African citizen and is permanently resident in South Africa;
- (e) who is not a patient as defined in section 1 of the Mental Health Act, 1973;
- (f) who has not been found guilty of improper or disgraceful conduct at an inquiry held under Chapter IV of the Act;
- (g) who has not been convicted of an offence in respect whereof he or she was sentenced to imprisonment without the option of a fine or in the case of fraud, a fine or imprisonment;
- (h) who is not a member of a municipal council, provincial legislature or parliament; or
- (i) who is not a provincial or national office bearer or employee of any party, organization or body of a political nature,

is eligible for nomination.

(4) Each nominee must be nominated on a separate nomination form, and any person entitled to nominate in the nomination process shall only nominate and sign up to three nomination forms for any number of nominees to be appointed.

(5) Each nomination form must -

- (a) state the first names and the surname of the person nominated;
- (b) state the nominee's registered profession and professional category, if any;