

## CHAPTER 3

# Health rights in the new health system



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### Outcomes

At the end of this chapter you will be able to:

- Understand the vision and structure of the new National Health System
- Understand the structure and function of the district health system
- Discuss important elements in the relationship between the health care worker and the Department of Health
- Understand the responsibility of the Department of Health to communities and role players
- Understand the role of the private sector and international agencies in the integrated health system
- Understand the new approach to environmental health
- Understand the complaints procedures for health care workers in KwaZulu-Natal.

# 3.1

## Function and structure of the national health system

### 3.1.1

### The history of health rights in South Africa

The apartheid government denied the vast majority of the South Africans their fundamental human rights, including health rights. Certain health rights are now entrenched in the Constitution. Others are being incorporated into new Patients' Charters and Health Rights Charters contained in legislation at national and provincial level.

#### 3.1.1.1

#### Progress since 1994

The South Africa Constitution firmly entrenches access to health care as a fundamental human right. Section 27(1)(a) of the Bill of Rights states that everyone has the right to access "health care services, including reproductive health care".

Section 27(2) specifies that the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of these rights. Section 27(3) states that no one may be refused emergency medical treatment. Section 24 provides that everyone has the right to an environment that is not harmful to their health or well-being.

In 1995 the Ministry of Health published a White Paper expressing its policy position regarding the transformation of the health system. It envisages a unitary health system where all can enjoy equitable and affordable access to basic health care services. [See The birth of a statute, pg 37]

A Draft National Health Bill, intended to give the legislative framework for the creation and implementation of the new vision, was prepared in April 2000, but has not yet been finalised.

KwaZulu-Natal is one of the few provinces which has prepared provincial legislation. The KwaZulu-Natal Health Act of 2000 was passed by the Provincial Legislature during 2000. However, it cannot be implemented until the regulations governing the Act have been drafted.



#### TRANSFORMATION OF THE HEALTH SYSTEM

The White Paper envisages a unitary health system where all can enjoy equitable and affordable access to basic health care services.

THE BILL OF RIGHTS AND HEALTH			
SECTION 27(1) Everyone has the right to access health care services.	SECTION 27(2) The state must take reasonable measures to achieve these rights.	SECTION 27(3) No one may be refused emergency medical treatment.	SECTION 24 Everyone has the right to an environment that is not harmful.

**TABLE 3.1**

<b>Progress in health legislation</b>		
<b>Legislation</b>	<b>Content</b>	<b>Comment</b>
Constitution of SA	(1996) Section 27(1)(a) – right of access to basic health care Section 27(2) – progressive realisation of socio-economic rights Section 27(3) – right to emergency medical treatment Section 24 – right to a healthy environment	One of the most progressive legal frameworks for the protection of human rights in the world, limited only by the resources needed to realise these rights
Draft National Health Bill (2000)	Sets up national, provincial and district structures	Bill formulated in April 2000, still awaiting finalisation
KZN Health Act (2000)	Sets up the Provincial Health Authority, District Health Authorities, District Health Committees and other community structures	Promulgated, but cannot come into operation until the regulations governing the Act have been drafted

## The new national health system

The ANC National Health Plan (1994) and the Department of Health’s White Paper for the Transformation of the Health System in South Africa(1995) clearly set out the transformation principles that should govern the new health system.

These principles are:

- A unified health system as opposed to the fragmented system of the past
- A decentralised management system of health services as opposed to the rigidly centralised system of the past
- An affordable system based on equity – the best quality of care must be available to all citizens
- Primary health care is the basis of the system.

Primary health care embodies the concept of community development, and is based on full community participation in the planning, provision, control and monitoring of services. It aims to reduce inequalities in access to health, especially in the rural areas and deprived communities

- A comprehensive, integrated system which includes military and prison services
- Co-operation between national and provincial governments, each playing distinct but complementary roles.

The transformation of the health service is envisaged as occurring

### 3.1.2



**TRANSFORMATION**  
The new health system will be governed by transformation principles.



### HEALTH DISTRICTS

The transformation of the health service is through the district health system.

### 3.1.3

#### PRINCIPLES OF TRANSFORMATION

- Unitary vs fragmented
- Decentralised vs centralised
- Affordable
- Co-operation
- Primary health care
- Integrated service
- Equity
- Comprehensive

primarily through the district health system. The country is to be divided into geographically coherent, functional health districts. In each health district, a team will be responsible for the planning and management of all local health services for a defined population. The team will arrange for the delivery of a comprehensive package of primary health care and district hospital services within national and provincial policies and guidelines.

## The structure of the new national health system

The National Health Bill lays out the legislative framework for a unified, integrated health system.

### National level

At the national level, the National Health Bill sets out the functions of the National Department of Health and establishes the National Health Authority and the National Health Management Committee.

The National Health authority determines policy, establishes guidelines for the management of health districts, develops national strategy for health research and serves as the mechanism for the co-ordination between national and provincial government.

The function of the National Health Management Committee is to investigate any matter relating to health and to report on its finding to the National Health Authority.

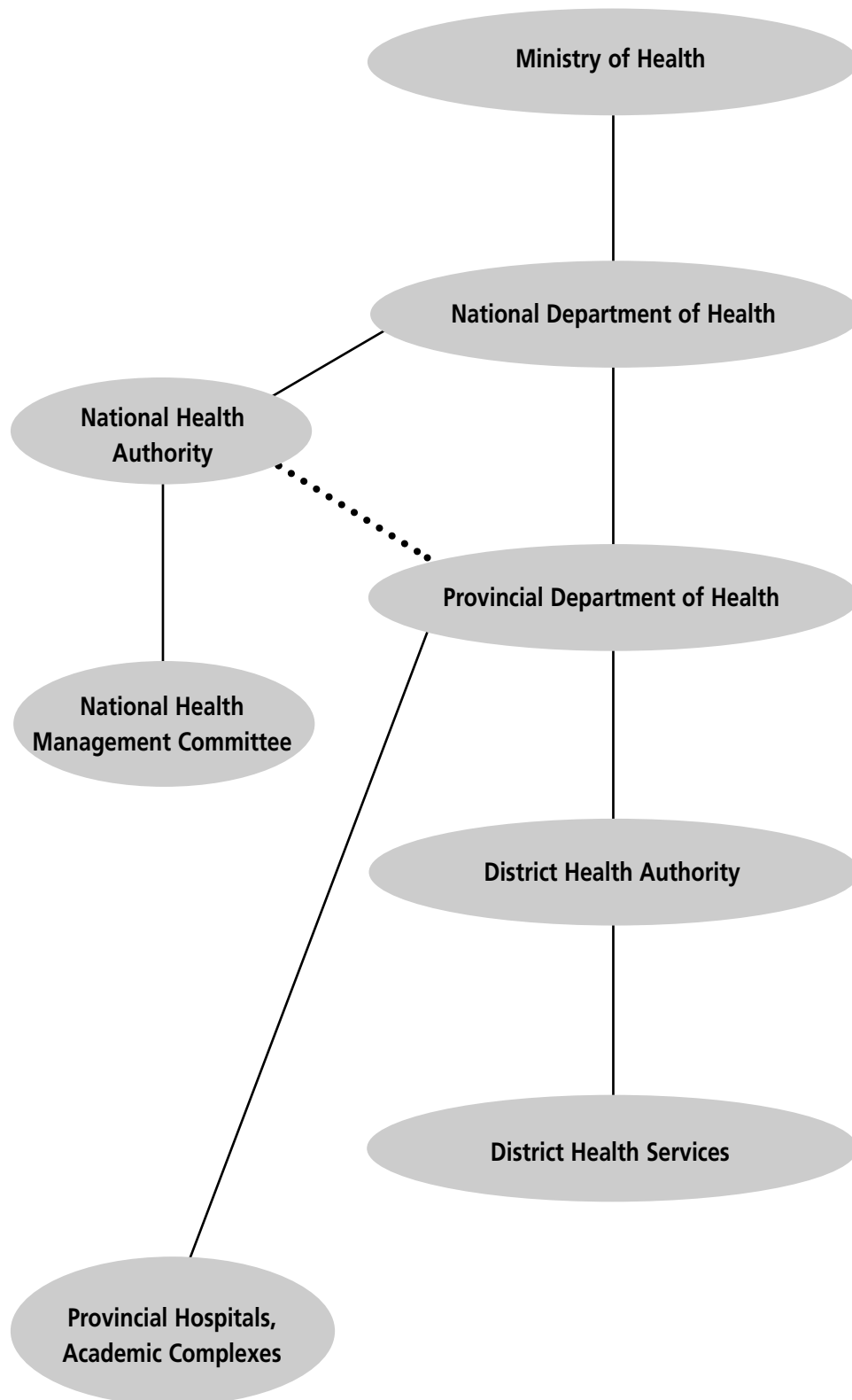
### Provincial level

At the provincial level, the Bill establishes the Provincial Health Authority, the main task of which is to determine policy concerning any matter that will promote the health of the population within the province.

### District level

At the district level, the Bill establishes the district health system. It states the principles underpinning the district system, the boundaries of health districts and the preparation of provincial health plans. The Bill also establishes the district health authorities, which may be a municipality, a statutory district health authority or the provincial department (depending on the capacity of the entity to manage the health district).

## The new national health system (proposed 2000)



[Based on the KwaZulu-Natal Health Act of 2000]

### KEY

— line of accountability

..... linked through representation

## The structure of the new provincial health system in KwaZulu-Natal

The provinces are formulating their own provincial acts even though the National Health Bill is still being drafted and finalised.

The KwaZulu-Natal Health Act has been passed and sets out the structure and powers of the provincial and district health system. In order to allow for community participation in the system, the Act also stipulates advisory committees and forums that operate at different levels.

To ensure transparency in the development and implementation of provincial health policy, the KZN Health Act provides that meetings of any administrative body created in terms of the Act must be open to the public. Notice must be given for public meetings which must be scheduled at times suitable for public participation. Matters may be held in closed sessions only when it is necessary to preserve confidentiality or protect reputations.



**TABLE 3.2**

### The composition and functions of the health services of KwaZulu-Natal

Structure	Composition	Functions	Meetings
Provincial Health Authority	<ul style="list-style-type: none"> <li>• MEC for Health</li> <li>• One councillor designated by each district council</li> <li>• One councillor designated by each metro council</li> <li>• One local government health official nominated by organised local government</li> <li>• Chairperson of the Portfolio Committee</li> <li>• Head of Department</li> </ul>	<ul style="list-style-type: none"> <li>• Co-ordinate the implementation of national &amp; provincial health policies</li> <li>• Co-ordinate the functioning of the district health authorities</li> <li>• Consider and co-ordinate strategic plans of district health authorities</li> <li>• Consider requests and recommendations made by district health authorities</li> <li>• Recommend provincial health policies, norms, frameworks and standards to the Minister</li> <li>• Comment on health legislation prior to its being introduced in Parliament</li> <li>• Perform any function as determined by the Minister</li> </ul>	<ul style="list-style-type: none"> <li>• Minister presides over meetings</li> <li>• Minister determines time and place</li> <li>• Meetings must be held at least once every two months</li> <li>• Decisions by consensus, or failing this, by resolution of two-thirds of its members</li> </ul>

[Based on the KwaZulu-Natal Health Act of 2000]

Structure	Composition	Functions	Meetings
<b>Provincial Health Advisory Committee</b>	<ul style="list-style-type: none"> <li>• Head of Department</li> <li>• One health official designated by each district council</li> <li>• One health official designated by each metro council</li> <li>• Seven senior Departmental officials, designated by the Minister</li> </ul>	<ul style="list-style-type: none"> <li>• Advise the Minister on any matter related to health</li> <li>• Promote the objectives of the Health Act</li> </ul>	<ul style="list-style-type: none"> <li>• Head of Department presides over meetings</li> <li>• Head of Department determines time and place</li> <li>• Meetings must be held at least once every two months</li> <li>• Decisions made on basis of consensus, or failing this, on basis of resolution by two-thirds of its members</li> <li>• Strict requirements for attendance</li> </ul>
<b>Provincial Health Forum</b>	<ul style="list-style-type: none"> <li>• Minister</li> <li>• Head of Department</li> <li>• Representatives (involved in health) from the Province invited from: <ul style="list-style-type: none"> <li>• organised labour organisations</li> <li>• community-based organisations</li> <li>• NGOs</li> <li>• parastatals</li> <li>• professional bodies</li> <li>• municipal councils</li> <li>• district health management team</li> <li>• provincial managers from the Department</li> <li>• professional support services within the Department</li> <li>• private provider organisations</li> <li>• organisations working with HIV/AIDS and many other community bodies</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Voluntary body established to facilitate information exchange and discussion relating to health service delivery in the Province</li> </ul>	<ul style="list-style-type: none"> <li>• Minister presides over all meetings</li> <li>• Minister determines time and place of meetings</li> <li>• Must meet at least twice every year</li> </ul>
<b>Mental Health Advisory Committee</b>	<ul style="list-style-type: none"> <li>• Minister appoints members for initial 3 years</li> <li>• Minister determines the number of persons to serve. There must be at least 3 (but not more than 5) persons from each of these categories: <ul style="list-style-type: none"> <li>• District health authorities</li> <li>• Tertiary institutions</li> <li>• Mental health care practitioners</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Visit each provincial mental private health care and public health care establishment, at least once every two months to hear complaints and grievance from health care users</li> <li>• Investigate any complaint or grievance</li> <li>• Submit to the Minister a report within 30 days of any visit or investigation</li> </ul>	<ul style="list-style-type: none"> <li>• Minister appoints one of the members as Chair</li> <li>• Must meet at least once every two months</li> <li>• Must keep minutes</li> <li>• Must timeously submit annual reports, including financial statements, to the Minister on the last day of April of each year.</li> <li>• Chair must give members reasonable notice of date and time of any meeting</li> </ul>

Structure	Composition	Functions	Meetings
<b>District Health Authority</b> (established by the Minister)	<ul style="list-style-type: none"> <li>The District Health Manager</li> <li>In a <b>metro council</b>: the councillor for health (who sits on the Provincial Health Authority), and other metro councillors responsible for health</li> <li>In a <b>district council</b>: the district councillor responsible for health (who sits on the Provincial Health Authority), and one local councillor responsible for health from each local municipality included within the district municipality</li> </ul>	<ul style="list-style-type: none"> <li>Implementing national and provincial health policies</li> <li>Developing health plans (initially annual and then multi-year plans)</li> <li>Ensuring an equitable delivery of health services within the health district</li> <li>Managing all financial and human resources within the health district</li> <li>Promoting inter-sectoral collaboration</li> <li>Recommending provincial health policies, norms, frameworks and standards to the Minister</li> </ul>	<ul style="list-style-type: none"> <li>The metro or district councillor who serves on the Provincial Health Authority chairs all meetings</li> <li>The chair determines the time and place of all meetings</li> <li>Must meet at least once each month</li> <li>Decisions made on a consensus basis or failing consensus on a resolution by a two-thirds majority</li> </ul>
<b>District Health Advisory Committee</b> (established by the Minister)	<p>In a <b>metro council</b>:</p> <ul style="list-style-type: none"> <li>The metro council health manager</li> <li>The metro council health management team</li> </ul> <p>In a <b>district municipality</b>:</p> <ul style="list-style-type: none"> <li>The district health manager</li> <li>The district health management team</li> <li>One health official from each local municipality in the health district</li> </ul>	<ul style="list-style-type: none"> <li>Advise the district health authority on any matter related to health</li> <li>Promote the objectives of the KZN Health Act</li> </ul>	<ul style="list-style-type: none"> <li>The district health manager chairs meetings</li> <li>Must meet at least once every two months</li> <li>Decisions must be on the basis of consensus or by a two-thirds majority resolution</li> </ul>
<b>District Health Forum</b> (established by each district health authority)	<ul style="list-style-type: none"> <li>The metro or district councillor who serves on the Provincial Health Authority</li> <li>One local councillor from each local municipality</li> <li>One health official from each local municipality</li> <li>Members of the district health management team</li> <li>Representatives from: <ul style="list-style-type: none"> <li>Community-based and private organisations participating in the Provincial Health Forum</li> <li>Clinic committees, community health centre committees, hospital boards and the Ambulance &amp; Emergency Medical Services Board</li> </ul> </li> <li>Provincial managers from the Department</li> <li>Professional support services within the Department</li> </ul>	<ul style="list-style-type: none"> <li>Voluntary body established to facilitate information exchange and discussion</li> <li>Promotes community participation in the delivery of health services</li> </ul>	<ul style="list-style-type: none"> <li>Councillor who serves on Provincial Health Authority chairs meetings</li> <li>Time and place of meetings determined by the district council</li> <li>Must meet at least twice every year</li> </ul>

Structure	Composition	Functions	Meetings
<b>Hospital Boards</b>	<ul style="list-style-type: none"> <li>Appointed by Minister for each public hospital</li> <li>Must be representative of the Province</li> <li>Based on objectivity and fairness</li> <li>Broad representation to redress the imbalances of the past</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting the regulations</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting the regulations</li> </ul>
<b>Ambulance &amp; Emergency Medical Services Board</b>	<ul style="list-style-type: none"> <li>Appointed by the Minister</li> <li>The same representation as for Hospital Boards</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting regulations</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting regulations</li> </ul>
<b>Community Health Centre &amp; Clinic Committee</b>	<ul style="list-style-type: none"> <li>Appointed by each district health authority</li> <li>The same representation as for Hospital Boards</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting regulations</li> </ul>	<ul style="list-style-type: none"> <li>Awaiting regulations</li> </ul>

## The structures providing health care in your community

Consider the health district where you work:



1. What are the health facilities in this district?
2. What new structures will have to come into being in terms of this district?
3. What are the difficulties that you foresee and how can these be overcome?



## What can the health care workers do?

Malina (18) visits the local clinic to report that her younger sister (6) is being sexually abused at home. The health care worker and social worker pay a visit to the home of the child. Soon thereafter they receive anonymous threats of death, if they take any further action.



1. What should they do?
2. Could this kind of problem be handled by any of the new community structures such as clinic committees or the District Health Forum?





The above organogram spells out the way the structures created in the KZN Health Act relate to one another. The province of KwaZulu-Natal has been divided into ten health districts, coinciding with the demarcated local authority districts. One of these districts is the Metropolitan Unicity of Durban.

## The package of health services

The White Paper on *The Transformation of the Health Service* envisaged an integrated package of essential primary health care services available to the entire population at the first point of contact.

Integration of primary health services means that health care is available to the population at different stages of their life cycle. An adult woman, for example, should be able to obtain advice and contraception, be investigated and treated for STDs, continue her treatment for tuberculosis, and receive education on safe sex all at the same attendance. If she brings a child with diarrhoea the child should also receive a full examination with a nutritional assessment, an assessment of its level of dehydration, checking of immunisation, be given ORS (oral rehydration solution) and the mother taught about its use, continued feeding and prevention of further episodes. A comprehensive package of essential services thus includes health promotion, specific prevention, diagnosis and treatment, and often the start of rehabilitation.

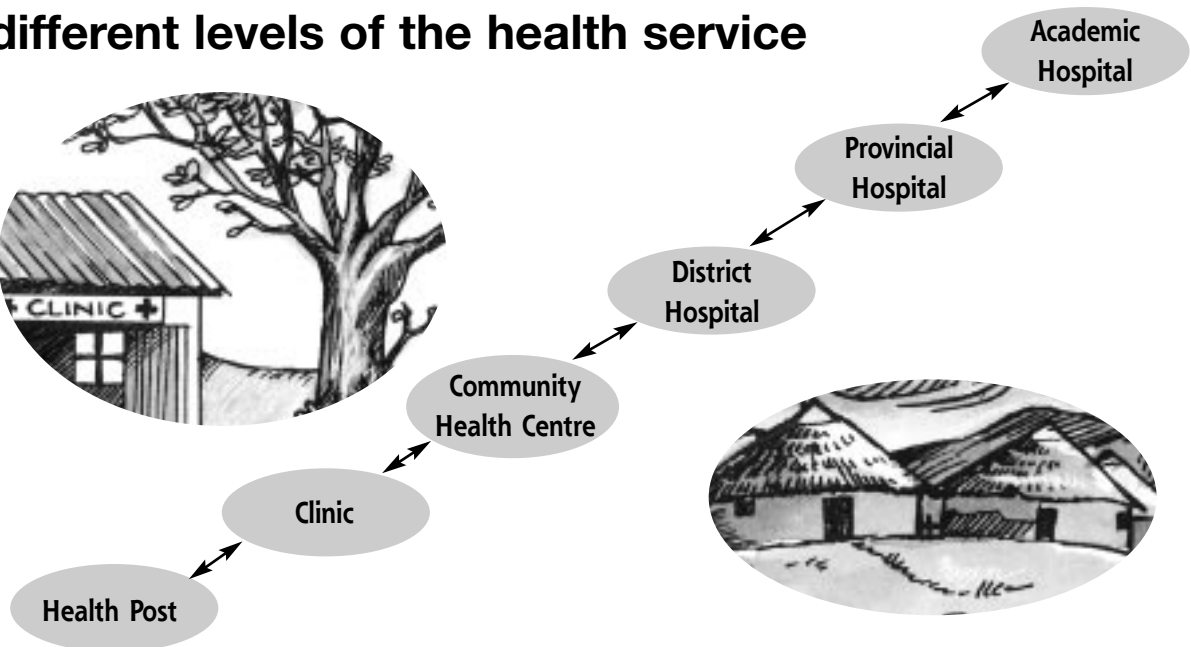
### 3.1.5



#### ESSENTIAL SERVICES

Essential services include health promotion, specific prevention, diagnosis and treatment, and rehabilitation.

## The chain of referral between different levels of the health service



Primary health care = first contact care (health post to district hospital)  
 Secondary level care = generalist hospital care (district hospital)  
 Tertiary level care = specialised hospital care (provincial hospital)  
 Quaternary level care = super specialist hospital care (academic hospital)

No patient should be restricted to the health facility's limited package of essential care. A health facility must also be able to extend the services offered to the community by arranging the referral of patients to higher levels of expertise, skills, facilities and equipment.

3.1.5.1

### **A multiskilled, multidisciplinary nurse-driven health service**

The essential package of primary health care services available at a health facility implies the existence of many skills. The aim of human resource development is to upgrade the skills of the health care worker to achieve multiskilled staff at all levels. The concept of an integrated package of services also means that the rendering of services is not limited to the health department. The approach of the transformed health system is not only multiskilled, but also multidisciplinary. It is envisaged that the new system will be nurse-driven, providing a more even service throughout the country



#### **NURSE-DRIVEN**

*The new system will be nurse-driven.*

3.1.5.2

### **Medico-legal services and Crisis Care Centres**

The White Paper states that clinical medico-legal services will be part of the comprehensive package of health care services. However it will take some time to develop forensic skills at all levels within the health care system. The concept of 'forensic nursing' is new and is being introduced into the training curriculum. Every health care professional should be competent in the collection, preservation and presentation of medico-legal evidence in court.

In KwaZulu-Natal medico-legal services will be available initially in most public or state hospitals at the newly established Crisis Care Centres. These centres will specifically deal with survivors of violence, abuse and rape. It is crucial that survivors of violence reach these centres as soon as possible to receive medical treatment and support and to preserve medico-legal evidence.



#### **FORENSIC SKILLS**

*It will take some time to develop forensic skills within the primary health care system.*

3.2

## **Health care workers and the Department of Health**

The employment of health care workers is governed by the vision of the Department of Health, policy decisions, principles and many Acts and regulations.

## Mission Statement of the National Department of Health

The South African Department of Health's Mission Statement says: "Our mission is to consolidate and build on the achievements of the past five years in improving access to health care for all and reducing inequality, and to focus on working in partnership with other stakeholders to improve the quality of care at all levels of the health system, especially preventive and promotive health, and to improve the overall efficiency of the health care delivery system."

The objectives of the KwaZulu Natal Health Act define health care worker rights and obligations and provides for skills and capacity development for providers of health care services.

## 'Batho Pele, People First' principles

The Public Service Commission has developed the 'Batho Pele, People First' Principles. The Provincial Department of Health, amongst other departments, has facilitated workshops based on these principles in KwaZulu Natal.

The concept of 'people first' does not only cover patients or health care users but health care workers as well.



### ALL INCLUSIVE PRINCIPLE

The concept of 'people first' does not only cover patients or health care users but health care workers as well.

## Transformation priorities

Listed in workshops, for the public health sector:

- Representivity and affirmative action
- Human resource development and training
- Employment conditions and labour relations
- Promoting a professional service ethos
- Institution building and management.

Apartheid allowed for the development of fragmented services, divisions in human resources and preferential and exclusive training and development.

## Legislation dealing with transformation

- Public Service Act, 1994
- Labour Relations Act, 1995
- Public Service Amendment Act, 1997
- Employment Equity Act, 1998
- Basic Conditions of Employment Act, 1998
- Skills Development Act, 1999
- Public Service Regulations, 1999.

[See Chapter 1]

Government has also produced policy documents relating to human resources. These include White papers on *Transformation of the Public Service* (1995), *Affirmative Action* (1996), *Human Resource Management* (1997) and *Local Government* (1998). [See Chapter 2]

### 3.2.3

## Human resources in the Department of Health

Progress is being made in transforming and consolidating the previously fragmented health service. [See pg 55]

It has been especially difficult to amalgamate and restructure different health worker systems because of the different dynamics in the provinces. There appears to be little uniformity in provinces at present regarding their approach to human resource planning and development, human resource management and labour relations and whether and where there should be transformation. This is caused by different managing styles, old and new political loyalties and problems created by the apartheid system.

This is to be expected during any transition process and has led to confusion, a lowering of moral, affecting relationships, staff security and staff movements.

### 3.2.4

## Representivity and affirmative action

Provincial departments are responsible for implementing and monitoring their own affirmative action transformation process but the Provincial Health Restructuring Committee (PHRC) has an oversight role particularly in its application to human resources, affirmative action and representivity.

Gender representation has improved and women are over-represented in middle and lower management positions in the provinces. Women are still the minority in posts such as superintendents and senior management.



### GENDER AFFIRMATIVE

Gender representation has improved in middle and lower management positions.



The introduction of community service for doctors has assisted in distributing medical services more evenly across South Africa.

## Human resource development and training

3.2.5

There is a shortage of health care professionals in South Africa, especially in rural areas. In the past the 'homelands' depended largely on foreign doctors. Recently attempts have been made to import doctors from Cuba and Germany to deal with the shortage of doctors. The introduction of community service for doctors from July 1998 also assisted in distributing services more evenly across South Africa. Proposals are presently being drafted to improve accommodation and working conditions for doctors and other health professionals to encourage them to move to positions in rural areas.

The recruitment and training of nurses is standard throughout the country. The number of nurses trained is less than in the past and many trained personnel are being offered lucrative work in other countries or in the private sector.

In spite of these problems thousands of health care workers have passed through a variety of training programmes, differing from province to province.



### RURAL PUSH

Doctors and other health professionals are being encouraged to move to positions in rural areas.



## Developing skills and capacity

Throughout the provinces training is being provided in the following three areas:

1. To provide health care managers with skills to manage the transformation process
2. To prepare health care workers for the establishment and implementation of the district health care system
3. To develop capacity and skills in health care workers.

The present training of medical practitioners and staff focuses on the needs of all communities.

### 3.2.6

## Employment conditions and labour relations

The Department of Health can only ensure good public service from health care workers if workers are satisfied with their working environment. This includes contract and employment issues, benefits, transformation and affirmative action, disciplinary and grievance procedures and communicating effectively with staff representatives and management. If these issues are neglected it leads to low moral amongst workers, resignations and illegal strikes.

### 3.2.6.1

## Labour relations in the public health services

The Public Service Bargaining Council are national structures. Provincial Bargaining Councils operate at provincial level and are slowly being established in all the provinces.

## Bargaining Councils

Registered trade unions and registered employers organisations may establish a bargaining council for their interest group (such as the public service) in terms of the Labour Relations Act.

Some of the powers and functions of bargaining councils are:

- To conclude collective agreements
- To enforce collective agreements
- To prevent and resolve labour disputes
- To perform dispute-resolution functions
- To promote education and training schemes.

Health departments at most levels have labour relations sections dealing with local issues, discipline and grievances. Health managers and labour representatives meet regularly (on a provincial and departmental basis) to discuss prevalent issues.

There are nine health related Unions (such as PSA, NEHAWU, HOSPERSA and DENOSA). Some of these operate in all provinces and others in select provinces.

## Strikes and essential services

One of the main objectives of the Labour Relations Act (LRA) is to regulate conflict between employers and employees. [See pg 18, para 1.3.6] Nedlac (made up of representatives of labour, government, communities and business) influenced the amendments to the LRA passed during 1995. [See pg 175, para 7.6.1] The contents of the Act is a result of many months of negotiation between the parties.

In terms of the LRA staff employed in 'essential services' cannot strike. Public health services are considered essential services and health care workers may not legally strike.

3.2.6.2



### NO STRIKES

In terms of the LRA staff employed in 'essential services' cannot strike.



TALKING POINT

## Striking health care workers

Illegal strikes have occurred in the Department of Health for the following reasons: overtime and salary payments; restricted registration of practitioners; students over food or incompetent lecturers; promotions; segregation of facilities along racial lines; colour of uniforms.



TALKING POINT

## Small town 'hospital of horrors'

"Rotten placentas, wild cats pouncing on food, patients left unattended and a hostage drama are only some of the problems..."

It seems to be a management problem. The strike could have been averted if management had taken heed of workers' grievances and acted on them ..."

[*Sunday Times*: 13 May 2001]



TALKING POINT

## Calm after hospital strike ends

“These staff members are supposed to be dedicated to the preservation of human life, yet they have refused desperate members of the community health care, and have forced those patients in the hospital to go without aid and food for a day and a half.”

[*Independent on Saturday*: 12 May 2001]



TALKING POINT

## Striking nurses suspended

“Dr Zweli Mkize has suspended 53 members of staff, including nurses, security guards and cleaners, after alleged misconduct at the Estcourt and Madadeni hospitals.”

[*The Mercury*: 5 June 2001]



1. Do you think that hospitals offer essential services? Why or why not?
2. Do you think employees in essential services should be allowed to strike? If so, why? If not, why not?
3. Do you think it was right to suspend the striking workers? If yes, why? If not, why not?
4. Do you think there are circumstances when workers in essential services are entitled to strike? If so, why, and how should they conduct the strike? If not, why not?



### STAFF DISSATISFACTION

Grievance procedures deal with dissatisfaction of staff.

3.2.6.3

## Grievance procedures

The Public Service Act and Regulations provide for the grievance procedures in the Department of Health. The implementation of these procedures are not standardised throughout the provinces.

Grievance procedures deal with dissatisfaction of staff relating to promotion, merit assessments, salaries, pensions, overtime, recognition of experience, appointments, creation of posts, transfers and dismissals. Very few dismissals or unfair labour practices reach the CCMA or labour courts.

3.2.6.4

## Disciplinary procedures

Health care practitioners can be disciplined by a number of procedures or associations.

The Public Service Act and Regulations also provide for the disciplinary procedures in the Department of Health. The

implementation of these procedures are not standardised throughout the provinces.

## Professional councils

All health care practitioners need to be registered with their professional councils, such as the Health Professions Council or the South African Nursing Council.

The Health Professions Council, established in terms of the Health Professions Act 56 of 1974, governs the conduct of medical practitioners, dentists and practitioners of supplementary health service professions (such as psychologists and physiotherapists).

The South African Nursing Council, established in terms of the Nursing Act 50 of 1978, governs the conduct of nurses, nursing auxiliaries and midwives.

All professional councils are assigned disciplinary powers by the legislation that establishes them.

In terms of these Acts, the councils have the power to hold an inquiry into any complaint or charge or make allegations of improper or disgraceful conduct against any person registered under the Act.

A professional found guilty of improper conduct after an inquiry held by the council may be given a caution or reprimand, may be suspended for a specified period from practicing their profession, may have their name removed from the register or may be fined.

All professional councils are empowered to make rules from time to time specifying the acts or omissions in respect of which the councils may take disciplinary steps. It is important to note, however, that the powers of the councils to inquire into and deal with any complaint or allegation are not limited to the acts or omissions specifically specified as improper or disgraceful conduct. This means that 'improper' or 'disgraceful' conduct is open-ended and new types of misconduct will always be possible according to changing circumstances and the perceptions of the society in which the professionals render service.

3.2.6.5



### PROFESSIONAL COUNCILS

All health care practitioners need to be registered with their professional councils.



### IMPROPER CONDUCT

A professional found guilty of improper conduct may be given a caution, reprimand, be suspended or have their name removed from the register.

3.3

## The health care worker and the community – the '*Batho Pele*' principles

The National Department of Health's mission statement focuses on the working relationship between other stakeholders and role-players and in particular the communities in which they work. Health care workers have obligations to patients and communities and this obligation is embodied in the '*Batho Pele*' Principles. [See pg 65]



The obligations of health care workers to patients and communities are embodied in the 'Batho Pele' principles.

## The 'Batho Pele' Principles [See pg 65]

### Consultation

Citizens should be consulted about the level and quality of the public services they receive and wherever possible, should be given a choice about the services that are offered.

### Service Standards

Citizens should be told what level and quality of public services they will receive so they are aware of what to expect.

### Access

All citizens should have equal access to the services to which they are entitled.

### Courtesy

Citizens should be given full, accurate information about the public services they are entitled to receive.

### Openness and transparency

Citizens should be told how national and provincial departments are run, how much they cost, and who is in charge.

### Redress

If the promised standard of service is not delivered, citizens should be offered an apology, a full explanation and a speedy and effective remedy; and when the complaints are made citizens should receive a sympathetic, positive response.

### Value for money

Public services should be provided economically and efficiently in order to give citizens the best possible value for money.

### 3.3.1

## The South African Government, the Department of Health and the community

The delivery of a good health service is undermined by violence and poverty. During 1998 the Human Rights Commission (HRC), the Commission on Gender Equality (CGE) and the South African NGO Coalition (SANGOCO) held poverty hearings in all the provinces in South Africa.

Problems of unemployment, poor access to water, poor health facilities, poor education, poor social services and workplace illnesses and injuries were voiced at the hearings.

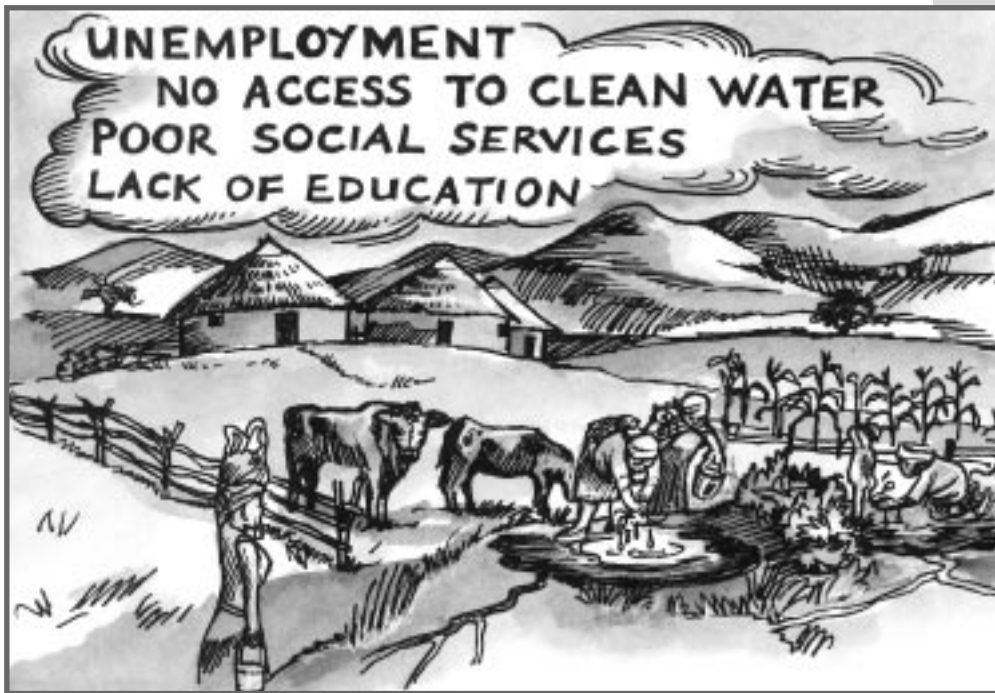
It is clear that government must prioritise spending to meet these interdependent needs.

The Department of Health is consolidating the health system to meet the needs in terms of health. However, many communities, especially isolated, rural poor communities, do not understand their



### IGNORANCE OF HEALTH RIGHTS

Many communities do not understand their health rights.



Unemployment, poor access to water, poor health facilities, poor education, poor social services all contribute to put rural communities at risk.

health rights or even that they have health rights. It is the Department of Health's responsibility to educate communities on their health rights and corresponding responsibilities. [See pg 54, para 3.1]

## Health rights

The Department of Health has the responsibility to ensure that communities know and understand their rights relating to health care. Health rights are services provided by government to control and treat illness and stress and to promote the well-being of communities.

Health rights only become real when:

- The health care workers provide services to the communities taking into account the needs of the community
- Communities can access health care services.

The Department of Health, in order to improve access to health care, must reach isolated and poor communities in rural areas.

The Department of Health must not only distribute adequate human and physical resources to these areas but must also train staff and see that health care workers have:

- Incentives to work in rural areas
- Sufficient protection in the current violence climate
- The necessary skills to work in partnership with communities.

### 3.3.2



#### COMMUNITY WELL-BEING

Health rights are services provided by government to control and treat illness and stress and to promote the well-being of communities.



TALKING POINT

## Thukela District draws up a Health Rights Charter

The National Progressive Primary Health Care Network (NPPHCN) initiated a national campaign to implement health rights in communities. The campaign culminated with the development of a 'Patients' Charter for South Africa' which may be incorporated in the draft of the National Health Bill.

However in the Thukela District near Ladysmith in KwaZulu-Natal members of the community met with health care workers to draft their own Health Rights Charter for the District. The Charter lists not only the rights of patients and health care workers but also their responsibilities.



1. Do you think that a process like that in Thukela is important? If so, why? If not, why not?
2. Divide into two groups, health workers and health users:
  - 2.1 Group A: list the rights and responsibilities of patients.
  - 2.2 Group B: list the rights and responsibilities of health care workers.
3. Compare these lists with the 'Patient's Bill of Rights' set out on pg 98.

3.3.3

### The role of traditional practitioners/healers in the health care system

Government has not only recognised the importance of traditional healers in the health care system but has also made a commitment to involve traditional healers in official health care services. During 1995 National Government instructed provincial government to conduct public hearings on traditional health care. Hearings were held in the provinces during May and June 1997 and a report compiled by the National Council of Provinces (NCOP) was presented to the National Assembly's Portfolio Committee on Health. [See Structures of government, pgs 28-32]

## Examples of recommendations on traditional healers in report by NCOP

- The establishment of a statutory council for traditional healers constituted by local representatives
- Traditional medical practices should be standardised
- Traditional healers must be registered
- Traditional healers must be recognised by and have access to medical aid schemes.



Traditional healers have greater access to communities than western practitioners.

It is estimated that there are at least 200 000 traditional health care healers in South Africa. Some of these are registered and licensed by about 100 organisations in terms of the Companies Act but there is no single regulatory body to standardise ethical codes or treatments to control fakes, or to test and certify traditional remedies.

Traditional healers have different roles and functions and do not necessarily fall into one category. There are diviners, prophets, herbalists and birth attendants.

Co-operation between the Department of Health and traditional healers will advance the delivery of health care services because:

- In some areas traditional practitioners have greater access to communities than western practitioners
- Consultation with traditional healers can eliminate harmful practices
- The use of traditional healers means that health care is offered to communities in remote rural communities.



### TRADITIONAL HEALERS

It is estimated that there are at least 200 000 traditional health care healers in South Africa.

## 3.4

# The private sector, independent practitioners and international agencies

### 3.4.1

## The private sector and independent practitioners

The private health sector is a large industry, comprising a number of different institutions, organisations and personnel. These include the pharmaceutical industry, medical technology industry, private hospitals and facilities, medical aid organisations and a range of private practitioners including traditional and complementary health healers.

The policy documents of the new health system put forward the vision of active co-operation between the private and public sector to promote a positive climate in which the two sectors can work together, with the common goal of achieving health for all.

The private practitioner is an important and often underestimated resource at the primary level of service. The policy documents express the hope that the majority of private practitioners of all categories will work increasingly in the public sector, deriving their income from health authorities, but maintaining their independence, as 'independent practitioners'.

Independent practitioners will be encouraged to form multi-disciplinary group practices which will make an important contribution to comprehensive health care at the primary level. Equity in the distribution of independent practitioners will be encouraged through incentives to work in under-serviced areas. Licensing for practices will be instituted to act as an attraction for under-serviced areas, and a disincentive to over-serviced areas. Private practitioners will also be encouraged to work in public clinics, health centres and hospitals on a regular rotational basis. They will have ready access to the community health centres to follow up their patients. Incentives will also be used to encourage activities to promote health and prevent ill health.

Most of the sentiments expressed in policy still need to be realised. The priority in transforming the health system has been the need to restructure the public sector into a workable and smooth-running district health system.

The KwaZulu-Natal Health Act requires the Minister to rationalise the integrated provincial health care network to ensure that private health care establishments, public health care establishments and any related personnel, equipment or services are equitably distributed



### UNDERESTIMATED RESOURCE

*The private practitioner is an important and often underestimated resource at the primary level of service.*



### ROTATIONAL SERVICE

*Private practitioners will also be encouraged to work in public clinics, health centres and hospitals on a regular rotational basis.*

throughout the province. How this will occur is still unclear because of the absence of the regulations in terms of the Act.

## International agencies

Since the democratic elections of 1994, South Africa has experienced a significant inflow of offers of assistance from international organisations. Most of the financial aid has been channelled through the National or Provincial Departments of Health. This has caused some problems as government departments have lacked capacity to implement projects.

As regards research projects in South Africa, especially in the field of vaccines and medication for HIV/AIDS, some very strict ethical guidelines and protocols have been developed by the Medical Research Council to ensure there is no unethical experimentation. There are also extremely stringent guidelines in the Draft National Health Bill, which will eventually regulate the field of medical experimental research.

### 3.4.2



#### **HIV/AIDS GUIDELINES**

*Very strict ethical guidelines and protocols have been developed by the Medical Research Council in the field of HIV/AIDS.*

## 3.5

## Health and the environment

Section 24 of the Constitution provides that everyone has the right to an environment that is not harmful to their health or well-being. The KwaZulu-Natal Health Act empowers the Minister to make regulations on matters related to public health. These areas include the production, distribution, storage and transportation of foodstuffs; the suitability of water for human consumption; the control of air, water, soil and noise pollution and a host of other areas.

There is presently an international focus on the link between the environment, development and health.

South Africa has adopted a new approach to environmental health. The old approach was retroactive, responding to environmental problems rather than being proactive and preventing the development of environmental dangers. An example of the new approach is the Tobacco Products Control Act, (83 of 1993) and the Department of Health's active education campaign on the dangers of smoking, including passive smoking. At present the government is investigating a National Environmental Health Policy.

Environmental health officers (approximately 1 982) are presently employed to provide services throughout South Africa. They deal with problems associated with water supplies, wastewater treatment and management, prevention and control of land pollution, food hygiene and safety, noise management, port health and many other issues.



#### **ENVIRONMENTAL HEALTH**

*South Africa has adopted a new approach to environmental health preventing the development of environmental dangers.*



TALKING POINT

## Some questions of governmental interference with private life



1. Smoking and drinking is decriminalised and controlled by laws. Should dagga smoking be as well? Why or why not?
2. Prostitution is used by many women to earn a living. Should it be legalised? Why or why not.
3. Does government have a right to intrude into the way people live their lives. If so, why? If not, why not?
4. If government has a right to intrude into the way people choose to live their lives, when does this affect their human rights?

### 3.6

## Complaints procedures and conclusion



### COMPLAINTS

Any person may submit a complaint about public or private health care services.

#### 3.6.1

### Complaints procedures

Any person may submit a complaint about public or private health care services to the head of the relevant health care establishment. If the head of the institution does not respond to the complaint within 30 days the person may, in terms of the KwaZulu-Natal Health Act, submit the complaint to the Ombudsperson (when this comes into effect).

The Health Ombudsperson is appointed by the Minister of Health to receive, investigate and mediate complaints within the integrated provincial health care network.

#### 3.6.2

### Conclusion

The Department of Health is facing the challenge of transformation. It is in the process of restructuring services to support a population of over 40 million people instead of a privileged population of just over four million. This is a difficult transition to manage. There will be many problems to overcome to ensure a proficient service for all.

Financial restraints and requirements of transformation bear heavily on the Department of Health's resources. A successful health care system requires professional management, sound labour practices and staff empowerment.



### TRANSFORMATION

A successful health care system requires professional management, sound labour practices and staff empowerment.