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OFFICE OF THE PREMIER	KANTOOR VAN DIE PREMIER	OFISI YA TONAKGOLO
No. 1 05 March 2004	No. 1 05 Maart 2004	Nomoro ya 1 05 Tlhakubele 2004
It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-	Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-	Mona ho tsebiswa hore Tonakgolo e ananetse Molao o latelang o tla phatlalatswa bakeng la tlhahisoleseding ya kakaretso:-
No. 1 of 2004 : Free State Initiation School Health Act, 2004	No. 1 van 2004 : Vrystaatse Inisiasieskoolgesondheidswet, 2004	Wa Nomoro ya 1 wa 2004 : Molao wa Bophelo bo Botle o mabapi le Mephato Freistata, 2004

ACT

To provide for the observation of health standards in traditional Initiation Schools; to provide for the giving of permission for the performance of a circumcision operation and the holding of Initiation School; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:-

(English text assented to and signed by the Premier.)

Definitions

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1. In this Act, unless the context indicates otherwise –

“**circumcision**” means the circumcision of a person as part of a traditional practice; 10

“**Department**” means the Department of Health in the Province;

“**District Medical Officer**” means a medical officer referred to in section 2; 15

“**Environmental Health Officer**” means a person referred to in section 9 to inspect an Initiation School;

“**gazette**” means the *Provincial Gazette* of the Province; 20

“**Head of Department**” means the Head of the Department of Health in the Province;

“**initiate**” means a person who is in any stage of the initiation process as contemplated in this Act; 25

“**Initiation School**” means a place where one or more initiates are initiated, also referred to as “LEBOLLO”, “BOGWERA” or “BOJALE”;

“**MEC**” means the Member of the Executive Council responsible for Health in the Province; 30

“**medical practitioner**” means a person registered as such under the Health Professions Act, 1974 (Act No. 56 of 1974); 35

“**parent**” means –

- (a) the parent of an initiate or prospective initiate; or
- (b) the person legally entitled to custody of an initiate or prospective initiate;

“**permission**” means permission in the form of a document referred to in Annexures A and B, issued by the District Medical Officer in terms of section 8(1)(a);

5 “**Province**” means the Province of the Free State established by section 103 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**prescribed**” means prescribed by regulation;

10 “**surgical instrument**” means an instrument used for the performance of circumcision, and “instrument” has a corresponding meaning;

“**this Act**” includes regulations made under the Act;

15 “**traditional authority**” means a traditional authority established in terms of a law recognised by section 211 of the Constitution;

20 “**traditional instrument**” means an instrument used by traditional surgeon for the performance of circumcision;

“**traditional practice**” includes a practice according to the custom, religion or any other rules of similar nature; and

25 “**traditional surgeon**” means a person trained and having experience in performing traditional circumcision and treatment of initiates.

Permission to hold Initiation School or treat initiates

30 2. (1) A person may not hold an Initiation School or treat an initiate without submitting an application and obtaining written permission from the District Medical Officer for the district in which the Initiation School is to be held or the initiate is to be treated: Provided that this subsection does not apply to the treatment of an initiate in a hospital or by a qualified medical practitioner.

35 (2) The MEC must prescribe the application procedures, which must include:

(a) approval by the Local Municipality;

40 (b) approval by the Traditional Authority where applicable;

- (c) consent of parent of initiates less than 18 years ;
 - (d) the Medical and Environmental Health requirements; and
 - (e) proof of experience and expertise in holding of an Initiation School. 5
- (3) The District Medical Officer, or a person assisting the District Medical Officer and in the presence of the District Medical Officer, must read the prescribed requirements stated in the application form in the official language understood by the person applying for permission. 10
- (4) The traditional surgeon who applies to hold an Initiation School or treat initiates must complete the document referred to in Annexure B in the Schedule and the District Medical Officer must also countersign to declare that the conditions stated therein have been explained in detail to the traditional surgeon in the official language understood by the traditional surgeon. 15

Consent by parent

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3. (1) The parent of a prospective initiate must, in respect of a prospective initiate below the age of 18 years, complete and sign the consent form referred to in Annexure C.
- (2) The parent of an initiate must, in addition to all other responsibilities which such parent has in respect of the initiate, render the assistance and co-operation as may be prescribed in the interest of the health of the initiate. 25
- (3) The prospective initiate who is 18 years of age or older and who does not require parental consent must complete and sign a consent form referred to in Annexure D. 30
- (4) A person, including the parent of an initiate, may not interfere with or obstruct the District Medical Officer in the performance of his or her duties under this Act. 35

Initiates

4. (1) The minimum age for initiates shall be as prescribed.

(2) All initiates must have a medical report of good health dated not more than 30 days and completed on a prescribed form from either a primary health care nurse or Medical Practitioner prior to admission to an Initiation School.

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(3) It is an offence to admit an initiate to an Initiation School without his or her expressed informed consent or the consent of a parent.

(4) The period of initiation shall not exceed two calendar months.

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Restriction of person to treat an initiate

5. (1) An initiate may not treat or attempt to treat another initiate at any stage during or after the holding of an Initiation School.

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(2) Only the traditional surgeon, medical practitioner, the District Medical Officer or another person authorized by the District Medical Officer, may treat an initiate.

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Permission to perform circumcision

6. (1) A traditional surgeon may not perform a circumcision in the Province without written permission of the District Medical Officer for the district in which the circumcision is to be performed: Provided that this subsection does not apply to the treatment of an initiate in a hospital or by a qualified medical practitioner.

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(2) (a) A traditional surgeon must apply as prescribed for permission to perform circumcision and such permission may only be given if the conditions referred to in Annexure A are complied with.

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(b) The District Medical Officer may:

(i) refuse the use of a surgical instrument that the traditional surgeon intends to use; and

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(ii) prescribe or supply a suitable surgical instrument where the use of a particular instrument has been refused in terms of subparagraph (i).

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(c) Where a suitable surgical instrument has been prescribed or supplied in terms of paragraph (b) (ii), the District Medical Officer concerned or another person authorized by the District Medical Officer must demonstrate to, or train, the traditional surgeon in use of the instrument.

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- (d) The District Medical Officer, or a person assisting such District Medical Officer, must read the conditions in the official language understood by the traditional surgeon applying for permission.
- (e) A traditional surgeon who applies for permission to perform a circumcision and the District Medical Officer must complete the document containing the conditions referred to in Annexure A. 5
- (3) A traditional surgeon who has applied for permission to perform circumcision must, within one month of the date of the application, submit proof of compliance with the conditions referred to in Annexure A, failing which the application shall lapse. 10
- (4) A traditional surgeon whose application has lapsed as contemplated in subsection (3) may apply anew for permission to the District Medical Officer concerned, and the provisions of this Act apply as if application for permission is made for the first time. 15

Validity period permission

7. (a) The period of validity of permission granted in terms of this Act shall be as prescribed. 20
- (b) When an existing permission expires and an application for its renewal has been lodged with the District Medical Officer, the permission shall remain valid until the application has been disposed of. 25

Powers and functions of District Medical Officer

8. (1) The District Medical Officer must, in addition to any other power and functions entrusted to him or her by or under this Act, exercise and perform the following power and functions: 30
- (a) issue of permissions to circumcise or treat an initiate; 35
- (b) keeping of records and statistics pertaining to circumcision and reporting thereon, as prescribed to the Department;
- (c) refer an initiate to a health institution if deemed necessary; 40
- (d) order the closure of an Initiation School where such school does not comply with the provisions of this Act.

- (2) The District Medical Officer has the right of access to any premises or to attend any occasion or instance, where circumcision is performed or an initiate is treated.

5 **Designation of Environmental Health Officer**

9. The MEC must designate in writing at least one Environmental Health Officer per district as an inspector for Initiation Schools.

10 **Duties and responsibilities of Environmental Health Officer**

10. The Environmental Health Officer must inspect an Initiation School to ensure that –

- 15 (i) there is adequate supply of clean water;
- (ii) there are acceptable ablution facilities;
- (iii) the food is prepared in a hygienic manner;
- 20 (iv) there is adequate shelter against natural elements;
- (v) there are no other factors in the environment that could have a negative impact on the lives or health of the initiates in terms of any other relevant Act;
- 25 (vi) The instruments to be used for circumcision are kept, prepared and used in a manner that will not place an initiate at risk of injury, disease or death.

30 **Penalties**

11. (1) A person who contravenes the provisions of sections 2(1), 3(4) and 5 is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.
- 35 (2) A person who contravenes the provisions of section 6(1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding ten years, or to imprisonment for a period of five years without the option of a fine.

Appeal against the decision made by the District Medical Officer

12. (1) The prospective applicant for the holding of an Initiation School or treating of initiates and performing circumcision may appeal to the Head of the Department if he or she is not satisfied with the decision made by the District Medical Officer in terms of sections 2(1) and 6(1). 5
- (2) The appeal must be lodged within 30 days after being notified of the decision of the District Medical Officer. 10
- (3) The appeal must state:
- (a) The decision against which the appeal is lodged;
- (b) The grounds on which the appeal is based. 15
- (4) The Head of Department must respond within 14 days of receipt of the appeal, and the appellant must be duly notified of the outcome.

Regulations 20

13. The MEC may make regulations in regard to any matter which in the opinion of the MEC may be necessary or desirable for the purposes of achieving the objects of this Act. 25

Short title

14. This Act is called the Free State Initiation School Health Act, 2004.