

**A Comprehensive Policy Guideline
on:
Remunerative Work Outside of the
Public Service ("RWOPS")
for
Medical Practitioners and Dentists**



health

Department:
Health
REPUBLIC OF SOUTH AFRICA

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BROAD DEFINITION OF RWOPS CONCEPT

The generic definition of “RWOPS” refers to the remunerative work outside of public service by medical doctors and dentists. This is an official arrangement between the medical officers and the management of the health facility, which is designed to allow for more complementary or development and exposure to medical practice, in the case where the current facilities have inadequate capacity to strengthen clinical skills.

1. PREAMBLE

- 1.1 Non adherence to RWOPS policies and inconsistencies in the application of RWOPS policies are leading to compromised patient care, teaching and training and research activities within the public health sector.
- 1.2 It is therefore essential to develop National Guidelines that are adopted and applied uniformly throughout the country, to ensure that there is transparency, fairness and consistency and to ensure that there is no negative impact on service delivery that is in any way, detrimental to the health care of patients treated in the public health sector.
- 1.3 The fundamental purpose of these guidelines is to guide and regulate the processes and requirements for consideration of applications submitted by Medical Practitioners and/ or Dentists who are employed either on full time or fixed contract basis in the public health sector, for the purposes of performing official RWOPS.

2. PURPOSE

The purpose of these guidelines is to provide a comprehensive framework within which Medical Practitioners and/ or Dentists in the public health sector may perform RWOPS. However, full time and contracted Medical Practitioners and/ or Dentists are by practice standards, expected to optimally place the whole of their performance time at the disposal of the employer to perform the work that they are appointed for, in compliance with the service delivery

agreements and in accordance with Section 30 (b) of the Public Service Act, 1994, as amended ("the Act").

3. SCOPE OF APPLICABILITY/ ELIGIBILITY

3.1 Heads of Department of all the respective Provincial Departments of Health or **delegated authority**, may grant permission for RWOPS to Medical Practitioners and/ or Dentists employed by the relevant Provincial Department of Health in terms of "the Act". Such permission should not unreasonably be withheld and the following conditions and criteria should be applied in the granting and management of RWOPS:

3.1.1 These guidelines apply to all full-time and contracted employees who are employed as Medical Practitioners and/ or Dentists in terms of the Act, and who are employed in all health facilities in Provincial and National Departments of Health on a permanent or for a fixed contract period;

3.1.2 These guidelines **do** apply to sessional employees who may have their own private practices and who are employed in a public health facility for a specific number of hours per week or month;

3.1.3 These guidelines do apply to Medical Practitioners and/ or Dentists who are running solo practices, where **there is provision** for cover of patients when the Medical Practitioners and/ or Dentist is scheduled to perform his/her normal, overtime or stand-by duties and are employed in one of the Public Health Facilities (Such proof of employment must accompany the application);

3.1.4 These guidelines **exclude** Medical Practitioners and/ or Dentists employed in their capacity as Interns, Community Service Doctors and Registrars/ Senior Registrars who are not permitted to perform RWOPS in accordance with the HPCSA Regulations (as per their registration classification);

3.1.5 The performance of RWOPS must not impact negatively on service delivery, teaching and training and research (where applicable), nor be detrimental to the health care of patients treated in state facilities;

3.1.6 The approval of RWOPS will be subject to the continued performance of all the contractual obligations of the applying Medical Practitioners and/ or Dentist as contained in their employment contract and in accordance with the agreed Work-Plan. Therefore, no conflict of interest should exist between the performance of RWOPS and the Medical Practitioners' and/ or Dentist's contractual obligations with the State;

3.1.7 RWOPS may **not** be undertaken during working hours as prescribed by the conditions of service.

3.1.8 Approval for RWOPS may be granted for Medical Practitioners /Dentists performing **certain services for an Organ/s of State** as listed in the amended Annexure of the DPSA Directive.

4. REGULATIONS

The performance of RWOPS is regulated by:

- 4.1. Public Service Act, 1994;
- 4.2. Public Service Regulations, 2016;
- 4.3. Basic Conditions of Employment Act, 1997;
- 4.4. Public Finance Management Act, 1999
- 4.5. Treasury Regulations;
- 4.6. Health Professions Act, 1974; and
- 4.7. Labour Relations Act, 1995
- 4.8. Directive on other Remunerative Work outside the Employee's Employment in the relevant Department as contemplated in Section 30 of the Public Service Act, 1994
- 4.9. Guide managing ethics in the Public Service
- 4.10. Directive on conducting business with an Organ of State

5. DEFINITIONS

For the purposes of the guidelines the following definitions apply:

"Medical Practitioner and/ or Dentist" means a qualified health professional who has complied with all tertiary studies that have allowed him/her to successfully register with the Health Professions Council of South Africa as such;

"Department" means the National Department of Health and/ or Provincial department of Health;

"Employee" means a person who is employed part-time or full-time by the Department in terms of the Act, in a permanent or temporary capacity or for a fixed period;

"Ethics Officer/Champion" is a very senior person in a department who strongly advocates and drives the ethics cause in that department. This is not a new position but a specific role amongst other roles to be performed by an executive who has other core responsibilities, usually in the governance of the department.

"Ethics Committee" means a structure that is set up by a department to provide strategic direction and oversight of the ethics management of the department

"Outside the Public Service" means any organization that is not identified as a State Department and an Organ of State;

"Commutated overtime" is the contracted number of hours of overtime per week performed by a medically qualified employee and for which he/she receives compensation by means of a monthly allowance;

"Overtime" means:

1. Hours worked in excess of a 40 hours (full time employees) or 25 hours (part time employees) work week;
2. Work that is performed outside an employee's prescribed hours of duty in the case of a non-shift worker;
3. A shift, or portion of a shift, which is in excess of the number of shifts that one is expected to perform during a pre-defined period in order to fulfil the 40 hour work week in the case of a shift worker;

"Remunerative work outside employer in the Public Service ("RWOPS")"

means any activity that is performed:

1. Outside the period during which an employee must report for duty for purposes of fulfilling the prescribed work week;
2. Outside a period of overtime that an employee has agreed to perform;
3. Outside a period of standby;
4. Outside the public service and for which the employee will receive compensation in the form of a salary, wage, allowance, fee, bonus, honorarium or reward.
5. Outside "organ of state" that is any department of state or administration in the national, provincial or local sphere of government or any other functionary or Department in terms of the DPSA Directive on conducting business with an Organ of State

"Sessional employee" means a Medical Practitioner who is remunerated by the department when he/she renders service for a fixed number of hours per week;

"Standby" means being available during a specific period which is outside one's normal working hours to render service should a need arise;

"Conflict of interest" means any situation arising from the performance of RWOPS in which the personal interests of the employee clash with his/her professional obligations in the department to the extent that the fulfilling of his/her professional obligation/s is/are negatively affected;

"Normal Working hours" means the hours when an official is scheduled to work.

5. ESTABLISHMENT OF ETHICS STRUCTURES

- 5.1 Ethics structures are the formal organisational components (such as the committee and office) that are established to manage ethics in departments.

5.2 HoDs' are responsible for the ethical culture in their organisations. They take final accountability and must set the tone. They will however delegate the responsibility for the management of ethics to other structures and staff members.

5.3 The ethics structures consist of the following components:

5.3.1 Ethics officer/champion

5.3.1.1 Departments shall designate an ethics champion at an Executive level with the delegated authority to drive ethics and anti-corruption initiatives. Ethics champion are responsible for their departments' ethics performance."

5.3.1.2 It is a role that is formally designated by the HoD to a well-respected member of the executive management team. At national level this will be someone at least at salary level 15, and in provincial departments at least at salary level 14.

5.3.1.3 Roles of the ethics officer/champion;

An ethics champion must enhance the ethical culture in the department by fulfilling the following responsibilities:

- Driving the department's ethics management programme and ensuring that it retains momentum;
- Advocating the interests of the ethics office;
- Chairing the ethics committee (where appropriate);
- Ensuring the co-ordination and integration of the department's ethics initiative with other related initiatives (such as anti-corruption, policy development, compliance, risk management, and service delivery plans);
- Ensuring procedures are in place to investigate misconduct;
- Elevating significant ethics issues to the Hod; and
- Promoting discussion of ethics issues at executive level.

5.3.2 Ethics committee

5.3.2.1 Departments shall establish an ethics committee (or

Make use of an existing committee) to assist the Determination of the department's ethics strategy, and to provide oversight of integrity management."

5.3.2.2 The ethics committee is a structure that is set up by a Department to provide **strategic direction** and **oversight** of the ethics management of the department.

5.3.2.3 Who should serve in the ethics committee?

Members of the ethics committee may consist of representatives from various functional units/sections within the department. In the Public Health Sector the following will be members of the Ethics Committee;

5.3.2.3.1 Hospital CEO

5.3.2.3.2 HR Manager – must be a member of the Committee

5.3.2.3.3 Nursing Manager – must be a member of the Committee;

5.3.2.3.4 Dean's Designate – must be a member of the Committee (in the case of Joint Staff);

5.3.2.3.5 Head of the Clinical Department of the applicant – must be a member of the Committee;

5.3.2.3.6 Clinical Manager in the Institution; and

5.3.2.3.7 Ethics Officer/Chairing the Committee (Support for the meeting must be from Ethics Office).

5.3.2.3.8 Functions of the ethics committee?

The functions of the committee must be formally drafted in the Terms of Reference, which must be approved by the HoD. The Functions should include:

- Ensuring that the department's ethics risks are assessed and that the department has an understanding of their ethics risk profile;

- Approving a strategy and plan for the management of ethics in the department;
- Ensuring that the department's code of ethics (or value statement) and relevant policies, are developed or revised to address the ethics risk;
- Ensuring integration and collaboration of various ethics-related functions (such as anti-fraud and anti-corruption, compliance, internal audit, investigations, human resources, and labour relations);
- Settling boundary disputes between various ethics-related functions;
- Monitoring and reporting on the department's ethics performance, including:
 - The implementation of the ethics management strategy
 - The ethical culture of the department; and
 - Fairness, effectiveness and timeousness of disciplinary processes
- Being custodians of the organisational values and ensuring that these are consistently applied. This will include ensuring that departmental decisions and actions are substantively in line with the spirit of the department's code of ethics and policies; and
- Providing strategic advice to leadership on ethical issues.

5.3.2.3.9 The ethics committee will keep ExCo informed of the ethics performance of the department, and will formally report to the HoD through the ethics officer/champion. The committee will also prepare the report on the department's ethics performance to the relevant portfolio committee. This submission must include in the department's annual report submission.

6. Guidelines

6.1 Conditions for the performance of RWOPS

All applications for RWOPS will be considered by taking the following into consideration:

- 6.1.1 The work must be performed outside the employee's prescribed working hours, any period of standby and any period of overtime/commuted overtime.
- 6.1.2 The work must be performed outside the public service including any organ of state.
- 6.1.3 There RWOPS should be managed in such a manner that it will not cause embarrassment to the Department or the Public Service as a whole.
- 6.1.4 There must be no conflict of interest between the work that will be performed outside the Department and the person's duties within the Department. In the event of there being a conflict of interest, approval to perform RWOPS will **not** be granted, or will **be** withdrawn, if discovered after approval has been granted.
- 6.1.5 The work must in no way interfere with, or impede the effective and/or efficient performance of the employee's functions within the Department as per agreed work-plan.
- 6.1.6 Heads of Clinical Departments / Clinical Heads of the Institution should be able to locate/reach the Medical doctor and/ or Dentist at all times at service points as indicated on the work-plan/program
- 6.1.7 Applications of Medical Practitioners and/ or Dentists who wish to run solo practices in their names will **not** be considered for RWOPS, where there is no provision for cover of patients when the Medical Doctors and/ or Dentists is scheduled to perform his/her normal, overtime or and stand-by duties
- 6.1.8 Employees will not utilize the Department's resources such as, but not limited to: telephones, computers, office space, stationery, equipment, vehicles, medication and other consumables during the performance of any RWOPS. To this end, supervisors and managers must be alert to the sudden increase in resource allocations and costs e.g. increased telephone costs, increased use of official vehicles, increased stationery orders etc.
- 6.1.9 Approval for RWOPS agreements must be renewed annually.

6.2 Criteria for the Limitation/Restriction of RWOPS Hours

- 6.2.1 The hours set aside for the performance of RWOPS may not exceed the following limits:

- 6.2.1.1 Employees performing commuted overtime in group 3:
ten (10) hours per week;
- 6.2.1.2 Employees performing commuted overtime in group 2:
(15) hours per week;
- 6.2.1.3 Other employees: Fifteen (15) hours per week; and
- 6.2.1.4 Heads of Clinical Department, RWOPS may not exceed eight
(8) hours per week. Notwithstanding the fact that authority may
be granted for the performance for RWOPS, the employee can
be called to perform duty on weekends and public holidays,
should the need arise.

6.3 Application Forms

- 6.3.1 Before undertaking other remunerative work outside the Employee's
Employment in the Relevant Department, an employee must first
obtain written permission from the executive authority or delegated
authority in terms of the applicable prescripts and the DPSA Directive.
- 6.3.2 The applicant must complete section A to D of the application form
(Section A) and submits the duly completed form to the Ethics Officer.
- 6.3.3 All applications must be accompanied by an approved and signed
work-plan, which includes Commuted Overtime where applicable.
- 6.3.4 The request to perform other remunerative work should not exceed a
period of 12 calendar months.
- 6.3.5 An employee must be advised in writing within 30 days of receipt of
his/her application of the outcome of that application otherwise it will
be deemed that permission has been granted.¹

6.4 Appeal Process

- 6.4.1 In the event that there is an appeal against the ruling of the RWOPS
application, such appeal will be considered by the Appeal Committee
comprising of:
 - 6.4.1.1 Provincial Head of Department;
 - 6.4.1.2 Dean;
 - 6.4.1.3 Deputy Director-General (Clinical Services) or equivalent;

¹ In terms of section 30 of the Public Service Act, 1994 an employee must be advised of the outcome of an application within 30 days of receipt of his/her application, otherwise it is deemed that permission has been granted.

6.4.1.4 Ethics Officer

6.4.1.5 Provincial HR Manager

6.4.2 The Committee will make their recommendations to the MEC for
Consideration and approval

6.4.2.1 The Committee to consider applications by Head of Clinical
Department will be constituted by:

6.4.2.1.1 Dean's designated of faculty;

6.4.2.1.2 Institution's CEO; and

6.4.2.1.3 Deputy Director-General (Clinical Services).

6.4.2.1.4 Ethics Officer

6.5 Processing of the application

6.5.1 The Ethics Officer submits the completed form, within three days of receipt, to the Applicant's immediate supervisor; who is required to complete section E. In making recommendations to support or not to support the application, the supervisor considers if the other remunerative work could reasonably be expected to interfere with or impede the effective or efficient performance of the employees' functions or constitute a contravention of the Code of Conduct.

6.5.2 The Applicant's immediate supervisor must duly complete section E and submit the completed form back to the Ethics Officer, within five days of receipt of the form from the Ethics Officer.

6.5.3 After receiving the duly completed application form (with sections A to E duly completed) from the supervisor of the applicant, the Ethics Officer must analyze all the information to identify any possible, perceived or potential conflict of interest that may arise as the result of the employee undertaking other remunerative work.

6.5.4 To assist the Ethics Officer with his/ her recommendations to support or not to support the application, the Ethics Officer may request all relevant information from the human resources component of the Department relating to the performance of the Applicant. This is to determine the likelihood of the other remunerative work interfering with or impeding the effective or efficient performance of the employees' functions or constituting a contravention of the Code of Conduct.

- 6.5.5 The Ethics Officer shall complete section F and submit his/her recommendation to the EA or delegated authority for a decision.
- 6.5.6 The Ethic Officer must duly complete section F within 7 days receipt of the form from the supervisor.
- 6.5.7 The Ethics Officer must ensure as far as possible, that the 30 days period is adhered to.

6.6 Decision Making

- 6.6.1 The EA or delegated authority must examine all the information contained in the application form, including the recommendation by the ethics officer, and makes a final decision-ether to grant permission or to decline the request.
- 6.6.2 The decision of the EA or delegation authority, whether he/she granted permission or declined the request, must be recorded in section G of the application form. If permission was not granted by the EA or delegated authority, he/she shall record the reason(s) for his/her decision in writing, in section G.
- 6.6.3 The EA or delegated authority, when making a decision, must at least take into account whether or not the other remuneration work;
 - 6.6.3.1 Could reasonably be expected to interfere with or impede the Effective or efficient performance of the employee's functions;
Or
 - 6.6.3.2 Constitutes a contravention of the Code of Conduct
- 6.6.4 The EA or delegated authority grants permission to an employee to perform other remuneration work by signing the application form and the certificate of approval.

- 6.6.5 The EA or delegated authority must ensure that the decision is made within 15 days of receipts of the application form from the Ethics Officer and must ensure as far as possible that the 30 day period contemplated in section 30 of the Act is complied with.
- 6.6.6 The Approval period should not exceed 12 calendar months from date of approval and is only valid for the exact type of other remunerative work for which approval was sought and granted.
- 6.6.7 If permission is granted on the basis of section 30(3)(b) of the Act, the deemed permission remains valid for a period of 12 calendar months and all provisions within this apply.
- 6.6.8 If the employees wish to continue performing other remuneration work after the approval period, a new application should be submitted 30 days before expiry.

6.7 Feedback

- 6.7.1 When permission is granted by EA or delegated authority, the Ethics Officer shall return the sign copy of the certificate of approval (Annexure B) to the Application and inform the supervisor of the outcome.

6.8. Record Keeping

- 6.8.1 The Ethics must capture all steps of the application process contemplated in paragraph 6 on the PERSAL system under the field created specifically for the recording of applications, including if the approval was obtained in terms of section 30(3)(b) of the Act.
- 6.8.2 All employees who have been granted approval to perform other remunerative work must attach the certificate of approval when disclosing their financial interest in terms of the Regulations.
- 6.8.3 A copy of the application forms must be filed in the Applicant's personnel file for record keeping.

7. Transitional measures

7.1 In terms of the Regulations, the following transitional period is introduced to manage existing approvals.

All approved and deemed approved applications which were granted prior to the coming into effect of this DPSA Directive, being 1 November 2016, shall terminate within 6 calendar months after the commencement of this Directive.

7.2 If the employee wishes to continue performing other remunerative work after the six calendar month period referred to in paragraph 7.1, a new application should be submitted in the prescribed format.

8. Non-compliance

8.1 The Ethics Officer must periodically monitor employees who have permission To perform other remunerative work to guard against other remunerative work Interfering or impeding the effective or efficient performance of the employee's functions in the department or for possible contravention of the Code of Conduct (which includes amongst others a prohibition on employees conducting business with any organ of state).

8.2 All cases of non-compliance must be dealt with in terms of section 16 A and 16 B of the Act as well as section 31 of the Act. The outcome must be captured on PERSAL and, where applicable, the amount to be repaid/deducted indicated.

8.3 In line with section 5(7) of the Act, any decision made by the EA or his/her delegated authority shall be corrected if that decision was based on an error of fact, law or fraud. This includes, amongst others: where Applicants omitted facts that may have influenced the decision to grant permission; and/or where the Application misrepresented the facts pertaining to his/her involvement in other remuneration work.

9. Internal, External transfer and New appointment

9.1 Applications must be reviewed should the employee be transferred or reassigned within a department. Employees who are transferred or reassigned within a department should inform the Ethics Officer within 5 days after accepting a transfer/reassignment. The Ethics Officer assesses the impact of the change for possible, perceived or potential conflict of interest and determine the likelihood of the other remunerative work to interfere or impede the effective or efficient performance of the employee's functions or if it constitutes a contravention of Code of Conduct. The Ethics Officer submits his/her assessment to the EA or delegated authority within 5 days after being informed. The EA or delegated authority then has 15 days to review his/her decision.

9.2 Employees who are transferred to another department must submit, within 30 days after accepting a transfer new application form to the relevant EA or delegated authority as per this Directive.

9.3 During the recruitment process, candidates must be informed that they should stop all other remunerative work before appointed into the public service. After appointment, they may request permission to perform other remunerative work.

10.1 Cessation of RWOPS

10.1 Should an employee no longer perform RWOPS, a written notice indicating the date on which RWOPS ceased should be given by the employee to the supervisor/manager.

10.2 This notice should be forwarded to the HR Office and tabled for noting at the next RWOPS Committee meeting.

10.2 Performance of RWOPS without permission

10.2.1 Should a Medical Practitioner and/ or Dentist be found to be performing RWOPS without approval, he/she shall in terms of section 31.1(a) (i) of the Act:

10.2.2 Pay into revenue an amount equal to the amount received as remuneration,
or

10.2.3 Pay into revenue the value determined by the Head of Department if it does not consist of money.

10.2.4 Should a Medical Practitioner and/or Dentist fail to pay an amount or value into revenue, the department shall recover it from him/her by way of legal action and pay it into revenue.

10.2.5 A Medical Practitioner and/ or Dentist performing RWOPS without permission shall also be subjected to disciplinary action in terms of the Disciplinary Code and Procedure of the Public Service.

11. Non-compliance with Regulations to perform RWOPS

If conditions of all Regulations to perform RWOPS are not being complied with by the Medical Doctor and/ or Dentist that has been granted permission to perform RWOPS, the department reserves the right to withdraw the permission to perform RWOPS, subject to the *audi alteram partem* principle being observed.

12. MONITORING AND EVALUATION OF RWOPS

12.1 The following, but not limited to, monitoring methods must apply to ensure the effective monitoring of RWOPS:

12.1.1 All applications for RWOPS and renewal of applications to perform RWOPS must be filed on the employee's personal file once finalized;

12.1.2 The Medical Practitioner and/ or Dentist performing RWOPS is obliged to submit proof of income or an IRP5 tax form **received Annually, in writing;**

12.1.3 The Medical Practitioner and/or Dentist performing RWOPS will be required to complete a log book to record RWOPS which must be signed-off by the supervisor and placed on the personal file of the Medical Doctor and/ or Dentist concerned, during the approved RWOPS period;

12.1.4 The immediate supervisor should ensure that all supervisees reporting to him/her who were granted approval to perform RWOPS are on duty for

all rostered hours and commuted overtime periods. This should be through an introduction of a register book;

12.1.5 The immediate supervisor should ensure that any supervisee who is granted permission for RWOPS performs the RWOPS in accordance with the application and that service of the supervisee during normal working hours and overtime is not negatively affected;

12.1.6 The immediate supervisor should ensure that he/she takes the necessary corrective action should it be found that work performance during normal hours, overtime and standby periods is being compromised and negatively affected by the performance of RWOPS or, where employees are performing RWOPS during periods when they should be on duty or, during periods of leave (other than authorized vacation leave);

12.1.7 Heads of Clinical Department must ensure that service delivery is not negatively affected in the section, unit, component or clinical department by employees performing RWOPS;

12.1.8 The Provincial Head of Health Department should ensure that each facility has a fully operational RWOPS Committee which regularly deliberates on applications for RWOPS and makes recommendations to the relevant authority inclusion of the appeals committee

12.2 Reporting of Unauthorized RWOPS/ RWOPS that is not in accordance with this policy

12.2.1 Anyone who wishes to report unauthorized performance of RWOPS or the performance of RWOPS that is not in accordance with this policy must utilize the any of the fraud lines provided by the Department or the department's reporting mechanisms.

13.

APPROVED AND AUTHORIZED BY THE NATIONAL HEALTH COUNCIL



Signature: NHC Chairperson

Minister of Health

DATE: 29/11/2017