IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: 2024/071038

In the matter between:

CANCER ALLIANCE	First Applicant
And	
MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE	First Respondent
HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent
CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL	Eighth Respondent

MINISTER OF FINANCE Ninth Respondent

NATIONAL TREASURY Tenth Respondent

NOTICE OF MOTION

TAKE NOTICE that application will be made on behalf of abovenamed Applicants at 10:00 am on **23 JULY 2024** or so soon thereafter as counsel may be heard, for an order in the following terms:

PART A – THE PROVISION OF RADIATION ONCOLOGY SERVICES AT CHARLOTTE MAXEKE FOR BACKLOG LIST PATIENTS

1. That non-compliance with the form, service and time periods provided for in the Uniform Rules of Court be condoned and directing that this matter be heard as one of urgency in terms of Uniform Rule 6(12).

2. The First, Second, Sixth, Seventh and Eighth Respondents failure to devise and implement a plan to provide radiation oncology services at Charlotte Maxeke Johannesburg Academic Hospital and Steve Biko Academic Hospital in Gauteng to cancer patients on the backlog list is declared to be unlawful and unconstitutional.

3. The First, Second, Sixth, Seventh and Eighth Respondents are directed to update the backlog list of cancer patients who are awaiting radiation oncology services in Gauteng within 45 days from the date of this order.

4. The First, Second, Sixth, Seventh and Eighth Respondents are directed to take all steps necessary to provide radiation oncology services to backlog list patients who are awaiting treatment at Charlotte Maxeke Johannesburg Academic Hospital and Steve Biko Academic Hospital in Gauteng at a public and or private facility.

5. The Respondents are interdicted and restrained from paying, disbursing, or otherwise dealing with R 250 million, which has been allocated specifically to address the radiation oncology backlog in Gauteng province, pending the outcome and finalisation of Part B of this application.

6. The First, Second, Sixth, Seventh and Eighth Respondents are directed to file an updated report within 3 months from the date of this order detailing the following:

   6.1. A progress report on the steps taken to provide radiation oncology services to cancer patients who are on the backlog list in Gauteng.

   6.2. A progress report on the First Respondent's long-term plan to provide radiation oncology services to cancer patients at

Charlotte Maxeke Johannesburg Academic Hospital and Steve Biko Academic Hospital in Gauteng.

7. In the event that the First Respondent fails to comply with the orders in paragraphs 2 to 6 above, the Applicant is entitled to re-enrol the matter on the same papers, duly supplemented to the extent necessary.

8. The Applicant is granted leave to supplement the application in relation to the relief sought in Part B of the application.

9. Costs of the application, only in the event of opposition by the Respondents, including the costs of two counsel.

10. Further and/or alternative relief.

TAKE NOTICE FURTHER that the affidavit of **SALOMÉ JEANETTE MEYER** and annexures thereto shall be used in support of **Part A** of this application.

TAKE NOTICE FURTHER that if the Respondents intend opposing this application, they are required to:

a) notify the Applicant's attorney in writing of their intention to do so on or before **10:00** on 3 July 2024, and in such notice appoint an address referred to in Uniform Rule 6(5)(b) at which the Respondents will accept notice and service of all documents in these proceedings.

b) File their answering affidavits, if any, on or before **16:00 on** 12 July 2024.

c) The Applicant may file its replying affidavit, if any, on or before 16 July 2024.

PLEASE TAKE NOTICE FURTHER that the Applicant has appointed **SECTION27**, at the below mentioned address at which the Applicant will accept notice and service of all process and proceedings in this matter.

KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY.

SIGNED at BRAAMFONTEIN **on this the** 27 **day of** JUNE **2024.**

SECTION27
Applicants' Attorneys
1st Floor, South Point Corner,
87 De Korte Street,
Braamfontein
Tel: 011 356 4100
Fax: 011 339 4311
Email: Mapipa@section27.org.za

TO: **THE REGISTRAR OF ABOVE HONOURABLE COURT**
Johannesburg

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE**
First Respondent
45 Commissioner Street
Johannesburg
Tel: 011 355 3000
Email: Ralehoko@gauteng.gov.za
Tinyiko.manyisa@gauteng.gov.za

15:35

DEPARTMENT OF HEALTH
OFFICE OF THE HOD
27 JUN
PRIVATE BAG X
JOHANNESBURG

AND TO: **ACTING HEAD OF DEPARTMENT: GAUTENG HEALTH**
Second Respondent
45 Commissioner Street
Johannesburg
Tel: 011 355 3000
Email: Arnold.malotana@gauteng.gov.za
Stephen.mankupane@gauteng.gov.za

DEPARTMENT OF HEALTH
OFFICE OF THE HOD
PRIVATE BAG X085
MARSHALLTOWN 2107

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR TREASURY: GAUTENG PROVINCE**
Third Respondent
Imbumba House
75 Fox Street
Marshalltown
Johannesburg
Tel: 011 227 9270
Email: Jacob.mamabolo@gauteng.gov.za
Ncumisa.mnyani@gauteng.gov.za
Mncedisi.vilakazi@gauteng.gov.za

AND TO: **VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD**
Fourth Respondent
Hertford Office Part
Building J
90 Bekker Road
Vorna Valley
Midrand
Email: info.mea@siemens-healthineers.com

AND TO: **MINISTER OF HEALTH**
Fifth Respondent
Dr A B Xuma Building
1112 Voortrekker Road
Pretoria
Tel: 012 395 8086
Email: joe.phaahla@health.gov.za
brendaledwaba@health.gov.za

AND TO: **DIRECTOR-GENERAL FOR THE DEPARTMENT OF HEALTH**
Sixth Respondent
Dr A B Xuma Building
1112 Voortrekker Road
Pretoria
Tel: 012 395 9150
Email: Jaqueline.Gininda@health.gov.za

AND TO: **CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL**
Seventh Respondent
17 Jubilee Road
Parktown
Johannesburg
Tel: 011 488 4911
Email: Gladys.bogoshi@gauteng.gov.za

MQangqa
27/06/24
4:18pm

AND TO: **CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL**
Eighth Respondent
Corner Steve Biko and Malan Street
Capital Park
Pretoria
Tel: 012 354 1140
Email: Lehlohonolo@majake@gauteng.gov.za

AND TO: **MINISTER OF FINANCE**
Ninth Respondent
40 Church Street
Old Reserve Bank Building
Pretoria
Tel: 012 315 5372
Email: mary.marumo@treasury.gov.za

AND TO: **NATIONAL TREASURY**
40 WF Nkomo Street
Pretoria
Tel: 012 315 5111
Email: DGRegistry@treasury.gov.za

PART B

REVIEW OF SECOND RESPONDENT'S DECISION OF 30 APRIL 2024

TAKE NOTICE that application will be made, on behalf of the abovenamed Applicant, for an expedited hearing date to be arranged with the Registrar for an order in the following terms:

1. The Second Respondent's decision of 30 April 2024 to allocate R 250 million, out of the allocated R 784 million, for the outsourcing of radiation oncology services **("Second Respondent's decision")** is irrational, arbitrary, unlawful and of no force or effect.

2. The First, Second, and Fifth Respondents' decision on 30 April 2024 to award the Radiation Oncology Services tender or, alternatively, Part C of the Radiation Oncology Services tender to Varian Medical Systems.

3. The Second Respondent's decision is reviewed and set aside.

4. Costs of the application, only in the event of opposition by the Respondents, including the costs of two counsel.

5. Further and/or alternative relief.

TAKE NOTICE FURTHER that the affidavit of **SALOMÉ JEANETTE MEYER** and annexures thereto shall be used in support of Part B of this application.

PLEASE TAKE NOTICE FURTHER that the Applicant has appointed **SECTION27**, at the below mentioned address at which the Applicant will accept notice and service of all process and proceedings in this matter.

TAKE NOTICE FURTHER THAT the Second Respondent is called upon to produce the record of proceedings and dispatch it within **ten (10) days** of receipt of this application to the Registrar of this Honourable Court and give such reasons as are required by law or they desire to make and inform the Applicant that they have done so.

Within a period of ten (10) days after receipt of the record of proceedings the Applicant will supplement its grounds of review.

TAKE NOTICE FURTHER that if the Respondents intend opposing the order sought in **Part B**, they are required to:

(a) Notify the applicant's attorneys in writing of your intention to oppose Part B proceedings within a period of fifteen (15) days of receipt of this application in accordance with the requirements of Rule 6(5)(d)(i) of the Uniform Rules of Court.

(b) Deliver your answering affidavit within a period of (20) days after the expiry of the period within which the Applicant is entitled to supplement its grounds of review. Thereafter, the Applicant will reply to the answering affidavits within a period of five (5) days after delivery of the answering affidavit.

TAKE NOTICE FURTHER THAT if the Respondents do not notify the Applicants' Attorney of their notice of intention to oppose the application as set out above, and/or do not file their answering affidavit as set out above, and/or do not appear whether in person or by representation at the hearing on the date and at the time aforesaid, an order may be made against the Respondents in their absence.

KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY.

SIGNED at BRAAMFONTEIN **on this the** 27 **day of** JUNE **2024.**

SECTION27
Applicants' Attorneys
1st Floor, South Point Corner,
87 De Korte Street,
Braamfontein
Tel: 011 356 4100
Fax: 011 339 4311
Email: Mapipa@section27.org.za

TO: **THE REGISTRAR OF ABOVE HONOURABLE COURT**
Johannesburg

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE**
First Respondent
45 Commissioner Street
Johannesburg
Tel: 011 355 3000
Email: Ralehoko@gauteng.gov.za
Tinyiko.manyisa@gauteng.gov.za

AND TO: **ACTING HEAD OF DEPARTMENT: GAUTENG HEALTH**
Second Respondent
45 Commissioner Street
Johannesburg
Tel: 011 355 3000
Email: Arnold.malotana@gauteng.gov.za
Stephen.mankupane@gauteng.gov.za

AND TO: **MEMBER OF THE EXECUTIVE COUNCIL FOR TREASURY: GAUTENG PROVINCE**
Third Respondent
Imbumba House
75 Fox Street
Marshalltown
Johannesburg
Tel: 011 227 9270
Email: Jacob.mamabolo@gauteng.gov.za
Ncumisa.mnyani@gauteng.gov.za
Mncedisi.vilakazi@gauteng.gov.za

AND TO: **VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD**
Fourth Respondent
Hertford Office Part
Building J
90 Bekker Road
Vorna Valley
Midrand
Email: info.mea@siemens-healthineers.com

AND TO: **MINISTER OF HEALTH**
Fifth Respondent
Dr A B Xuma Building
1112 Voortrekker Road
Pretoria
Tel: 012 395 8086
Email: joe.phaahla@health.gov.za
brendaledwaba@health.gov.za

AND TO: **DIRECTOR-GENERAL FOR THE DEPARTMENT OF HEALTH**
Sixth Respondent
Dr A B Xuma Building
1112 Voortrekker Road
Pretoria
Tel: 012 395 9150
Email: Jaqueline.Ginginda@health.gov.za

AND TO: **CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL**
Seventh Respondent
17 Jubilee Road
Parktown
Johannesburg
Tel: 011 488 4911
Email: Gladys.bogoshi@gauteng.gov.za

AND TO: **CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL**
Eighth Respondent
Corner Steve Biko and Malan Street
Capital Park
Pretoria
Tel: 012 354 1140
Email: Lehlohonolo@majake@gauteng.gov.za

AND TO: **MINISTER OF FINANCE**
Ninth Respondent
40 Church Street
Old Reserve Bank Building
Pretoria
Tel: 012 315 5372
Email: mary.marumo@treasury.gov.za

AND TO: **NATIONAL TREASURY**
40 WF Nkomo Street
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HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent

CHIEF EXECUTIVE OFFICER:
STEVE BIKO ACADEMIC HOSPITAL Eighth Respondent

MINISTER OF FINANCE Ninth Respondent

NATIONAL TREASURY Tenth Respondent

FOUNDING AFFIDAVIT

I, the undersigned,

SALOMÉ JEANETTE MEYER

do hereby make oath and say that:

1. I am an adult female employed as a director of the Cancer Alliance, currently residing at 57 Loch Road, Rondebosch, Cape Town. I am duly authorised to bring this application on behalf of the Applicant. I have been involved in cancer advocacy for the past 25 years. I am well versed in the importance of timeous cancer treatments and the various cancer treatment modalities. In my capacity as a cancer advocate, I have provided government with guidance on the realities of cancer patients living in South Africa. In this regard I have provided input to the National Department of Health, at their request, in the drafting of the clinical guidelines for breast cancer control and management. I have also sat as a member of the Gauteng Provincial Cancer Task Team, details of my contribution to which are provided below.

2. The facts deposed to in this affidavit are, save where the context indicates

otherwise, within my personal knowledge and are true and correct.

3. Where I make legal submissions, I do so on the basis of legal advice given to me by my legal team which legal advice I believe to be correct.

THE PARTIES

4. The Applicant is **CANCER ALLIANCE**, a voluntary collective group of 30 cancer control non-profit organisations and cancer advocates, who have come together under a common mandate to provide a platform of collaboration for civil society to speak with one voice, with the aim to be a powerful tool to affect change for all South African adults and children affected by cancer. The Applicant's contact email address is salome@canceralliance.org.za.

5. The First Respondent is the **MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE**, cited in her official capacity as the executive authority responsible for the affairs of the Gauteng provincial department of health, and whose offices are situated at 45 Commissioner Street, Johannesburg.

6. The Second Respondent is the **ACTING HEAD OF DEPARTMENT: GAUTENG HEALTH** cited in his official capacity as the administrative official and the accounting authority responsible for the affairs of the Gauteng provincial department of health and whose offices are situated at 45 Commissioner Street, Johannesburg. Among other responsibilities, in terms of section 25(2)(a), (f) and (w) of the National Health Act, the head of a provincial department must provide specialised hospital services, plan, co-ordinate and monitor health services,

evaluate the rendering of health services and provide services for the management, prevention and control of non-communicable diseases.

7. The Second Respondent is cited in these proceedings as the Applicant and its instructing attorneys have made several written pleas to the Second Respondent for that office's urgent intervention to find an immediate as well as a mid to long term solution for the Gauteng Health Department to provide much needed radiation oncology services to patients diagnosed with cancer in Gauteng. As the background facts will show, the Second Respondent has failed to meaningfully address the current crisis.

8. The Third Respondent is the **MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY: GAUTENG PROVINCE ("MEC Finance: Gauteng")** cited in his official capacity as the executive authority responsible for the financial affairs of the Gauteng province and whose offices are situated at Imbumba House, 75 Fox Street, Marshalltown, Johannesburg. The Third Respondent is cited in these proceedings as the Applicant and its instructing attorneys made motivations to him for the ringfencing of funding to address the radiation oncology crisis, which he granted on 9 March 2023.

9. The Fourth Respondent is **VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD** ("**Varian**") and whose offices are Hertford Office Park, Building J, 90 Bekker Road, Vorna Valley, Midrand. Varian is cited in these proceedings as it was the successful tenderer for part of the GDOH tender for the appointment of service providers for the outsourcing of radiation oncology services for the Gauteng Department of Health.

10. The Fifth Respondent is the **MINISTER OF HEALTH** cited in his representative capacity as the executive authority responsible for health care services in the country and whose offices are situated at Dr AB Xuma Building, 1112 Voortrekker Road, Pretoria.

11. The Sixth Respondent is the **DIRECTOR-GENERAL FOR THE DEPARTMENT OF HEALTH** cited in his capacity as the administrative head of the National Department of Health and whose offices are situated at Civitas Building, Floor 20, corner Struben and Thabo Sehume Streets, Pretoria. Amongst other responsibilities, in terms of sections 21(1)(a) and (b) of the National Health Act the Director-General must ensure the implementation of national health policy in so far as it relates to the national department and issued guidelines for the implementation of national policy. In terms of section 21(2) of the National Health Act, he is also required, *inter alia*, to issue and promote adherence to, norms and standards on health matters, including the provision of health services, including social, physical and mental health care and any other matter that affects the health status of people in more than one province.

12. The Seventh Respondent is the **CHIEF EXECUTIVE OFFICER OF CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL** cited in her capacity as the administrative head of the hospital, situated at 17 Jubilee Road, Parktown, Johannesburg.

13. The Eighth Respondent is **the CHIEF EXECUTIVE OFFICER OF STEVE BIKO ACADEMIC HOSPITAL,** cited in her capacity as the administrative head of the hospital, situated at Corner Steve Biko and Malan Street, Capital Park, Pretoria.

14. The Ninth Respondent is the **MINISTER OF FINANCE** cited in his representative capacity as the executive authority responsible for finance in the country and whose offices are situated at 40 Church Street, Old Reserve Bank Building, Pretoria.

15. The Tenth Respondent is the **NATIONAL TREASURY**, established in terms of section 5 of the Public Finance Management Act, 1 of 1999, situated at 40 WF Nkomo Street, Pretoria.

16. The Third, Sixth, Seventh, Eighth, Ninth and Tenth Respondents are cited as parties due to the interest they may have in the outcome of these proceedings. No relief is sought against the Third, Sixth, Seventh, Eighth, Ninth and Tenth Respondents, save for an award of costs should any of these parties oppose the application.

17. This application will be served on the First, Second, Third, Fifth, Sixth, Seventh, Eighth, Nineth and Tenth Respondents at their physical addresses, on the State Attorney Johannesburg situated at North State Building, 95 Market Street, Johannesburg, and on the State Attorney Pretoria, situated at Ground Floor, Salu Building, 255 corner Thabo Sehume and Francis Baard Streets, Pretoria. This application will also be served on the Fourth Respondent at their physical address, situated at Hertford Office Park, Building J, 90 Bekker Road, Vorna Valley, Midrand.

PURPOSE OF THE APPLICATION AND RELIEF SOUGHT

18. The Applicant seeks this Court's intervention in the context of an ongoing and life-threatening radiation oncology crisis in Gauteng. As set out more fully below, a significant backlog of cancer patients has developed, largely at Charlotte Maxeke Johannesburg Academic Hospital ("CMJAH"), with the result that approximately 3000 cancer patients have not received radiation oncology treatment in the past three years. Specifically, the application is directed at the Gauteng Department of Health's failure to provide radiation oncology treatment to cancer patients at CMJAH on the backlog list, in circumstances where funding has already been specifically allocated for this purpose.

19. This case pertinently raises, inter alia, the right to health care services, as guaranteed in section 27 of the Constitution. The application focuses on the right of cancer patients, including those on the backlog list, to receive radiation oncology services.

20. The backlog list to which reference is made in this application, is the backlog list updated by Gauteng Health in May 2023. The backlog list was updated from a backlog list generated by Cancer Alliance in March 2022. I deal with the manner in which the backlog list was prepared later in this affidavit. For the moment it suffices to say that as at March 2022 there were 3026 patients on the backlog list and 2400 patients as at May 2023. Many patients have been on the backlog list for several years.

21. It is important to note from the outset that this case is not about whether the

measures taken by the State are *reasonable* within available resources or about the progressive realisation of the right to health care services. As will be discussed further below, the State has already made financial provision for the radiation and other surgical backlog. The *means* to provide services to cancer patients on the backlog list exist and have been allocated for that very purpose.

22. I am advised that there is no debate whether the State Respondents have the obligation to provide radiation oncology services to cancer patients who are on the backlog list. The crisis, and the Applicant does not use this word lightly, is that Gauteng Health is not providing timeous radiation oncology treatment to cancer patients who are on the backlog list. With each passing month, if not week, the backlog list continues to grow and cancer patients who are on the backlog list face the real possibility that they may not survive without the radiation oncology treatment. The pain and suffering endured by cancer patients go unnoticed because they are at home trying their best to manage their illness. This situation cannot continue.

23. It arises in the following circumstances, which will be elaborated on below in this affidavit:

23.1. On 9 March 2023, the Gauteng Provincial Treasury allocated R 784 million to the Gauteng Department of Health to urgently address the backlog in surgical and radiation oncology services. Following the allocation of the funds, it was agreed that Gauteng Health would take steps to initiate the outsourcing of radiation oncology services, for patients on the backlog list. These steps included the updating of the backlog list. After updating the list,

Gauteng Health was expected to appoint a service provider to provide the radiation oncology services. I must say that the Applicants truly believed that the allocation of the funds from Gauteng Treasury would mean that Gauteng Health would act with a degree of urgency and that patients on the backlog list would get life-saving radiation oncology services urgently in the coming months. This was not to be.

23.2. GDOH failed to act, let alone act urgently.

23.3. Following the allocation of funds, Cancer Alliance and SECTION27 met twice with Gauteng Health officials. At the last meeting on 2 June 2023, GDOH committed to a plan to use the allocated funding to address the backlog in providing radiation oncology services. A key decision by Gauteng Health was that it would outsource the provision of radiation oncology services. The plan agreed to, was that GDOH would appoint the service provider by early August 2023. Soon after our June 2023 meeting, GDOH abruptly ceased all further communication with Cancer Alliance and SECTION27. Despite our repeated requests for progress with the implementation of the plan, no information was forthcoming. It was only months later, in October 2023, that Gauteng Health advertised a tender for the outsourcing of radiation oncology services. The tender was advertised with a closing date of 3 November 2023. The 90-day validity period expired on 1 February 2024.

23.4. On 30 April 2024, Gauteng Health announced *inter alia* the following:

23.4.1. A total of R 534 million had been invested in oncology, medical and allied equipment, including the building of a bunker for some of the machines.

23.4.2. R 250 million has been allocated for the outsourcing of radiation and oncology services for a period of a year.

23.5. However, in relation to the R 250 million, which was said to be outsourced for radiation and oncology services, what Gauteng Health omitted to state is that the only portion of the tender that was awarded was category three of the tender (the planning services). Though the tender contemplated that actual radiation and oncology services would be provided to cancer patients on the backlog list, Gauteng Health has only awarded the portion of the tender dealing with the planning, meaning that, in effect – cancer patients on the backlog list are still not receiving their radiation and oncology treatment and no steps have been taken to clear the backlog list.

24. Given Gauteng Health's decision on 30 April 2024, Cancer Alliance has been forced to bring this application to interdict the dissipation of the R 250 million and to ensure that cancer patients on the backlog list urgently receive the radiation and oncology services that they are constitutionally entitled to and for which Gauteng Treasury already made financial provision so that they can receive urgent care.

25. This application has therefore been brought in two parts.

25.1. Part A is an urgent application, seeking declaratory, interdictory and

mandatory relief against GDOH, pending the determination of Part B, including:

25.1.1. interdicting the expenditure of funds in relation to the portion of the tender that was awarded (category C) and preserving the R 250 million pending the finalisation and outcome of Part B;

25.1.2. A mandamus directing Gauteng Health to:

25.1.2.1. update the backlog list within a month of this Court's order and

25.1.2.2. provide radiation and oncology services to cancer patients on the backlog list urgently, and as soon as reasonably possible;

25.1.3. declaring that Gauteng Health's failure to provide radiation oncology treatment to cancer patients on the backlog list is unlawful and infringes their constitutional rights, including the right to health; and

25.1.4. directing the Respondents to report to this Court at three-month intervals until the finalisation of this application about the steps taken to provide life-saving radiation oncology services to cancer patients on the backlog list (in circumstances where Gauteng Health has in recent months failed to respond or meaningfully engage with the Applicant and its attorneys about its plan to provide radiation oncology treatment to cancer patients on the backlog list).

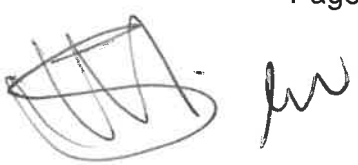
25.2. In Part B, the Applicant seeks to review and set aside the GDOH's decision of 30 April 2024 regarding its allocation of R250 million out of the allocated R784 million for the outsourcing of radiation oncology services under the

constitutional principle of legality, alternatively under the Promotion of Administrative Justice Act 3 of 2000 ("PAJA") on the basis that it is irrational, arbitrary and/or unlawful.

26. It bears emphasising that in this case, the Court is not required to determine or direct the State's budgetary decisions. The Provincial Treasury earmarked and allocated R 784 million in March 2023 to urgently clear the radiation and oncology backlog in Gauteng and provide urgent life-saving radiation and oncology cancer treatment to those waiting on the backlog list. All that the Applicant seeks is that the monies allocated and ring-fenced are used, and used urgently, efficiently and effectively for that very purpose.

27. Despite Gauteng Health being provided with the financial resources in the amount of R 784 million to address the radiation backlog and other surgical backlogs, Gauteng Health has failed to provide or ensure the provision of the life-saving treatments required. Instead, Gauteng Health apportioned an amount of R250 million out of the money allocated and only awarded the planning services as per category three of the tender. Despite the allotment of funds, GDOH has failed to take urgent, efficient and effective measures, which are reasonably available and for which the funds have been specifically allocated and made available, to provide radiation oncology services to cancer patients who are on the radiation backlog list. As far as I am aware, GDOH has failed to spend any part of the R784 million allocated for purposes of clearing the radiation oncology and other surgical backlogs.

28. Cancer is time-sensitive, and cancer patients on the backlog list have waited to



no avail for Gauteng Health to prioritise their care. This has not been done. Cancer patients on the backlog list can wait no longer. This case is eminently urgent as cancer patients are dying waiting for life-saving radiation and oncology services. Evidently, this case is of the utmost urgency.

29. Throughout my affidavit, I refer to:

29.1. **"cancer patients"** instead of "patients diagnosed with cancer". My choice of terminology is aligned to the phrase, as used by the National Department of Health in its policies and guidelines.

29.2. Gauteng Department of Health as **"GDOH" or "Gauteng Health"**.

29.3. Charlotte Maxeke Johannesburg Academic Hospital as **"CMJAH"**.

29.4. Steve Biko Academic Hospital as **"SBAH"**.

THE APPLICANT'S LOCUS STANDI

30. The Applicant has legal standing to bring this application. The Applicant was a member of the Gauteng Provincial Cancer Task Team ("Task Team") and members of its Executive Committee, namely Ms Linda Greeff, Ms Ouma Mamatela and Ms Salomé Meyer represented the Applicant on the Task Team. As will be shown below, the Task Team was set up by the GDOH but has failed to find a solution to the radiation oncology crisis in the province and the Task Team has since become defunct.

31. For the past 6 years, the Applicant has been monitoring the ongoing crisis in

radiation oncology in Gauteng generally and at CMJAH specifically. The Applicant and some of its members are working on the frontlines of the radiation oncology crisis in Gauteng and have witnessed first-hand the heart-breaking consequences of the shortage in supply of radiation oncology services at CMJAH. In the past three years, the Applicant and its representatives, have engaged in several meetings with the Second Respondent ("HOD Gauteng Health"/ "Gauteng Health"), the offices of the Third Respondent ("Gauteng Treasury") and the National Department of Health (National DOH), for the purpose of addressing the radiation oncology crisis and to find urgent solutions for providing radiation oncology services to patients diagnosed with cancer.

32. As stated above, the Applicant consists of a group of 30 cancer control non-profit organisations. The Applicant brings this application in its own name and acting in its own interest, to ensure that patients who are diagnosed with cancer receive much needed radiation oncology services. The Applicant also brings this application in the interests of the group of cancer patients in Gauteng who are not receiving critical radiation oncology services. Finally, the Applicant is acting in the broader public interest by bringing this application to Court.

FACTUAL BACKGROUND

The need for radiation and oncology treatment and the patients on the backlog list

33. Cancer treatment is time-sensitive. Radiation oncology is a key component in cancer treatment. Cancer patients must receive radiation oncology treatment

within a minimum of three months from their diagnosis or within a minimum of three months after their surgery to remove a tumour. Delays in providing radiation oncology treatment to cancer patients often increase the chances of post-surgery cancer recurrence.

34. Despite this, it is well known that there is a national public health care crisis because cancer patients in Gauteng have not been timeously receiving radiation oncology treatment, specifically at CMJAH. During January 2022, the television programme Carte Blanche aired a story detailing the systemic challenges faced by patients awaiting treatment at CMJAH. A copy of the Carte Blanche interview will be made available to the Court prior to the hearing of this matter. In the interim, the Carte Blanche story may be viewed via the online link at:

https://www.dstv.com/m-net/en-za/show/carte-blanche/season/36/videos/gauteng-s-oncology-crisis/video

35. In the Carte Blanche interview, Dr. Duvern Ramiah, who is the head of Radiation Oncology at CMJAH, confirms that the backlog list at CMJAH has been increasing since 2018. As at March 2022, there were approximately 3026 patients on the backlog list.

36. There are two main issues that have brought about the present radiation oncology crisis at CMJAH in Gauteng:

36.1. there is a lack of sufficient radiation equipment (LINAC and brachytherapy machines) and there are barriers preventing Gauteng Health from procuring the equipment. Three things are important to note as regards the lack of

radiation equipment, specifically at CMJAH:

36.1.1. Firstly, the shortage in machinery is a result of two Cobalt machines having been decommissioned and maintenance issues with the remaining machines;

36.1.2. Secondly, the tender process to replace the two decommissioned machines commenced in 2019 but was abandoned after 3 years, in 2021. The tender process was started afresh in January 2022. The bid specification committee compiled specifications for the procurement of these machines, an initial process which took nine months. I am not in a position to provide the court with details of where the tender process is currently, however, I can confirm that no procurement has been made. In the meantime, CMJAH has had to manage the influx of approximately 2000 new patients a year, as well as the approximately 3000 backlog patients, with only four machines; and

36.1.3. Thirdly, even if the machinery were to be procured it would take approximately a further 9 months to have the machines installed and operating. Due to the expensive nature of these machines, manufacturers often only commence manufacturing once they have received the order for the machine. In this case that would mean only once the manufacturer has been awarded the tender. The manufacturing process takes approximately six months to complete. Once manufactured, the machines must be installed and then inspected and licenced by the International Atomic Energy Agency to ensure compliance with standards applicable to the use of equipment emitting

radiation. Where there are no compatible bunkers for the procured machines, bunkers must be built, inspected and licenced. The process of building bunkers takes months. A case in point is the building of bunkers at Dr George Mukhari Academic Hospital and Chris Hani Baragwanath Academic Hospital – a process that has taken years and has stalled at the approval stage for the building plans. The radiation oncology machines procured for these hospitals have been in storage for over 3 years.

36.2. In addition, there are insufficient healthcare professionals appointed for radiation oncology at CMJAH. There are challenges relating to the appointment and remuneration of additional suitably qualified professionals. Without labouring on this point, I draw the court's attention to the following:

36.2.1. As at September 2022, the radiation oncology unit at CMJAH was operating with six radiotherapists. I am advised, as an estimate, that the unit would require approximately 30 radiotherapists in order to work at capacity;

36.2.2. In 2022, GDOH advertised to fill only 3 vacancies for radiotherapists at CMJAH. These positions were not filled. I believe that GDOH is struggling to fill these vacancies because of their uncompetitive remuneration and promotion structure. GDOH has lost radiotherapists to public hospitals in other provinces who have sought and obtained an exemption from the Occupation Specific Dispensation which determines the qualifications necessary for promotion and therefore salary. Cancer Alliance and SECTION27 are currently in discussions with the

Department of Public Service and Administration (DPSA) regarding this issue.

36.2.3. Even in the event that GDOH were to procure, have the machines manufactured, installed, inspected and licensed within a reasonable time, there are still insufficient oncology radiotherapists employed by GDOH to meet the demand.

37. Further, to the extent that award of the radiation oncology planning category of the tender is designed to address the shortage of oncology radiotherapists in the employ of GDoH at CMJAH, this intervention will not provide any reprieve to the patients on the backlog list without the necessary equipment to deliver the treatment, which machinery will take months to bring to operation. In the meantime, the patients who obtain the radiation oncology planning services through the contracted services will be forced to return to the public sector where they will again compete for the available machines with those on the backlog and waiting list. Further, as evidenced by the accounts detailed in the attached supporting affidavits (Annexures **SJM20** and **SJM22**), some of the patients on the backlog list have, at some stage or another, undergone radiation oncology contouring and the subsequent radiation oncology planning in preparation for the treatment and still had to wait months for treatment – while suffering recurrences in the meanwhile – due to a lack of available machinery. It is clear to me that the backlog is created by a dual issue of a significant shortage of radiation oncology machinery and radiotherapists. Any intervention short of integrated radiation oncology services will fail to

address the crisis.

38. In addition, the implementation of COVID-19 measures in 2020 posed great challenges to patients receiving treatment in the public sector. Most public sector hospitals were experiencing problems with providing care for cancer patients in all three treatment modalities, namely surgery, chemotherapy and radiation therapy.

39. On or about 16 April 2021, a fire broke out at CMJAH, further exacerbating the situation and resulting in the hospital temporarily closing down. CMJAH's closure caused a major disruption in the provision of healthcare services in Gauteng. Cancer patients at CMJAH were redirected to SBAH for radiation treatment.

40. The radiation oncology unit at CMJAH reopened around June 2021. However not all the patients who had been redirected to SBAH were immediately recalled to CMJAH when the unit reopened.

41. The result is that in Gauteng, there is a backlog list of patients needing radiation and oncology services. To the best of my knowledge, there are more than 3000 patients who are in desperate need of this lifesaving treatment. The precise number is only known to the GDOH. Gauteng Health is requested to be forthright with the Court and advise this Court on the precise number of patients on its backlog list as of the date of this application.

42. The patients on the backlog list – who are the subject of this application – have been diagnosed with one of the four major cancers, namely prostate cancer,



cervical cancer, breast cancer and colorectal cancer. The cancer patients on the backlog list are undeniably the patients who are most in need of radiation treatment.

The background to the allocation of money for the radiation and oncology backlog

43. SECTION27 and Cancer Alliance have been involved in extensive advocacy work with the GDOH to try and find a solution and treatment for cancer patients on the backlog list.

44. This advocacy eventually led to the establishment of a Task Team around February 2022 consisting of Cancer Alliance, Treatment Action Campaign, Heads of Radiation Oncology Departments at SBAH and CMJAH, clinicians, Gauteng Health Acting Head of Hospital services, Dr Freddy Kgongwana (who was later succeeded by Dr Stephen Mankupane as Head of Hospital Services at Gauteng Health). Cancer Alliance was represented by Ms Linda Greeff, Ms Salomé Meyer and Ms Ouma Mamatela. Dr Kgongwana and later Dr Mankupane chaired the Task Team. The terms of reference in relation to the Task Team were not published but it was generally accepted from the details provided in the members' appointment letters that the Task Team was required to:

44.1. advise the Head of Department on the treatment of cancer patients in the province;

44.2. establish a sustainable communication and navigation platform for cancer patients across Gauteng;

44.3. assist with mechanisms in which to address the cancer treatment backlog list;

44.4. oversee the occupation specific dispensation ("OSD") concerns of radiation oncology personnel; and

44.5. advise on the procurement processes of cancer equipment.

45. A copy of my appointment letter is attached as Annexure "**SJM1**."

46. Around March 2022, Cancer Alliance, in its capacity as a member of the Task Team, at its own expense and with approval from CMJAH, commissioned the services of an independent consultant to compile an updated backlog list. This process entailed perusing the files at CMJAH, contacting the patients and establishing whether they needed to be restaged, had left the province or had died. This process was completed in a month and concluded that the backlog list at the time consisted of approximately 3000 cancer patients.

47. It was through the work of the Task Team that Cancer Alliance came to learn that outsourcing had been used in other provinces as a short-term life-saving measure for the provision of various health services.

48. In particular, in a meeting held on 10 October 2022 with officials from the National Department of Health and National Treasury (GDOH officials were invited but failed to attend), Dr Crisp from the National Department shared details of the Northern Cape's outsourcing model and also referred to a presentation by Mr Michael Manning, who put together a system for outsourcing public health services from the private health sector during the COVID-19 pandemic. It was also conveyed that the National Department of Health has completed surveys among private health service providers in Gauteng and the survey has been shared with Gauteng Health. A copy of the minutes of the meeting is attached as Annexure "**SJM2**".

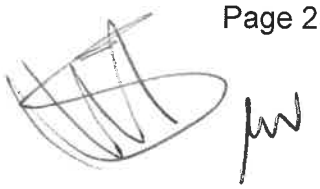
49. The minutes of the meeting of 10 October 2022 were shared with Dr Nolutshungu, the then Head of the Department at GDOH, on 12 October 2022. In a meeting held on 26 October 2022, Dr Nolutshungu agreed that Gauteng Health is amenable to outsourcing radiation oncology services as an interim solution, if funds are ring-fenced for this purpose. It was also recorded that the National Department of Health agreed to make a presentation to Gauteng Health about the outsourcing model. It was agreed that SECTION27 would invite representatives from Gauteng Treasury to attend the National Department of Health's presentation. A copy of the minutes of the meeting is attached as Annexure "**SJM3**" and a copy of Ms Mapipa's email is attached as Annexure "**SJM4**".

50. On 15 November 2022, Mr Michael Manning, from the Department of National Health, made a presentation about the outsourcing model used in the Western Cape, for treatment of COVID-19 patients by private sector service providers. Mr Manning's presentation also made suggestions about the way in which the example of outsourcing in the Western Cape could be adapted for use by Gauteng Health in dealing with the radiation oncology crisis in Gauteng. Mr Manning undertook to share his presentation with Gauteng Health and Gauteng Treasury. He also undertook to share the template tender documents if there was approval from Dr Crisp.

51. Mr Manning's presentation contained suggestions about how the outsourcing model used by the National Department of Health could be adapted for use by Gauteng Health.

51.1. The presentation made it clear that the outsourcing model was initially formulated to the need for respond to COVID-19 treatment. National Treasury issued Emergency Procurement Regulations to facilitate emergency procurement relating to COVID-19. It was suggested that this model could be used effectively for responding to the Gauteng oncology crisis as it can be regarded as an emergency measure to avoid a humanitarian crisis.

51.2. It was suggested that the Department (in this case, Gauteng Health) should issue a "Call for Services" to identify private service providers to provide the health services when required, for the duration of the contract period. Gauteng Health should enter into a service level agreement ("SLA") with the private service provider to care for Gauteng Health's patients.

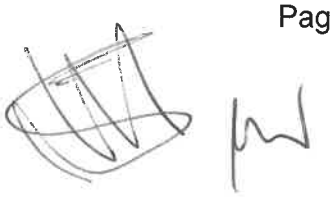


51.3. The SLA must set out the terms and conditions under which the private service provider and other related healthcare practitioners would render services. The SLA was to be developed by a process of engagement with relevant stakeholders.

51.4. The SLA must contain tariffs that have been set with the approval of the National Minister of Health and may not be altered or exceeded without the National Minister's permission.

51.5. The presentation also included a useful summary of the steps to be taken and contained the template tender documents for consideration by Gauteng Health. The outsourcing model was clearly located within the applicable laws dealing with the State procuring services from private service providers.

52. The meeting was attended by Dr Nolutshungu, representatives of Gauteng Health, Gauteng Treasury, National Treasury, Dr Ramiah, SECTION27 and Cancer Alliance. I represented Cancer Alliance at this meeting. At this meeting, I also communicated Cancer Alliance's concern that Gauteng Health is not communicating with cancer patients on the backlog list about their treatment and the plan going forward. I also highlighted that the backlog list prepared during March 2022 was not being maintained because Gauteng Health had capacity constraints.

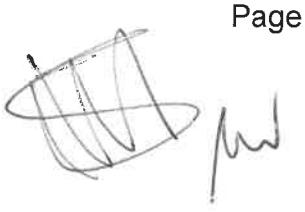


53. The meeting concluded on the basis that Gauteng Health and Gauteng Treasury would meet within the next two weeks to determine and frame the outsourcing model to be used to address the radiation oncology backlog in Gauteng. Gauteng Treasury undertook to lead and manage the initial internal meeting. A copy of the minutes of the meeting is attached as Annexure "**SJM5**". On 22 November 2022, Ms Mapipa distributed a copy of the minutes of the meeting held on 15 November 2022 together with a copy of Mr Manning's presentation. A copy of Ms Mapipa's email is attached as Annexure "**SJM6**" and a copy of Mr Manning's presentation is attached as Annexure "**SJM7**".

54. On 7 December 2022, SECTION27 and Cancer Alliance met with Dr Nolutshungu, representatives of Gauteng Health and Gauteng Treasury. In this meeting, SECTION27 made submissions and motivations to Gauteng Treasury for the ringfencing of funds to address the radiation oncology crisis in the province.

55. Following months of negotiations with SECTION27, on 9 March 2023, in his 2023/2024 Gauteng Provincial Budget to the Gauteng Legislature, the MEC Finance: Gauteng announced that a total budget of R 784 million was being allocated to the GDOH to urgently address the backlog in surgical and radiation oncology services. A copy of the MEC for Finance: Gauteng's speech on tabling the 2023/2024 Gauteng Provincial Budget to the Gauteng Provincial Legislature on 9 March 2023 is attached as Annexure "**SJM8**".

56. The press statement issued by Provincial Treasury regarding the allocation of the R 784 million stated the following:



"MEC Mamabolo allocates R784 million budget to address backlogs in surgical and oncology services in Gauteng MEC of Finance Jacob Mamabolo today allocated a total budget of R784 million to the Gauteng Department of Health to address, urgently, the backlog in surgical and radiation oncology services."

57. The Press statement explained that the R 784 million was allocated to urgently "clear the backlog" in surgical and oncology services. The backlog was caused by "shortages in both personnel and equipment that emanate, and the knock-on effect of the COVID-19 pandemic." The press statement also expressed the hope that "this time next year [meaning March 2024] he anticipated that he would be outlining "the resolution to this challenge".

58. Thus, following months of extensive advocacy work, the ring-fenced funds were finally made available, and there appeared to be some hope—with the allocation of the R 784 million—that life-saving radiation and oncology services would be provided to cancer patients on the backlog list urgently. This, however, was not the case.

Gauteng Health's continued delays in procuring service providers

59. Notwithstanding that the money was allocated by the Treasury in March 2023, by 22 May 2023, Gauteng Health had not yet responded with progress on the updated backlog list nor about the clinical assessment of the cancer patients. At that stage, SECTION27 became aware that Gauteng Health was planning a tender process for the procurement of radiation oncology services for cancer

patients on the backlog list. The tender process was in direct contradiction with all the undertakings given by Gauteng Health in a long line of meetings described above, that it would design and follow the route of an expedited outsourcing process.

60. Most notably, the tender process was not suited to dealing with the urgency with which the radiation oncology services had to be provided to patients on the backlog list. The tender process was by its very nature a long and drawn-out process.

61. The parties discussed the possibility of arranging a further meeting, possibly around 2 June 2023, for Gauteng Health and Gauteng Treasury to provide feedback about the plan to address the radiation oncology backlog in Gauteng. It was anticipated that the plan would also include details of the updated backlog list, including the clinical assessment of patients on the updated backlog list and the proposed date for meetings with private service providers. A copy of Ms Mapipa's email of 30 May 2023 is attached as Annexure "**SJM9**".

62. At the meeting held on 2 June 2023, Gauteng Health agreed that:

62.1. By Friday, 9 June 2023, it would obtain a deviation from the normal tender process to expedite the outsourcing of radiation oncology treatment. The power to approve the deviation vests in the Acting Head of Department at Gauteng Health, Mr Arnold Malotana. The application for a deviation would be supported by market research already conducted by a division within Gauteng Treasury for the benefit of Gauteng Health.

62.2. By Friday, 23 June, 2023, it would conduct a briefing session with potential service providers, who will be identified through the market research already conducted by Gauteng Treasury.

62.3. By Friday 7 July 2023, potential service providers would submit proposals.

62.4. By Friday 21 July 2023, Gauteng Health would appoint a service provider to provide the outsourced radiation oncology services.

62.5. These timelines were expected to result in cancer patients on the backlog list receiving radiation treatment in early August 2023.

63. Ms Mapipa's email of 13 June 2023, recording the undertakings given at the meeting of 2 June 2023 as well as the transcript of that meeting are attached as Annexures "**SJM10**" and "**SJM11**", respectively.

64. Gauteng Health missed the first deadline to advise SECTION27 of the outcome of the deviation process. SECTION27's concern was that the delay in finalising the deviation process would have a knock-on effect on the other timelines. Ultimately, the delays by Gauteng Health to complete the tasks agreed to on 2 June 2023, would further delay the radiation treatment for patients on the backlog list and patients were unlikely to start radiation treatment early in August 2023. This was conveyed in an email from SECTION27 on 13 June 2023, a copy of which is attached as Annexure "**SJM10**". There was no response to this email.

65. On 20 June 2023, Ms Mapipa addressed a further letter, this time to Dr Mankupane and Dr Selby, Director of Supply Chain Management at Gauteng



Health, and requested an update on Gauteng Health's progress with obtaining the deviation from the normal tender process and the process of identifying possible private sector service providers. A copy of Ms Mapipa's email is attached as Annexure "**SJM12**".

66. By 30 June 2023, there was still no feedback from Gauteng Health. Ms Mapipa sent a further email expressing concern about the lack of response and the increasing anxiety experienced by patients on the backlog list, some of whom requested SECTION27 to engage with Gauteng Health on their behalf. Ms Mapipa requested that Gauteng Health and Gauteng Treasury officials avail themselves for a meeting to discuss the progress with the deviation and the general status of the matter. This request too, went unanswered. The email of 30 June 2023 is attached as Annexure "**SJM13**".

67. To complete the background, I must mention the publication of two articles on an online platform.

67.1. On 9 June 2023, Ms Mapipa published an opinion piece titled *"Worrying lack of urgency as Gauteng Health sits on money earmarked to outsource urgent cancer treatment"*. A copy of the article is attached as Annexure "**SJM14**". In summary, Ms Mapipa's opinion piece noted Cancer Alliance's and SECTION27's concerns about the slow pace with which Gauteng Health was working on updating the backlog list and the fact that it was, at that stage, still unclear whether the backlog for radiation oncology services would be dealt with by an outsourcing arrangement or a deviation to the normal tender process. Ms Mapipa also detailed the challenges

experienced by one patient who suffered from breast cancer and who did not receive radiation oncology treatment post-surgery. The patient's cancer returned for the third time and she was no longer responding to chemotherapy. The article concluded with the hope that Gauteng Health would fulfil its undertakings and ensure that patients received radiation treatment.

67.2. On 22 June 2023, using the same online platform as Ms Mapipa, Dr Mankupane published a right of reply to Ms Mapipa's opinion piece. A copy of Dr Mankupane's reply is attached as Annexure "**SJM15**". Dr Mankupane accepted that there is a need to act with urgency to address the backlog in surgical and oncology services. The article also conveyed Gauteng Health's plan to expand oncology services to Chris Hani Baragwanath Academic Hospital and George Mukhari Academic Hospital. According to Gauteng Health's records, approximately 2000 patients were benefiting from oncology services at CMJAH and SBAH.

67.3. Dr Mankupane recognised that through engagements with stakeholders, including Cancer Alliance and SECTION27, Gauteng Health identified the need to appoint private sector service providers to supply radiation oncology services for the 2023/2024 financial year. Dr Mankupane noted that the proposed outsourcing must be done within the parameters of the Public Finance Management Act and applicable supply chain management processes. It was confirmed that the tender process was already underway and that Gauteng Health decided to follow an open tender process with a shorter advert period of 14 days. Dr Mankupane assured the public that

Gauteng Health recognises the urgency to provide radiation oncology services and gave the assurance that the outsourcing of radiation oncology services was nearing implementation.

68. As stated above, after the publication of Ms Mapipa's opinion piece, Gauteng Health refused to engage any further with Cancer Alliance and SECTION27.

THE TENDER FOR THE PROVISION OUTSOURCING OF RADIATION AND ONCOLOGY SERVICES

69. Despite receiving R 784 million in ring-fenced funds to address the radiation oncology and surgical backlog in the province, Gauteng Health has made no meaningful progress in providing radiation oncology treatment to cancer patients on the backlog list.

70. Though the funds were allocated in March 2023, the GDOH waited over six months to begin procuring the necessary services.

71. On 20 October 2023, the GDOH advertised a tender for the outsourcing of radiation oncology services with a closing date for bids set for 3 November 2023. The bid was described as *"APPOINTMENT OF SERVICE PROVIDERS FOR THE OUTSOURCING OF RADIATION ONCOLOGY SERVICES FOR THE GAUTENG DEPARTMENT OF HEALTH AND WELLNES[S] FOR A PERIOD OF (ONE) 1 YEAR"* ("The tender"). The 90-day validity period concluded on 1 February 2024. The tender was for the provision of three categories of services:

71.1. <u>Category 1</u> – A tender for professional oncologist services. This part of the

tender sought to procure services from radiation oncologists who can provide radiotherapy simulation and planning as per the SBAH and CMJAH breast and prostate treatment guidelines. The tender also sought that the service provider monitor the patients while receiving radiotherapy and discharge the patient to the State upon completion of the radiotherapy. The category one services are set out in paragraph 6.1 of the tender.

71.2. Category 2 – A tender for the provision of technical services. In this part of the tender, it sought service providers who could provide radiotherapy facilities capable of delivering equivalent radiotherapy treatments to patients who met the admission criteria in the tender. The category two services are set out in paragraph 6.2 of the tender.

71.3. Category 3 – A tender for the provision of radiation planning services. In this part of the tender, it sought a service provider that would provide remote treatment planning services for radiation oncology. The treatment planning system would be used to facilitate the execution of the scope of work, but no hardware or software would be transferred or sold. The category three services are set out in paragraph 6.3 of the tender. The tender explains what is required of a treatment plan:

71.3.1. A treatment plan includes all reasonable discussions and consultations required for the Radiation Oncologist, Medical Physicist, and therapy staff to create an acceptable plan with which to treat the patient.

71.3.2. The treatment plans must be reported as per appropriate International Commission on Radiation Units and Measurements (ICRU) guidelines for 2D, 3DCRT and IMRT where applicable. Parameters including

planning target volume (PTV) dose reporting, organ at risk (OAR) doses must be adhered to. These must be within acceptable limits as set by guidelines and the referring state facility.

71.3.3. The treatment planning service associated with the plan includes all processing from CT to treatment, which includes CT Import, fusion, normal tissue contouring, plan review with Radiation Oncologist in charge of the patient, and plan documentation in the electronic medical records (EMR).

71.3.4. A standard treatment plan will be delivered to the service provider by the end of Standard Hours on the 3rd Business Day following the date of the treatment plan request.

71.4. In order not to overburden the papers, only the relevant portions of the Tender are attached as Annexure "**SJM16**" but the complete tender application can be made available to the court if so required.

72. The tender clearly shows that the category three planning service was an ancillary service to "facilitate the execution" of the radiation and oncology treatment and services contemplated in categories 1 and 2 of the tender.

73. The tender closed on 3 November 2023. Gauteng Health commenced with the evaluation of the tender on 21 November 2023 and concluded on 16 January 2024.

74. On 1 February 2024, Gauteng Health issued a press statement in which it sought

to *"dismiss[] misleading claims on delays in awarding of cancer treatment tender"* and assure the public and the media that the department was in the final stages of making an award. A copy of the GDOH's media statement is attached as Annexure "**SJM17**".

75. In a television interview hosted by Morning Live presenter, Leanne Manas, on 29 April 2024, GDoH, represented by Dr Ntsakisi Maluleke, confirmed that only the portion of the tender that relates to radiation planning services has been awarded. The R250 million allotted for radiation oncology services is, therefore, to be used for radiation planning services, meaning no actual radiation oncology services will be received by the patients on the backlog list.

76. On 30 April 2024, Gauteng Health published a media statement seeking to provide an update on the radiation oncology services tender. In the media statement, Gauteng Health announced that:

> *"The Department is pleased to announce that a service provider has been appointed to provide radiation oncology services as outlined by the Department's standards for comprehensive quality oncology care as per the applicable treatment guidelines.*
>
> *Currently, radiation oncology services are offered at Charlotte Maxeke Johannesburg Academic Hospital and Steve Biko Academic Hospital. The finalisation of the radiation oncology services tender will assist to expand the provision of radiation oncology healthcare service in the province.*

Contrary to allegations that the Department has not utilised the R784 million allocated to address the backlog in surgical and radiation oncology services, a total of R534 millions had already been invested on oncology, medical and allied equipment such as cutting-edge linear accelerator machines and the building of bunkers for some of the machines.

Furthermore, R250 million has been allocated for the outsourcing of the radiation oncology tender which has been finalised for a period of one year. The Department has already commenced with another tender process to ensure that when the 12 months contract lapses the services continue seamlessly as the Department increases radiation oncology services."

77. The press release of 30 April 2024 sets out Gauteng Health's decision in relation to the R 784 million which had been provided to it to deal with the radiation and oncology backlog. However, the GDOH's public statement lacks specific detail about the nature of the services to be outsourced, who the service provider is and how the outsourcing will take place. A copy of the statement is attached as Annexure "**SJM18**"

78. I have come to learn that the successful bidder for the category three service part of the tender is Varian (Pty) Ltd, cited herein as the Fourth Respondent.

79. What the press statement issued by Gauteng Health fails to disclose to the public is that:

79.1. Of the three categories of services provided for in the tender, only category

three, the planning services, was awarded. Thus, Gauteng Health has awarded a tender for the planning of various treatments without appointing any service provider to actually provide the medical treatment. This means that cancer patients on the backlog list are still not receiving the urgent life-saving radiation and oncology services that the ring-fenced allocations were provided for – and will not receive these services in the immediate future.

79.2. Gauteng Health continues to reiterate that it is providing radiation oncology at Charlotte Maxeke and Steve Biko. Though Gauteng Health may be providing radiation oncology services to other cancer patients, it is not providing such services to cancer patients on the backlog list. This continues to be the case even though Gauteng Health was given a special allocation ring-fenced for the purpose of clearing the backlog list and providing radiation and oncology services to these patients. Gauteng Health cannot refuse or fail to provide life-saving care to patients on the backlog list when a ring-fenced allocation was given to Gauteng Health for this purpose.

80. The Applicant remains concerned about the plight and vulnerability of patients who are on the backlog list. GDOH's decision to focus on planning services demonstrates that it did not intend to outsource for fully integrated radiation oncology services to assist the patients on the radiation oncology backlog list by actually providing such treatment as soon as possible – notwithstanding the fact that these patients have been waiting for treatment for years and as a result their treatment needs have become urgent. We believe that the plan devised by GDOH to outsource only for radiation oncology planning services amounts to a failure on the part of GDOH to meet its constitutional mandate under sections 7(2), 27, 33

and 195 of the Constitution.

81. To the best of my knowledge there are at least 3000 cancer patients on the backlog list. "Planning services" on its own will not address the backlog of cancer patients who are awaiting radiation oncology treatment in Gauteng.

82. The GDOH's allocation of R 250 million for planning services, materially and adversely affects the rights of cancer patients who are on the backlog list. If R 784 million was to be used for addressing the surgical and radiation oncology backlog, questions arise about why the GDOH decided to use only R 250 million for the radiation oncology backlog and why or how was it decided that the R 250 million would be used for planning purposes. It appears that the decision to use R 250 million for planning purposes was taken because irrelevant considerations were taken into account or relevant considerations for example the cost of providing radiation oncology services to patients on the backlog list was not considered. It also appears that the allocation of R 250 million to radiation oncology services is irrational and arbitrary, when the total allocated budget was R 784 million to be spent between surgical and radiation oncology services. The decision to only focus on planning services, to the exclusion of other services, in the endeavour to address the radiation oncology backlog also appears to be arbitrary and irrational.

83. It is necessary for the First Respondent to provide a record of documents that supports its decision so that the Applicant can determine how the First Respondent arrived at the R 250 million allocation and how it intends for the R 250 million to be spent.

84. Once the record of documents is provided, the Applicant will consider the documents and may file a supplementary affidavit to support the relief sought in part B.

85. On 5 June 2024, SECTION27 addressed a further letter to the GDOH and demanded that GDOH desist from paying, disbursing or otherwise dealing with the R 250 million. Critically, we called upon GDOH, yet again to take steps to urgently provide radiation oncology services to patients who are on the backlog list. We urged the GDOH to:

85.1. Update the radiation oncology backlog list;

85.2. Clinically assess all patients on the backlog list;

85.3. Provide patients with radiation oncology planning services; and

85.4. Provide patients with radiation oncology treatment.

85.5. Provide us with updates on the progress it made on these steps.

86. A copy of the letter is attached as annexure "**SJM19**". To date, this letter remains unanswered. The Applicant is still uncertain as to whether the GDOH has updated the backlog list after March 2023.

THE COMPELLING NEED FOR RADIATION ONCOLOGY TREATMENT

87. Radiation oncology services are a critical component in the treatment of cancer. International standards and the Department of Health's guidelines require that cancer patients ought to receive radiation treatment within three months of their

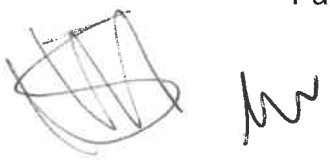
diagnosis or after surgical removal of a tumour. If patients do not receive radiation treatment within the recommended timeframe of three months, they must undergo further assessment, cancer staging and where required, further surgery and chemotherapy before they qualify for radiation treatment again.

88. As one example, the Clinical Guidelines for Breast Cancer Control and Management ("Breast Cancer Clinical Guidelines"), published by the Department of Health in April 2018 requires radiotherapy resources to be allocated within 60 days of surgery and no more than 90 days after surgery. The Breast Cancer Clinical Guidelines recognise that radiation therapy is an important process in the treatment of breast cancer. The Breast Cancer Clinical Guidelines record at page 85, that:

> *"over 3 000 South African women die from breast cancer each year, but many survive and become role models for other women and other cancer patients."*

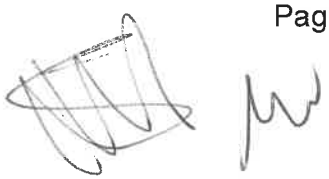
89. If the patient does not receive radiation treatment timeously, there is an increased likelihood that there will be a local recurrence in that the cancer may grow back in the affected area. Once the cancer grows back, the patient is left with no choice but to start the treatment cycle all over again: there may be chemotherapy and possible surgery. Post-surgery, the patient will have to take their place on the waiting list to receive radiation treatment.

90. I must emphasise two factors. The first is that in the public health care system, patients are often diagnosed quite late after the onset of cancer. Most patients are typically diagnosed at what is referred to as stage 3 or stage 4 of the cancer.



Once these patients undergo surgery to remove the cancer, the need for radiation treatment becomes imperative. If a patient receives radiation treatment, within the 3-month window period, it is likely that whatever cancer cells remain after surgery can be eradicated and the patient is better placed to make a steady and good recovery. If the patient does not receive the radiation treatment at all, there is increased likelihood that the cancer could grow back and metastasize to other organs. This renders the need for timeous radiation oncology treatment even more compelling.

91. The second factor is that there appears to be no way to properly track the cancer patient's health while they await radiation therapy. In some instances, it is possible that a cancer patient who is on the backlog list dies or becomes a palliative patient, while awaiting radiation treatment. There is no accurate record-keeping in this regard. We are unlikely to be in a position to say to this Court, how many patients who are on the backlog list have since succumbed to their illness or have lost the option to obtain curative care as they can no longer benefit from radiation oncology treatment as a means of facilitating remission. This factor is demonstrative of the compelling need for urgent and immediate radiation oncology treatment for those on the backlog list, a need that cannot wait for Gauteng Health to conclude a tender process for the procurement of the necessary machines, the building of bunkers for those machines and the recruitment of sufficient staff to provide the service. Despite being granted significant financial resources, Gauteng Health is not demonstrating any sense of urgency to devise and implement a plan to address the radiation oncology backlog and to spend the allocated funding towards reducing the backlog in Gauteng. In



the meantime, the lives of cancer patients are perilously at risk.

92. Patients who are on the backlog list are suffering mental anguish and anxiety, because they do not know if or when they will receive possible life-saving radiation treatment.

93. At this point I draw the court's attention to the supporting affidavits of Ms Thato Moncho and Ms Lydia Brenda Staats, who are patients on the backlog list at CMJAH as Annexures "**SJM20**" and "**SJM21**" respectively.

94. Ms Moncho was diagnosed with stage 2 inflammatory breast cancer in September 2020. She underwent her first sessions of chemotherapy between October 2020 and April 2021. Thereafter, she underwent a lumpectomy, which is a surgical procedure to remove the tumour in the breast and a small amount of the surrounding tissue. In June 2021 Ms Moncho was eligible for radiation treatment and was referred accordingly. Ms Moncho has been awaiting radiation services since June 2021, in the meantime she has suffered three recurrences of her cancer, each necessitating that she undergoes chemotherapy treatment and surgical removal of the regrowth. Scans taken prior to her latest recurrence show that the cancer has now metastasized to her lungs. Ms Moncho is a single mother to a teenage daughter who she would love the opportunity to raise.

95. Ms Staats was diagnosed with Estrogen Positive Stage 3 breast cancer in February 2022. She underwent her first sessions of chemotherapy between March 2022 and September 2022. In November 2022 she underwent a surgical procedure to remove cancerous tumours in the breast and auxiliary lymph nodes.

As at November 2022, Ms Staats was eligible for radiation treatment. After approaching the radiation oncology department at CMJAH, Ms Staats was advised that the radiation oncology department at CMJAH was backlogged, and she was placed on the backlog list. She has suffered one further recurrence of the cancer since November 2022, which has necessitated that she receives further chemotherapy treatment and a further surgery. Ms Staats only received her first radiation treatment on 18 June 2024 . She has two teenage daughters, and she has worries about whether she will have the opportunity to raise her children.

96. The repeated doses of chemotherapy and surgery are not without their own expense to the public purse. More than that, they are not without their side effects on these patients. Both Ms Moncho and Ms Staats have described side effects which include a low white blood cell and platelet count which results in excessive bleeding and extreme susceptibility to other illness, hair loss, tremors which make it difficult to perform simple tasks such as writing, difficulty walking, skin peeling to the point of forming blisters, nail peeling and skin discolouration.

97. I have further attached supporting affidavits from Ms Gloria Kelebogile Marks and Ms Frances Maureen du Toit who were both radiation oncology patients at CMJAH. The affidavits are attached as Annexures "**SJM22**" and "**SJM23**" respectively.

98. Ms Marks was diagnosed with stage 3 breast cancer in July 2018, she only received radiation treatment at CMJAH two years and seven months after she was deemed eligible for the treatment, in October 2021. While she waited for her

radiation oncology treatment, she suffered a recurrence of the cancer which necessitated further chemotherapy and surgery.

99. Ms Frances du Toit was diagnosed with stage 2 breast cancer in April 2021. Ms Du Toit waited two years for radiation treatment between June 2021 when she became eligible for the treatment and June 2023. Nervous that she may die awaiting radiation treatment, Ms Du Toit and her spouse secured a bank loan in order to obtain radiation treatment in the private sector. She is now indebted to her bank in the amount of R153 000, which is what the treatment cost her in the private sector. Both Ms Marks and Ms Du Toit are mothers with children that they are terrified to leave behind.

100. Cancer Alliance has repeatedly engaged officials at Gauteng Health to try to find a suitable solution so that patients receive much needed radiation treatment urgently. Since June 2023, Gauteng Health has stopped responding to the Cancer Alliance and its attorneys of record. In the meantime, the patients on the backlog list remain without life-saving treatment and their health is likely deteriorating. This is despite the fact that funds have been allocated and ring-fenced to provide the very services and treatments that are required and which could save their lives.

THE RELIEF SOUGHT IN THIS APPLICATION

101. The Applicant has no choice and is now forced to bring this application to review and set aside Gauteng Health's decision of 30 April 2024.

101.1. Under Part A, the Applicant seeks urgent interim interdictory relief to:

101.1.1. Interdict expenditure of funds in relation to the portion of the tender that was awarded (category C) and preserve the R 250 million pending the finalisation and outcome of Part B;

101.1.2. Directing Gauteng Health to update the backlog list within a month of this Court's order and to forthwith provide radiation and oncology services to cancer patients on the backlog list as soon as reasonably possible; and

101.1.3. Directing the Respondents to report to this Court at regular intervals about the steps taken to provide the life-saving radiation oncology services to cancer patients who are on the backlog list.

101.2. The Applicant also seeks declaratory relief that Gauteng Health's failure to provide radiation oncology treatment to cancer patients on the backlog list is unlawful and infringes their constitutional rights including the right to health

102. Despite Gauteng Health being provided with the financial resources in the amount of R 784 million to address the radiation backlog and other surgical backlogs. Gauteng Health apportioned an amount of R250 million, which is only to address planning services as per category three of the tender. Despite the allotment of funds, GDOH has failed to take reasonable measures to provide radiation oncology services to cancer patients who are on the radiation backlog list. As far as I am aware, GDOH has failed to spend any part of the R784 million allocated for purposes of clearing the radiation oncology and other surgical backlogs.

REQUIREMENTS FOR AN INTERIM INTERDICT

103. I am advised that to succeed with its application for an interim interdict the Applicant must satisfy the following four requirements:

103.1. The existence of a prima facie right, though open to some doubt, which the Applicant seeks to protect.

103.2. The Applicant has a well-grounded apprehension of harm if the interdict is not granted.

103.3. The balance of convenience favours the grant of the interim interdict and

103.4. The Applicant has no other satisfactory relief.

104. As the Respondents are state entities, I am also advised to address the impact of the grant of the interim interdict on the separation of powers doctrine. I deal with this aspect below.

Prima facie right

105. I am advised the State is obliged in terms of section 7(2) of the Constitution to respect, protect, promote and fulfil the rights in the Bill of Rights. This includes the section 27 right to healthcare. This obligation incorporates both negative and positive duties: the State bears positive obligations to take active steps to promote and ensure the right is protected and fulfilled; and negative obligations in that it may not take steps to undermine the right.

106. I am further advised that as a matter of law, all decision-making by the State that constitutes the exercise of public power or performance of a public function (as is the case here) must, at a minimum, comply with the prescripts of the rule of law, and more particularly the constitutional principle of legality. Section 33 of the Constitution, read with PAJA, further requires the State's decision-making to be lawful, reasonable and procedurally fair.

107. In addition, public administration is required, under section 195 of the Constitution, to ensure that resources are managed effectively, efficiently and economically. There is also a mandatory obligation for public administration to provide services equitably and fairly.

108. Despite having funding allocated to address the radiation oncology backlog since March 2023, the GDOH has not taken any meaningful steps towards the actual provision of radiation oncology treatment to cancer patients who are on the backlog list.

109. I am advised and submit that the GDOH's failure to use the allocated funding of R 784 million for the specific purpose of urgently addressing the backlog in "surgical and radiation oncology services" and/or its decision-making in relation to manner in which it intends to use the funds to provide radiation oncology treatment to back-log list cancer patients:

109.1. Violates the rights of access to healthcare services of cancer patients who are on the backlog list and who are yet to receive life-saving radiation oncology treatment and services at CMJAH;

109.2. Violates the Applicant's right to just administrative action (as well as the right of the cancer patients themselves);

109.3. Breaches the State's obligation to take positive measures to protect and promote the right of access to healthcare in circumstances where the funds have been made available but simply not used by GDOH for the purposes for which they were allocated;

109.4. Breaches the State's obligation not to take negative measures that would undermine the right of access to healthcare services; and

109.5. Violates the State's obligations under section 195 to uphold the democratic principles and values enshrined in the Constitution, particularly to promote the efficient, economic and effective use of resources (resources which have already been allocated for this specific use), the provision of services fairly and equitably, being responsive to people's needs, and accountability and transparency by providing the public with information timeously and accurately.

110. The interim order is necessary to ensure that Government Respondents are held accountable for the use of the allocated funding to address the radiation oncology backlog in Gauteng.

111. In the circumstances, the Applicant has demonstrated a prima facie right, though open to some doubt to have this dispute resolved by court intervention.

Irreparable harm

112. I am advised and submit that the circumstances of this case demonstrate devastatingly and explicitly the Applicant's reasonable apprehension of imminent and irreparable harm: the cancer patients who are on the backlog list are facing life-threatening illness. If they do not receive radiation oncology treatment, they may not survive. In the meantime, and as detailed above, in the absence of the much-needed radiation oncology treatment, the health of the cancer patients continues to significantly deteriorate. Back-log cancer patients have already passed away, waiting for such treatment that has not been forthcoming.

113. There is no other way to say this but that this case truly deals with matters of life or death.

Balance of convenience

114. I am advised and submit that, in the face of the clear, imminent (and already occurring), irreparable harm that the back-log cancer patients face, the balance of convenience must favour the grant of the Part A relief.

115. The interim interdict is intended to ensure that the R 250 million allocated for addressing the backlog in radiation oncology treatment is indeed used for this purpose and not otherwise spent or dissipated. The GDOH has done nothing meaningful since the money was allocated in March 2023 to actually provide radiation oncology treatment to the cancer patients. On the other hand, the health and general well-being of the cancer patients has significantly deteriorated.

116. If the interim interdict is not granted there is the real risk that the GDOH will spend the R 250 million without the cancer patients on the backlog list receiving radiation oncology treatment. There is no indication from the GDOH about how and when the radiation oncology treatment will be provided once it has been planned. The information I obtained through the Applicant's network and through utterances made by Dr Maluleke in the Morning Live interview mentioned above, suggests that the GDOH is intending to use the R 250 million only for "planning services". There is no information from the GDOH about what planning services means, when it will be provided and how the cancer patients will access the treatment.

117. . If the money is spent it cannot be recovered and the cancer patients' health will continue to deteriorate.

118. As I have explained above, the funding has already been allocated to GDOH to provide radiation oncology treatment to the back-log cancer patients. This has been so since March 2023. GDOH is obliged to provide such treatment but has failed to do so. If the interim relief in Part A is granted, and the Applicant is ultimately unsuccessful in Part B, I am advised and submit that there can be no prejudice to the Respondents.

119. The Respondents are not being called upon to allocate more funds than have already been allocated. They are not called upon to spend the allocated funds for a purpose other than which the allocation was intended. Even if the Applicant is unsuccessful in the relief sought in Part B, the R 250 million will have been used in the meantime to provide life-saving treatment to the backlog patients – which is precisely what the GDOH is required to do.

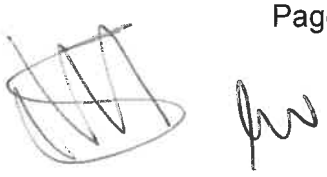
120. It appears that the tender in respect of the planning services has been awarded to Varian. The Applicant has been unable to ascertain the status of the process, whether contracts have been concluded or when work is intended to commence. However, I am advised and submit that any prejudice Varian may suffer if the interim relief is granted is minimal in the circumstances of the case. It is the nature of the prejudice that any tenderer faces in the event that a party seeks to review and set aside a tender, and seeks interim relief such as the Applicant here seeks. In any event, it appears as though the process of awarding the tender and concluding any agreements is at an early stage. I am advised and submit that the balance of convenience favours the grant of the interim relief in such circumstances.

121. In the circumstances, I submit that the Respondents will not be prejudiced if the interim relief is granted, and the balance of convenience favours the grant of the interim interdict.

No other remedy

122. The Applicant has no other option but to approach this Court for urgent relief. The Applicant has been trying to engage with the GDOH since 2020 to address the radiation oncology crisis to no avail. The GDOH has refused to respond or engage with the Applicant or its attorneys.

123. On 4 June 2024, in our letter of demand, we sought an undertaking from the GDOH that it would cease from disbursing or otherwise dealing in any way with the allocated R 250 million. We also requested information about the steps taken



to update the backlog list. The GDOH has refused and/or neglected to respond.

124. The Applicant truly has no further option but to approach this Court. A review in the ordinary course would take a considerable period of time to complete – even if the parties agreed to expedited time periods. By the time Part B of the application is heard and determined, the backlog cancer patients will not have received life-saving treatment. Their health will have deteriorated, most likely irrevocably.

125. There is no ordinary remedy available that would give the Applicant and the backlog cancer patients adequate redress in the ordinary course. The life and death stakes are simply too high.

The separation of powers

126. I am advised that the grant of the interim interdict will not impermissibly violate the separation of powers. If the interim interdict is granted, the Respondents, as a state entity, are not being restrained from exercising their executive authority. The interim relief in this case would evidently promote the spirit, purport and object of the Constitution, as required by the Constitutional Court in *National Treasury and Others v Opposition to Urban Tolling Alliance and Others* 2012 (11) BCLR 1148 (CC), the Constitutional Court held that before a court grants an interim interdict against the State, the court must ensure that the order *"promotes the spirit, purport and objects of the Constitution."*

127. The cancer patients' section 27 right to access health care services features front

and centre in this application. The grant of the interim interdict will mean that the Respondents cannot spend the R 250 million until the finalisation and outcome of the review application under part B. The Applicant intends to prosecute the review expeditiously and this undertaking is already recorded in the notice of motion.

128. I submit that in all the circumstances, the Applicant has met the requirements for an interim interdict.

PART B - THE REVIEW OF THE 30 APRIL 2024 DECISION

129. On 30 April 2024, GDOH issued a press release which confirms that R250 million has been allocated for *"the outsourcing of the radiation oncology tender which has been finalised for a period of one year"*.

130. The GDOH's public statement lacks specific detail about the nature of the services to be outsourced, who the service provider is and how the outsourcing will take place.

131. The Applicant made enquiries about the GDOH's proposed outsourcing. The Applicant's enquiries reveal that GDOH has set aside R 250 million for "planning" services. There is no information provided by GDOH about what "planning" services mean save for what I have outlined above emanating from the tender itself. The Applicant believes there is no lawful and rational basis for R 250 million to be used only for "planning services" and in any event, the planning services were ancillary services to be provided together with the radiation and oncology

services.

132. To the best of my knowledge there are at least 3000 cancer patients on the backlog list. "Planning services" on its own will not address the backlog of cancer patients who are awaiting radiation oncology treatment in Gauteng. The purpose of full allocation of R 784 million was intended to address the backlog in radiation oncology services and surgical backlogs. The GDOH's decision to allocate the amount of R 250 million for planning services makes no sense in the absence of any radiation and oncology services actually being provided.

133. Gauteng Health's decision in respect of the tender thus falls to be reviewed and set aside on the following grounds:

133.1. Section 6(2)(d), in that the decisions were materially influenced by an error of law;

133.2. Section 6(2)(e), in that the decisions were taken because irrelevant considerations were taken into account;

133.3. Section 6(2)(e), in that the decision to award the tender was taken because relevant considerations were not considered;

133.4. Section 6(2)(f)(ii)(aa), (bb) and (cc), in that the decisions were not rationally connected to the purpose for which they were taken.

134. Upon receipt of the record of decision, the applicant reserves its right to amend and supplement its grounds of review.

135. Once the record of documents is provided, the Applicant will consider the documents and may file a supplementary affidavit to support the relief sought in part B.

THE APPLICATION IS URGENT

136. This application is brought on an urgent basis in that:

136.1. On 30 April 2024, the GDOH announced its decision that a service provider was appointed to provide planning services. The tender was issued in October 2023, with the 90-day validity period ending in February 2024. The GDOH took no steps to announce the outcome of the bidding process and the appointment of the service provider when the validity period ended in February 2024. Instead, two months later, the GDOH announced its decision. This is a further demonstration that Gauteng Health is not committed to act with requisite urgency to provide radiation oncology services to patients who are on the backlog list. Cancer Alliance and SECTION27 has sought throughout to engage meaningfully and effectively with GDOH. However, GDOH has stopped communicating and sharing information with Cancer Alliance and SECTION27. The Applicant is left with no other option but to turn to this Court, to safeguard the R 250 million allocated for the provision of radiation oncology services until the lawfulness, reasonableness and rationality of the decision/s to utilise these funds in the manner GDOH intends to do so can be fully ventilated and determined by a Court.

137. In May 2024, the Applicant obtained instructions and briefed counsel to prepare

this application. Counsel prepared the application as expeditiously as possible given the complexity of the issues involved. In a final effort to avoid litigation, the Applicant sent a final letter to the GDOH on 5 June 2024 in the hope that the GDOH urgently attend to the following:

137.1. Updating radiation oncology backlog list;

137.2. Clinically assess all patients on the backlog list;

137.3. Provide patients with radiation oncology planning services; and

137.4. Provide patients with radiation oncology treatment.

138. The Applicant also sought that the GDOH cease any further payments, disbursements, or other dealings with the R250 million, which, according to the tender, has been allotted only for radiation oncology planning services. The letter is attached as **SMJ19**.

139. This attempt at an amicable resolution has come to nought. The GDOH again, failed to respond to the letter.

140. The application is also urgent because:

140.1. The patients who will be directly affected by this Court's order, are diagnosed with cancer and they are on a backlog list for radiation oncology treatment in Gauteng. As at June 2023, the backlog list consisted of 2700 patients, according to GDOH. Some of the patients have been waiting for treatment for more than three years. It is a stark reality that some patients may not survive long enough if this matter continues unchecked, without this

Court's intervention.

140.2. The funding of R 250 million has been allocated to address the radiation oncology backlog in Gauteng. Cancer Alliance apprehends that if the allocated funding of R 250 million is spent, on one component of radiation oncology treatment, namely planning, this will not result in the cancer patients receiving treatment.

140.3. Cancer Alliance has explored various options with GDOH in the course of the Task Team meetings and again after the Task Team stopped working in September 2022, to no avail. GDOH has taken no meaningful steps towards providing radiation oncology services to the patients on the backlog list.

140.4. The health of many cancer patients who are on the backlog list continues to significantly deteriorate with life-threatening consequences. The supporting affidavits confirm the deleterious situation and prejudice that the cancer patients are suffering.

140.5. This matter cries out for urgent court intervention and oversight. Lives are being placed at risk and the Applicant is urging this Court to consider this application on an urgent basis.

141. The Applicant has not delayed in instituting these proceedings. As is evident from what I have set out above, the Applicant has sought to engage meaningfully with GHOD for a significant period of time, and particularly in the period following 30 April 2024 decision, in the hopes that a reasonable solution could be found which would not necessitate an urgent application of this nature. This has been to no avail.

142. I respectfully submit that in these circumstances, Part A of this application is urgent and adequate relief will not be available to the Applicant, and the backlog cancer patients, in the ordinary course if the Applicant is required to wait for the adjudication of the review application in the ordinary course. It will, simply, be too late for most, if not all, of the backlog cancer patients. The Applicant will not be able to obtain substantial redress in due course.

WHEREFORE, the Applicant prays for the relief as is set out in the Notice of Motion to which this affidavit is attached.

DEPONENT

SIGNED AND SWORN TO BEFORE ME AT Rondebosch ON THIS 25 DAY OF June 2024, THE DEPONENT HAVING ACKNOWLEDGED IN MY PRESENCE THAT SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, THE PROVISIONS OF GOVERNMENT GAZETTE R1478 OF 11 JULY 1980 AS AMENDED BY GOVERNMENT GAZETTE R774 OF 20 APRIL 1982, CONCERNING THE TAKING OF THE OATH, HAVING BEEN COMPLIED WITH.

SUID-AFRIKAANSE POLISIEDIENS
COMMUNITY SERVICE CENTRE
25 JUN 2024
RONDEBOSCH
SOUTH AFRICAN POLICE SERVICES

COMMISSIONER OF OATHS
.....SGT
E. WHITE
7028254-4

CAPACITY: Sergeant

FULL NAMES: ELIZMA WHITE

PHYSICAL ADDRESS: SAPS Rondebosch
8 Church Street
Cape Town
021 685 6601

SUID-AFRIKAANSE POLISIEDIENS
COMMUNITY SERVICE CENTRE
25 JUN 2024
RONDEBOSCH
SOUTH AFRICAN POLICE SERVICES

SJM 1

GAUTENG PROVINCE
REPUBLIC OF SOUTH AFRICA

Ms. Salome Meyer
Cancer Alliance

Dear Ms. Meyer

APPOINTMENT AS A MEMBER OF THE GAUTENG DEPARTMENT OF HEALTH CANCER TREATMENT TASK TEAM

1. It is with pleasure to appoint you as a member of the Gauteng Department of Health's Cancer Treatment Task Team to inter alia:
   - Advise the Head of Department on the treatment of cancer patients in the province
   - Establish a sustainable communication and navigation platform for cancer patients across the province
   - Assist with mechanisms in which to address the cancer treatment waiting list
   - Oversee the OSD concerns of radiation oncology personnel
   - Advise on the procurement processes of cancer equipment
2. The team will be required to develop its own terms of reference, which must include the above responsibilities.
3. The Task Team will form part of the department's governance structures aimed at enhancing the patient's experience of care.
4. Your appointment is effective from the date of acceptance of the appointment until 31 March 2023.
5. You are required to contact Dr Freddy Kgongwana at Freddy.kgongwana@gauteng.gov.za for further information related to the assigned task.
6. I thank you for taking on this responsibility and wish you success in carrying out your duties.

Yours sincerely

DR. S. ZUNGU
HEAD OF DEPARTMENT
GAUTENG DEPARTMENT OF HEALTH
DATE: 23. 03. 2022

ACCEPTED / NOT ACCEPTED

MS. SALOME MEYER
DATE: 28. 03. 2022.

SJM 2

Minutes of meeting on Gauteng oncology between Cancer Alliance, Gauteng Department of Health (GDoH), National Department of Health (NDoH) and National Treasury

10 October 2022, 14:00 – 15:00

1. Attendance

Cancer Alliance	Ouma Mamatela, Salome Meyer, Louise Turner, Linda Greeff
NDoH	Bridget Maclou (National Tertiary Service Grant at NDoH), Nicholas Crisp (DDG for NHI), Sandhya Singh (NCD cluster)
National Treasury	Mark Blecher, Michael Rammabi (Intergovernmental relations branch), Mandla Gobian (Intergovernmental relations), Bavesh Ravjee
SECTION27	Khanyisa Mapipa, Sibusisiwe Ndlela, Matshidiso Lencoasa, Baone Twala, Sasha Stevenson
GDoH	No one in attendance despite confirmation. SECTION27 spoke to the HoD's PA during the meeting and established that the HoD was now unavailable. The COO was asked to attend on the HoD's behalf but was in another meeting.
Dr Duvern Ramiah	Head of radiation oncology at CMJAH and Wits

2. Preliminary discussions about GDOH representation

Blecher - need to ensure that GDoH is properly represented as this matter falls squarely within their mandate

Crisp – NDoH and Treasury can listen today and will need to have another meeting where GDoH is present

3. Brief background on the issue

Meyer

- Cancer crisis at CMJAH has been coming for many years and concerns have been raised over a long time but have not been heard. Insufficient action taken by GDoH.
    - November 2021, Cancer Alliance handed over a list of demands
    - February 2022, Cancer Alliance and partners started writing to MEC again to ask what was going to happen. Task team was then appointed under Freddy Kgongwane. Agreed to meet every 2 weeks
    - Cancer Alliance paid for someone to put together the waiting list of CMJAH once they were told that the list they were citing couldn't be correct because different numbers were signed off by the CEO and HoD. The task team received the list but it was never discussed by the TT and the TT focussed on the future rather than the current issues.
- Various solutions have been proposed by Cancer Alliance to the GDoH and nothing has come of it.
- While there are some medium term solutions, there is nothing in the pipeline to resolve the immediate problem.

4. **Proposed solutions discussed in the past few months**

a) Outsourcing

- Has been used in other provinces where there has been a problem with oncology service provision
- Want to know from NDoH and Treasury if this is an option. GDoH has said that there's no money.

Crisp

- Have been debating this a lot in the NDOH and DG is enthusiastic. Have recently had a high level visit to Kimberley as the Northern Cape is using an outsourcing model (using ICON as a service provider) and working with Limpopo and Mpumalanga to implement something similar.
- Note that such arrangements should be referred to as outsourcing rather than PPP
- Under NHI, the NHI Fund will purchase directly from public and private providers and there are already mechanisms that exist in the public service for this, tested during COVID and including the appropriate governance mechanisms.
- While NDoH is not in control of how provinces spend health funding, it has shared the Northern Cape experience at the last NHC tech meeting
- We know it's possible and NDoH has done a survey among private providers in GP which it has shared with GDoH

Meyer

- Confirms that Cancer Alliance has also engaged with private sector and private sector facilities in GP are more than willing to enter into outsourcing relationship
- The priority is to ensure it's a transparent process and can be replicated, need to agree on principles

Mapipa

- Notes that there is a blueprint on how this can be done as it has happened in other provinces. Had hoped to get an undertaking from the GDoH that they would consider this. At the last Cancer Task Team meeting, the GDoH undertook to do the exercise but the meetings stopped
- Need for radiation treatment is an ongoing issue

Blecher

- GDoH underspent by over R2 billion in 2021/22 and R900 million on goods
- Concerned that GDoH not performing well. Unit costs increased. Gets biggest share of MTS grant (40%).
- GDoH has to get its act together and needs to respond to these things directly
- Concerned about fragmentation regarding cancer funding streams and wants to see rationalisation [Crisp noted that this was also NDoH position]
- No problem with contracting out services from treasury side

Ramiah

- CMJAH also underspending. Tender process is dysfunctional which makes it difficult for departments in the hospital to know what inventory they actually have and what is needed,

eg 3-year tender process fell through and second tender process fell through after 9 months. If we can solve the tender thing we can buy what's needed

- Worried that outsourcing is a bandaid over a gaping wound but will likely be needed to resolve the short-term issue. It will be expensive though.

Mapipa

- Request for:
    - the outsourcing surveys referred to by Dr Crisp
    - the reports on underspending at GDoH and CMJAH referred to by Mr Blecher

Rammabi

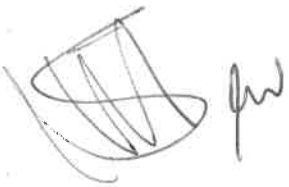
- Note the difference between available cash and budget. GDoH didn't have enough cash to pay R6bill in accruals at the end of the year. GDoH has always battled with this. GP treasury said last month that they're making advance payments to health to pay some suppliers
- Issue of funding and prioritisation is about trade offs. If there are urgent needs, they need to be prioritised

Maclou

- Did not see the updated waiting list following a meeting with Salome and Linda earlier this year and still queries the figures being put forward by Cancer Alliance.
    - Meyer notes that is was shared with the Task Team and will look for where she shared it with Mclou
- Should worried about the whole country, not just targeting GP
- Agree that the issue of staff is important. There are new linac machines in storage in Chris Hani (2) George Mukhari (1) which will come on line later this year but they will need staff and the payment rates aren't amenable
- Have met with a few potential service providers together with the revenue directorate because they're more familiar with UPFS, medical aid etc rates. Suppliers want to charge higher rates. Icon in Kimberley were the only ones prepared to negotiate. They have been happy and so are we. In Gauteng, they want 10x the rate.
- Always send someone from national to sit on bid adjudication committees.
- Notes that there was a request for extra funding last year, but funding was not received.

Crisp

- There are two problems – immediate and long term
    - Long term - need equip and staff
    - Immediate – need a stop gap. Need to use the excess capacity in the private sector
- It's working in Kimberly and no reason why it shouldn't work here
- In COVID, Crisp with Michael Manning put together a whole system for outsourcing to the private sector. There is nothing that stops us from negotiating and bashing prices down in any province. Crisp is willing to help in negotiating feasible prices with the private sector.
- Health dept doesn't control OSDs. Goes through a wide bargaining chamber process
- The OSD review will take a year at least.
- There is equipment in storage – need to work with GDoH and DID to make sure facility is prepared to receive equipment



b) Process to expedite procurement of linac machines for CMJAH

Blecher

- Broadly, most medical equipment is bought by provinces not national
- Need to know if that's the case for this equipment. Likely that it is the provinces buying and that the problem is in the provincial department in Gauteng. May need GP Treasury to help GDoH. Alternatively, GDoH could ask for help from Office of Procurement.
    - Mclou confirms that the equipment is all bought provincially but that NDoH liaises with the province throughout the process and the payment for the machines comes from the hospital budget. Sam Bakhane (Health Technology Vincent Masilela (Steve Biko) sit on the adjudication of all tenders
- Are provinces capacitated to do this?
    - Mclou confirms this is an ongoing problem. Northern Cape was given between R30 and R50 million rand since 2019 to set up an oncology centre but they couldn't spend the money. Same with Mpumalanga. Eventually Northern Cape came back to say they don't know how to do it and so NDOH appointed project manager. The province is now being guided through tender process. MP will need a project manager too. Would be better for first time machine procurement to be done at national. Where replacing machines (eg in Eastern Cape), it's fine for provinces to do it themselves. But in hotspots, NDoH needed
- Blecher will have a word with Dr Crisp, Sam Bakhane, Vincent Masilela and send to NHC tech
    - Mclou notes that the service needs to be integrated and there is no benefit in having spotty access to equipment
    - Crisp agrees on need for national tender
    - Singh notes that the process has started in Treasury. They are working on national tender already. Singh doesn't have the details about whether the Office of the Chief Procurement Officer is involved but. Can get info from Sam.
- Discrepancies in contracts with private sector
    - Singh queried re standardisation of per client fee
    - Meyer confirms that in Cancer Alliance's engagement with private sector providers, there is willingness to standardise across provinces
    - Maclou notes that the standardisation of fees has been dragging
- Blecher proposes that Health DG write to Treasury DG to expedite
- Crisp undertakes to talk to Sam and Bridget offline. The issue of procurement was tabled at NHC tech meeting, where the meeting discussed which tenders need to be NT tenders
- Crisp notes that there is a new Procurement Bill from Treasury and it is likely to make this more difficult – parties will need to comment

Mapipa and Meyer closure

- SECTION27 will circulate minutes. Requests that Treasury and NDoH share the docs and info we've requested and keep us in the loop on the centralised tender process
- SECTION27 will meet further with GDoH following this meeting.
- Meyer notes urgency in getting resolution
- Thanks the NDoH and Treasury for their attendance and attention.

SJM3

Minutes of meeting on Gauteng oncology between SECTION27 and Gauteng Department of Health (GDoH)

26 October 2022, 11:00 – 13:00

1. ATTENDENCE

GDoH	Dr Nomonde Nolutshungu (HOD), Mr Masibolekwe Ndima (CFO), Dr David Selby (SCM), Dr Stephen Mankupane (Hospital Services), Mr Carel Van Heerden (Legal services), Mr Sicelo Tshabala (Organisational Design and Transformation), Ms Rorisang Mathuloe (PA to HOD)
CMJAH	Ms Gladys Bogoshi (CEO)
SECTION27	Khanyisa Mapipa (Attorney), Sibusisiwe Ndlela (Attorney)

2. INTRODUCTORY COMMENT AND BRIEF BACKGROUND

Mapipa - SECTION27 and Cancer Alliance understand the following about the cancer crisis in the province:

- There are approximately 3000 patients awaiting radiation oncology treatment. These patients have been waiting for over three years.
- Patients on the list have varying cancers.
- The reason for the backlog is that there are insufficient resources to meet the demand, including too few radiation machines and radiation therapist.
- CMJAH has started a procurement process to buy machines to meet the demand. GDoH had previously undergone a procurement process for these machines, which process was cancelled after issues with the bidding process. The previous bidding process took three years.
- In the bidding process, which is currently underway, it has taken 9 months to conclude the bid specification portion of the bidding process.
- Cancer Alliance has for an indication of whether this bid can be expedited. No response received. Even if this bidding process were to conclude tomorrow, it would take approximately a year to get patients serviced because of how long it takes to manufacture, install and licence the machines. The procurement of these machines is not a short-term solution. A solution is needed for the patients on the waiting list and those who need urgent care.
- GDoH has bought two LINAC machines which are sitting in storage. These machines are for use at Helen Joseph and George Mukhari hospital once the radiation oncology unit in those hospitals has been built.
- GDoH is in discussions with DPSA regarding the OSD issues.
- Requested meeting to get feedback on some issues and to gain a picture of GDoH's thoughts on proposed solutions, particularly in light of what was said in the meeting with NDoH and Treasury.

Nolutshungu - Welcome the introductory comments and indicates that the province has dedicated itself to working with civil society to resolve these issues, invites colleagues to respond:

2.1. Response to introductory comments from CMJAH

Bogoshi:

- There is a task team that was established for these discussions. Ms Bogoshi is not part of the task team. Is not aware of the number of people on the waiting list and would need to confirm.
- There are waiting times for different types of cancers. The longest waiting times are for prostate cancers because of numbers and machines needed to do that.
- There are waiting times that are a concern to all of us.
- There are 4 new LINAC machines. These machines were bought and installed 4 years ago but CMJAH needs staffing to be able to use them to the maximum.

2.2. Response to introductory comments from GDoH

Makupane:

- The GDoH is at different stages in terms of achieving work done to capacitate CMJAH and the province to respond to the crisis.
- The number is lower than what is stated but it is accepted that the number that is stated was captured at some point.
- The LINAC machines which have already been procured - Two are for Chris Hani Baragwanath Hospital and one is for George Mukhari. The service provider to build the bunkers has been appointed. The legal team is working on the SLA.
- A large number of patients came from Klerksdorp. Klerksdorp hospital has since built its own oncology unit and these patients are no longer coming to CMJAH for radiation therapy.

Selby:

- Three pieces of machines that the GDoH is busy procuring:
    - First are brachytherapy machines and their accessories for SBAH, CMJAH and George Mukhari Hospital. Specifications for these machines are done, the tender now needs to be advertised.
    - Second piece is a single energy LINAC machine, specification for this tender is still underway and then the department will embark on advertising.
    - Third piece are the mobile brachytherapy. SBAH has received a mobile brachytherapy machine which is rented, however, the supplier for the mobile brachytherapy could not bring more than one into the country. The second one was for CMJAH but the supplier cannot bring it into the country.

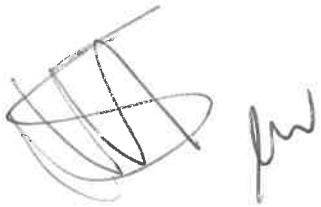
Ndima:

- There are implementing agents and timelines in relation to procurement must be adhered to.

2.3. Response from SECTION27

Mapipa:

- We are aware that there are different list, and that treatment is provided with this in mind. However, there are patients who have approached us who ought to have received therapy but have not.



- We are aware of the staffing issues as well and that DPSA and GDoH are in discussions on the issues. Our concern is how long it has taken to get here.
- KZN and Western Cape have different OSDs that apply and as such they are able to meet the demand. How is it possible that they've done it and Gauteng has not?
- How long is the procurement of the single energy LINAC machine going to take? And can it be expedited?
- What is the next step with respect to the mobile brachy therapy machine?
- We understand compliance with timelines but where patients have been waiting for three years to get treatment that is only lifesaving if received in a short period of time, timelines for certain things must be adjusted to meet that.

3. PROCUREMENT AND EXPEDITING OF PROCUREMENT

Nolutshungu:

- Specification in the Bidding process depend on specialists as they are the ones who will be working with the machines. The specialists have taken longer than would be desired.
- If specialists take 9 months to come up with bid specification, then that is out of the control of the GDoH.
- To the extent that the steps for procurement of the machines is within the full control of the department, there will be no undue delays.

Ndima:

- Procurement is a lengthy process.
- Need to make sure that GDoH follows the proper procurement processes.
- Specialists are needed to make the specifications because they will be using the machines and they know how they work.
- On the evaluation, GDoH has ensured that they put more than one person from SCM to assess the bid.
- The GDoH gets piles of documents in submissions that they have to consider and some of the people making submissions are chancers.
- The evaluators are also employed to do other work within the GDoH and are evaluating when they have time. Specialists too.
- GDoH does not want to put undue pressure on the evaluators so that they end up making wrong decisions.
- All the processes have stipulated times.
- GDoH will try and make it seamless where it can but as they do that they don't want to temper with the guidelines for procurement.

3.1. Response from SECTION27

Mapipa:

- Is it not possible to expedite the process in terms of Treasury Regulation 16.a.6.4 which allows for the expediting of a procurement process where the normal timelines are too long in the circumstances or where there is urgency required?

- In our view, the current crisis demands that this regulation be used. Has the GDoH considered the use of this regulation?
- The other concern is that GDoH would get to the end of the procurement process and cancel like the last bid. What assurances can you give that this will not happen again? Because if it does, it will mean that the same machine has been in procurement for more six years.

3.2. Response from GDoH

Nolutshungu:

- With respect to assurances while using the appropriate regulation GDoH is committed to ensuring that beyond the specifications, there will be no further delays.

Selby:

- The critical part is specification. Even with a deviation, there still needs to be a specification.
- Other possible ways of expediting is to have a shortened advertising period. Instead of 21 days, you give those making submissions 14 days due to urgency.
- GDoH has also tried to procure these machines by piggybacking on the procurement by other organs of state. The problem is that majority of other organs of state are not as big as GDoH and do not have as many institutions under them, they will typically have ad hoc contracts which cannot be piggybacked on.
- GDoH has considered ways to expedite this process but it must comply with processes.

Ndima:

- If GDoH tries to piggyback on another contract, there must be capacity on that contract for it to piggyback.
- Even with deviation, GDoH cannot deviate while it is possible to continue with normal processes.
- Specifications are important and they take time. \

4. <u>OUTSOURCING</u>

Mapipa:

- SECTION27 and Cancer Alliance had a meeting with NDoH and Treasury. During this meeting, the possibility of outsourcing was discussed.
- The take aways were that outsourcing is possible in Gauteng for radiation oncology and that GDoH has underspent by R2 billion in the last financial year, which means that financially it is possible to finance outsourcing.
- We would like to hear from GDoH whether outsourcing is possible and whether it is something that can be considered seriously given the capacity constraints faced by the province.

4.1. Response from GDoH

Nolutshungu:



- GDoH has been part of discussions in the NTech where outsourcing was discussed. North West came to present on how the outsourcing works.
- GDoH is not aware of a directive from NDoH to outsource.
- GDoH recognises that such a directive is not necessary for outsourcing to be employed as a solution.
- GDoH is considering options and is open to resolving the issues. However, outsourcing is subject to the accessibility of a grant with a business plan from Treasury.
- The other issue is that of staffing. As the CEO said, there are these 4 machines, but we need people to work them.
- While the GDoH has a plan on how to procure machines, these machines will not be in place tomorrow. There needs to be an interim plan and, in this regard, GDoH is open to suggestions.

Bogoshi:

- CMJAH has been in discussions with SBAH to see how the two hospitals can work together to utilise the machines that they have between them. Fortunately, the machines are the same. The physicist must determine the amount of radiation which must be used on the patient, if the patient who has already started radiation at CMJAH is moved to the private sector that will create a problem.
- About five years ago, assisted to capacitate North West with radiation oncology in view of the fact that North West also gets NTSG. CMJAH assisted North West to get a LINAC machine.
- GDoH needs to pull its resources together with the other provinces it has helped capacitate. The HoD should explore this as an option with other HoDs.
- Outsourcing is expensive. If you commit that amount of money, there needs to be support from other provinces and hospitals in the province.
- Outsourcing is expensive. There was a cost-benefit analysis that CMJAH did and it found that an amount of R5million spent on radiation in the private sector could help approximately 30 patients. The same amount could reach 100 patients in the public sector.
- Another option is to consider non-evasive options to radiation therapy.

Mankupane:

- Another option which was considered was to operate the Radiation oncology division at CMJAH for after hours. To extend the closing times from 16h00 to 20h00.
- Outsourcing was also considered as an option but were not empowered at that point with the information that has been presented from NDoH. If it is possible now then GDoH is open to it.
- GDoH is working with NDoH in the procurement of the LINAC machines.
- If funds are made available then outsourcing can be achieved.

Bogoshi:

- During Covid, CMJAH worked with the Klerksdorp hospital to assist with the patients seeking radiation oncology services.
- CEO has approved overtime this week for the radiation personnel at CMJAH.

Nolutshungu

- Another option would be to lean on partners to increase capacity such as Wits who provide personnel. This is a long term solution that could be considered.
- GDoH is considering ways to maximise capacity and working with partners and with regard to

resources, there will need to be a discussion with NDoH and National Treasury to confirm availability of financial resources to achieve outsourcing.

4.2. Response from SECTION27

Mapipa:

- Minutes of the meeting held on 10 October 2022 will be shared with the persons on the call.
- The efforts of capacitating other provinces seems like a medium to long-term solution. It was understood in the discussion with NDoH and Treasury that for a truly immediate solution, these services must be outsourced.
- NDoH is willing to present their findings in relation to the outsourcing of particular services. There is no directive from NDoH for the outsourcing of radiation oncology services but they indicated that outsourcing is achievable and must be seriously considered as a solution in the immediate term.
- SECTION27 will share the meeting request once the NDoH has set a date for the presentation.

5. OSD and personnel issues

Mapipa:

- SECTION27 is aware that the GDoH has been in contact with the DPSA and that the issue is being addressed through those discussions.
- What feedback can GDoH provide regarding the progress made in those discussions?

5.1. Response by GDoH

Nolutshungu:

- Six-months priorities plan will be shared with SECTION27.

Tshabala:

- There have been discussions between the GDoH and the DPSA
- Appointment requirements for radiation therapists are the problem. Radiation therapists are specialists but because their salaries are linked to the resolution which is the OSD resolution of 2010.
- The appointment requirements require that they have 4 years' experience before they can be appointed to be specialists.
- This issue has been discussed with NDoH and DPSA.
- Had a discussion with DPSA, and mentioned that Western Cape has been exempted from the national OSD resolution. The reason provided by DPSA is that Western Cape received a letter to the effect that they are exempted.
- NHC will intervene to try and resolve these issues.
- As a province, GDoH cannot deviate from what is provided in the resolution. The HOD does not have authority to do that, the MEC does not have authority to do that. The only person who has power to change the resolution is the Minister of Public Service and Administration,

hence the escalation of the matter to the DG of Public Service and Administration.

- GDoH has not received a response yet from DPSA as to whether they will be doing away with the 4 year experience requirement for radiation therapists.

5.2. Response from SECTION27

- SECTION27 has reached out to the DPSA about the issue. The response from DPSA is that the issue is not solely within the remit of the DPSA to resolve. According to the DPSA, the OSD requirements can only be amended through a bargaining council resolution which must include, the employer and labour unions.
- SECTION27 will continue to engage the DPSA and labour unions to see if a solution can be achieved to resolve this issue.

6. Closure and next steps

Bogoshi and Mapipa:

6.1. Outsourcing:

6.1.1. GDoH is amenable to outsourcing radiation oncology services as a temporary solution to the cancer crisis, where funds are ringfenced for such. NDoH has indicated that it is willing to present to GDoH on the feasibility of outsourcing as a solution. National Treasury is also invited to this presentation. Next steps include:

6.1.1.1. SECTION27 must write to Provincial Treasury and extend an invitation to them as well to attend the presentation;

6.1.1.2. GDoH has designated Mr Ndima and Dr Selby to attend the presentation by NDoH;

6.1.1.3. SECTION27 must share the date and time of the presentation once NDoH has set it.

6.1.2. The temporary solution of outsourcing services, if materialised, will be employed alongside other solutions such as referrals to hospitals in other provinces and Steve Biko Academic Hospital. In this regard, GDoH will contact the identified hospitals to establish how many patients can be assisted as well as work out the logistics.

6.2. Procurement:

6.2.1. GDoH has undertaken that in so far as the procurement process rests completely in its hands, there will be no further undue delays.

6.2.2. GDoH has undertaken to fast track the procurement process where possible and in accordance with treasury regulations; and

6.2.3. GDoH has agreed to share the progress of the procurement process with members of the Cancer Task Team.

6.3. Personnel issues and OSD requirements:

6.3.1. GDoH will continue to follow up with DPSA regarding the progress on the amendment of the OSD requirements;

6.3.2.SECTION27 and Cancer Alliance will engage with DPSA and labour unions with a view to getting a speedy resolution to the matter.

SJM 4

Khanyisa Mapipa

From: Khanyisa Mapipa
Sent: Wednesday, 12 October 2022 11:16
To: Mathuloe, Rorisang (GPHealth)
Cc: Nolutshungu,Nomonde (gphealth); Pertunia, Tshiwela (gphealth)
Subject: RE: Cancer Alliance and GDoH meeting
Attachments: Agenda for Cancer Alliance, GDoH, NDoH and Treasury meeting ; Cancer Alliance/GDoH meeting ; Minutes meeting between Cancer Alliance GDoH NDoH and Treasury 10 October 2022.pdf

Dear Rorisang

I trust this email finds you well.

Attached are two emails sent to the HOD confirming the meeting on Monday. The first email was sent on Monday, 3 October 2022 and was accompanied by a meeting request, which she accepted. The second email was sent on Friday, 7 October 2022 and was accompanied by an agenda for the meeting.

Be that as it may, we have attached the minutes of the meeting held on Monday, 10 October 2022. Pursuant to this meeting, we have identified three key issues which we wish to discuss with the HOD, namely:

1. The possible outsourcing of radiation oncology services from the private sector;

2. The expediting of the procurement process for radiation oncology equipment; and

3. Feedback regarding the discussions between GDoH and DPSA on the OSD issues relating to radiation therapists in the province.

With respect to the arrangement of a further meeting, I am available to meet with the HOD on Monday, 17 October 2022 at any time, alternatively, Tuesday, 18 October 2022 any time after 14h00. Please indicate her availability to meet with me.

We would encourage that the HOD invite those within her department that she believes would aid the discussion on the above points. We have identified that the Gauteng provincial treasury may be one such entity that is interested in the discussion and perhaps able to assist. To this end, we will extend an invitation to the HOD of that department (or anyone she may delegate) to attend the meeting as well.

Our client's rights, including their rights to approach a court for relief in this matter, remain strictly reserved.

Sincerely

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SJM 5

GDOH Oncology contracting discussion / session: **15 November 2022**

11h00 – 13h45

Attendees:

Dr Nomonde Nolutsungu (GDoH)

Rorisang Mathuloe (GDoH)

Dr David Selby (GDoH)

Dr Stephen Mankupane (GDoH)

Michael Manning (NDoH)

Sandhya Singh (NDoH)

Mapula Seoketsa (NDoH)

Mncedisi Vilakazi (Gauteng Treasury)

Donald Onyango (Gauteng Treasury)

Mark Blecher (National Treasury)

Bavesh Ravjee (National Treasury)

Ogalaletseng Gaarekwe (National Treasury)

Duvern Ramiah (CMJAH)

Khanyisa Mapipa (SECTION27)

Salome Meyer (Cancer Alliance)

Lind Greeff (Cancer Alliance)

Apologies:

Dr Nicolas Crisp (NDoH)

Presentation:

Mr Michael Manning gave a presentation of the outsourcing model used in the Western Cape to secure Covid-19 treatment of patients and assist with capacity concerns in the public sector. His presentation also included ways in which this model can be adapted for use by GDoH in dealing with the cancer crisis in the province.

A copy of the presentation is attached to these minutes.

Discussion:

- ✓ **Khanyisa:**
  - Gave a brief outline of cancer treatment issues plaguing the Gauteng province, including that:
    - Radiation oncology is failing in the province;
    - There are approximately 3000 patients waiting for radiation oncology services. These patients are having recurrences of the cancer while they wait, which is costing money, time and weakening their health
    - Acknowledging acceptance by GDoH that outsourcing is a possible and likely only temporary solution to secure urgent treatment of the patients on the waiting list.
  - Asked the following questions:
    - Is there room to negotiate on tariffs in the outsourcing model?
    - Would this model work on outsourcing radiation oncology services in Gauteng?
    - Question directed at provincial treasury – is there funding to support outsourcing of this nature for radiation oncology services in the province?
    - Question directed at GDoH – given what was presented, do you believe this outsourcing model for radiation oncology services is achievable?
    - How is this outsourcing model different to that done in Kimberly hospital and Groote Schuur?
    - What are the timelines applicable to this outsourcing model? i.e. how long would it take to implement it from the time the process is initiated.

- ✓ **Michael:**
  - Tariffs are set by the Minister of Health.
  - With a few adjustments this model could work in Gauteng.
  - Not familiar with the model in Kimberly and knows about the Groote Schuur outsourcing.
  - The turnaround time is very quick. Outsourcing model implemented during covid-19. It can be done quickly.

- ✓ **Linda:**
  - The cancer crisis in Gauteng is a humanitarian crisis and must be treated as such.
  - What this crisis needs is a commitment from all departments and providers to come to the table.
  - An outsourcing project of this nature needs a champion – Michael, would you be willing to assist in this capacity?

- ✓ **Michael:**
  - happy to assist where / when needed.
  - Responsibility would be on Gauteng to initiate and drive the process.

- Templates can be made available and modified. Soon to be seconded to NDoH and happy to assist with this, if Dr Crisp approves.

✓ **Vilikazi:**

- Noted that HOD has left the meeting.
- Buy-in is required from GDoH to make this happen.
- Similar arrangements have been made in the past.
- Way-forward: convene an internal meeting to:
  - Determine financial feasibility
  - Identify funds/ ring-fence funds
  - Put framework in place
  - Appoint champion to run the process.

✓ **Khanyisa:**

- In our previous meeting with GDoH. HOD had delegated Dr Selby and Dr Mankupane who are present on the call to represent the GDoH in this meeting.

✓ **Michael:**

- Suggest that the arrangements for the process, such as setting up the framework, process and finding a champion be done concurrently with the identifying of funds and ring-fencing otherwise the process will take longer.

✓ **Salome:**

- What is the Gauteng Department of Health's view on this?

✓ **David:**

- The outsourcing model is a good suggestion. GDoH had considered this type of arrangement but did not have the technical know-how to implement it. The templates shared by Michael will be useful.
- GDoH can see this temporary solution as a way forward.
- Noted – Con Court decision

✓ **Salome:**

- What are the timeframes that we are looking at?
- GDOH support is dire for this process to be successful.
- It is not just the lack of equipment, it is also the lack of staffing to man the equipment.
- Are there funds?
- GDoH needs to make a decision within a week because this is a humanitarian crisis.

✓ **Michael:**

- Will share a copy of the presentation
- There must be a determination for a project lead/champion to make this outsourcing happen.

✓ **Stephen:**

- GDoH likes the outsourcing model.
- GDoH and Gauteng Treasury must look to internal meeting to ascertain financial muscle to activate this assignment.

✓ **Khanyisa:**
- Need to agree on time period for feedback on the outcomes of the internal meeting. Can you agree that you will meet within two weeks of this meeting and provide us with feedback at the end of that time period.

✓ **Stephen:**
- Two weeks seems to be a reasonable time period.

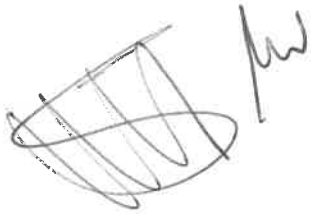
✓ **Mncedisi:**
- Gauteng Treasury will take the lead in setting up the initial meetings.

✓ **Mark:**
- Cause of problem: buying a particular machine. Now these machines are sitting in storage. Previous tender was cancelled due to a technical obstacle. Is there not a solution to bring about procurement acceleration? Was it necessary to start the tender process from the beginning again?
- This meeting is placing Gauteng Treasury under unfair pressure. The responsibility of finding a solution to this problem rests with GDoH.
- What is the bigger plan to deal with the crisis by GDoH with respect to oncology, over and above the temporary solution? How does will GDoH ensure the optimum use of equipment?
- NC not a national tariff. Maybe Tariffs not doable in Gauteng Treausry. Gauteng Treasury needs to assess options. Gauteng Treasury may have to come up with several options.

✓ **David Selby:**
- Equipment is out on tender: Various documents not in place yet.
- Brachytherapy specification sent to Procurement end of this week.

✓ **Vilakazi**
- The issue raised in this meeting is part of an existing budget process. It constitutes one of the matters being considered by Gauteng Treasury, including surgical back logs.
- Noted: dealing with backlogs is part of priorities of Gauteng Treasury.
- Undertaken to prioritizing and championing this matter (only with respect to initial meetings).
- highlighted urgency

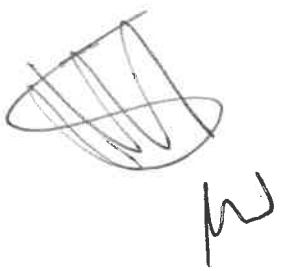
✓ **Salome**
- It does not seem that the GDoH understands the magnitude of the challenge. Cancer Alliance has submitted a waiting list of patients to GDoH, however this waiting list is not being maintained as there are capacity constraints.



- There has been little or no communication to these patients from GDoH. A process must be put in place to maintain the waiting list.
- Long term solution has been reached through the procurement of machines, but an interim solution is needed to deal with the crisis.

Way forward:

1. GDoH and Gauteng Treasury have undertaken to meet within the next two weeks (before Friday, 2 December 2022) in order to determine and frame the outsourcing model for radiation oncology services in the province (and specifically to address the waiting list at Charlotte Maxeke Johannesburg Academic Hospital). In this regard, Gauteng Treasury has undertaken to lead and oversee the initial internal meeting.
2. The meeting between GDoH and Gauteng Treasury will include a discussion on the ways in which the existing procurement of radiation oncology machines can be expedited;
3. Mr Manning will assist by providing templates for the outsourcing contracts and applicable bid documents. Pending approval by Dr Crisp, Mr Manning will also assist with the modification, where necessary, of the aforementioned outsourcing contracts and bid documents;
4. GDoH, specifically HOD Nolutshungu, will appoint a project lead/champion to manage the outsourcing project; and
5. GDoH will provide feedback to Cancer Alliance and SECTION27, following their meeting with Gauteng Treasury, on:
    a. the plan for the outsourcing arrangements (including the appointment of a project lead);
    b. the expediting of the current procurement processes; and
    c. the timeframe for the initiation of the outsourcing project.



SJM 6

Khanyisa Mapipa

From: Khanyisa Mapipa
Sent: Tuesday, 22 November 2022 16:46
To: 'Nolutshungu,Nomonde (gphealth)'; 'david.selby@gauteng.gov.za'; 'stephen.mankupane@gauteng.gov.za'; 'Mark Blecher'; 'Michael Manning'; 'Onyango, Donald (GPT)'; 'Nicholas N. Crisp'; 'david.selby@gauteng.gov.za'; 'Vilakazi, Mncedisi (GPT)'; 'Duvern Ramiah'; 'Sandhya Singh'; 'masibolekwe.ndima@gauteng.gov.za'
Cc: 'linda.greeff1@gmail.com'; 'Louise Turner'; 'salomefaan@gmail.com'; 'Ouma Mamatela'; Sasha Stevenson; Sibusisiwe Ndlela; Baone Twala; 'Mathuloe, Rorisang (GPHealth)'; 'Annatjie C. Van der Merwe'; 'Bavesh Ravjee'; 'mapula.seoketsa@health.gov.za'
Subject: RE: UNDERTAKINGS ON OUTSOURCING PLAN FOR RADIATION ONCOLOGY SERVICES IN GAUTENG
Attachments: Minutes of meeting with SECTION27, Cancer Alliance, GDoH, NDoH, National Tresury and Gauteng Treasury .pdf; Private Sector Oncology Service Contracting 15 November 2022.pptx

Tracking:

Recipient	Delivery	Read
'Nolutshungu,Nomonde (gphealth)'		
'david.selby@gauteng.gov.za'		
'stephen.mankupane@gauteng.gov		
'Mark Blecher'		
'Michael Manning'		
'Onyango, Donald (GPT)'		
'Nicholas N. Crisp'		
'david.selby@gauteng.gov.za'		
'Vilakazi, Mncedisi (GPT)'		
'Duvern Ramiah'		
'Sandhya Singh'		
'masibolekwe.ndima@gauteng.gov.		
'linda.greeff1@gmail.com'		
'Louise Turner'		
'salomefaan@gmail.com'		
'Ouma Mamatela'		
Sasha Stevenson	Delivered: 2022/11/22 16:46	
Sibusisiwe Ndlela	Delivered: 2022/11/22 16:46	Read: 2022/11/23 08:29
Baone Twala	Delivered: 2022/11/22 16:46	
'Mathuloe, Rorisang (GPHealth)'		
'Annatjie C. Van der Merwe'		
'Bavesh Ravjee'		
'mapula.seoketsa@health.gov.za'		

Dear all

I trust this email finds you well.

Please find attached minutes of the meeting held on 15 November 2022, along with the presentation delivered by Mr Manning.

We look forward to receiving your feedback on the outcomes of the meeting between GDoH and Gauteng Treasury, on or before 2 December 2022.

Regards

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From: Khanyisa Mapipa
Sent: Tuesday, 15 November 2022 14:42
To: Nolutshungu,Nomonde (gphealth) <Nomonde.Nolutshungu@gauteng.gov.za>; david.selby@gauteng.gov.za; stephen.mankupane@gauteng.gov.za; Mark Blecher <Mark.Blecher@treasury.gov.za>; Michael Manning <Michael.Manning@health.gov.za>; Onyango, Donald (GPT) <Donald.Onyango@gauteng.gov.za>; Nicholas N. Crisp <Nicholas.Crisp@health.gov.za>; david.selby@gauteng.gov.za; Vilakazi, Mncedisi (GPT) <Mncedisi.Vilakazi@gauteng.gov.za>; 'Duvern Ramiah' <dr@roncology.com>; Sandhya Singh <sandhya.singh@health.gov.za>; masibolekwe.ndima@gauteng.gov.za
Cc: linda.greeff1@gmail.com; 'Louise Turner' <louise@mybreast.org.za>; salomefaan@gmail.com; 'Ouma Mamatela' <ouma@mybreast.org.za>; Sasha Stevenson <stevenson@section27.org.za>; Sibusisiwe Ndlela <ndlela@section27.org.za>; Baone Twala <twala@section27.org.za>; Mathuloe, Rorisang (GPHealth) <Rorisang.Mathuloe@gauteng.gov.za>; Annatjie C. Van der Merwe <annatjie.vandermerwe@health.gov.za>; Bavesh Ravjee <Bavesh.Ravjee@treasury.gov.za>; mapula.seoketsa@health.gov.za
Subject: RE: UNDERTAKINGS ON OUTSOURCING PLAN FOR RADIATION ONCOLOGY SERVICES IN GAUTENG

Dear all

Thank you for the very constructive meeting.

Below I have briefly summarised the undertakings from GDoH and Gauteng Treasury going forward:

1. GDoH and Gauteng Treasury have undertaken to meet within the next two weeks (before Friday, 2 December 2022) in order to determine and frame the outsourcing model for radiation oncology services in the province (and specifically to address the waiting list at Charlotte Maxeke Johannesburg Academic Hospital). In this regard, Gauteng Treasury has undertaken to lead and oversee the initial internal meeting.
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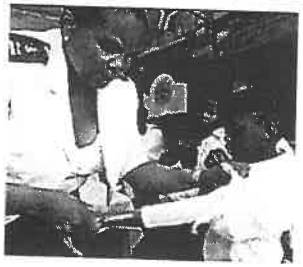
    a. the plan for the outsourcing arrangements (including the appointment of a project lead);
    b. the expediting of the current procurement processes; and
    c. the timeframe for the initiation of the outsourcing project.

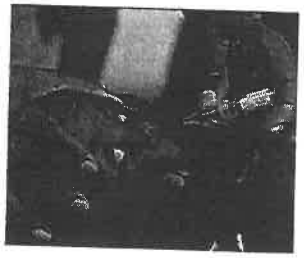
Lastly, a point that was not made in the meeting but bears significance to the process going forward: we strongly suggest that the meeting between GDoH and Gauteng Treasury include from the clinical side, Dr Ramiah as the Head of Radiation Oncology at CMJAH and the person who has intimate knowledge of the number of patients requiring radiation oncology as well as their various stages and complications - and ultimately the person who will be responsible to oversee the actual outsourcing of patients.

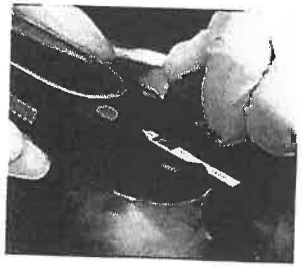
We will share the minutes of the meeting as soon as possible.

Sincerely

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GUIDELINES ON PUBLIC - PRIVATE COLLABORATION IN RESPONSE TO ONCOLOGY SERVICES IN THE GAUTENG DEPARTMENT OF HEALTH

WITH LESSONS FROM THE CONTRACTING OF PRIVATE BEDS IN RESPONSE TO COVID – 19

15 November 2022

health
Department:
Health
REPUBLIC OF SOUTH AFRICA

Phila
Inspired to live

2030 NDP



1. Government Procurement - Policy Frameworks
2. Government Procurement - Disaster Regulation Provisions
3. Health Market Inquiry and Competition Commission
4. Role players
5. Law of Offer and Acceptance
6. C19 Bed Contracting Examples in detail, SLA Walk Through, Annexures, Reports & Data Sets
7. Summary and Way Forward

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Department:
Health
REPUBLIC OF SOUTH AFRICA



1. Constitution of the Republic of South Africa, 1996
2. Public Finance Management Act (PFMA), 1999
3. Preferential Procurement Policy Framework Act (PPFA), 2000
4. The Preferential Framework for Supply Chain management, 2003
5. Broad-based Black Economic Empowerment Act 53 of 2003 and its Amendment Act 46 of 2013
6. Treasury Regulations, 2005
7. Broad-based Black Economic Codes of Good Practice, 2007
8. Preferential Procurement Framework Act regulations, 2011
9. Broad based Black economic empowerment Amendment Act 2013
10. Amendments to the Broad-Based Black Economic Empowerment Codes for Good Practice, 2013
11. Preferential Procurement Framework Act regulations, 2017
12. Draft Procurement Bill, 2017



1. Constitution of the Republic of South Africa, 1996

South African Constitution exists as the foundational legislation regulating public procurement.

- S217 (1) stipulates the primary or good governance objectives of procurement process must be equitable, transparent, fair, competitive, and result in cost effectiveness in the use of public monies.
- S217 (2) outlines the secondary or preferential objectives of procurement that allow for government entities to implement procurement policies that give preference to certain categories of persons. Specifically that preferential procurement policies may advance or protect categories of persons who have been disadvantaged by unfair discrimination in the past.
- S217 (3) in the Second amendment Act 61 of 2001 requires that national legislation prescribes to the framework within which preferential procurement benefitting previously disadvantaged categories of persons is implemented.



2. Public Finance Management Act (PFMA), 1999

- Is the cornerstone of the SA budgetary and financial management reforms implemented after 1994. the Act and its amendment no. 29 of 1999, governs public financial management in SA and outlines the duties of national and provincial government in relation to their service delivery mandate and responsibilities
- The procurement reform process is embedded in section 76(4) C of the PFMA no. 1 of 1999. The PFMA aims to modernise public financial management and enhance accountability. Specifically, this is applied through the PFMA decentralised financial management responsibilities to public sector managers within a transparency and accountability framework.
- Section 76(4) C provides for National Treasury to determine a framework for an appropriate procurement and provisioning system that meets the principles of good governance in line with Section 217 (1) of the Constitution.
- The PFMA also assigns overall responsibility of setting up procurement systems to the accounting officers of national departments or provincial government bodies. This partly explains why procurement activities and processes have evolved in a diffused manner across SA.



3. Preferential Procurement Policy Framework Act (PPFA), 2000

- The PPPFA (No 5 of 2000) gives effect to the Constitutional imperative for preferential procurement and the required in 76 (4) C of the PFMA for National Treasury to determine a procurement framework in line with good governance principles
- The PPPFA provides for policy and preferential procurement system that does not award public procurement tenders solely to specification and the lowest price, but that where preference is given to historically disadvantaged individuals (SA Citizens) in particular people of colour who were politically disenfranchised prior to 1994, women and people with disabilities.
- The Act requires that a preference point system is followed in public procurement processes whereby for contracts above a certain prescribed R value's a maximum of 10/20 points be allocated for specific preferential goals.
- The contract must be awarded to the bid that scores the highest points unless objective criteria in addition to those pertaining to specific preferential goals justify the award to another bid.



4. The Preferential Framework for Supply Chain Management, 2003

- In 2003 NT published a Regulatory Framework for Supply Chain Management (SCM) in terms of the PFMA
- The SCM framework requires that the accounting officer of an institution must develop a Supply Chain Management system for the purchase of goods and services, the disposal and letting of assets, including disposal of goods no longer required.
- The SCM management system must align with the good governance principles of S217 (1) of the Constitution, be consistent with the PPFA (No 5 of 2000) and provide for demand management, acquisition management, logistics management, disposal management, risk management and regular assessment of supply chain management performance.
- It is to be noted that the regulations require that an accounting officer or authority of an institution establishes a separate supply chain management unit in the office of the Chief Financial Officer, with the mandate and responsibility to implement the institutions supply chain management system.
- Procurement of goods and services either through quotations or a bidding process is required to be within the threshold values as determined by NT and in the case of procurement, through bidding process. Bids must be adjudicated through a supply chain management and bid committees. The regulations also specify process around the disposal and letting of assets.



5. Broad-based Black Economic Empowerment Act 53 of 2003 and its Amendment Act 46 of 2013

- BBBEE aims to facilitate a transformation and restructuring of the SA economy to enable meaningful economic participation of the majority of its citizens who had been previously been excluded prior to the democratic dispensation of 1994.

- The BBBEE act enables the Minister of Trade and Industry to issue codes of good practice on black economic empowerment that may include further interpretation and definition of BBBEE and qualification criteria for preferential procurement. Government is required to apply these codes in respect of decisions made on procurement, licensing, concessions, Public Private Partnerships and the sale of state-owned land assets or businesses.



6. Treasury Regulations, 2005

- In 2005, National Treasury issued more detailed and comprehensive Treasury Regulations for departments, trading entities, constitutional institutions and public entities in terms of the PFMA (1 of 1999).

- The regulations cover financial management arrangements, planning and budgeting, revenue and expenditure management, assets and liability management, frameworks for banking, cash management, investment (S15) as well as for public private partnerships (s16) and supply chain management (s16A) and accounting & reporting requirements.

- The regulations for SCM in S16A of the Treasury Regulations 2005 update and supersede the Regulatory Framework for SCM 2003, and section 16 A 3.2 requires that a supply chain management system must align with the principles of good governance set out in s 217 (1) of the Constitution and be consistent with the PPFA (5 of 2005) and be consistent with the BBBEE Act (53 of 2003).



7. Broad-based Black Economic Codes of Good Practice, 2007

- The BBBEE codes of good practice were published in 2007 as an implementation framework for BBBEE policy and legislation. They formulate a categorization framework or rating system for firms to score a certain BBBEE "status level " that is used in procurement bidding processes. The codes cover seven components of the BBBEE scorecard that is ownership, management control, employment equity, skills development, preferential procurement ,enterprise development and socio-economic development (which includes industry-specific and corporate social investment initiatives)
- There are eight BEE status levels, level 1 is the highest, accords a procurement recognition of 135 per cent whereas level 4 affords 100 percent and level 8 only 10 percent.
- The codes also specify eligibility criteria of exempted micro enterprises (EME) as a business with a turnover of R5 M or less (or R2,5M in the tourism industry) or a business that is less than one year old. Such businesses are exempted from measurement on the BEE scorecard and automatically qualify for a level 4 BEE Certificate or 100 percent recognition in procurement processes.
- Similarly, a qualifying enterprise (QSE) is any business with a turnover of between R10M and R50m and is measured using QSE scorecard, which has a different rating of the seven elements and only the highest scoring four elements are included in the business rating.



8. Preferential Procurement Framework Act regulations, 2011

- In 2011, National Treasury issued revised PPFA regulations which expanded the applicability of the PPPFA to all organs of state and all public entities listed in schedules 2, 3A, 3B, 3C, 3D to the PFMA (no 1 of 1999) and municipal entities and established new threshold levels for the use of the different point systems the 80/20 bids R30k to R1M and the 90/10 bids > R1M.
- Importantly, the 2011 regulations also ensured tighter alignment between the PPFA regulations and BBBEE Act and BBEE codes of good practice by using the BBEE scorecard as a measurement basis for preferential procurement.
- In a similar vein, Section 9 of the 2011 regulations empowers the Department of Trade and industry (DTI) to designate specific industries, sectors and sub sectors for local production with minimum local content thresholds in terms of the 2011 Local Procurement Accord agreed between representatives of government, labour and business. These presently include buses, textiles, clothing, leather, footwear, canned and processed fruits and vegetables, certain pharmaceutical products, furniture, solar water heaters etc.
- Section 9 (3) states that where there is no designated sector, an organ of state may include as a specific tendering condition that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered, if such is in line with specific local content designation directives for this purpose issued by NT in consultation with the DTI.
- Once tenders for goods and services from designated sectors and subsectors are awarded, the procuring authority must notify the DTI and provide the necessary contract details. The successful bidders are required to apply the technical (SATS 1286) for determining and declaring local content as published by the South Africa Bureau of Standards (SABS) and are also liable for the cost of SABS verification of the local content declared.



9. Broad based Black economic empowerment Amendment Act 2013

- Indicated stronger approach to BBBEE and impose an obligation on govt and public entities to apply the codes in their procurement polices and issuing of authorizations and conform a statutory right for government and any public entities to cancel any contract or authorization awarded due to false information provided on BBEE status.
- Also provided for the establishment of a BBBEE Commission to play an oversight and advocacy role and to investigate complaints relating to BBBEE and fronting and introduce criminal offences for misrepresenting a firms BBBEE status or fronting.
- Also included a "trumping" provision that states that in the event of any conflict between BBBEE amendment Act and in any other law in force immediately prior to the date of the commencement act the BBBEE act 46 of 2013 will prevail.
- In November 2015, the minister of Trade and Industry granted an exemption of one year to the Department of Mineral Resources and the mining industry from compliance with the BBBEE Act.



10. Amendments to the Broad-Based Black Economic Empowerment Codes for Good Practice, 2013

- Increases the compliance targets as the number of BBBEE points required to achieve a particular BBBEE level has been increased. This has significant implications for businesses whose customers require a minimum BBEE status from suppliers or with firms with contractual or other obligations to maintain a minimum BBBEE level.



11. Preferential Procurement Framework Act regulations, 2017

- National Treasury gazette further regulations to the PPFA which set to revise threshold levels for the different point systems – the 80/ 20 for bids R30k to R50M (previous ceiling was R1M). This effectively gives greater weighting to preferential procurement measured on the BEE scorecard.
- There was also greater clarity on the use of BBEE compliance levels, provisions also favour tenders that will benefit black owned companies and aspects around sub-contracting arrangements and even compulsory subcontracting on contracts above R30M etc.
- Section 8 supports the objectives of the Industrial Policy Action Plan (IPAP) by stipulating that the DTI can designate specific industries of critical and / or strategic importance or tender in which it is indicated that only locally manufactured products with a prescribed minimum threshold for local content of a product as a tendering condition based on robust research that draws on strategic sourcing and industry analysis in this case a two-stage bidding process may be followed.



12. Draft Procurement Bill, 2017

- There remains high degree of differential as National, Provincial departments, local government and public entities are allowed to develop in the greater ambit of the preceding acts and resulting duplication, variation in bidding forms and practices.
- In 2013 the Office of the Chief Procurement Officer (OCPO) in National Treasury to oversee and ensure the full implementation of public procurement reforms. The OCPO is not involved in procurement but manages procurement reforms, maintains the procurement system and oversees the way government does business with the private sector.
- Aim of the draft public procurement bill is to develop as a single procurement legal framework that will rationalize the legal environment and establish the public procurement authority within National Treasury and regulate and harmonize procurement by procuring entities.
- Focus on areas such as planning, budgeting and taking a strategic sourcing approach which includes differentiated approach for e.g., commodities regarding aspects like their nature, risk, value and complexity, capacities, markets and use of electronic systems.
- The OCPO has ensured numerous centrally negotiated transversal contracts and looks to renegotiate contracts with governments e.g., top 100 suppliers etc., by looking to consolidate spending on common goods and services used across government.
- The Central Supplier Database (CSD) introduced in September 2015 with aim of using technology to automate the verification of tax clearance certificates, company registration, BEE Status and introduction of an E-portal.



- The National Treasury issued Emergency Procurement in Response to National State of Disaster Regulations to facilitate emergency procurement relating to the C-19 pandemic i.e., Treasury Instruction 08 of 2019 / 2020, and Treasury Instructions 05 of 2020 / 2021 (later repealed and replaced by Treasury Instruction 11 of 2020 / 2021).

- The issuing of the Emergency Procurement Regulations recognized that the nature of the goods (and services) which would be required were not ordinarily procured and would subsequently experience unusually high demand in both the public and private sectors and needed to highlight the change in risks and the control environment under which SCM operates

- The emergency procurement provisions provided that AO's / delegated authorities were allowed to procure the required goods or services by other means such as price quotations or negotiations in accordance with National Treasury regulation 16A6.4 and report such within 10 days as an example and thus not follow an open competitive bids.

- These Emergency Procurement Regulations were however not used in the procurement / contracting of C19 private beds as it was decided that rather that an open bid process will remain to be followed, and such should remain open for the entire duration of the Disaster Regulations period as it was likely that new entrants / bidders could materialize during this period with whom the Department would obviously be interested in contracting with in the scarce resource of C19 beds.



- National Treasury
- National , Provincial Departments and Government Entities
- Accounting Officers
- Chief Financial Officers

health
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- Instituted in 2014 and subsequently concluded in 2019, the health market inquiry has been fundamental in providing insight into the private healthcare market in SA, specifically in respect of cost, access, allocation efficiency and restrictions on competition. The inquiry concluded that "the market was characterized by highly concentrated funders and facilities markets, disempowered and uninformed consumers and a general absence of value-based purchasing, practitioners who are subject to little regulation and failures of accountability at many levels."
- The findings of the Health Market Inquiry further emphasized the need for structural interventions in the healthcare healthcare market, specifically aimed at addressing the concerns above, and ultimately facilitating a path towards the realization of Universal Health Coverage, through the implementation of the National Health Insurance.
- In the light of above Hospital groups were holding back with fee submission proposals because of their uncertainty whether they may "collude" with administrators, clinicians and independent entities who provide these services.
- On 19 March 2020, and in response to the National State of Disaster, A block exemption for the Healthcare sector was received by the DTI. This allowed for e.g., Hospitals to be exempted but what the Hospital groups were seeking e.g. HASA was the ability to negotiate as a collective, but it is understood that this was not acceded to. In the end the tariffs were proclaimed by the National Minister of Health as allowed for in above exemption.



- For a legally binding contract to come into existence, there must be a valid offer and there must be a valid acceptance of such an offer.
- There can also be suspensive and / or conditional terms added but the final offer and acceptance will only take effect when all the suspensive and / or conditional clauses are fulfilled.
- Often contracts may include a time-limit within which these suspensive conditions need to be adhered to otherwise the offer will lapse.



- Clinicians and other professionals are not employed by the hospitals, they operate as independent practitioners and function as separate entities.

Other disciplines / contracting parties included , Anaesthetists , Radiology, Pathology, Renal , Allied Health Clinicians etc ..each of these requisite disciplines had to be contracted separately and as a collective.

- Administrator intermediaries were used to facilitate and assist with contracting of practising related independent clinicians of various disciplines, and related independent healthcare practitioners, who operate in the normal course of events at these facilities and who would be able to attend to these patients in these facilities. Their work can be described to be split into 2 components eg admin function and case management function

- Hospitals typically provide the facilities, equipment (generally), beds, consumables , nursing staff , catering and accommodation services and generally acquire their own public liability cover. Eg Medi Clinic , Netcare, NHN group and Life Healthcare operate under an affiliation of HASA.



SERVICE SPECIFICATION DESIGN

Service specification design with primary focus on establishing minimum criteria for interested parties to meet.

CALL FOR SERVICE

A "Call For Service" is issued via Government Gazette. The "Call For Service" remains open for the duration of the required period e.g., if the service is required for 3 years, interested parties may contract at any point within the 3 years

PRIVATE PROVIDERS (HEALTH ESTABLISHMENTS)

INDEPENDENT HEALTHCARE PRACTITIONERS

The Department would be required to contract with both private provider establishments / facilities, as well as independent healthcare practitioners.

Administrative intermediaries also appointed but private provider to manage relationship between parties specifically in respect of billing.

ADMINISTRATIVE INTERMEDIARIES

SERVICE LEVEL AGREEMENT

Formal Service Level Agreements are signed between Department and private providers, as well as independent healthcare practitioners with the Admin intermediary as an added party

IMPLEMENTATION

Referral of patients remains at discretion of Department. Recommended to form a JOC with the funding envelope for the procurement of such services be fully delegated to the Chairperson of such

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- The Department should issue a **'Call for Services'** to identify private providers (hospital groups) to provide health services when required, for the duration of the intended contractual period; for the Covid-19 contracting, open for duration of National State of Disaster.

- Departments will enter into a **Service Level Agreement** (SLA) with each Private Provider to care for patients of the Department

- The SLA must prescribe the terms and conditions under which the **Private Provider and the related Independent Healthcare Practitioners** will render the Services

- The SLA -

  - contents must be guided through **extensive discussion with private role-players**,

  - tariffs have been set with the **approval of the National Minister of Health**, and may not be altered or exceeded without the permission of the Minister



TFORM 1

TENDER BULLETIN

FORM FOR SUBMITTING: - A NEW TENDER NOTICE or
AN ERRATUM NOTICE or
AN INVITATION TO REGISTER ON SUPPLIER DATABASE NOTICE
FOR PUBLICATION IN THE GOVERNMENT TENDER BULLETIN

To submit a Cancellation notice, use TForm2, for a Results notice use TForm3, for a Responses from Suppliers notice use TForm4

*Type of Tender Notice: (Select an option) ☐ New Tender ☐ Erratum ☑ Invitation to Register on Supplier Database

TENDER CATEGORY:

*Tender Category: REGISTRY OF POTENTIAL SUPPLIERS

REQUIRED AT:

Province: National *Department or Entity: Department of Health

Division or Section: Public Private Partnerships (Contracting Private Health Services)

TENDER DETAILS:

*Tender / Quotation No: Not Applicable

*Closing Date: 2020-10-30 *Closing Time: 16:00

Date of Original Publication: (only required for ERRATUM notice) — For a New Tender or Invitation to Register on Supplier Database advertisement this date field is disabled

*Short Description of Tender:

The National Department of Health (NDoH) is seeking to pro-actively contract with licensed private health facilities & independent healthcare practitioners for the purpose of admitting patients in specific categories of beds. This Call For Service is being initiated in response to the COVID-19 pandemic, which has exacerbated the increasing burden of care on several public health facilities with existing bed and theatre capacity constraints. The NDoH welcomes the cooperation and assistance from the private sector in a collective effort to strengthen the current provincial health platform and effectively address the additional health needs during this pandemic. Private health establishments / practitioners who meet the specified minimum criteria will be invited to conclude a Service Level Agreement with Provincial Departments. The offer will remain open to all interested parties for the duration of the pandemic.

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Bed Availability

- Provider agrees to making beds available under terms of service
- No obligation to ensure the accessibility of beds outside terms of service

Applicable Mandate

- Provider facilities must be mandated to sign and conclude the SLA

Tariffs

- Provider must agree to the tariffs as stipulated for such beds.

BBBEE

- Provider must supply the BBBEE score card of their organization

Database Registration

- Provider must register and be an approved provider on both the National and Provincial where such is required supplier databases.

Administrative Intermediary

- Provider must nominate an administrator intermediary (from options supplied by Department)

Referral Pathways

- Referral remain at sole discretion of Department
- Effort made to distribute patients evenly, but clinical & geographical needs take priority
- Transparency in weekly JOC reports reflects activity amongst all hospital groups



The minimum criteria are as follows:	**Accept criteria? (Circle Yes or No)**
1. The hospital group and its facilities will seek to make available beds which have been licensed or meet the exemptions for such in the Province, subject to the Patient Referral Pathway set out in **Annexure J**. For the avoidance of doubt, there is no obligation to ensure the accessibility of beds outside of what is agreed in terms of the Service Level Agreement.	Yes / No
2. The provider facilities must be mandated to sign and conclude the attached SLA.	Yes / No
3. The provider must agree to the tariffs as stipulated for such beds.	Yes / No
4. The provider must supply the BBBEE score card of their organization.	Yes / No
5. The provider must register and be an approved provider on both the National and Provincial supplier databases.	Yes / No
6. The provider must nominate an administrator intermediary.	Yes / No
7. The referral of Patients and choice of facilities, from those which the Private Provider indicates to the Department are available for the admission of Patients, will be at the sole discretion of the Province, and this will be made upon its clinical and geographic needs (subject to availability), but will be subject to the Patient Referral Pathway set out in **Annexure J** and the principle that the Department will use its best endeavours to distribute Patients evenly across the various Private Providers with which it has concluded an SLA and which have critical beds available for admission of Patients.	Yes / No

The PFMA requires that such an arrangement be *fair, equitable, transparent, competitive and cost-effective*. The Department warrants that (a) the agreement complies with the requirements for public procurement as provided for, inter alia, in section 217 of the Constitution and the Public Finance Management Act 1 of 1999, as read together with the National Treasury Regulations and all relevant National Treasury Instructions, and (b) the Department has taken all necessary steps to ensure such



compliance. It is further recorded that this agreement constitutes an urgent emergency procurement necessitated by the COVID-19 pandemic in South Africa and the national state of disaster declared by the Minister of Co-Operative Governance and Traditional Affairs in response thereto.

To this end the invitation to partner in the provision of such Hospital bed services and the related contracted Independent Healthcare Practitioners at these facilities will be communicated and offered to all known Private Hospital establishments.

The SLA and above criteria will be open to all willing and able parties and this offer will remain open to all interested parties for the duration of the pandemic.

It is further agreed that the funding envelope for the procurement of such services will be fully delegated to Dr Bhavna Patel who will also serve as the Chairperson of the Western Cape Joint Operations Committee. This delegation includes the responsibility to ensure that these fees will be applied in a fair, equitable, transparent, competitive and cost-effective manner.

Approved:

Keith Cloete
Accounting Officer
Date: 18 May 2020

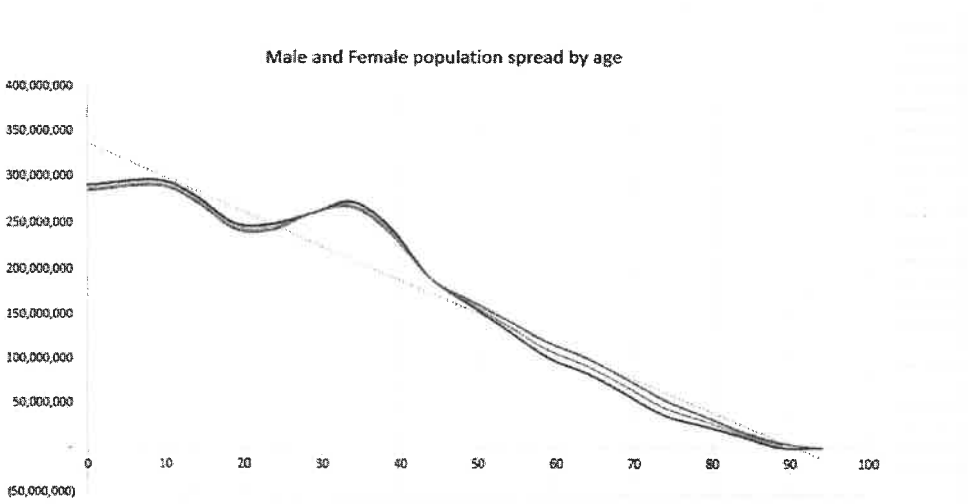
Approved:

Simon Kaye
Chief Financial Officer and Head of Corporate
Date: 18 May 2020



- Age and Sex spread

94	1	94	94	-	0	0	-	
89	2	89	89	-	0	0.1	5,930,869	2,965,435
84	3	84	84	11,861,738	0.2	0.3	17,792,607	14,827,173
79	4	79	79	23,723,476	0.4	0.6	35,585,214	29,654,345
74	5	74	74	35,585,214	0.6	0.9	53,377,821	44,481,518
69	6	69	69	59,308,690	1	1.3	77,101,297	68,204,994
64	7	64	64	83,032,166	1.4	1.7	100,824,773	91,928,470
59	8	59	59	100,824,773	1.7	2	118,617,380	109,721,077
54	9	54	54	130,479,118	2.2	2.4	142,340,856	136,409,987
49	10	49	49	160,133,463	2.7	2.8	166,064,332	163,098,898
44	11	44	44	189,787,808	3.2	3.2	189,787,808	189,787,808
39	12	39	39	243,165,629	4.1	4	237,234,760	240,200,195
34	13	34	34	272,819,974	4.6	4.5	266,889,105	269,854,540
29	14	29	29	260,958,236	4.4	4.4	260,958,236	260,958,236
24	15	24	24	249,096,498	4.2	4.1	243,165,629	246,131,064
19	16	19	19	249,096,498	4.2	4.1	243,165,629	246,131,064
14	17	14	14	278,750,843	4.7	4.6	272,819,974	275,785,409
9	18	9	9	296,543,450	5	4.9	290,612,581	293,578,016
4	19	0	0	290,612,581	4.9	4.8	284,681,712	287,647,147
					male	female		ave
			100.2		49.5	50.7		59,308,690
				94				

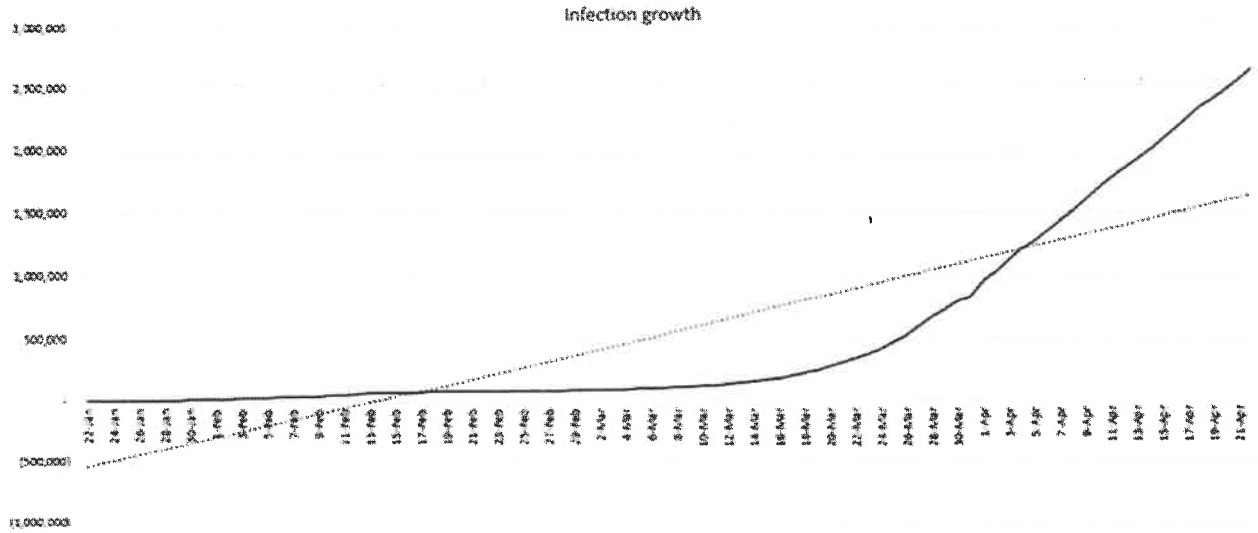


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- Infection growth

Rate of infections		
22-Jan	580	
23-Jan	845	265
24-Jan	1,317	472
25-Jan	2,105	788
26-Jan	2,800	695
27-Jan	4,581	1,781
28-Jan	6,058	1,477
29-Jan	7,813	1,755
30-Jan	9,823	2,010
31-Jan	11,950	2,127
1-Feb	14,553	2,603
2-Feb	17,391	2,838
3-Feb	20,630	3,239
4-Feb	24,545	3,915
5-Feb	28,266	3,721
6-Feb	31,439	3,173
7-Feb	34,876	3,437
8-Feb	37,552	2,676
9-Feb	40,553	3,001
10-Feb	43,099	2,546
11-Feb	45,134	2,035
12-Feb	59,287	14,153
13-Feb	64,438	5,151
14-Feb	67,100	2,662
15-Feb	69,197	2,097
16-Feb	71,329	2,132
17-Feb	73,332	2,003
18-Feb	75,184	1,852
19-Feb	75,700	516
20-Feb	76,677	977
21-Feb	77,673	996
22-Feb	78,651	978
23-Feb	79,205	554



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- Metro / Rural split

			Males	Females
			49.5	50.7
Total population		59,308,690	29,357,802	30,069,506
Rural	33	19,571,868	9,688,075	9,922,937
Metro	67	39,736,822	19,669,727	20,146,569
global infection rate	[redacted]			
Infections				
Rural			10,378	10,630
Metro			21,071	21,582
			31,450	32,212
current cases				
global mortality rate	[redacted]			
Mortality				
Rural			642	657
Metro			1,303	1,335
			1,945	1,992
current cases				

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- Required beds

	Days
LOS	5
ICU / stay 2% sounds a bit l	10

sounds like 10 % scenario relates to % of population requiring hospitalisation but maybe should be 10 % of infected. Max of 70 % only are probably going to get infected

actually need split between HC and ICU and General beds required and Palliative care

over next 6 months		SA pop 59,308,690	infected 70%	hospitalisation 10%	LOS 5 bed days General	public sector bed space	public sector additional bed	private sector bed space	FUNDED by medical aids etc ..COVID 60%	avail to purchase by WCDOH /	Shortfall COVID	in addition ICU / HC	public sector bed space	public sector additional bed	private sector bed space	FUNDED by medical aids etc ..COVID 60%	avail to purchase by WCDOH /	Shortfall
population WC 12%	7,117,043*																	
Metro	4,768,419	67%	3,337,893	333,789	1,668,947							333,789						
Rural	1,636,920	23%	1,145,844	114,584	572,922							114,584						
total	6,405,339	1	4,483,737	448,374	2,241,868	387,655	144,000	359,165	215,499	143,666	1,351,048	448,374	71,748	177,192	106,315	70,877	199,434	

800 bed CTICC

Assuming we have a "*flat 6 month curve*"

General bed days 143,666

Palliative care bed 28,733 presume 20 % of general

10 % carve out / case complications

in Private the HC and ICU split is about 50/50
big cost differential in per diem

HC bed days 35,438

ICU bed days 35,438

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1. All existing and presented C19 cases appeared to have high mortality rates and long ALOS for all initial patients treated
2. On all of these patients tried to understand the treatment required and being undertaken for C19 patients

ef	TBH invoice cost (excludes lab costs.)									sum	2.93								
	UPFS T	Tariff type 1:	Tariff Type 2:	Proced	Description:	Units	Unit Cost:	Total:		a	b	c	d	e	f	g	h	i	j
										31,248	1,232	1,676	-	-	-	2,105	658	-	-
									R184,594	156,239	6,160	8,378	-	-	-	10,527	3,290	-	-
	0630	Ward	Facility Fee		Intensive Care	15.5	R9,778.00	R151,559.00	R151,559	151,559	-	-	-	-	-	-	-	-	-
	0632	Ward	Specialist Fee			15.5	R370.00	R5,735.00	R5,735	-	-	5,735	-	-	-	-	-	-	-
	0510	Imaging	Facility Fee	00130	Mobile X-ray	7	R89.00	R623.00	R623	-	-	-	-	-	-	-	623	-	-
	0512	Imaging	Specialist Fee			7	R146.00	R1,022.00	R1,022	-	-	-	-	-	-	-	1,022	-	-
	0522	Imaging	Facility Fee	30100	Chest single view	7	R89.00	R623.00	R623	-	-	-	-	-	-	-	623	-	-
	0520	Imaging	Specialist Fee			7	R146.00	R1,022.00	R1,022	-	-	-	-	-	-	-	1,022	-	-
	2010	Ambulatory proc	Facility Fee	0206	IV Infusion inserti	1	R185.00	R185.00	R185	185	-	-	-	-	-	-	-	-	-
	2012	Ambulatory proc	Specialist Fee			1	R109.00	R109.00	R109	-	-	109	-	-	-	-	-	-	-
	2010	Ambulatory proc	Facility Fee	0264	Laryngeal Intubati	1	R185.00	R185.00	R185	185	-	-	-	-	-	-	-	-	-
	2012	Ambulatory proc	Specialist Fee			1	R109.00	R109.00	R109	-	-	109	-	-	-	-	-	-	-
	2010	Ambulatory proc	Facility Fee	1996	Male Catheterisati	1	R185.00	R185.00	R185	185	-	-	-	-	-	-	-	-	-
	2012	Ambulatory proc	Specialist Fee			1	R109.00	R109.00	R109	-	-	109	-	-	-	-	-	-	-
	1110	Minor theatre pr	Facility Fee	1215	Insertion of Arteri	3	R564.00	R1,692.00	R1,692	1,692	-	-	-	-	-	-	-	-	-
	1112	Minor theatre pr	Specialist Fee			3	R314.00	R942.00	R942	-	-	942	-	-	-	-	-	-	-
	1110	Minor theatre pr	Facility Fee	1218	Insertion of CVP lir	2	R564.00	R1,128.00	R1,128	1,128	-	-	-	-	-	-	-	-	-
	1112	Minor theatre pr	Specialist Fee			2	R314.00	R628.00	R628	-	-	628	-	-	-	-	-	-	-
	1010	OPD Consultatio	Facility Fee			2	R119.00	R238.00	R238	238	-	-	-	-	-	-	-	-	-
	1014	OPD Consultatio	APH Fee			2	R65.00	R130.00	R130	-	-	130	-	-	-	-	-	-	-
	1310	Treatment	Facility Fee			11	R77.00	R847.00	R847	847	-	-	-	-	-	-	-	-	-
	1314	Treatment	APH Fee			11	R56.00	R616.00	R616	-	-	616	-	-	-	-	-	-	-
	1700	Drawing of Blood		1700	Drawing of Blood	87	R39.00	R3,393.00	R3,393	-	-	-	-	-	-	3,393	-	-	-
	1710	Laboratory tests		1710	Blood Gases	87	R82.00	R7,134.00	R7,134	-	-	-	-	-	-	7,134	-	-	-
	0810	Medication Facility Fee		0810	Pharmacy Facility F	5	R44.00	R220.00	R220	220	-	-	-	-	-	-	-	-	-
	0815	Item Fee		0815	Meropenem 1000m	1	R2,980.80	R2,980.80	R2,981	-	2,981	-	-	-	-	-	-	-	-
	0815	Item Fee		0815	Azithromycin 500m	1	R213.40	R213.40	R213	-	213	-	-	-	-	-	-	-	-
	0815	Item Fee		0815	Micafungin 100mg	2	R1,285.30	R2,570.60	R2,571	-	2,571	-	-	-	-	-	-	-	-
	0815	Item Fee		0815	Methylprednisolor	1	R392.76	R392.76	R393	-	393	-	-	-	-	-	-	-	-
	0815	Item Fee		0815	Flucanazole tabs	1	R2.60	R2.60	R3	-	3	-	-	-	-	-	-	-	-
					TOTAL:			R184,594	R184,594										

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1. I attempted to calculate on the known beds and presuming such are primarily historically filled what is such costing the Department on a per diem basis

Sum of Expr1																						
SPName	Entity	YTD1920	% incr	ADJBUD1920	BUD2021		YTD2021	beds intermediate	beds general	beds acute	bed days intermediate	bed days general	bed days acute	cost 18/19	per diem intermediate 18/19	per diem general 18/19	per diem acute 18/19	per diem intermediate 19/20	per diem general 19/20	per diem acute 19/20	per diem intermediate 20/21	per diem general 20/21	per diem acute 20/21
total pr 1		760,259,899	99%	822,694,000	916,397,000	123%	31,386,814															
total EMS P 3		1,155,891,628	105%	1,163,519,000	1,218,497,000	105%	45,144,314															
total P7		214,493,779	102%	230,432,000	242,200,000	113%	19,001,483															
subtotal		2,130,645,307	102%	2,216,645,000	2,377,094,000	112%	95,532,611															
alloc 80 %		1,704,516,245	102%	1,773,316,000	1,901,675,200	112%	76,426,089															
total 2 9		3,745,781,239	108%	3,682,843,000	3,879,767,000	104%	188,381,790															
PB infrastructure		269,146,800	105%	256,587,000	242,658,000	90%	2,335,344															
subtotal		4,014,928,040	108%	3,939,430,000	4,122,425,000	103%	190,717,134															
allocated 80 %		506,161,319	103%	521,514,470	551,528,976	109%	24,360,512															
total		4,519,289,359	107%	4,460,944,470	4,673,953,976	103%	215,077,646	370	3,139	3	133,200	1,130,040	1,080	4,204,858,102	902	3,608	7,216	969	3,878	7,755	1,003	4,010	8,021
total P 4		2,181,082,518	109%	2,179,695,000	2,312,174,000	106%	97,288,221															
PB infrastructure		96,231,415	105%	92,319,000	100,085,000	104%	1,309,350															
		2,277,313,933	109%	2,272,014,000	2,412,259,000	106%	98,697,571															
allocated 80 %		286,079,613	104%	300,776,553	322,730,125	113%	12,606,751															
total		2,563,393,546	108%	2,572,790,553	2,734,989,125	107%	111,304,322		1,086	24	-	330,960	8,640	2,364,806,509	#DIV/0!	5,793	11,585	#DIV/0!	6,279	12,558	#DIV/0!	6,609	13,399
total P5		6,944,507,934	107%	6,940,481,000	7,397,758,000	107%	296,638,057															
PB infrastructure		331,915,662	120%	243,397,000	283,704,000	85%	12,282,955															
		7,276,423,595	107%	7,183,878,000	7,679,462,000	106%	308,921,012															
allocated 80 %		914,075,313	102%	951,024,977	1,027,416,099	112%	39,458,826															
total		8,190,498,908	106%	8,134,902,977	8,706,878,099	106%	348,379,838		2,651	194	-	947,160	69,840	7,691,829,269	#DIV/0!	7,077	14,154	#DIV/0!	7,536	15,072	#DIV/0!	8,011	16,022
subt total		13,568,665,568	108%	13,396,322,000	14,214,146,000	105%	598,335,717															

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1. Made amendments to the NDOH fee schedule being communicated with Private to cater also for Palliative Care beds of these exercise

All done with a purpose to assess whether it was feasible to embark on a collaborating C19 beds exercise because it appeared that at the peak of the demand both the public and private sector beds needs would be exceeded.

There would be ongoing contestation wrt bed space if the treatment protocols were not aligned between public and private and I began to try understand the ethical dilemma which clinicians and funders were likely to face.

Realized that there would only be a small window of opportunity on the rise and fall of bed number where public would be able to access Private beds.

Began to understand bed numbers better (eg facilities were able to both de-escalate elective procedures and create C19 beds thorough better planning etc ..and limiting / constraining factors (eg nursing staff, PPE etc ..)

Had an attempt also to ascertain if and how much budget was required / understand amounts set aside for this exercise.



Western Cape Government

Western Cape: COVID-19 Facility preparedness survey

1. Agreement

BETWEEN WESTERN CAPE GOVERNMENT: HEALTH (WCGH) AND PRIVATE PARTNERS

Background

With reference to the Presidential address on the 15th March 2020, President Cyril Ramaphosa officially declared the COVID-19 outbreak to be a national disaster. It is recognised that such a health emergency requires a multi-level, multi-partner coordination mechanism to support the required preparedness and response to the outbreak.

The parties agree that there are existing historical and intended cooperation arrangements, both formal and informal, which have been in existence and built up between WCGH and other Partners for many years.

Without intending to lessen, weaken or subvert from the existing roles and mandates of the National Department of Health, The National Health Laboratory Services (NHLS), the National Institute of Communicable Diseases (NICD) and any other role players, all the parties agree that where scope and opportunity exists, which does not entail a duplication of effort to co-operate operationally on an action plan towards COVID – 19, that each party should use their best efforts to support and co-operate.

Purpose

To collaborate, engage and coordinate a Western Cape specific response to the COVID-19 outbreak. To this end the parties agree towards our goal of Universal Healthcare and strengthening the health platform to disclose, report and share information in respect of capability, capacity and available resources in an effort to curb the spread of the COVID-19 outbreak.

Collaboration

The operational and action plans will require constant consultation and engagement with all parties, with the intention to have an arrangement whereby the Private Sector can be speedily incorporated into this plan. It is envisaged that:

- **The plans should allow for reporting on capacity and capability to provide coordinated COVID-19 responsiveness.**

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	Changed	SENT SLA	Responded / Status											
1														
2	NO	[illegible]		INCL	302	Original Database	Western Cape	Metro	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Durbanville Surgical Centre	3 Somerset Street
3	NO	[illegible]		INCL	332	Original Database	Western Cape	Metro	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Harbour Bay Surgical Centre	98 Cnr Main & Dido Valley Road
4	NO	[illegible]		INCL	303	Original Database	Western Cape	Garden Route	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Knysna Surgical centre	Cnr. Katonkel and Baracouda St
5	NO	[illegible]		INCL	301	Original Database	Western Cape	Metro	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Panorama Surgical Centre (Pty) Ltd	Cnr Rothschild Boulevard & He
6	NO	[illegible]		INCL	304	Original Database	Western Cape	Metro	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Vergelegen Surgical Centre (Pty) Ltd	4 Summer Hill Drive
7	NO	[illegible]		INCL	300	Original Database	Western Cape	Cape Winelands	Day Hospital	NHN	Advanced I	77	Approved Day Clinics	Advanced Worcester Surgical Centre	Cnr Fairbairn & Russell Street
8	NO	25-May		EXCL	326	Original Database	Western Cape	Garden Route	Psychiatric	Netcare		55	Mental Health Institutions	Akeso Clinic - George	15 Windsor Street
9				EXCL			Western Cape	Metro	Psychiatric					Akeso Kenilworth Clinic	32 cnr Kenilworth rd
10	NO	25-May		EXCL	349	Original Database	Western Cape	Metro	Psychiatric	Netcare		55	Mental Health Institutions	Akeso Specialised Psychiatric Clinic- Milnerton	Cnr Keurboom & Jasmine Stree
11	NO	[illegible]		INCL	299	Original Database	Western Cape	Metro	Day Hospital	NHN		77	Approved Day Clinics	Alchimia Clinic	39 Kloof Street,2nf floor
12	NO			EXCL	376	Original Database	Western Cape	Metro	Hospital	Other		57	Private Hospitals (A - Status)	Al-Nisa Maternity Home	7 Rokeby Road
13	NO				331	Original Database	Western Cape	Metro	Day Hospital	Other		77	Approved Day Clinics	Assisted Reproduction Clinic	Life Vincent Pallotti Hospital
14	NO	25-May		INCL	358	Original Database	Western Cape	Metro	Hospital	NHN	Melomed	58	Private Hospitals (B - Status)	Bellville Medical Centre	Cnr Voortrekker Rd &, A J West
15	NO				654	Additional from DH Databas	Western Cape	Garden Route	Drug And Alcohol I	Independent		59	Private Rehab Hospital (Acute	Bethesda Rehab Unit Cc	24 Longship Dr
16	NO			EXCL	383	Original Database	Western Cape	Cape winelands	Psychiatric	Other		55	Mental Health Institutions	Bloemendal Clinic	Bloemendal Farm,45 Simondiur
17	NO			EXCL	388	Original Database	Western Cape	Metro	Sub-Acute	Other		49	Sub-Acute Facilities	Bonheur Sub-Acute Centre	Fontaine Bleau Retirement Villa
18	YES	25-May-20		INCL	276	Original Database	Western Cape	Metro	Hospital	NHN		58	Private Hospitals (B - Status)	Busamed Paardevlei Private Hospital	4 Gardner Williams Avenue, Paa
19	NO	[illegible]			308	Original Database	Western Cape	Overberg	Day Hospital	NHN		77	Approved Day Clinics	Cango Medicentre	St John Street
20	NO	[illegible]		INCL	367	Original Database	Western Cape	Metro	Day Hospital	NHN		77	Approved Day Clinics	Cape Dental Theatres	Suite 213 Broadroad Medical ce
21	NO	[illegible]		EXCL	365	Original Database	Western Cape	Metro	Opthalmology	NHN		57	Private Hospitals (A - Status)	Cape Eye Hospital	Cnr Oosterzee Road & DJ Woo
22	NO	[illegible]		EXCL	298	Original Database	Western Cape	Metro	Psychiatric	NHN		55	Mental Health Institutions	Cape Gate Neuro Clinic	27 Vredekloof Heights,2 Koorst
23	NO				361	Original Database	Western Cape	Metro	LHC PPP	Life Esidimeni		PPP	PPP	Care conradie Centre	103 Highlands Drive,
24				EXCL			Western Cape	Cape Winelands	Clinic					Care Cure Paarl	10 Skool Street
25	NO	[illegible]		EXCL	297	Original Database	Western Cape	Garden Route	Sub-Acute	NHN		49	Sub-Acute Facilities	Carewell Sub-Acute Hospital	Fynbos Leefstyle Landgoed,Thy
26	NO	[illegible]		EXCL	290	Original Database	Western Cape	Metro	Psychiatric	NHN	Life Path	55	Mental Health Institutions	Claro Clinic	Burside House, Sylred Douglas
27	NO	[illegible]		EXCL	698	Additional from DH Databas	Western Cape	Metro	Psychiatric	NHN		55	Mental Health Institutions	Crescent Clinic	269 Main Road
28	NO	[illegible]		INCL	294	Original Database	Western Cape	Metro	Day Hospital	NHN	Cure Day	77	Approved Day Clinics	Cure Day Clinic Bellville	De Tiger Business Park,59 Han
29	NO	[illegible]		INCL	295	Original Database	Western Cape	Metro	Day Hospital	NHN	Cure Day	77	Approved Day Clinics	Cure Day Clinic Somerset West	18 Gardner Williams Avenue
30	NO	[illegible]		INCL	296	Original Database	Western Cape	Cape Winelands	Day Hospital	NHN	Cure Day	77	Approved Day Clinics	Cure Day Clinics St. Stephens Paarl	10 Skool Street
31	NO			EXCL	389	Original Database	Western Cape	Cape Winelands	Sub-Acute	Other		49	Sub-Acute Facilities	De Oude Renbaan Sub-Acute Clinic	1 Pine Street

Consolidated PVT data



3

		Facility Manager Contact name	Designation	Contact tel number	Mobile tel number	Contact email address	COVID-19 Contact name	Designation	Contact tel number	Mobile tel number	Contact email address	Management Contact	Designation	Contact (Landline)	Contact (Mobile)	E-ma
Durbanville	Cape Town															
Cape Peninsula	Cape Town															
Fisher Haven	Knysna															
Panorama	Cape Town															
Somerset west	Cape Town															
Worcester	Worcester															
George	George															
Southern Suburbs	Cape Town															
Milnerton	Cape Town															
Gardens	Cape Town															
Crawford	Cape Town															
Rondebosch	Cape Town															
Bellville	Cape Town															
Plettenberg Bay	Plettenberg bay															
Paarl	Cape Town															
Tygerberg	Cape Town															
Somerset West	Cape Town															
Oudtshoorn	Oudtshoon															
Wynberg	Cape Town															
Bellville West	Cape Town															
Cape Gate	Cape Town															
Mitchells Plain	Cape Town															
Paarl	Paarl															
Mossel Bay	George															
N1 City	Cape Town															
Claremont	Cape Town															
Bellville	Cape Town															
Paarldevlei	Cape Town															
Northern Paarl	Paarl															



Management Contact	Designation	Contact (Landline)	Contact (Mobile)	E-mail Address	Technical Team	Technical Team E-mail	Notes



- Patients registered as **public sector dependent patients** on the Department systems
  - Assigned an appropriate identification so that they can always remain defined as patients of the Department
  - Patient biographical information: a unique referral and number in unique alpha and numeric form; gender; the patient's geographic location by district; identity number; cell number; and date of birth
  - Patients will be accounted for using this biodata and all records will become the property of the Department

- SLA will commence on the signature date and will remain in force for the duration of the specified period of need, unless terminated earlier in terms of the Agreement. There will also be provision for extension of the Agreement, where the need so arises.



- Department will appoint **Private Providers (private hospitals)** by means of an SLA

- Private Providers appoint an **Administrator Intermediary** - for each provider group
  - Facilitate/administer the services

- Referral of patients to the Private Provider and the related **Independent Healthcare Practitioners** will be solely in the discretion of the Department
  - Private Provider cannot insist or compel the Department to refer patients or a specific number of patients
  - Primarily non-medical aid funded patient; if patient is funded, scheme must be billed
  - Other responsible department (e.g., Defence, Correctional Services)
  - Department will be liable for payment of the services rendered for referred patients at the approved tariffs.



SPECIAL CONDITIONS OF CONTRACT
SERVICE LEVEL AGREEMENT

Entered into by and between

THE WESTERN CAPE GOVERNMENT VIA ITS DEPARTMENT OF HEALTH
herein represented by Dr Keith Cloete in his capacity as Head of Health and duly authorised hereto
(Hereinafter referred to as "**the Department**")

and

«ENTITY_NAME»
a <<Company trading structure>>,
having its main place of business at
«STREET_ADDRESS»
with registration number «COMPANY_REGISTRATION_NUMBER»,
duly authorised thereto and represented herein by
«MOU_SIGNED_BY»
in his/her capacity as «CAPACITY»
(hereinafter referred to as the "**Private Provider**")

and

«ENTITY_NAME»
a <<Company trading structure>>,
having its main place of business at
«STREET_ADDRESS»
with registration number «COMPANY_REGISTRATION_NUMBER»,
duly authorised thereto and represented herein by
«MOU_SIGNED_BY»
in his/her capacity as «CAPACITY»
(hereinafter referred to as the "**Administrator Intermediary**")

(Collectively hereinafter referred to as "**the Parties**")

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SPECIAL CONDITIONS OF CONTRACT

SERVICE LEVEL AGREEMENT

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THE WESTERN CAPE GOVERNMENT VIA ITS DEPARTMENT OF HEALTH

herein represented by Dr Keith Cloete in his capacity as Head of Health and duly authorised hereto

(Hereinafter referred to as "**the Department**")

and

Independent Healthcare Practitioner

HPCSA Number:	
Identity Number:	
Society / Professional body	
Name:	
Surname:	
Hospital Facility	
Hospital Group:	
Partnership/Group Practice Number (if applicable):	
Individual Practice Numbers of all participating Clinicians:	
VAT number:	
Accounts submitted using: Individual / Partnership/Group Practice Number:	
Category of registration: H, P (2,3,4,5)	
Physical address:	
Street:	
Suburb:	
Town:	
Postal code:	
Postal address:	
Business phone number:	
District:	
Cell phone number:	
E-mail:	

(Collectively hereinafter referred to as "**the Parties**")

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Health
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SPECIAL CONDITIONS OF CONTRACT
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THE WESTERN CAPE GOVERNMENT VIA ITS DEPARTMENT OF HEALTH
herein represented by Dr Keith Cloete in his capacity as Head of Health and duly authorised hereto
(Hereinafter referred to as "**the Department**")
and
Independent Healthcare Practitioner

HPCSA Number:	
Identity Number:	
Society / Professional body	
Name:	
Surname:	
Hospital Facility:	
Name of Group	
Partnership/Group Practice Number (if applicable):	
Individual Practice Numbers of all participating Practitioners: (if applicable)	
VAT number:	
Accounts submitted using: Individual / Partnership/Group Practice Number:	
Category of related (i.e. P, 1,2,3,4,5):	
Physical address:	
Street:	
Suburb:	
Town:	
Postal code:	
Postal address:	
Business phone number:	
Email:	
Cell phone number:	
E-mail:	

(Collectively hereinafter referred to as "**the Parties**")

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Broad-Based Black Economic Empowerment Verification Certificate

Rondebosch Medical Centre (Pty) Ltd

Certificate Number:	[illegible]
Version No:	1
Registration No:	[illegible]
VAT No:	[illegible]
Address:	65 Main Rd, Rondebosch, Cape Town, 7700
Verification Standard Applied:	Codes of Good Practice (Government Gazette 36928)
Scorecard Applied:	Advanced Generic Scorecard
Basis of Recognition:	Empowering Supplier (More than R50M)
Initial Broad-Based Black Economic Empowerment Level:	A Level 8 Contributor to B-BBEE
Next Empowerment Review Due By:	N/A
Medical Aids Through Principle Applied:	N/A

	Base Threshold	Modified Base Threshold
Voting Rights of Black Persons:	25.10%	N/A
Voting Rights of Black Women:	0.00%	N/A
Economic Interest of Black Persons:	51.00%	N/A
Economic Interest of Black Women:	0.00%	N/A
30 % Black Owned:	N/A	
30 % Black Women Owned:	N/A	
Level Issued:	18 February 2016	
Empowering Supplier:	YES	
Designated Group Supplier:	NO	

A Level 8 Contributor to B-BBEE

Description	Score	Weighting
Ownership	0.00	25
Management Control	0.41	19
Skills Development	0.00	20
Enterprise & Supplier Development	10.00	40
Socio-Economic Development	1.00	5
Overall Score	11.41	109

Verification Professional/Authority Date

Issued date: 24 March 18
Expiry Date: 24 March 19
Issued under the [illegible]

This Certificate and the verification report are based on the information received from [illegible] B.E.E. Services (Pty) Ltd in terms of the Amended Codes of Good Practice issued in terms of the Broad-Based Black Economic Empowerment Act, No 53 of 2003. The interpretation of the various elements on the scorecard is in accordance with the Dti Circular 1 of 2006 and Technical Assistance Unit Circular 1 of 2006. Published on 19 December 2006.

[illegible]

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MAKING SIGNIFICANT CHANGES IN SOCIETIES

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Western Cape Government
Health

Office of the Head: Health
Reference: 16/4
Enquiries: Dr Keith Cloete
E-mail: [illegible]

Private Hospital Groups (Mediclinic, Netcare, Life Health Care and NHN group)
Administration Intermediaries (Discovery, Medscheme, MMI)
related Independent Clinicians and Health Care Practitioners

Dear Private Healthcare Providers

REFERRAL OF COVID-19 STATE PATIENTS TO PRIVATE HOSPITALS EXTENDED TO 15 JANUARY 2021 | COVID RESURGENCE 'SECOND WAVE'

The Western Cape Government Health (WCGH) only referred a limited number of patients during the first wave of the COVID-19 pandemic. The Province was able to de-escalate other procedures and it had implemented mitigating plans such as the Hospital of Hope at the Cape Town Convention Centre amongst its other interventions.

Presently, the Rural Districts, specifically the Garden Route District are experiencing a second wave of COVID -19 cases whilst there is an upsurge in the Metro District.

The WCGH in terms of its Whole of Society Approach (WOSA), is working as far as is possible with communities and key role players to implement its nuanced hotspot strategy which includes reducing alcohol access, appropriate COVID-19 messaging and more.

The WCGH is in addition making **R19 million** available to its referring clinicians which will take the form of approved authorisation numbers with which they may refer state patients to contracted private facilities. The referrals are subject to the available bed capacity and the necessary related independent clinicians and healthcare practitioners being in place.

It is foreseen that the processes around the collection of data on the bed bureau may need to be re-looked at, but the referrals should take place as agreed in the SLA's and the relevant Annexures.

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The period of the respective SLA's was pertinently dependent on the dates as specified in the Disaster Management Act which has now been extended to **15 January 2021** or the available budget for this service of the Department being in place for such.

As before, reporting, meetings and governance of the arrangement should, take place via the Western Cape Joint Operating Committee but this will be chaired by Dr Bernadette Eick who is acting on behalf of Dr Bhavan Patel who is presently on leave.

Supported / not Supported

Comments: .....

MR SIMON KAYE
CHIEF FINANCIAL OFFICER
DATE:

Supported / not Supported

Comments: .....

DR KEITH CLOETE
HEAD OF HEALTH
DATE:

CC:

DG: NDOH
DDG: WCG PROVINCIAL TREASURY



- A list of approved providers / facilities must be established by the Department
- Must include details such as facility, name hospital group, contact name, telephone number, email address, province and hospital type; illustrated in below example.
- It is recommended that a "Bed Bureau" or similar be established to manage bed availability, occupancy and capacity, for ease of referral

Contact name	Contact tel number	Contact email address					
Carol Defty	021-9835600	Carol.Defty@Mediclinic.co.za	WC	58-facility	Mediclinic	Cape Gate	
Christine Taylor	021-9802100	Christine.Taylor@Mediclinic.co.za	WC	58-facility	Mediclinic	Durbanville	
Theresa Wilson	021-9576000	Christine.Taylor@Mediclinic.co.za	WC	58-facility	Mediclinic	Louis Leipoldt	
Riaan Vorster	021-9382111	Riaan.Vorster@Mediclinic.co.za	WC	58-facility	Mediclinic	Panorama	
Jeanine Visser	021-8078000	Jeanine.Visser@Mediclinic.co.za	WC	58-facility	Mediclinic	Paarl	
Jacques van Wyk	023-3481500	jacques.vanwyk@mediclinic.co.za	WC	58-facility	Mediclinic	Worcester	
Carol van Zyl	021-8612094	Carol.vanzyl@mediclinic.co.za	WC	58-facility	Mediclinic	Stellenbosch	
Michelle Africa	021-4645500	Michelle.Africa@Mediclinic.co.za	WC	58-facility	Mediclinic	Cape Town	
Henk Laskey	021-7992911	Henk.Laskey@Mediclinic.co.za	WC	58-facility	Mediclinic	Constantiaberg	
Anne-Marie Nortje	021-5299000	Anne-Marie.Nortje@Mediclinic.co.za	WC	58-facility	Mediclinic	Milnerton	
Kassie Karstens	044-8032000	Kassie.Karstens@Mediclinic.co.za	WC	57-facility	Mediclinic	Geneva	
Kassie Karstens	044-8032000	Kassie.Karstens@Mediclinic.co.za	WC	58-facility	Mediclinic	George	
Gerhard Joubert	028-3130168	Gerhard.Joubert@Mediclinic.co.za	WC	57-facility	Mediclinic	Hermanus	
Hannes Stegmann	044-2720111	Hannes.Stegmann@Mediclinic.co.za	WC	58-facility	Mediclinic	Klein Karoo	
Girlie Lubbe	044-5015100	Girlie.Lubbe@Mediclinic.co.za	WC	58-facility	Mediclinic	Plettenberg Bay	
Marquin Crotz	021-8509000	Marquin.Crotz@Mediclinic.co.za	WC	58-facility	Mediclinic	Vergelegen	



Nr#	State Patient referral number	Hospital Name	Sector (Public/private)	Hospital Practice number as a unique identifier	Hospital telephone number	Patient name	Patient surname	RSA ID / Passport	Date of Birth (YYYY/MM/DD)	Age	Age group	Ethnic group (Black african, Coloured Indian/Asian, White, Other, Unknown)	Sex (Female, Male)	Citizenship	Passport country of origin	Hospital patient number	Patient Telephone number	Patient residential address: Street number	Patient residential address: Street name	Patient residential address: Suburb	Patient residential address: Town	Patie reside addre Provi
										Calculate	Calculat											



Patient residential address: Postal code	Occupation group (unemployed / Student / Healthcare worker/ Health laboratory worker / Other)	Occupation (specify)	Funder : medical aid, correctional service , other	Employer/educational institution: Name	Employer/educational institution: Street name, building, location description	Employer/educational institution: Sub-place, suburb, village, postal area	Employer/educational institution: Town/city	Employer/ educational institution : Post code	Employer/ educational institution : Contact number	Pregnant (Y/N)	Gestation age	Given birth in past 6 weeks (Y/N)	Breast feeding?	admit time	discharge time	Admit Date (YYYY/MM/ DD)	Admit ward	Admit ICU date (YYYY/MM/ DD)	Discharge ICU date (YYYY/MM/ DD)	Admit date - high care ward (YYYY/MM/ DD)	Discharge date - high care ward (YYYY/MM/ DD)



Ventilated (Y/N)	Currently ventilated (Y/N)	High flow nasal oxygen (Y/N)	Currently oxygenated (Y/N)	Outcome / Discharge method (Discharge, transfer out, death)	Outcome date (YYYY/MM/DD)	Primary Diagnosis / NMC diagnosed	Secondary Diagnosis (underlying problem/Co-morbidities e.g. HIV, TB, COPD, Hypertension, Diabetes, Astham, Obesity, Cancer, Other (specify))	Co-morbidity Diagnosis . Complication Diagnosis (in these columns add the ICD10 codes for each if applicable	Complication Diagnosis add the ICD10 codes for each if applicable	If HIV positive: On ART? Y/N	If HIV positive: Virally suppressed? Y/N	If TB: treatment start date: YYYY/MM/DD	Method of diagnosis (Clinical signs and symptoms only; Laboratory confirmed; Rapid test; x-ray; other)	Clinical symptoms relating to the NMC (Fever, Sore throat, Cough, shrotness of breath, Myalgia/body aches, Diarrhoea, Other)	Date of diagnosis (YYYY/MM/DD)	Date of symptoms onset (YYYY/MM/DD)	ward type i.e. Isolation ward, Intensive care ward, etc. and the number of days in each ward so we can track and pay accordingly (assuming the rate will be at	Ensure that there is minimal free text. i.e. in Symptoms predefine the various symptoms with that can be selected or for genders define M=male F=female	Close physical contact with a known COVID case in past 14 days (Yes/No/Unknown)	Where did contact take place? (Quarantine centre, Healthcare setting, Family setting, Workplace, Other (specify))	Was a specimen collected? (Y/N)	Date of specimen (YYYY/MM/DD)



3

	Element	Enter first reporting date (Monday)	5/11/2020	5/18/2020	5/25/2020	6/1/2020	6/8/2020	6/15/2020	6/22/2020	6/29/2020	7/6/2020	7/13/2020	7/20
1	Number of standard care beds - Hospital - Total	Once off reporting											
2	Number of high care beds - hospital - Total	Once off reporting											
3	Number of ICU beds - hospital - Total	Once off reporting											
4	Number of isolated standard care beds with oxygen points for Covid-19 patients	Subset of 1 / weekly reporting											
5	Number of isolated High care beds for Covid-19 patients	Subset of 2 / weekly reporting											
6	Number of isolated ICU beds (with ventilators) for Covid-19 patients	Subset of 3 / weekly reporting											
7	**Number of Isolated beds for Covid-19 in Hospital - Total (standard care, and critical care)**	**Calculated field (sum of 4 +5 +6)**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**0**	

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Indicator	Total	NHN Group	Medi Clinic	Netcare	Life Healthcare	CHECK TOTAL	D
Total Number of Admissions / Referrals	**23**		**2**	**19**	**2**	14	-
# Female	8		1	6	1	5	-
# Male	15		1	13	1	8	-
New Admissions/ Referrals last week	**1**			**1**		-	-
# Female						-	-
# Male	1			1		-	-
Total Number of Deaths per hospital	**10**			**10**			1
# Female	5			5			3
# Male	5			5			4
Total Number of Deaths per hospital last week						-	
# Female						-	
# Male						-	
Total Discharged to Home	**2**			**2**		2	
# Female						-	
# Male	2			2		2	
Total Patients Discharged by Level of Care	**2**			**2**			
HC and ICU :ave days	2			2			
General beds :ave days							
Palliative care :ave days							
Total Patients in hospital	**140**			**112**	**28**		
HC and ICU :cum days	140			112	28		
General beds :cum days							
Palliative care :cum days							
Total Carve outs #							
Dialysis							
Tracheoscopy							
Blood							
Other							
Total costs per diems	**2,261,840**	-	-	**1,803,472**	**452,368**		
Facility fees	1,644,860	-	-	1,315,888	328,972		
Clinician fees	349,020	-	-	279,216	69,804		
Pathology	82,320	-	-	65,856	16,464		
Radiology	88,480	-	-	70,784	17,696		
Allied Care	97,160	-	-	77,728	19,432		
Total costs of Carve outs							
Facility fees							
Clinician fees							
Pathology							
Radiology							
Allied Care							
Other							
Blood							
Average Cost per patient on discharge *(all level c*							
Average Cost per patient : Per diem	16156				16156		
Average Cost per patient : Carve outs							

Michael Massiag: incorrect need actual NHLS

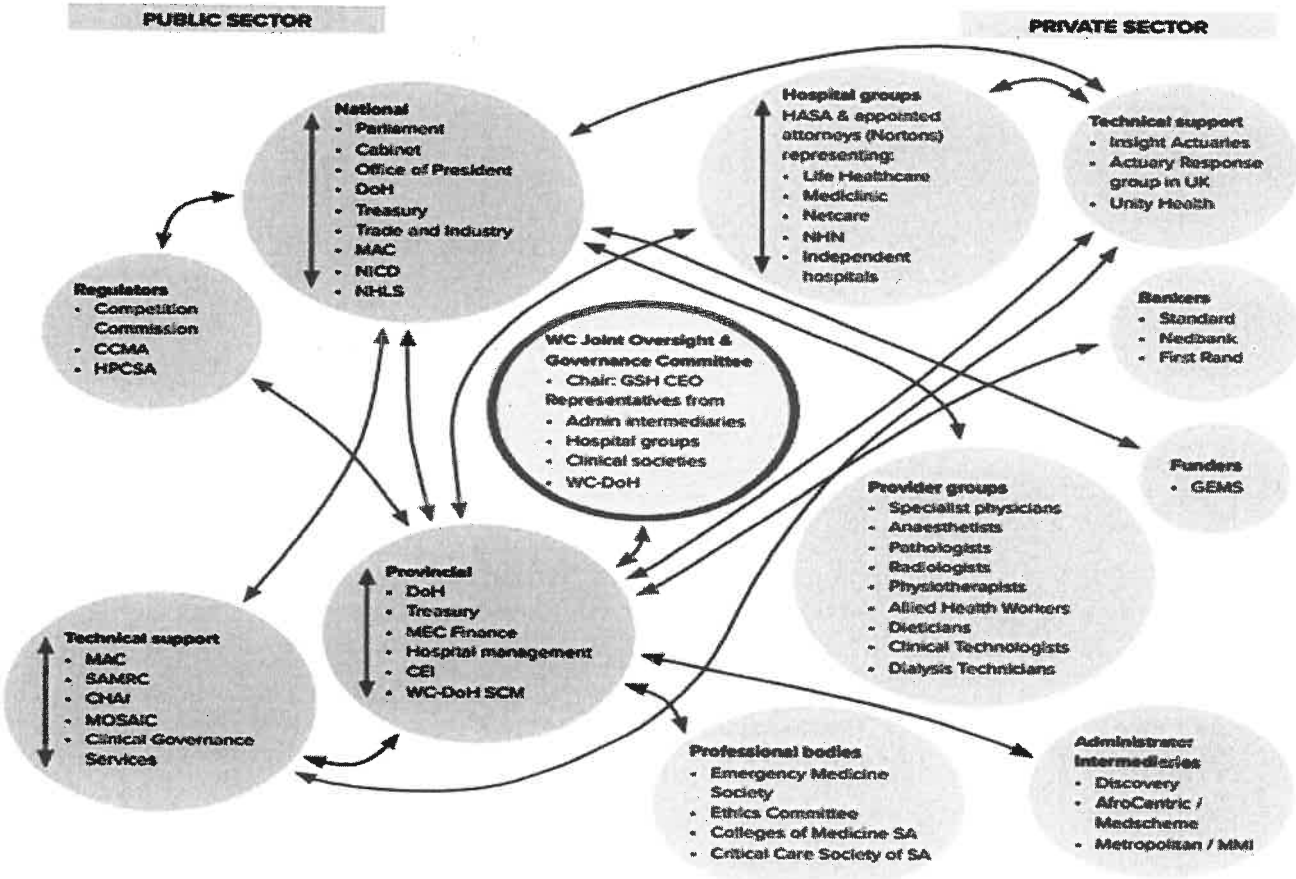


Auth. Number	Referring Hosp.	Folder No	Patient Name	Patient Surname	DOB	ID Number	Gender	ICD10 Code	CCSA Codes	Date of Referral	Private hospit
COV0022	Tygerberg Hospital										
COV0023	Tygerberg Hospital										
COV0024	Tygerberg Hospital										
COV0025	Tygerberg Hospital										
COV0026	Tygerberg Hospital										
COV0027	Tygerberg Hospital										
COV0028	Tygerberg Hospital										
COV0029	Tygerberg Hospital										
COV0030	Tygerberg Hospital										

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Figure 2: Stakeholder engagement in developing SLA





Referral, Allocation And Administration Process To Transfer And Governance Of Patients From The Public To The Private Sector

3

Western Cape Government

Office of the Head: Health
Reference: 16/4
Enquiries: Dr K Cloete
E-mail: Keith.Cloete@westerncape.gov.za

TO ALL SAHS MEMBERS,
CEOS OF CENTRAL HOSPITALS,
ADMINISTRATION INTERMEDIARIES AND
PRIVATE PROVIDERS

CIRCULAR H 164 of 2020: REFERRAL, ALLOCATION AND ADMINISTRATION PROCESS TO TRANSFER and GOVERNANCE of PATIENTS FROM THE PUBLIC TO THE PRIVATE SECTOR

This circular is an update of Circular H 151 of 2020.

For implementation and further distribution to all relevant role-players.

Kind regards,

DR KEITH CLOETE
HEAD: WESTERN CAPE DEPARTMENT OF HEALTH
DATE: 28 JULY 2020

20th Floor, 4 Dorp Street, Cape Town, 8001
Tel: +27 21 483 3479

P O Box 2060, Cape Town, 8000
www.westerncape.gov.za

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State facility / Operations Command Structure identifies the need for admission of a state Patient and enquires as to the availability of beds on the Beds Bureau database

Representative contacts the Private Provider's Operations Centre (PPOC) to confirm bed availability. Digital platform will be updated daily, as subsequent admissions could have taken place. PPOC must also confirm availability and confirmation of a receiving doctor, relevant staff and other operational requirements are met

Authorisation number issued by GDOH for admission to the Private Provider's facility, which will be referred to in all future correspondence and claims. Upon confirmation of bed availability, the PPOC will contact the identified facility to inform them of the acceptance of the patient.

A clinician-to-clinician communication for discussion of clinical information and hand over must follow.

An ambulance service provider to be paid for by the Department, will be contacted to perform the inter-facility transfer as coordinated by the JOC (or other command structure as identified) where necessary

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- The Department must implement a **Joint Operations Committee (JOC)** responsible for authorisation to refer patients to Private Providers and to approve additional clinical procedures ('carve-outs')
  - Clinician to clinician contact
  - Standard Operating Procedure (SOP) must be in place, with a rapid turnaround time, for funding approval for all referrals and additional procedures
- Independent Healthcare Practitioners must request the Clinical Joint Operations Committee (JOC) for **pre-authorisation**
  - granted subject to available funding
- Department will pay the Private Provider and Independent Healthcare Practitioners for such treatment in accordance with the **GEMS Emerald Value Option** (EVO) tariffs
  - associated non-tariff ('surgicals' and 'ethical') expenditure will be reimbursed at cost



- Departments will make available the Clinical Ethics Committees in their major hospitals for guidance and advice to the Private Providers as required

- There will be many difficult decisions to take so provincial Departments must be proactive in this regard
  - Clinical Guidelines
  - Decisions on clinical care interventions



ADMINISTRATIVE INTERMEDIARY

Inpatient beds

– Critical Care **R 11 749**

- per patient per day (VAT inclusive)
- no differentiation be made between ICU and High Care
- 'Critical Care' 55% HC & 45% ICU
- Reduces incentive to prefer seriously ill patients, with less likelihood of survival, over patients with a better chance of survival

HOSPITALS

Clinical care

– Clinicians **R 2 493**

– Pathology **R 588**

– Radiology **R 632**

DAILY

- FBC incl Platelets
- Urea
- Creatinine
- Magnesium
- Phosphorus
- BGA (Blood gas analysis incl. Electrolytes)
- D-dimer (quantitative)
- T/C bilirubin
- CRP
- ALT
- AST
- GGT

PERIODICALLY (as required)

- X-ray of the chest two views, PA and lateral
- X-ray with mobile unit in other facility
- CT Chest

INDEPENDENT HEALTHCARE PRACTITIONERS

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	SUPPLEMENTARY LABORATORY INVESTIGATIONS	Price
1	SERUM FERRITIN ASSAY RIA	171,00
2	HIV ELISA	185,50
3	TROPONIN T	275,00
4	PROCALCITONIN QUANTITATIVE	632,30
5	BRAIN-TYPE NATRIURETIC PEPTIDE (PROBNP)	646,70
6	CALCIUM - A	40,00
7	LACTATE DEHYDROGENASE TOTAL-A	59,40
8	PROTHROMBIN INDEX PI MANUAL	66,20
9	ALBUMIN - A	52,90
10	PTT TEST	64,30
11	GLYCATEDHAEMOGLOBIN - A	138,40
12	AUTOMATED BLD CULT AEROBIC NO GROWTH	40,16
13	COAGULATION FACTORS QUANTITATIVE @ 32.2 UNITS	354,20
14	ANTI FACTOR Xa ASSAY	737,30

ANY other test requested for a public sector patient the provincial Departments will pay the normal laboratory tariff discounted by 25%

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Per Day Tariff	Critical Care Rate
Private Hospital	11 749
Specialist Physician Team	2 493
Pathology	588
Radiology	632
Allied care (Physiotherapy, Dietetics)	694
Global Fee	**16 156**

General Hospital beds per patient per day (VAT inclusive)

- Hospital component R2 972
- Practitioner component R 476

Total **R3 448**

Palliative Care beds per patient per day (VAT inclusive)

- Hospital component R 991
- Practitioner component R 151

Total **R1 142**

Dialysis rates

(including nurse/technologist fees and VAT)

- Continuous Renal Replacement Therapy (CRRT) R10 343
- Sustained Low-Efficiency Daily Diafiltration Dialysis (SLEDD) R 4 971
- Intermittent haemodialysis (IHD) R 3 625

Departments will need to manage EMS and patient transport between facilities (admission and discharge), and should preferably use their own EMS

Departments will need to make local arrangements regarding the removal of corpses and the necessary burial arrangements

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Where the Province's clinicians approve additional procedures for a public patient in a private facility

- tariff codes, descriptors and Rand values (in this case the Rand value is the EVO average) are as follows:
- **Facilities / Hospitals:**

Tariff code	Tariff description	Rand Value (EVO Average)
071	Minor Theatre charge per Minute	R32.60
081	Major Theatre Charge per minute	R118.60
070	Cardiac Cath Bi-plane Digital	R17 010.80
073	Cardiac Cath Mono-plane Digital	R12 073.30
075	Catheterisation Laboratory film	R286.60

- **Healthcare Practitioner Files:**
  - This is a large file that is available on GEMS website

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Department:
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Note that:

- Basic equipment is incorporated into theatre tariffs
- There is additional equipment relating to specific procedures which is not incorporated into theatre tariffs (includes anaesthetic machines, laparoscopic equipment, lasers and scopes)
- Add 5,0% of the amount levied for theatre time (tariffs 071 and 081) to allow for additional equipment charges
- Gases are included in the theatre tariffs



Three Administrator Intermediaries have been identified that have the capacity to manage:

• Mediclinic	Medscheme
• Netcare	MMI
• Life Health Care	Discovery
• NHN group (includes Busamed, Melomed)	Discovery

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Department:
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Payment

- The Private Provider and the related Independent Healthcare Practitioners will invoice the Department via the Administrator Intermediary for services rendered as per the fees schedule
- The Department will pay the Private Provider and the Independent Healthcare Practitioners per invoice, in arrears as per the tariffs within 30 (thirty) Calendar Days of receipt of the invoice

Indemnity

- Independent Healthcare Practitioners have been concerned that their liability would be compromised by working outside of their scope of practice and medico-legal liability insurance cover
- MEC of Finance should grant approval, in terms of Section 66 (2)(b) of the Public Finance Management, Act 1 of 1999, for purposes of fulfilling the indemnity requirements associated with the contracting the services of clinicians for the medical treatment of state referred patients at private facilities



The province is encouraged to:

1. Issue a 'Call for Services' to identify private providers, if not already done

2. Use the same format for contracting
   - SLA with annexures provided
   - Details may be province specific
   - Tariffs are nationally set

3. Develop the administrative capacity, SOPs and systems to manage the contracts

4. Ensure that an appropriate Clinical Governance committee and procedures are in place to control the referral of patients



1. Specify / define scope of services required

2. Clarify and specify (in the C19 example this was state patients to private facilities to beds) but in future design / specification opportunity exists to alter / optimize use of resources in state and private in a matrix wrt such
   - eg In which facility (public or private will patients be treated)
   - the nursing staffs
   - the requisite equipment and maintenance of such
   - the clinical staff (Doctors / Specialists)
   - Medicines and Consumables
   - Pathology services
   - Allied care
   - Indemnity
   - Admin intermediary function and Case management function
   - Patient transport
3. Calculate demand and quantum of services required
4. Specify and ring fence budget available for such services
5. Decide on the viability of the project with own calculated tariffs and assess / reassess wrt matrix above.
6. Consider whether to provide indemnity via MEC finance or rather leave to providers to arrange.

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7.Assign responsibility of budget and approval to pay for bills to a specific individual.eg CEO of a hospital who has the administrative capacity to pay and manage the process and chair say month JOC meetings

8. Specify period of project and funding

9. Create, maintain database and enroll suitable providers via call to register / call for service and ascertain their locations and capacity

10.Perform Corporate Governance checks on all providers and their staff eg CSD, Tax Clearance etc..

11.Design separate SLA's for the Hospital Groups, and each of the independent related healthcare practitioners if / as required

12.Specify and agree referral pathway and clinical guidelines / protocols

13.Create accessible repository of # approved order numbers with requisite columns to identify patients, admission dates, treatments received to which the admin intermediaries should populate and update and against which final bills can be checked.

- Delegate specific and the unique order numbers to each of the state referring hospital clinicians eg xxy Hospital could refer 20 patients and needed to use only one of #00020, #00021 to #00040.

14, Tariffs for services to be rendered need to be specified by the National Minister of Health

15. A condition of the SLA would be that all providers need to expressly agree and comply with the conditions set and follow the predetermined processes and agree to tariffs.

16. CFO, HOD and NT should be proactively engaged to ascertain their support and / or inputs on such a project.



3

ngiyathokoza! ro livhuwa!

dankie! ke a leboga! enkosi!

thank you! ndo livhuwa!

inkomu!

ke a leboha! ngiyabonga!

siyabonga!

health

Department:
Health
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SJM8

GAUTENG PROVINCE
PROVINCIAL TREASURY
REPUBLIC OF SOUTH AFRICA

SPEECH BY HONOURABLE JACOB MAMABOLO, GAUTENG MEC FOR FINANCE ON THE OCCASION OF TABLING THE 2023/24 GAUTENG PROVINCIAL BUDGET TO THE GAUTENG PROVINCIAL LEGISLATURE, 09 MARCH 2023.

Madam Speaker;
Honourable Premier.
Colleagues in the Executive Council.
Honourable Chief Whip.
Honourable Members of this House.
Mayors and MMCs present here.
HODs of our departments.
CEOs of our public entities.
Private sector representatives
Comrades and Friends

Madam Speaker, I am honoured to be given the opportunity to present the 2023/24 Gauteng Provincial Budget to the Legislature today.

We are tabling this budget following the State of the Nation Address (SONA) by President Cyril Ramaphosa, the State of the Province Address (SOPA) by Premier Panyaza Lesufi and the National Budget by Finance Minister Enoch Godongwana.

Honourable Members, allow me to start where Premier Lesufi ended during the presentation of the State of the Province Address.

The Premier correctly and eloquently said: "Our people are not difficult. They are just asking all of us gathered here, to do one thing, and one thing only, to do our work! To do our work within budget, time, without misusing public funds".

Equally, Minister Godongwana concluded his budget speech by saying: "Our economy is facing significant risks. Uncertainty is on the rise. It requires us to do bold things. To put the fear of failure aside and execute the difficult trade-offs needed to get from where we are now, to where want to be in future".

Honourable Premier, flowing from what the Minister said, we believe that in the SOPA you have put the "fear of failure aside" and clearly said where we are and where we want to be in future. In that regard you have placed the bold programme of Townships, Informal Settlements and Hostels, popularly known as TISH at the centre of our work.

Honourable Members, in presenting this budget to the people of our province, let me be upfront and announce that we are injecting into the Gauteng economy a total of R493.4 billion over the Medium Term Expenditure Framework, of which a bigger share of it will go into supporting social services, the Township Economy, creating jobs, especially for the youth, empowerment of women and addressing the energy crisis.

Honourable Members, one of the key drivers of the Township Economy is entrepreneurship, as many people start their own businesses in order to generate income and create more employment opportunities for our people.

By supporting the growth of the Township Economy, it is indeed possible to create new jobs, increase access to goods and services, and promote much-needed economic development in our communities.

And let me be clear: Despite the challenges we are facing as a Province, we remain steadfast in our resolve.

We are unwavering on this commitment.

We will further outline this matter as we proceed with the Budget.

The 2023 MTEF Fiscal Framework will see the provincial budget grow by an annual average rate of 3 per cent, from R158.945 billion in 2023/24 to R164.785 billion in 2024/25 and R169.703 billion in 2025/26.

Honourable Members, Gauteng remains the economic engine, the 7th largest economy on the continent, the 26th largest urban region in the world.

ECONOMIC OUTLOOK

Honourable Speaker, allow me to share with you the economic environment in which we are presenting this budget.

Global economy

As you know, the uncertain global economic environment has resulted in the downward revision of economic growth projections from 3.4 per cent for 2022 to 2.9 per cent for 2023 before rising to 3.1 per cent in 2024.

On a more positive side, the lifting of prolonged COVID-19 lockdown regulations in China is expected to boost global trade, increase demand, and improve global supply chains. This is because today, there are more countries that trade with China. In fact, China's economy is projected to grow by 5.2 per cent in 2023, which will be good for global economic output, and this will boost demand for its trade partner's commodities.

SA and Gauteng economy

We are encouraged by the rebound in the economy to pre-COVID 19 levels. Our country's economy continues to recover even at the time when we face multiple risks such as the deepening energy challenges.

Delivering the National Budget to Parliament last month, Finance Minister Enoch Godongwana revealed that the size of our economy reached R4.6 trillion in 2022, which means that it is bigger than what it was before the outbreak of the COVID-19 pandemic in 2020.

In 2022, South Africa's economy surpassed expectations when it grew by an estimated 2.5 per cent against the forecast of 1.9 per cent. It is estimated to grow by an average of 1.4 per cent from 2023 to 2025.

Statistics South Africa economic data released this past Tuesday revealed that real growth GDP contracted by 1.3 per cent quarter to quarter in Q4, from a revised upwards growth of 1.8 per cent quarter to quarter in Q3 because of the adverse effects of load-shedding.

Consumer confidence is above the 10-year average. There are also signs of an upswing and recovery underway in services and tourism sector of the economy.

Honourable Members, Gauteng contributes 35 per cent to the country's GDP, amounting to more than R1.2 trillion. Data from our Socio-Economic Review and Outlook, one of the key publications that we are releasing today, shows that the provincial economy is estimated to have grown by 2.1 per cent in 2022 against an expectation of 1.8 per cent. The province's economic output is projected to moderate to 1.5 per cent this year before stabilising at an average annual rate of 2 per cent in the period to 2026.

However, to address the socio-economic challenges of our province, GGT2030 say we must record annual growth rates of 4.5 per cent per annum by 2030. To achieve this target, the province should concentrate on increasing growth, which will lead to an increase in per capita GDP and reduce unemployment.

Honourable Members, in order to grow the Gauteng economy, we will engage key economic actors, private sector and the residents of the province to look at innovative and creative methods of consolidating the 35% contribution of the province to the GDP.

We will report back on the specific interventions we are going to make on this matter.

Such interventions will include:

- partnering with municipalities and exploring a set of incentives to address municipal red tape that constrains fixed investments; engaging the private sector on supporting the fastest growing sectors the economy;
- engaging national government and SOEs on supporting the Gauteng economy;

- building partnerships with township-based entrepreneurs in the context of the Township Economy Development Act; leveraging our infrastructure expenditure and that of the private sector to enhance the productivity of the Gauteng economy.

The finance and business services sectors are primarily concentrated in Gauteng, which also accounts for a significant share of manufacturing output.

Therefore, growing these two sectors would likely increase the growth of Gauteng's economy. Furthermore, a significant share of South Africa's exports of banking services and manufactured goods are sold to other African countries. Thus, increased economic growth in the right African country would likely increase demand for Gauteng's exports.

We also take into account the risk posed by grey listing to our economy. However, we believe that National Treasury is adequately handling the matter.

Before I proceed to the fiscal framework, let me acknowledge that the budget we are presenting today is a continuation of the work done in the preceding years for which there is immense progress based on the budget allocations of the previous years.

We are therefore not reinventing the wheel.

We also appreciate that we are slowly moving towards the end of the current term.

Therefore, in outlining the budget to support the priorities announced by Premier Lesufi, we understand and appreciate that time is of the essence.

FISCAL FRAMEWORK

Honourable Members, having outlined our achievements, we now turn to the details of the 2023 Fiscal Framework.

The Gauteng Provincial Government Budget comprises transfers from National Government in the form of Provincial Equitable

Share, amounting to R148.2 billion in 2023/24, growing to R153.3 billion in 2024/25 and R160.2 billion in the outer year of the MTEF.

Added to this is money from national government in the form of Conditional Grant allocations, accounting for an average of 18 per cent of total transfers, amounting to R27.4 billion, R27.9 billion and R29.1 billion in each respective year of the 2023 MTEF, to realise policy imperatives within the education, health, human settlements and transport sectors.

Provincial own receipts account for 5 per cent of the gross revenue available for the province to appropriate for its spending requirements, and this equates to R7.6 billion, R8 billion and R8.4 billion in 2023/24, 2024/25 and 2025/26 respectively.

Honourable Members, provincial own revenue consists mainly of motor vehicle license fees, casino and horse racing, patient fees and interest earned on short term investments, which contributes to close to 98 per cent of total own revenue.

As indicated in the MTBPS, we have set a target of R7.3 billion and I am pleased to announce that as at end of February we have collected a total of R6.7 billion, representing 92 per cent of the appropriated target. Our own revenue collection to date also reflects the recovery of the economy post COVID-19 pandemic as observed in the collection of gambling and horse racing revenue.

Over the medium term, a total of R24 billion is estimated to be collected. These estimates are mainly driven by growth in new vehicle sales of 16.4 per cent in the fourth quarter of 2022, of which a greater proportion is attributable to the province, according to Statistics South Africa February 2023.

THE 2023 MTEF BUDGET ALLOCATIONS

Honourable Members, I today take this opportunity to briefly outline how we are using this budget to fund provincial priorities.

A total of 83 per cent of the provincial budget amounting to R412 billion over the 2023 MTEF is allocated to the **Social Cluster.** These resources will be used to drive social transformation in Gauteng and are already in the baselines of the departments.

Honourable Members, let me now turn to the **Economic Cluster** which will receive a total of R66.6 billion, or 13.5 per cent of the budget over 2023 MTEF.

The **Governance Cluster**, which focuses on, amongst other things, strengthening collaboration amongst all spheres of government, enhancing integrated planning for improved service delivery, accounts for R12.1 billion, or 2.5 per cent of the 2023 MTEF budget

EARMARKED BUDGET ALLOCATIONS FOR THE 2023 MTEF

At the outset, let me emphasise that the funding decisions have been influenced by the ability of Gauteng Provincial Government departments to absorb the ample resources that I have just outlined, as measured by their financial performance in the preceding financial years.

Consistent with the commitment we made during the MTBPS in November 2022, the strategic focus of our budget remains empowering women as a basis of contributing to the fight against Gender-Based Violence and Femicide.

This we will do by repositioning, and through leveraging technology, supply chain and procurement instruments to create capacity for departments to meet their quarterly and annual targets for women empowerment.

We have come to realise that the supply chain function is critical to direct expenditure for goods and services and infrastructure to support achievements of specific targets directed at empowering women of Gauteng.

We have also announced that in order to support women in the different parts of the province, we will also track our expenditure through the technological system known Spatial Referencing tool.

Through these initiatives, we believe we will be able to meet our targets for women empowerment, who continue to suffer at the hands of male perpetrators.

These empowerment initiatives are in addition to law enforcement interventions by the entire criminal justice system to reduce the scourge of Gender-Based-Violence.

We believe in that way we will be able to make sure that our expenditure changes the quality of life, particularly for women who are victims of patriarchy and gender-based violence.

We are also confident that by repositioning and improving the supply chain function and procurement, we will also be able to meet our targets for job creation, especially among the youth of our province as the figures released by the Gauteng Economic Barometer of the Department of Economic Development, it is clear that youth unemployment remains a challenge in this province.

We are collaborating with Office of the Premier and GDED with regards to tracking and monitoring performance by departments on women, youth and people with disabilities.

These issues were adequately and comprehensively addressed by Honourable Premier Lesufi in his State of the Province Address.

Let me now turn to the earmarked allocations over the 2023 MTEF, which were made with a particular focus on the **Five Elevated Areas** that Premier Lesufi pronounced on when he assumed office in October 2022 and expounded on during the SOPA last month.

At the outset, let me emphasise that the funding decisions have been influenced by the ability of GPG departments to absorb the ample resources that I have just outlined, as measured by their financial performance in the preceding financial years.

Beginning with the functions that are at the heart of why we exist as a Provincial Government, over the 2023 MTEF, a total of R4.6 billion will be allocated to the **Gauteng Department of Education** – these funds are to address the pressures in the Compensation of Employees baseline, as well as augment the delivery of support services such as scholar transport, school nutrition and school subsidies to make education more accessible.

Investment in education remains a priority, as it is the foundation upon which a productive and economically active citizenry is built.

Prioritisation of the health and wellness of people also takes up a significant share of what is being allocated to the **Gauteng Department of Health**, additional to the existing baselines, with an additional R5 billion over the medium term, with focus on retaining part of the capacity taken on board to fight the COVID-19 pandemic, and which will go a long way in strengthening the health delivery platform.

Additional resources also go towards augmenting the Goods and Services baseline, which has been under pressure from the fiscal consolidation measures undertaken in the 2021 MTEF, and which will be deepest in the 2023/24 financial year.

More crucially, of the R5 billion, a total of R784 million has been allocated to the **Gauteng Department of Health** to address urgently the backlog in surgical and radiation oncology services, emanating from shortages in both personnel and equipment, and the knock-on effect of the COVID-19 pandemic that stretched the capacity of the Gauteng health system.

In efforts to clear the backlog, **Gauteng Provincial Treasury** and **Gauteng Department of Health** have worked with civil society organisations - SECTION27 and Cancer Alliance – in an approach, which involves the procurement of the necessary machinery and equipment needed for radiation therapy to assist the patients on the waiting list, particularly given that the nature of the disease requires urgency.

This collaborative approach with civil society in addressing the crisis is expected to address the waiting lists, and I anticipate that this time next year, we will be outlining the resolution to this challenge. I must point out that this is an example of the forging of collaborative public and private partnerships that will yield important lessons in in confronting the many health challenges that Gauteng faces.

In the SOPA, the Honourable Premier spoke of fighting crime being an Apex Priority. There is hardly anybody who has not been affected, directly or indirectly, by crime. This budget aggressively

confronts the urgency with which the **Gauteng Department of Community Safety** will be resourced to respond accordingly.

The R4 billion additional allocation over the 2023 MTEF is for the training and absorption of the 6 000 crime prevention wardens currently undergoing training that is scheduled to conclude at the end of April 2023.

In addition to capacitating these crime prevention wardens with the necessary tools of trade, the resource allocation will also enable the acquisition of technological solutions to fight crime – such as drones, and the leasing of helicopters to enhance the visibility of crime prevention efforts. Also included in this allocation is funding for fleet services, to further capacitate traffic police to undertake their duties.

Honourable Members, in the next few months, MECs are going to present Departmental Budget Votes to this House. They will outline in more detail the implementation of the priorities that the Premier has pronounced on.

INFRASTRUCTURE SERVICE DELIVERY TO IMPROVE DEVELOPMENT AND CREATE JOBS

Honourable Members, let me now turn to our approach to infrastructure. As the Gauteng Provincial Government, we view infrastructure development as a key enabler to improve service delivery as well as a vehicle to stimulate economic growth and investment.

While recovery efforts are spread across the three spheres of government, the GPG-specific interventions include the allocation of R574 million towards the Tshwane SEZ and OR Tambo International SEZ, primarily for internal bulk infrastructure to make these sites more functional.

It is imperative that we continue to be diligent to ensure that the budget of R 39.5 billion investment results in the desired outputs and outcomes. This amount includes a budget of R7.68 billion that has been set aside to improve the infrastructure within the TISH programme, as follows:

- **Townships:** Of this amount, R3.5 billion will go towards the provision of new, and improvement of existing infrastructure to enable the province to provide the required services. Some of the notable projects within the townships includes the construction of housing units at Sebokeng Ext 28, construction of Sewer Pipelines and manholes at Mohlakeng- Pelzvlale, Soshanguve South secondary school in Soshanguve;

- **Informal Settlements:** To improve the basic infrastructure services within the informal settlements in the province R3.8 billion has been allocated to upgrade the following informal settlements – Kwa Brown, Mamello, Piel's Farm, Thabong, Pangoville (Munsieville), Bergsig Informal Settlement and Ratanda; and

- **Hostels:** A total of R322 million will go towards the renovation and improvement of conditions of hostels. Some of the hostels planned for the upgrade includes George Goch; Denver; Jeppe; LTA Rethabile, Kwama-Siza, Dube, Orlando, Diepkloof and Orlando West.

We continue to strive towards a balanced allocation between the need for new infrastructure while also adequately maintaining existing infrastructure to restore and protect the value of our investments over a long period of time.

There is a need to make more dedicated efforts to ensure that projects are ready to proceed through the different stages across the infrastructure value chain and that we are more diligent in terms of the management of risks associated with inadequate infrastructure planning and poor delivery.

We are now at a point in our journey towards improving infrastructure investments where it is imperative that the **Gauteng Provincial Treasury**, as the custodian that allocates funds, must ensure that there is value for money on all our projects.

We must allocate these limited resources to projects that will take the province forward and provide the required services to the citizens of Gauteng.

At a minimum, Gauteng Provincial Government departments are expected to prove that projects are ready for implementation before they can be allocated funds, with a realistic consideration of the length of time required for planning and approvals processes.

Gauteng Provincial Treasury will strengthen its monitoring and oversight role in terms of ensuring that departments spend allocated resources prudently and address problems in the infrastructure value chain across all four cornerstones of infrastructure delivery, from planning, budgeting, procurement, and implementation, and with sound financial management.

In line with Premier Lesufi's directive, we will establish a Procurement Plan Analysis Unit. It will focus on categorising commodities, link projects to budget, and track and monitor implementing of procurement plans. We will also automate supply chain management functions to minimise human interventions in the procurement process.

MITIGATING THE ENERGY CHALLENGE

Honourable Members, the energy supply challenge facing our country has become the single biggest threat to our economic recovery and any potential future growth, if it continues to deepen over the short to medium term. This is not only because of its effects on the supply of electricity only, but also water and sewerage reticulation.

That is why there is heightened activity in finding solutions to mitigate the effects of load-shedding. Despite the haste to find solutions, it will be prudent to resource only those proposals that are sound and credible from a technical perspective, as well as affordable.

The **Office of the Premier** working together with the **Corporative Governance and Traditional Affairs (CoGTA)**, **Gauteng Provincial Treasury** and **Gauteng Infrastructure Financing Agency (GIFA)** are building in-house energy capacity to support efforts that the province and municipalities are making in finding lasting solutions to the current energy crisis.

To this end, an amount of R1.2 billion in seed capital will be set aside by the **Gauteng Provincial Treasury** as announced by Premier Lesufi during the State of the Provincial Address, to fund projects based on assessment of readiness to implement and value for money.

GIFA, together with its partners within Bokomoso Ba Rona Initiative (a Non-profit Company), are facilitating the creation of a sustainable post-mining economy in the West Rand region of Gauteng. Through this Initiative, Sibanye Stillwater and Far West Rand Dolomitic Water Association donated 30 000 hectares of land to the NPC for development of agro-industrial projects and commercial catalytic projects.

In 2022 **GIFA** issued a Request for Proposal to the market for the development of a Merafong Solar Farm Cluster. The solar farm cluster will be located on the land donated to the NPC. So far, **GIFA** has identified six (6) Independent Power Producers to develop 1 500 hectares of this allocated land, and this has a potential of generating 800MW. The process of allocating land parcels to the IPPs is underway and will be completed in March 2023 when lease agreements are signed.

GIFA is also concluding negotiations with a private party on Phase 1 of the Rooftop Solar PV project to generate close to 8MW from selected hospitals. As part of addressing the energy crisis we are going ahead with Phase 2 of the Rooftop Solar PV project in government owned-properties especially education and health institutions. We will invite the developers as part of Gauteng's response to the energy crisis.

Honourable Members, we welcome the Minister of Finance announcement of tax rebates to encourage both businesses and individuals to invest in renewable energy.

STRENGHTENING INTERNAL CAPACITY TO ENHANCE COMPLIANCE WITH RULES AND REGULATIONS

Honourable Members, compliance with rules and regulations is important to achieve clean governance in the province. Therefore, Gauteng Provincial Treasury will, in the new financial year,

introduce pre-compliance checks prior to creating a Purchase Order for quotations between R500 000 to R1 million.

GPG will explore procurement rules which allow government and its main contractors to buy from large groups of township-based businesses, with systems linking them to supply as if they were one large firm. This will build the needed capacity for these businesses to supply large markets and discover new suppliers. The GPG aims to spend about 60 per cent of the R35 billion budgeted for goods and services to provide support to township initiatives.

In line with SOPA commitments, the province will establish an Invoicing Dispute Resolution Unit that will serve as an ombuds for disputed invoices. To this end, a dedicated central email has been established where all disputed invoices should be sent. The email address is disputedinvoices@gauteng.gov.za.

Honorable speaker, Gauteng Provincial Treasury in support and strengthening the capacity of municipalities to manage their own affairs has committed to provide the technical support to all district and local municipalities. In this budget, we have provided 10 technical advisors to be placed in these municipalities. Their scope includes various disciplines on municipal financial management and the implementation of Financial Recovery Plans where municipalities are under provincial interventions.

PROGRESS ON IMPLEMENTING THE EXPANDED MANDATE OF GAUTENG PROVINCIAL TREASURY

Honourable Members, you are well aware that the Gauteng Provincial Government has made an undertaking to establish a State-owned Bank to extend access to financial services to township Small, Medium and Micro-sized Enterprises (SMMEs) and residents, specifically those who remain largely excluded from the financial services. The Bank will also support infrastructure development to help boost the economy and create jobs.

We have now completed the Legal Due Diligence of the State-Owned Bank, and in the 2023/24 financial year, will be moving ahead with plans to develop the Business Case for the Bank.

To capacitate our health care system, we are also pushing ahead with plans to establish a State-owned Pharmaceutical Company. The legal due diligence on this project was completed in January this year and strongly supports its establishment of this entity.

In addition, we have also established an Advisory Panel for the State-Owned Pharmaceutical Company to provide the needed technical support in this regard.

Honourable Members, with respect to the E-Tolls matter, let me reaffirm the point made by Honourable Lesufi during SOPA and the feedback we gave in the Medium-Term Budget Policy Statement in November 2022.

As we correctly stated that the profound and historic announcement made by Minister of Finance Enoch Godongwana in his MTBPS, settled the E-Toll matter beyond any shadow of doubt with government absorbing the E-Toll debt split between National and the Gauteng Provincial Government.

In welcoming this announcement by the Minister of Finance, we did indicate that there is still work to be done to fully implement and give practical effect to this decision. It is in this context that we reported that a Memorandum of Agreement (MOA) will be concluded with the national government.

As Premier Lesufi revealed, negotiations with the National Government are still underway. Once these engagements have been finalised, the MOA will be concluded and proper feedback and update will be given.

We are confident that the outstanding matters such as the conclusion of the MOA should not bring any anxiety or doubt with respect to the announcement made by the Minister of Finance in the 2022 MTBPS.

As I announced during the MTBPS, in the 2023/24 financial year, there will be no specific allocation that is required for e-Tolls. It is in this context, Honourable Members, that we would like to assure residents of Gauteng that we will not compromise our priorities in social services such as health and education.

CONCLUSION

Let me emphasise once more that the funding decisions have been influenced by the ability of GPG departments to absorb the ample resources that I have just outlined, as measured by their financial performance in the preceding financial years.

I would also like to reiterate that the GPG Fiscal Framework remains stable, despite reductions in the envelope of resources due to downward revisions in the Provincial Equitable Share, which have necessitated an increased level of circumspection in funding decisions, and the need to be resilient in the event of future shocks to the economy.

In the context of many social and other challenges before us, the preparation of the 2023 MTEF Budget has been a formidable task and we are still seized with the responsibility to manage real fiscal risks such as the energy supply crisis, inflationary pressures on costs of providing services, increasing pressure from accruals and low economic growth.

In conclusion, Honourable Members, I would like to thank Premier Lesufi for his leadership and for continuously pushing us to serve the people of Gauteng better.

Thank you too, to colleagues in the Executive Council and the Premier's Budget Committee, for your active participation, robust engagement, and valuable input to ensure that the difficult choices we make when allocating budgets are focused on improving the living conditions of residents in Gauteng

We thank the Finance Portfolio Committee and the Standing Committee on Public Accounts under the capable leadership of Honourable Tshilidzi Munyai and Honourable Sochayile Khanyile respectively, for their insight and oversight on all budget or financial management matters.

I thank the Head of Department, Ms. Ncumisa Mnyani and the entire Treasury team for their dedication to effective and efficient management of public funds

Last, but not least, I want to thank the People of Gauteng for their continuous engagement, suggestions, and criticisms. Their valuable input into the work that we do as public officials ensures that we continuously improve service delivery to communities.

Honourable Members, I present the following documents for consideration by this House:

- The Appropriation Bill for 2023.
- The Explanatory Memorandum to the Bill.
- Estimates of Provincial Revenue and Expenditure.
- Estimates of Capital Expenditure.
- The Socio-Economic Review Outlook, and
- A copy of my Speech.

Thank you

SJM 9

From: Vilakazi, Mncedisi (GPT) <Mncedisi.Vilakazi@gauteng.gov.za>
Sent: Tuesday, May 30, 2023 5:33 PM
To: Khanyisa Mapipa <Mapipa@section27.org.za>; SELBY, DAVID (GPHealth) <DAVID.SELBY@gauteng.gov.za>
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Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

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Best regards,
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Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

Dear Mr Vilakazi

I refer to our telephone discussion yesterday and await your email correspondence/update, as promised.

Looking forward to hearing from you at your earliest convenience.

Regards

Khanyisa Mapipa
Attorney
Tel +27 11 356 4100
Cell +27 84 431 3230
Email mapipa@section27.org.za
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87 De Korte Street, Braamfontein
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SJM10

Khanyisa Mapipa

From: Khanyisa Mapipa
Sent: Tuesday, 13 June 2023 12:41
To: Vilakazi, Mncedisi (GPT); SELBY, DAVID (GPHealth)
Cc: Onyango, Donald (GPT); NGAKA, SINDISWA (GPT); Nkadimeng, Mahlwane (GPT); MNGADI, KHULULEKILE (GPT); Stephen. Mankupane (GPHEATH); MBEKI, NOMBULELO (GPT); Rasivhetshele, Rudzani (GPT); Mnene, Ayanda (GPT); Sasha Stevenson; Malotana, Arnold (gphealth); Mathuloe, Rorisang (GPHealth); salomefaan@gmail.com; Ndima, Masibolekwe; Botsane, Montwedi (GPHEALTH)
Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

Tracking:

Recipient	Delivery	Read
Vilakazi, Mncedisi (GPT)		
SELBY, DAVID (GPHealth)		
Onyango, Donald (GPT)		
NGAKA, SINDISWA (GPT)		
Nkadimeng, Mahlwane (GPT)		
MNGADI, KHULULEKILE (GPT)		
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MBEKI, NOMBULELO (GPT)		
Rasivhetshele, Rudzani (GPT)		
Mnene, Ayanda (GPT)		
Sasha Stevenson	Delivered: 2023/06/13 12:42	Read: 2023/06/13 12:45
Malotana, Arnold (gphealth)		
Mathuloe, Rorisang (GPHealth)		
salomefaan@gmail.com		
Ndima, Masibolekwe		
Botsane, Montwedi (GPHEALTH)		

Dear all

We trust this email finds you well.

As you will recall, at our most recent meeting on Friday, 2 June 2023, the Gauteng Department of Health agreed to the following deadlines and undertakings:

1. By Friday, 9 June 2023, the Gauteng Department of Health would obtain a deviation from the normal tender process in order to expedite the outsourcing of radiation oncology treatment. This deviation would be supported by the market research which was already conducted by the PSCM department within the department of Gauteng Treasury as well as a business case developed by the Gauteng Department of Health and specifications. Following the approval of the deviation by the HOD for Gauteng Health, SECTION27 and Cancer Alliance would be advised of the outcome of this process.

2. By Friday, 23 June 2023, the Gauteng Department of Health would conduct a briefing session with potential service providers. These potential service providers would be identified through the market research conducted by Gauteng Treasury.

3. Potential service providers would be given an opportunity to submit proposals by Friday, 7 July 2023.

4. By Friday, 21 July 2023, the Gauteng Department of Health would have appointed a service provider who is to provide the outsourced radiation oncology services.

We are concerned that the first deadline, which was to advise us of the outcome of the deviation process has been missed. We request that you provide us with information in this regard. Secondly, we are concerned that in the instance that the deviation process has not been concluded this will potentially push out the other deadlines to which Gauteng Health has agreed, which essentially further delays the treatment of patients.

Further, we would be grateful if you would share with us information shared with the potential service providers once you have briefed the potential service providers.

Lastly, we sincerely hope that the Gauteng Department of Health will meet the deadlines that it has set in our last meeting on 2 June 2023 and that patients will be able to receive outsourced radiation oncology services in early August 2023, as agreed.

We look forward to your response.

Regards

Khanyisa Mapipa
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SJM 11

MEETING BETWEEN THE GAUTENG DEPARTMENT OF HEALTH, GAUTENG TREASURY, CANCER ALLIANCE AND SECTION 27

DATE: **02 JUNE 2023**

VENUE:
MS TEAMS

CHAIRPERSON: MS KHANYISA MAPIPA

PRESENT:

DR STEPHEN MANKUPANE, GDOH
DR DAVID SELBY, GDOH
MNCEDISI VILAKAZI, GAUTENG TREASURY
RUDZANI RASIVHETSHELE, GAUTENG TREASURY
DONALD ONYANGO, GAUTENG TREASURY
SALOME MEYER, CANCER ALLIANCE
SINDISWA NGAKA, GAUTENG TREASURY
SASHA STEVENSON, SECTION 27
MONTWEDI BOTSANE, GDOH

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that in as far as it is audible the aforegoing is a true and correct transcript of the mechanically recorded proceedings in the matter of:

MEETING BETWEEN THE GAUTENG DEPARTMENT OF HEALTH, GAUTENG TREASURY, CANCER ALLIANCE AND SECTION 27

TRANSCRIBER	:	**YOLANDé VOS**
DATE HELD	:	**02 JUNE 2023**
DATE COMPLETED	:	**22 OCTOBER 2023**
NUMBER OF PAGES	:	**42**
SIGNATURE	:	

Notes:

1. Names spelled phonetically where no spelling is available.
2. Typed verbatim, grammar not corrected.

ADVENTEK SERVICES CC
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PROCEEDINGS ON 20 OCTOBER 2023

DR MANKUPANE: ... on the process actively, and even in the, to the extent of treating the patients, we – to take us a bit backwards, earlier this year we did have verification where we actually matched the number to patients, we did that by sending capturers who took our secretaries, they became capturers of data in Charlotte Maxeke as well as Steve Biko, and the patients were verified in terms of the type of cancer, the disciplines, as well as the stages.

We did that review two weeks ago with the head of department from Charlotte as well as the head of department from Steve Biko. What we have been observing is that work, most of the work on the patient that were on the waiting list when this discussion or interaction started, most of them have been treated. Even the numbers that we were given by the heads, clinical heads of department this past few, past two weeks, went down.

Charlotte gave us the number of about 2.4 and then Steve Biko gave us the number of about 300 people on the waiting list. Most of them being the patients that were booked at the end of the previous year, and most of them being the patients that are booked from this year. So the few interventions, including borrowing the Brachytherapy machine have assisted in some ways, the capacitation in terms of staffing has capacitated. Actually, Steve Biko argued that they are having patients now on the waiting, on the

waiting, rather than on the backlog because they don't have a lot of very old booked patients that are waiting on the list.

On the other side, in terms of the corporate approach to the project, I think in terms of the processes of getting and getting things going to BAC and all the necessary approvals that are in keeping with the PFMA, I think I'll leave that to Dr Selby to apply and so as then to indicate what has been achieved so far and where are we and what are our targets in terms of taking the project off the ground. Dr Selby.

DR SELBY: Good afternoon, colleagues. Let me start off by my normal report that I've been giving in this meeting. On the Brachytherapy, the Brachytherapy, the tender was advertised, the specifications were completed, the tender was advertised at the beginning of May. There was a compulsory briefing session held with prospective bidders on the 18th of May and the tender closed on the 26th of May, which was just a few days ago.

The process going forward is that the responses that we've received from the prospective bidders would be evaluated and a recommendation would thereafter be made for a reward, so at this stage if we're looking at the end of possibly July, at the end of possibly July, the valuation would have been completed and we could have already at that stage have an appointment.

On the LINAC for Charlotte, the LINAC for Charlotte, the specifications were completed, they were submitted to the probity

auditor who are currently at the moment providing, you know, the probity audit report for DDG purposes, any procurement above the value of R2 million is subjected to the probity audit to process, so that's where we are. Once the report is given, the tender would then be advertised and the same process, it would go through valuation and at this stage we haven't yet advertised, so our possible timeframe that we could be looking at, could be at the end of August.

The next project that I want to respond on is the outsourcing of radiology, radiation oncology services. That, the bid specification committees have been formed and they are currently at the moment compiling the specifications. We've had two meetings, the first meeting was held on the 29th of May and the second meeting was held on the 1st of June. So we would then receive a completed specification which would be then also subjected to the probity audit process and thereafter advertised.

So that is my feedback at this stage. Dr Mankupane, I'm not too sure if you could add anything more on, or Provincial Treasury, could add anything more on the outsourcing of radiology, but that is the report from the department. I thank you.

DR MANKUPANE: Thank you, Dr Selby. I think we have that input, I think we can take comments and maybe clarify further as per discussions from the floor, thank you.

CHAIRPERSON: Okay, thank you so much for the feedback. Am I to understand correctly, Dr Mankupane, that the

waiting list as it stands, or the backlog list as it stands is 2 400 patients at Charlotte Maxeke and then 300 patients at Steve Biko?

DR MANKUPANE: Ja, that's the latest we – of course it's not like from yesterday, but two weeks ago, that's how things stood as per report given by the respective head of clinical departments in the two centres. Thank you.

CHAIRPERSON: Okay, all right. Okay, and then if I may ask, what is the way forward given these 2 700 odd patients that are still awaiting these services?

DR MANKUPANE: Ja, there are two approaches. One is the approach that the normal and the existing that has just been capacitated to say that, in Steve Biko and Charlotte, why we have actually taken a bit of numbers from the previous numbers, is the fact that there is increasing working hours, as I've indicated, the provision of other even borrowed or loaned equipment to push on the numbers. That is happening and that is on the ground and that is, that gets capacitated.

The colleagues will remember that the other way forward in the long-term basis is the fact that the delays that were affecting the erection of extra capacity in terms of radiotherapy for George Mukhari as well as Chris Hani Baragwanath, most of the obstacles have been removed. Some of the things were beyond the Department of Health, it was at the level of local municipality to allow zoning for the purpose in the land that was earmarked for the, for

this project.

And obviously that is long-term and it takes time, so in order to then bite[?] more on the current backlog, it's what we are meeting for here and as supported, as Health being supported by Treasury to then source and go out in terms of that services, and hence the process of trying to finalise the supply chain processes to get the providers, that process is the one that Dr Selby has indicated that it's in advance stages.

I know this week earlier on we had a discussion, Dr Selby, about the – even the prospect of deviation so that it doesn't completely have to go through our normal processes, we discussed that and the visibility of that.

Maybe that will also assist Dr Selby if share what we see as other ways of trying to bring closer the actual time of a patient getting to the machine in the sourced areas of radiation, over and above our normal processes that are actually – the process that we have embarked on. Maybe you can put more on the issue of deviation, Dr Selby. Thank you.

DR SELBY: No, thank you. I haven't taken further discussion with either Ms Mbeki or Mr Vilakazi in that regard, but supply – all I can say at this stage is that supply chain processes do allow for deviations from SCM processes due to emergency process. So without taking, you know, detailed discussion with the DDG from provincial supply chain or Mr Vilakazi, at this stage all I can say is

that the process does allow it and we're going to have to sit together to find out exactly what process we can follow in that regard. Thank you.

CHAIRPERSON: All right, thank you. I think then it would be appropriate at this point to hear from the colleagues at Treasury, you know, which processes they believe would be most efficient and would get these people who have been waiting for over a year now, to get these services and to a radiation oncology machine as soon as possible. I'll give over to you, Mr Vilakazi.

MR VILAKAZI: Thank you very much, Ms Mapipa, and ja, good afternoon, once again to all the colleagues who are on the call. The conversation really that we had with Dr Mankupane, I think was on a Tuesday after our meeting at National Treasury, so it's basically what we were engaging about, was the business case that they were really, that they have built, developed within the Department of Health, and this is a business case that they were intending to use to, you know, to kind of approach the private sector, you know, to come into this space.

And really what I think I was really highlighting to them is that private sector really, they will not respond to any tender, really, because we need them more than they even need us in this particular project. So that's when really then the whole conversation about then the deviation, because all we need is really then that then the colleagues should then be able to the write to the

accounting officer, Mr Malotana, and then be able really to then just then get that approval for them to deviate so that they can then be able to then, you know, contract beds.

Not even beds, as you had indicated, I think Dr Mankupane even in the past, that really just access, you know, to the facilities and the equipment that then the private sector is, private hospital have and you know, agree on what will then be suitable for Gauteng. And ja, so we then get going, I think, on the list that is there, just really to eradicate then the backlog.

And I'm sure by the time we finish all these other processes will also then be completed, we hope, in terms of then the procurement of then the equipment that needs to be procured. So essentially that is really what we want to direct the conversation, so in that meeting, DDG [indistinct 00:14:03] Mbeki was also really present and I had asked her as well to guide, so she has sent Sindiswa, I can see she's here already.

But yes, I think that is what we will need to then do. That is what we will need to do. Chairperson, I think that is all I can say. We had our own meeting today with our executive authority, you know, part of the things that we want to talk to him about, it's the you know, the pronouncement that he made. So we did indicate to the MEC of Finance that we were meeting 2 o'clock, because we must be able to account, must be able to say, this partnership is working.

The trust level, I think is, as you have indicated, Chairperson,

that it's very weak and we don't want that to be weak. So ja, I think I'm going to really just then maybe stop here and then check with my colleagues if then they also wanted to add anything on this conversation, but we have an obligation for Treasury, because we can't use that money for anything else other than what it was allocated for.

So we cannot rest, we cannot really be comfortable, you know, when we cannot even be able to put a human face in this work that we are doing, I mean, where it's practically possible, I mean, that is what we desire. But I'm going to ask Mr Onyango and Mr Rasivhetshele and then end with Sindiswa in terms of what we should be doing.

MR RASIVHETSHELE: Afternoon colleagues, Rudzani Rasivhetshele here, I'm fine DPT, I think what is key from my side is to get an indication of the direction which will yield better and fast results from supply chain so that at least we commence with addressing the issue of the backlog. The dependency now at this stage is to unlock supply chain processes. Thanks, DPT.

MR VILAKAZI: No, that's fine, sir, thank you. Mr Onyango.

MR ONYANGO: Good afternoon, Chair, and good afternoon to everybody in the meeting. You know, we had a discussion with the colleagues at Gauteng Health in the presence of our colleagues from our provincial supply chain management and

they had indicated that there was some processes that were underway and the date that was flighted was the 26th of May, and the meeting today, I hope will be able to shed some light on what has transpired since we met, especially in terms of the processes which were underway regarding the, you know, the procurement of the services and what was happening at the bid evaluation and bid acquisition committees, thank you.

MR VILAKAZI: Yes, because I think ...[intervenes]

CHAIRPERSON: [Indistinct 00:17:56]

MR VILAKAZI: We are meeting today, Mr Onyango, I can't remember what day it was when you had a meeting and I think the first week of June was part of the undertaking that was made in the meeting that you were chairing. Because I think really, from my side, we need to be able all of us to be of the same mind and same understanding. Dr Mankupane, I think even just on the basic issues of then the list, I don't know how we make that to be very transparent, so that when we talk about it, all of us, we understand what we are talking about.

And then also then the issue of then the staging of the patients, I think you've given a report on that. So I'm just really, really raising this, I think just for the benefit of all the role players. So then the next stage that was going to be affecting us directly as the Treasury, was around the issue of then the agreement on the – around unit costs, because you know, the idea when we started was

that we were going to be able to really sit in one room with all the service providers in the private sector and then negotiate and rely on people with you know, experimental – what you call it?

Ja, like really practical understanding and experimental and knowledge of what, not just the head knowledge, but people who you know, and that is what I'm just really trying to say, from experience, from you's, from understanding of what they are dealing with, you know, to then really just then negotiate then those prices and then see, from the – what will work for Treasury, I mean for Gauteng.

So yes, I just wanted really, Mr Onyango, to just ask you, especially on the undertakings to then say, are you comfortable with the feedback that we are all getting, based on the last meeting you had in May?

DR MANKUPANE: DDG, can I come in before Mr Onyango?

MR VILAKAZI: Please, sir, I'm not chairing now, Ms Mapipa...

DR MANKUPANE: [Indistinct 00:20:56]

MR VILAKAZI: Ja.

DR MANKUPANE: Okay, so my understanding from – Dr Onyango is right that we had resolutions and we are on track in terms of that resolution, and the resolution is the one that we follow the routine supply chain processes. And those meetings that were

promise on that forum did sit, the one on the 26th and the one that Dr Selby indicated. So this is the option A that we are following, it's the normal supply chain processes. If we follow that processes step by step whereby something happens, it has to wait for two weeks and the other step, you know, needs to wait for three weeks, it throws us to finalisation of the process by August.

Dr Selby can correct me, but I'm just extracting from the meetings. So then when it reaches the maturity, then the tender goes out and that is being – or the risk that we are anticipating is at the end of that process, we can still find ourself with no bidder, then it means our target of August / September of getting the patient in, will then take another more time. So hence then my understanding is that's why we have the discussion of option B.

Option B with the minds that are in the forum then looks at deviation and then will look as how the deviation can be done. Obviously if we deviate, we bring closer the date of financial, the main target really, as colleagues are saying, is to get the patient into the machine. So think we need to look at it that way to say, can this machine achieve the finalisation of adopting a certain way of deviation, we might – so that we see which one works.

I'm not sure, colleagues and corporate will advise that if we took deviation, is it still important to go through the tender one? I think those are the things that we need to conclude while we are still in this forum. Thank you.

MR VILAKAZI: Right.

CHAIRPERSON: Yes, if I can just come in. I, from what I'm understanding, there hasn't really been a resolution on which process the Department will be following and I think what is critical is getting the patients into the machines as soon as possible. And from my understanding as you've just said, Dr Mankupane, the process of the normal tender processes don't guarantee that you will have responses to your tender and that patients would be in a machine by September.

You might get to September and then you still have to go on another tender, because nobody responded. However, as it seems to me, the outsourcing model which was what was proposed by National Department of Health [indistinct 00:24:28] proposed by National Treasury when we first started this process, is a more slim line approach that guarantees that you will have a response to the request for services or outsourcing.

And from where I'm sitting, and I'll let my other colleagues chip in as well, it just seems to me that the most efficient way to go about it, is this outsourcing model as opposed to waiting on something that might not happen in a tender process. And if, like Dr Selby had said, if the processes within the Department allow for a quicker mechanism that is more sure of getting a response, I don't see why that decision hasn't been made already? I don't know if anyone from my side would like to say anything else?

MS MEYER: If I can, yes please. Thank you, Khanyisa and good afternoon to everybody. I think that you know, the two-and-a-half hour meeting that we spent with the National Department of Health literally gave us very clear direction that the normal tender process is not what is required, but that the outsourcing model, which was used during the Covid-period is in fact the best way in which to manage this.

And it was a very clear indication to us that also that we need to refer to it as an outsourcing model and not as a public private partnership, because of the specific differences between the two processes and the way in which PPPs are prescribed within the PFMA. And what I'm hearing is of great concern, that we have indeed three months later, still not got conclusion that the outsourcing model is in fact what was proposed and suggested by the National Office as well as National Treasury for the way to go.

And that we still haven't actually managed to get to a point where we're going to say, this is the best say – but we're still going back. So in order to get patients into the machine, as Dr Mankupane say, please can we start focussing on outsourcing and forget about tendering, because I think really, we are wasting time. Thank you.

CHAIRPERSON: If we can get some response from either one of the departments, Treasury and Health, please.

MR VILAKAZI: So yes, I agree with her view that we

are wasting time. There is no any other better way, think this is a conversation that I'm saying we had this past Tuesday and so, Sindiswa, I just want you to come in, in terms of just talking about this, I mean, your view on this issue of the deviation for the Department to have an arrangement with the private hospital.

MS NGAKA: Okay, thank you. Thank you, Mr Vilakazi. Good afternoon, colleagues. I think I just want to first maybe clarify something. When we are talking about outsourcing, because we're going to be spending government money in terms of goods and services, then a particular procurement process has to be followed to outsource the services that we want.

So yes, I agree that probably the tender process, depending on the market conditions and the market structure and the circumstances that we are currently in, then possible other procurement strategies could be thought of and I think a deviation – I think we mentioned in the previous meeting with the Department of Health, to say that whilst they were talking about the open tender process, we then asked them to beef up their business case to provide more information around the market information as to what is happening in the market, what is available and also the circumstances that we are in, in terms of the situation that we are in, so that it can be able then to get to be able to motivate for any possible deviation as a procurement strategy.

But to say they must go to the market and also test how

many service providers that are available, that are suitable to provide this, then that will determine or motivate for a possible deviation if then we are not looking at open tender process because of the urgency of the situation. So we did make that indication to the Department.

But in terms of discussing as the Department and Health, we still – I was not part of the Tuesday's meeting, I think we'll have to then go deeper in terms of trying to get into how to then motivate for this deviation so that we don't, we have all our ducks in a row and then avoid any possible irregularities. Thank you.

CHAIRPERSON: Thank you, Ms Ngaka. If I'm understanding you correctly, the deviation process also requires an analysis of the market in order for you to motivate for that deviation, right. Do you – I know this is a long shot, but would you be in a position to give us an idea of how long that might take? And now, I mean, we're only just trying to see whether this process is indeed quicker than the other process, right?

We're trying to just find the most efficient process that will get us there faster. Is there any way that you can give us an indication of how long it takes to do something like that, to get the motivation that are required for a deviation and then to then proceed with the deviation? As opposed to you know, your normal tender process.

MS NGAKA: Okay, thank you. I think it should be difficult because we know the situation in terms of where we are,

why we are here. But the market research, I think, if I remember correctly, Cancer Alliance had also some information around the potential service providers, so what we are then saying that Treasury, which is the market research, who are currently busy with the process now, it normally takes them two weeks, but we have asked because it falls under Mr DDG Mbeki, so we have asked to fast track them.

I will just follow up how far, because I think they were given until the month-end of May to do that, so that we can also use the Cancer Alliance information as well as what they have come up, and then we say in the business case, this is what is available or these are the suitable service providers, no other one is available, therefore we are following this deviation.

But also, I think with the outsourcing as well, in any deviation you must have motivation in terms of why are we following this decision and also how did the identification of those people that are being allowed or to provide proposal, how did we get to that, to those people. So that motivation will be required, hence we are saying that they must do that exercise.

It should be taking long and I think I will follow up because I know DDG has given instruction, do the market research from Health, from the request from Health, so they were busy with that. But I think also the Department could use the information from the Cancer Alliance in terms of the available potential service providers.

Thank you.

CHAIRPERSON: Thank you, Ms Ngaka, that's very helpful. Yes, Salome?

MS MEYER: I want to again say, is it possible that we can stop wasting time? The information – and let's be very clear, I understand that according to procurement rules and regulations and principles, a market analysis has to be done. I understand all of that terminology. That was done for the Department as Health as well as Treasury.

There are only a – the numbers, there's only four companies that can provide the service, the details, in fact, of the companies was even provided. That was provided in the beginning of March. We are now in the beginning of June, so how long does it take to do a market research and to compile a report of the information that was already supplied?

We are wasting time and I am getting absolutely frustrated on this side of the line when I hear that "we've requested a market research". The information was made available already right before the amount was even allocated. Why are we wasting time? Thank you.

CHAIRPERSON: All right. Ja, I think the emotions are a bit high in the room and I think ja, given that we represent some people, should we have had conversations within and you know, we can see their faces in our minds while we're having this

conversation. It's only natural that emotions are running high. But thanks, Salome, and thanks, Ms Ngaka. Would it be possible for you to indicate once you have followed up with the Department and then obtained the market research?

So we're not asking for a copy of the market research, but that you know, just an indication of where the process is. And I think that's what is also making us anxious because if we're not getting any kind of indication of where the matter is standing, even if it is "Dear Cancer Alliance and Section 27, we confirm that we have concluded the staging process", then we can go okay, okay something's happening, "Dear Section 27 and Cancer Alliance, we've concluded the business case", just to keep us in the loop.

Because you know, we have people that we have to account to, who are the members of the public that we have celebrated with so proudly and so loudly in March when this allocation was made. And now, you know, they're looking at us and asking, where are these services that you said would be available to us?

And so if we have some kind of indication of where the process is at any given point, then we are able to also you know, indicate that to the members of the public that are – not probably exactly where the process is, but that there is something that is happening. All right, yes, Mr Vilakazi?

MR VILAKAZI: Yes, no, no, no, I think we should just really remain focussed, so the issue that we are trying to establish –

and I think that is what we're just then trying to do now, and I just want to check really with the colleagues, I mean, Mr Selby is here from HR – I mean, from SCM, to say then this deviation, is it something that is, that cannot be done from his side in terms of just then writing to request deviation from the HOD?

DR SELBY: If I can respond to that, it can be done, I did say earlier SCM processes do allow for deviations, so it is something that the Department of Health, through the HOD can obtain approval. Thank you.

MR VILAKAZI: Because I think if we can focus on that, I mean, when are you going to do it and then whatever information, whatever support, that, Sindiswa, you can provide, I think for me that will be really helpful. So if you could just then indicate in terms of when can that be done? Because it will really then clear everything else in terms of just then ask then going into that option, because really, it's something that is just really on the side of the SCM.

I can't expect then Mr Mankupane to be running with that, without the assistance of the SCM team. So yes, I think if you could just indicate for me, it will then just then help, you know. You know, what is it that we are working towards. Thank you, Chair.

DR SELBY: If I can respond? If I could say by the latest end of next week, the reason I'm saying the end of next week is, I would work with Dr Mankupane on the, as far as finalise [inaudible, connectivity issues 00:39:05]

CHAIRPERSON: Sorry, Dr Selby, you said by the end of next [inaudible, simultaneous speaking]

DR SELBY: As we heard, we need – hello, can you hear me?

CHAIRPERSON: Yes, I can hear you now.

DR SELBY: I'm saying, by the end of next week, the reason I'm saying the end of next week [inaudible, connectivity issue 00:39:27]

CHAIRPERSON: Oh, my gosh. Hello, can anybody else hear Dr Selby?

MS MEYER: [Indistinct 00:39:39]

DR SELBY: [Indistinct] this network. I'd also need to finalise with Sandiswa as far as the [inaudible, connectivity issue 00:39:44]

CHAIRPERSON: Dr Selby, would you mind typing in the chat box what you need to say, we can't hear you.

DR SELBY: One of the key aspects is the suppliers, because we can't be found wanting at the end of the stage where we obtain, compile motivation, obtain approval and we've left [indistinct 00:40:06] out. So the – she's already alluded to the fact that Treasury are busy with that market research, so I'm committing to the end of next week to finalise you know, the approval of the deviation submission. Thank you.

CHAIRPERSON: Oh, all right, I think – we got the tail-

end of what you were saying. Your internet kept cutting, but I think if we understand correctly, you will drive the process from the Department's side to ensure that the market research and the deviation is approved by the end of next week. Am I correct? Ja, I think he can't hear me. All right ...[intervenes]

DR SELBY: I can hear you, that is correct. Thank you, that's correct.

CHAIRPERSON: All right then, thank you. Thank you. All right, I saw, Dr Mankupane, you are muted, is there something you wanted to say?

DR MANKUPANE: No, no, no, I thought we lost Dr Selby, I wanted to say I think you were correct in capturing it ...[intervenes]

CHAIRPERSON: All right.

DR MANKUPANE: According to his summary, thank you very much.

CHAIRPERSON: Okay, perfect, all right. So I think we're at least moving in the right direction. All right, okay. Hi, yes, Ms Ngaka?

MS NGAKA: Thanks, Ms Mapipa. I just received feedback now from our colleagues with Treasury, apparently DDG has just signed the report for market research, so the Department might be getting that report today, for the market research, thank you.

CHAIRPERSON: Wonderful, wonderful. Okay, all right,

okay, can someone explain to us – so following the approval of the deviation, what then? What's the process that needs to be followed, just so we're all on the same page.

MS NGAKA: Okay, I'll respond generally because I have not looked at the Health policy for [indistinct 00:42:25] in terms of their procedures, but generally in terms of the requirements, once the deviation has been approved, then the relevant potential service providers will have to be approached either to submit proposals in terms of what we want them to provide for us, and then from there those proposals would be assessed by the technical panel to identify the potential or successful bidder from that process.

We also recommend that this bid committees that sit in terms of that process, because we want it to be as transparent as possible, but I'm speaking generally, obviously each department will have their procedures and their bid committee checkers and all that, that they implement in various procurement processes, but for deviations yes, there will be a committee that is sit.

Depending on the nature of the deviation as well, well there's various types, so if they are following them the close tender, which is around everyone that is a potential service provider to participate, which has got multiple source, then all those proposal will have to be submitted within a specific time, maybe seven days, I'm just making an example. And then that will have to be evaluated and awarded, based on the criteria that we have and then type of contracting that

we'd be looking at. Thanks.

CHAIRPERSON: All right ...[intervenes]

DR SELBY: Can I respond, please?

CHAIRPERSON: Yes, Dr Selby.

DR SELBY: Ja sorry, I see there's hands up so I didn't want to be rude and go ahead, but I see Sandiswa's hand is still up, that's why my silence ...[intervenes]

CHAIRPERSON: No.

DR SELBY: Excuse my silence. But I can concur with the process outlined by Sandiswa. Policies are normally generic in this regard and as she correctly stated, obviously we're going to have a complete specification, which is critical to ensure you know, we source the right service, so that will be critical and as I say, the meetings over the last couple of days had been to compile that.

Once we have the approval we have to comply with the Constitution, which states that we would need to go out on an open and transparent process and I haven't seen the market research report, but I just from experience, I'm sure that there's not only one service provider that supplies the service.

So I'm sure that there would be you know, multiple supplies. So what we're going to have to do is we'll go out on a competitive bidding process to those identified suppliers in the market We would then have to establish an evaluation team to evaluate the responses and thereafter, once the responses have been evaluated, we would

then go into the you know, award process and the contract process with the relevant suppliers.

The main thing at the end of the day is we need to ensure, irrespective of what process we follow, we need to ensure that the service provider, you know, that's finally awarded the business, or service providers, we could also go for one or we could go for a few service providers, depending. But the main purpose is at the end of the day, is that these are the service providers that's able to render, you know, a quality oncology service to our much needed patients. Thank you.

CHAIRPERSON: All right, I think I understand the process. May I ask that once you have the signed approval, next week Friday you also provide us with an update and then just an outline of the process that needs to be followed, following then. So now we've received the signed deviation and the next step is X, Y, Z, which we hope to get done by this, such and such a date. The next step following that is such and such, which we hope to get done by this, such a date.

So that like I say, been saying, from the beginning of this meeting, that you know, we're not sitting without any feedback and you know, having really worked hard on this process not knowing what is happening. Yes, Salome?

MS MEYER: Thank you, Khanyisa, I think that – not I think, I want to, understanding that yes, the market research has

been completed. It would be interesting to know whether the market research points out to exactly those four companies, the four companies being Life Healthcare, Busamed, Icon and Netcare Services. Those are the four who provide radiation oncology services in the proximity of both Charlotte Maxeke as well as Steve Biko.

What I am proposing is that the Gauteng Treasury and Gauteng Health consider that all four the potential companies, and if there's another company, so be it, but that all the companies first of all are invited to a meeting where they are all in the same room. And the reason for that is, is that there are very particular questions that has to be answered with regards to the scope of such an – of outsourcing such radiation oncology to the private sector.

And that would be overall the management of patients, the hospital – if hospitalisation of patients are required, what are going to be the processes? So there are clinical aspects that will ultimately influence the way in which any of the four companies may want to approach the potential – I now want to say "potential pricing" that they will offer.

It is also then important that we compare apples with apples and that if one company provides you know, is willing to provide the full-on service, however company you know, in a multi-outsourcing or multi-company potential agreement, you know, that we have the same as with the same.

Obviously within an – and I say that from the conversations that we've had with the private sector, for instance, Life Hospital Group, have indicated that they would potentially have capacity for patients that are closer to their Pretoria branches, rather than patients that are closer to Charlotte Maxeke.

So this is ultimately a matter of what is going to be best in terms of patients and who will be – who, and how will one manage that. Once such a meeting with all the potential – so that all the potential, I want to say "service provider" are in agreement. Then I'm sure that everybody would be happy then to comply with the next step of the process in terms of actual procurement and following due process. Thank you.

CHAIRPERSON: All right, thank you, Salome. Just to add to what Salome said. We obviously understand and fully acknowledge that we cannot dictate anything to the Department in terms of who they should appoint or how. We also understand that the Department has its own processes that must be followed in order to ensure that there is competition that is fair within the, you know, shortened time period that we all agree are necessary.

The other thing that I will add is that Ms Ngaka had already noted that the information provided by Cancer Alliance has been used or is being considered in the assessment or the analysis of how to go, in which direction to go and the market research that has been done, and so from my understanding with what Dr Selby had

said, the Department's processes, both the Gauteng Treasury and Gauteng Health, require that there be a specification committee or that specifications be established.

And I think when that, those specifications – and please, anybody correct me if I'm wrong, but if those, when those specifications are being considered or are being drafted. Then the issues of you know, what needs to happen within the private sector when they need to do the service, those will be considered at that time and direction or advice will then be taken from that perspective.

And then following that, there needs to a committee that needs to be appointed that will eventually appoint the provider or will negotiate with the providers. Is my understanding correct? Yes, Dr Selby?

DR SELBY: Your understanding is a 100% correct and that's why I clearly stated. You know, the specification needs to be complete and accurate so that we appoint the, you know, the correct service provider to provide the correct service. I want to add on what Salome was stating, is that within the procurement process for complex tenders – and this we can classify as a complex tender, we – there is within the process, we do before, after issuing the tender out and before the tender closes, we have what we call "briefing sessions" where we could even have it compulsory. Where we force prospective service providers to attend a briefing session and at that briefing session we discuss, you know, the requirements

of a specification and it also gives the service providers opportunity, you know, to ask any questions.

I also did state, I'm at this stage, I can't say whether the tender will be awarded to one service provider or to two or more, but that would also be taken into account during the evaluation stage, because we have patients in Jo'burg at Charlotte, we have patients in Steve Biko in Tshwane area, so there could – I'm saying there could be a possibility that this tender could be awarded, you know, to multiple service providers based on you know, the distance between the, you know, the various institutions. I hope I've covered, thank you.

CHAIRPERSON: Yes, thank you, Dr Selby. And from our understanding, when Mr Mike Manning was giving his proposals on the process that ought to occur, from what they had done in the Western Cape during Covid, he had mentioned, I think specifically this process that you have outlined now, that there was a meeting with service providers and then following that meeting on specifications. Then the tenders – or there was a tender process that was specifically done in relation to that particular procurement. So to my mind, it sounds like that is the process that was – sorry, I see there's a comment, that was outlined by the National Department of Health. Yes, Dr Mankupane?

DR MANKUPANE: Ja, Chairperson, thank you very much. I think Dr Selby covered most of the aspects that I wanted to

indicate, but also to add that the committee for specification, at heads level, the Department of Health level it's there, and the one issue that is a component of that discussion, it's – which I didn't want to really labour this meeting about, is the protocols. In that committee our two heads of department for the respective two centres are part of the committee, because then internal to the process, clinically, there's the whole process of discussing the protocol, clinical protocols, which then talks to, you know, cancer cell[?] managing cycles and we have to agree that the provider use the protocols that we otherwise use for Steve Biko and Charlotte Maxeke.

There's other issues there where things can be subjective, one centre uses 30 cycles for breast cancer, another one uses 20, another one uses 15. We are aware of the fact that then we don't want these projects leading to the situation where if the person goes out to the project, is to centralise then the person who's otherwise treated in Charlotte or Steve Biko. So there are still those things that will then come at the right time in terms of the granular discussion of the protocols, because that will guide how the standardisation of the treatments are going.

I thought I should just share that, but not necessarily protocol, [indistinct 00:56:40] protocol is not necessarily the item for this meeting, but I thought I should just share that so that then we know that there is also work that is being done this side. Thank you

very much.

CHAIRPERSON: Thank you, Dr Mankupane, that was helpful. Ja, I wanted to say that obviously this process cannot be done outside of the consideration of clinical protocols, otherwise it won't work. So I'm pretty sure that's probably why Dr Selby's got his hand up, but I will, I'll let you speak now, Dr Selby.

If when you speak, can you also answer Salome's question that is, is it possible to first have the meeting before the tender specifications are completed, so as to make provision for aspects that were not covered and only then do the tender? Thanks, Dr Selby.

DR SELBY: Ja, my hand was up for that exact point raised by Salome. No, we don't discuss any specifications with suppliers. When we go out on supply chain, we go out on completely unbiased specification and it gets rather difficult if we had to bring suppliers in, you know, during the specification stage because at that stage, one supplier would say, we should add in this or we should take this into account.

And the reason they're requesting us to add, you know, or take into account certain aspects is because it's going to favour their particular company. We don't want a situation where we go through this entire process only to be challenged, you know, through a Court of law during the process, and it's happened on previous occasions.

We don't want that, so we do not discuss any aspect of

specifications with suppliers prior to the tender being advertised. We as the Department, we should be knowing what we actually require and our specifications should be compiled in alignment, you know, with those requirements.

I'm not saying that we shouldn't do market research, you have the market research the GPT has just done on suppliers, what suppliers are able to provide this service, but you can go into further market analysis or commodity analysis, whatever you want to refer to that, and see, you know, what is involved in these particular, you know, services generally, but we do not discuss any aspect or specifications with suppliers. Thank you.

CHAIRPERSON: Ja, that definitely makes sense to me. You know, I also think that was what, going back to what Mr Manning had presented to us, what he had said happened during the Covid pandemic was that the – I think he said the MEC at that time put down the specifications as well as the rates and then the providers were then approached after that. So that does align with what the National Department had said. I'm satisfied. Salome, are you satisfied?

MS MEYER: Thank you, yes, thank you, Khanyisa, I am.

CHAIRPERSON: All right, thank you. Okay, I don't know if there's anything else that needs to be added, but if only we can just agree that following the approval next week Friday, Dr Selby,

you will let us know then what the process is following that, and the deadlines. I'm not sure if you might even have an indication at this point you know – yes, sorry just now Salome, I'm not sure if you would have an indication at this point, so next week Friday puts us at 9 June and then following that, my understanding is that there needs to be an appointment of the – or the specifications need to then be compiled and completed.

I'm not sure if you can give an indication of how quickly that can be done, and then the appointment of the committee that will then eventually appoint. And so, so that we, you know, we can know that by the end of June something is going to be done or perhaps beginning of July, ja. Yes, Dr Selby.

DR SELBY: The bulk of the process that you've outlined are within our own control.

CHAIRPERSON: Okay.

DR SELBY: The finalisation of the specification is Dr Mankupane and his team, you know, they are the members of that specification committee, so it's within their control to finalise that as quickly as possible. There's no dependencies in that regard. As far as the market research, is done by GPT, that's already done. So I mean, as soon as we get a copy of that, as soon as we get, you know, the complete specifications and business case from – or not even the specification, the business case, we can tie it in with the market research report.

And as I say, by the end of next week, because of the urgency of this matter, we could obtain HOD approval on the deviation process. Thereafter we just need to determine how the period of time that we're going to request for the proposals, again, it's out determination on how long – we can't give too short a period because obviously we require you know, the prospective suppliers to do their costing and those type of analysis.

But the evaluation again, is also in our control, the same – probably the same team that compile the spec would be identified to do the evaluation of the prospective – so that's also in our control. The approval gets done by the Department, so that's also in our controls. As I say, it's departmental specific as and when this project will be complete. Thanks.

CHAIRPERSON: Yes okay, I understand that. Dr Mankupane, can you undertake to get to Dr Selby the specification so that he can tie it in with the business case – sorry, he can – not the specification, the business case, so he can tie it in with the market research and get that deviation assigned by Friday? Because from my point of view that's what he needs.

DR MANKUPANE: Ja, that's fine. I must indicate that that's fine. The HOD will make that decision but I can share that I had a briefing with him this morning, so he – along the tones of deviation and he was supportive of the opinion, obviously he wanted it to be polished to the satisfaction of the rules and regulations, so I

don't think we'll then have a problem in that aspect. The team that are, that is for specification has already, you know, been assembled, they sat now I think in two occasions, so we'll sector in the discussion that has happened here in this forum to then – so that then they understand the tempo of things and the speed as to which they need to finalise the process. Thank you.

CHAIRPERSON: All right, thank you, Dr Mankupane. All right, we will then follow up with you, Dr Selby, on the approved deviation by Friday next week and then following that, from our understanding you had indicated that there is a possibility that you might then meet with the prospective providers, I guess to have like a tender briefing? I'm not sure how these things work, but – and then following that, you would then be accepting proposals or evaluating proposals.

DR SELBY: You're correct, yes.

CHAIRPERSON: All right, thank you. Okay, all right. Following this meeting, I'm going to draw up some minutes just so that we have everything recorded and all the undertakings also recorded, that we've given. And hopefully, you know, as Section 27 and Cancer Alliance, we would really hope to see the first patients in the machines by no later than the beginning of July, you know, that is – ja, that is ...[intervenes]

MALE SPEAKER: [Indistinct 01:06:04]

CHAIRPERSON: I mean, it's still far from when, where

we had initially agreed from the 27th of March, but you know, I guess at this point it's the most reasonable time or timing. Ja, but if we can get that indication of the business, that the business case has been submitted and that the deviation is approved by the 9th, then we would be satisfied and we will then follow up following that, to see if there's been a meeting with the service providers within at least the two weeks following that, which would then put us at the last week of June. And hopefully you know, once the service providers have provided their proposals, given whatever time-periods they're given to provide that, we can get patients into machines as soon as possible. Yes, Salome?

MS MEYER: Thank you, Khanyi, just to add is, is that potential service providers have already indicated you know, because they are aware of the process or waiting for the outcome of this process, I do think that it is quite feasible to actually have a short period of 14 days max for them to submit their proposal, their respective proposals and we may have to then also – and I just say that for the people who have to prepare the specifications, is that they need to be able to indicate whether they obviously can supply the full service for all the patients, or whether they can only supply for certain centres, such as for argument sake, only for Steve Biko or whether they can – because that in essence, is about whether some of the suppliers – and I'm thinking more of the Icon suppliers, because there is more than one Icon supplier in Gauteng, but that

has got capacity, some has got capacity, some hasn't got capacity.

So it literally is about how they will reply to that in terms of the specifications and obviously the other thing that I also would want to highlight, that I think is very much a requirement that needs to go in, is that neither of the companies, company or companies, are, would be able to do cherry-picking in terms of what patients they want to treat or not.

And with that I mean that a company can't come and say oh, but we will prefer to manage only prostate cancer cases or only breast cancer patients, this is the patient list and that's it and they must be able to manage any of the specific patients, otherwise if we start allowing cherry-picking to happen, it would in fact defeat the whole purpose of the exercise. Thank you very much indeed.

CHAIRPERSON: All right. Thanks, Salome, thank you. All right, giving regard to Salome's timeline that she's just indicated, you know, 14 days plus / minus, I think that's also reasonable. So receiving the business case, I keep saying business case – receiving the acknowledgement that the deviation has been approved, 9th of June. Then following that, there'll be, I guess a tender briefing – excuse my phrasing, if it's in correct, but outsourcing briefing or whatever the terminology is, within the two weeks following the 9th, so that puts us at the 23rd of June.

Then, following that, the service providers allowed 14 days, I'm not sure if that is in accordance with procurement guidelines, that

it can be that short of a period, but you'll guide us, Dr Selby, but if it is then 14 days puts us at 7 July to get the proposals. And then hopefully we can see that appointment happens mid-June, I mean, mid-July, 14th of July. Yes, Dr Selby.

DR SELBY: 21 days is our normal period for – as normal tender adverts.

CHAIRPERSON: Okay.

DR SELBY: However, we have, we can get, obtain approval for a shortened period, which is normally 14 days. So your 14 days ties in to our SCM policies within the Department, thank you.

CHAIRPERSON: Perfect, perfect, thank you. All right, so hopefully we then can see an appointment happen. I'm not sure, how long do appointments take to happen, Dr Selby? Is it, can it happen as quick as seven days? So if proposals are received by the 7th of July, can we say by 14th of July an appointment has been made?

DR SELBY: Let's just take it over a week, the reason for that is due to the value of this ...[intervenes]

CHAIRPERSON: Okay.

DR SELBY: I don't know what the value is.

CHAIRPERSON: Yes.

DR SELBY: But it's going to be over, in the million, so we're going to need BAC, BAC will have to adjudicate this,

there's going to have to be a probity also, process on this and then again HOD approval. We will then go into negotiations with the successful bidders, letter of awards, so let's just take it – I would say, let's err on the side of caution and rather look at two weeks, then one week, please.

CHAIRPERSON: All right, so that puts us on the 21st of July and then we have a provider and we can have patients assessed as soon as possible, following that given whatever agreements have been made during the negotiations stage. Okay, I think we, Salome, I don't want to speak for you but from our side, I think we might be satisfied with that? It's definitely two months before September even sees [indistinct 01:12:52]

MS MEYER: I think, thank you, Khanyi for that, I mean, yes, it may have been a bit ambitious to think that we could have all of this concluded by the 1st of July, however, I think once you indicate in the minutes to us the very timeline, we – the collective is now to actually make sure that we follow the timeline.

CHAIRPERSON: Yes.

MS MEYER: And that we from our side, and I think that somewhere along the line we have a responsibility to actually also go back to the public and actually communicate the outcome of today's meeting and of a definite timeline and that we communicate the timeline with regards – that we can potentially start looking at treating patients in the, in August, and that we look forward to that,

and that we – in fact, and this is something even though it would have been then quite a number of months later, I think it is actually a milestone that we can use, you know, for the benefit of both Gauteng Health and Treasury, as well as the Cancer Alliance when we start with the treatment of those first patients.

So that's what I would say, is that we confirm the timeline, everybody sticks to it and we do everything in our best to keep to it, but that we also do some media in terms of what has happened, what is happening with regards to this. Thank you.

CHAIRPERSON: Okay, all right, I will echo Salome's sentiments in terms of keeping to the timelines, because we had had a similar discussion on the 27th of March and here we are having the same discussion again. So like I said initially, our spirits on the side of serving society are quite low and our expectations have been shot a little bit and we are really relying on the Department and the Department of Treasury, Department of Health and Department of Treasury now to really expedite this so that we can at least by the time that the midterm announcements are made, we can announce that this is something we've achieved, at least in the first you know, part of the year. So with that, that is the concluding remarks from my side. Sasha, I'm not sure if there's anything you would like to say?

MS STEVENSON: No, I'm covered. Thanks, Khanyisa, thank you, everyone.

CHAIRPERSON: And Mr Vilakazi?

MR VILAKAZI: No, thank you very much, colleagues. I think – I'm going to repeat the same point, let's just keep our eyes on what matters, so that will really, really move us forward because really, I mean, we at Treasury, there's a lot of things that we would not even really understand even that are happening in the Department of Health.

But we are focussed to say this must happen, you know, and this must happen, so it will really just require a lot of patience from all of us, a lot of endurance, I mean, it's testing in all of us. So that is all I'm going to say and really just then thank everyone really for just helping to focus on the objective of coming together. Thank you very much.

CHAIRPERSON: Thank you. Mr Rudzani.

MR RASIVHETSHELE: No, I'm fine, I think I'm covered by your conclusion and the remarks of the [indistinct 01:17:03], thanks.

CHAIRPERSON: All right, Mr Botsane, we've heard nothing from you, but I assume that you are probably here as the eyes and ears for the HOD.

MR BOTSANE: Yes, and good afternoon. Yes, my colleagues have covered me greatly, so from the processes that will unfold, thank you so much.

CHAIRPERSON: Thank you. And Ms Ngaka.

MS NGAKA: Apologies, I was talking while I'm

muted. No, I'm covered, I'm covered, Ms Mapipa. Yes, so we'll also from our side continuously provide guidance and support to the Department of Health, but as Mr Vilakazi is saying, that the ball is within the court of Department of Health to make sure that everything that has been discussed, then we – it will be followed through. Thank you.

CHAIRPERSON: Okay, thank you so much and also, thank you for your continued guidance and help in this. We really appreciate it. Same to you, Mr Vilakazi, for your continued guidance in this. All right, we have managed to make it at least 30 minutes before our deadline. Like I said, I will prepare the minutes for this meeting and I thank everyone for attending and hopefully we keep to the deadlines and we can have the first patients in by the end of July. Thank you, everyone, Salome and Sasha, please if you can stay back on the line. Thanks.

MR VILAKAZI: Thank you very much, Ms Mapipa.

MS NGAKA: Thank you.

MR VILAKAZI: Have a good weekend to everyone, thank you.

DR SELBY: Thank you.

MR BOTSANE: Thank you, good bye.

MS MEYER: You too.

DR MANKUPANE: Thank you, thank you.

MS MEYER: Thank you, everybody.

[Not transcribed, off-record discussions between Ms Mapipa, Ms Meyer and Ms Stevenson 01:19:17]

MEETING ADJOURNS

END OF AUDIO

SJM 12

From: Khanyisa Mapipa
Sent: Tuesday, June 20, 2023 12:54 PM
To: Vilakazi, Mncedisi (GPT) <Mncedisi.Vilakazi@gauteng.gov.za>; SELBY, DAVID (GPHealth) <DAVID.SELBY@gauteng.gov.za>
Cc: Onyango, Donald (GPT) <Donald.Onyango@gauteng.gov.za>; NGAKA, SINDISWA (GPT) <SINDISWA.NGAKA@gauteng.gov.za>; Nkadimeng, Mahlwane (GPT) <Mahlwane.Nkadimeng@gauteng.gov.za>; MNGADI, KHULULEKILE (GPT) <KHULULEKILE.MNGADI@gauteng.gov.za>; Stephen. Mankupane (GPHEATH) <Stephen.Mankupane@gauteng.gov.za>; MBEKI, NOMBULELO (GPT) <NOMBULELO.MBEKI@gauteng.gov.za>; Rasivhetshele, Rudzani (GPT) <Rudzani.Rasivhetshele@gauteng.gov.za>; Mnene, Ayanda (GPT) <Ayanda.Mnene@gauteng.gov.za>; Sasha Stevenson <stevenson@section27.org.za>; Malotana, Arnold (gphealth) <Arnold.Malotana@gauteng.gov.za>; Mathuloe, Rorisang (GPHealth) <Rorisang.Mathuloe@gauteng.gov.za>; salomefaan@gmail.com; Ndima, Masibolekwe <Masibolekwe.Ndima@gauteng.gov.za>; Botsane, Montwedi (GPHEALTH) <Montwedi.Botsane@gauteng.gov.za>
Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

Dear Dr Selby and Dr Mankupane

trust this email finds you well.

The second deadline, being 23 June 2023, is fast approaching. As you will recall, at this point the Gauteng Department of Health ought to have obtained a deviation from the normal tender processes and should now be in the process of briefing the identified private sector providers on the specifications developed by the GDoH and the requirements for the outsourced services.

We would be grateful if you would provide us with feedback regarding the progress made in this matter thusfar.

We look forward to hearing from you.

Regards

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From: Khanyisa Mapipa
Sent: Tuesday, June 13, 2023 12:41 PM
To: Vilakazi, Mncedisi (GPT) <Mncedisi.Vilakazi@gauteng.gov.za>; SELBY, DAVID (GPHealth) <DAVID.SELBY@gauteng.gov.za>
Cc: Onyango, Donald (GPT) <Donald.Onyango@gauteng.gov.za>; NGAKA, SINDISWA (GPT) <SINDISWA.NGAKA@gauteng.gov.za>; Nkadimeng, Mahlwane (GPT) <Mahlwane.Nkadimeng@gauteng.gov.za>; MNGADI, KHULULEKILE (GPT) <KHULULEKILE.MNGADI@gauteng.gov.za>; Stephen. Mankupane (GPHEATH) <Stephen.Mankupane@gauteng.gov.za>; MBEKI, NOMBULELO (GPT) <NOMBULELO.MBEKI@gauteng.gov.za>; Rasivhetshele, Rudzani (GPT) <Rudzani.Rasivhetshele@gauteng.gov.za>; Mnene, Ayanda (GPT) <Ayanda.Mnene@gauteng.gov.za>; Sasha Stevenson <stevenson@section27.org.za>; Malotana, Arnold (gphealth)

SJM 13

Khanyisa Mapipa

From: Khanyisa Mapipa
Sent: Friday, 30 June 2023 13:18
To: Vilakazi, Mncedisi (GPT); SELBY, DAVID (GPHealth)
Cc: Onyango, Donald (GPT); NGAKA, SINDISWA (GPT); Nkadimeng, Mahlwane (GPT); MNGADI, KHULULEKILE (GPT); Stephen. Mankupane (GPHEATH); MBEKI, NOMBULELO (GPT); Rasivhetshele, Rudzani (GPT); Mnene, Ayanda (GPT); Sasha Stevenson; Malotana, Arnold (gphealth); Mathuloe, Rorisang (GPHealth); salomefaan@gmail.com; Ndima, Masibolekwe; Botsane, Montwedi (GPHEALTH)
Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

Tracking:

Recipient	Delivery	Read
Vilakazi, Mncedisi (GPT)		
SELBY, DAVID (GPHealth)		
Onyango, Donald (GPT)		
NGAKA, SINDISWA (GPT)		
Nkadimeng, Mahlwane (GPT)		
MNGADI, KHULULEKILE (GPT)		
Stephen. Mankupane (GPHEATH)		
MBEKI, NOMBULELO (GPT)		
Rasivhetshele, Rudzani (GPT)		
Mnene, Ayanda (GPT)		
Sasha Stevenson	Delivered: 2023/06/30 13:19	Read: 2023/07/02 15:52
Malotana, Arnold (gphealth)		
Mathuloe, Rorisang (GPHealth)		
salomefaan@gmail.com		
Ndima, Masibolekwe		
Botsane, Montwedi (GPHEALTH)		

Dear Dr Selby, Dr Mankupane and all

My last email refers.

We note that there has been no feedback regarding the progress of the matter. As indicated previously, your silence serves nothing but to increase anxiety in the approximately 3000 patients waiting for this outsourcing arrangement. Again, as custodians of the Constitutional right to healthcare, your duty extends to accounting to those you serve – which in this case include the patients awaiting radiation oncology treatment of over 2 years now. We hope that our plea will not fall on deaf ears.

In this regard, we request to meet with you on Monday, 3 July 2023 at any time in the afternoon or alternatively, on Wednesday, 5 July 2023 at any time in the morning. The purpose of this meeting will be for you to report back on the progress made thusfar and to rework the deadlines that you committed to in our last meeting, if necessary. This will also help us manage the expectations of the people on the backlog list – some of whom have entrusted us to engage with you on their behalf in this matter. Please confirm your availability.

Looking forward to a favourable response.

Regards

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We would be grateful if you would provide us with feedback regarding the progress made in this matter thusfar.

We look forward to hearing from you.

Regards

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Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

Dear all

We trust this email finds you well.

As you will recall, at our most recent meeting on Friday, 2 June 2023, the Gauteng Department of Health agreed to the following deadlines and undertakings:

1. By Friday, 9 June 2023, the Gauteng Department of Health would obtain a deviation from the normal tender process in order to expedite the outsourcing of radiation oncology treatment. This deviation would be supported by the market research which was already conducted by the PSCM department within the department of Gauteng Treasury as well as a business case developed by the Gauteng Department of Health and specifications. Following the approval of the deviation by the HOD for Gauteng Health, SECTION27 and Cancer Alliance would be advised of the outcome of this process.

2. By Friday, 23 June 2023, the Gauteng Department of Health would conduct a briefing session with potential service providers. These potential service providers would be identified through the market research conducted by Gauteng Treasury.

3. Potential service providers would be given an opportunity to submit proposals by Friday, 7 July 2023.

4. By Friday, 21 July 2023, the Gauteng Department of Health would have appointed a service provider who is to provide the outsourced radiation oncology services.

We are concerned that the first deadline, which was to advise us of the outcome of the deviation process has been missed. We request that you provide us with information in this regard. Secondly, we are concerned that in the instance that the deviation process has not been concluded this will potentially push out the other deadlines to which Gauteng Health has agreed, which essentially further delays the treatment of patients.

Further, we would be grateful if you would share with us information shared with the potential service providers once you have briefed the potential service providers.

Lastly, we sincerely hope that the Gauteng Department of Health will meet the deadlines that it has set in our last meeting on 2 June 2023 and that patients will be able to receive outsourced radiation oncology services in early August 2023, as agreed.

We look forward to your response.

Regards

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Sent: Tuesday, May 30, 2023 5:33 PM
To: Khanyisa Mapipa <Mapipa@section27.org.za>; SELBY, DAVID (GPHealth) <DAVID.SELBY@gauteng.gov.za>
Cc: Onyango, Donald (GPT) <Donald.Onyango@gauteng.gov.za>; NGAKA, SINDISWA (GPT) <SINDISWA.NGAKA@gauteng.gov.za>; Nkadimeng, Mahlwane (GPT) <Mahlwane.Nkadimeng@gauteng.gov.za>; MNGADI, KHULULEKILE (GPT) <KHULULEKILE.MNGADI@gauteng.gov.za>; Stephen. Mankupane (GPHEATH) <Stephen.Mankupane@gauteng.gov.za>; MBEKI, NOMBULELO (GPT) <NOMBULELO.MBEKI@gauteng.gov.za>; Rasivhetshele, Rudzani (GPT) <Rudzani.Rasivhetshele@gauteng.gov.za>; Mnene, Ayanda (GPT) <Ayanda.Mnene@gauteng.gov.za>; Sasha Stevenson <stevenson@section27.org.za>; Malotana, Arnold (gphealth) <Arnold.Malotana@gauteng.gov.za>; Mathuloe, Rorisang (GPHealth) <Rorisang.Mathuloe@gauteng.gov.za>; salomefaan@gmail.com; Ndima, Masibolekwe <Masibolekwe.Ndima@gauteng.gov.za>; Botsane, Montwedi (GPHEALTH) <Montwedi.Botsane@gauteng.gov.za>
Subject: RE: Outsourcing Model for Gauteng Radiation Oncology

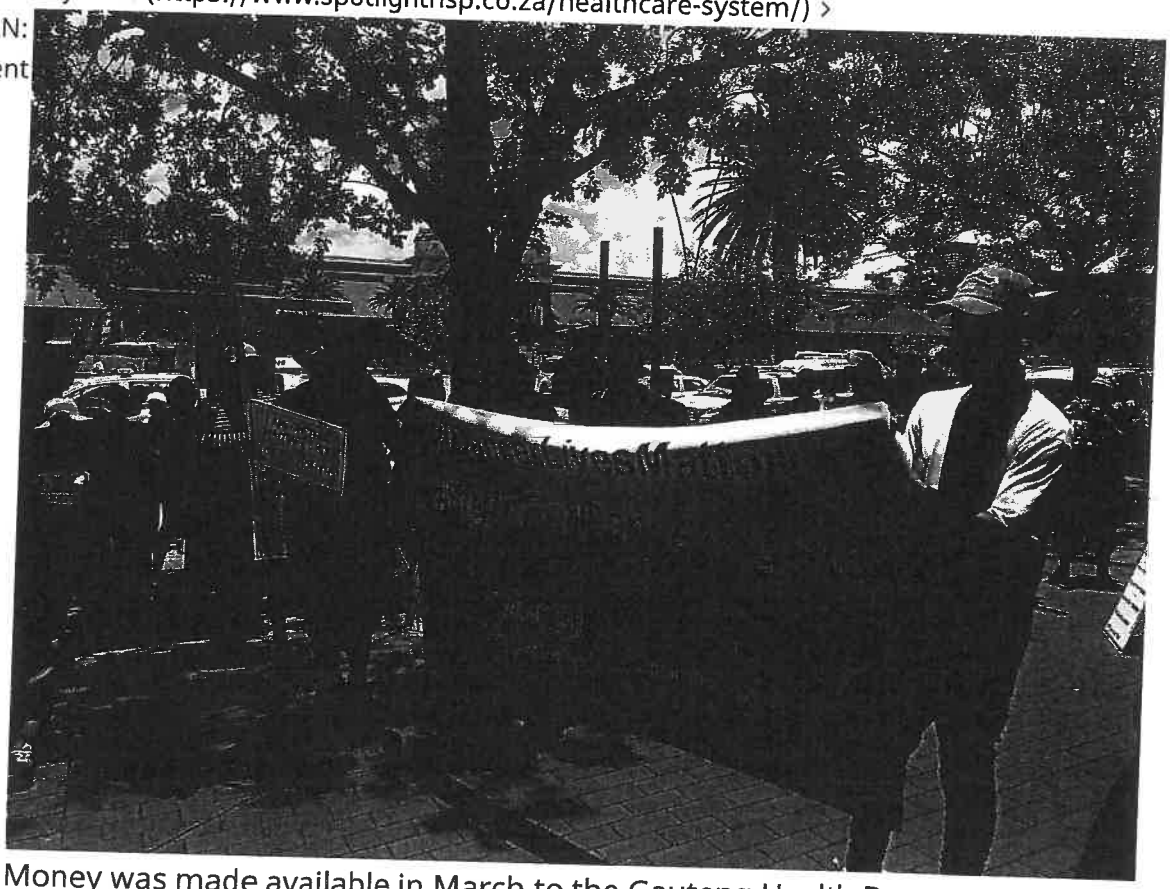
All is in order. I request that we meet on Friday, 2 June 2023, on MS Teams, from 2pm to 4pm. Please feel free to it set-up on your side.

Best regards,
Mncedisi

From: Khanyisa Mapipa <Mapipa@section27.org.za>
Sent: Tuesday, May 30, 2023 2:21 PM
To: Vilakazi, Mncedisi (GPT) <Mncedisi.Vilakazi@gauteng.gov.za>; SELBY, DAVID (GPHealth) <DAVID.SELBY@gauteng.gov.za>
Cc: Onyango, Donald (GPT) <Donald.Onyango@gauteng.gov.za>; NGAKA, SINDISWA (GPT) <SINDISWA.NGAKA@gauteng.gov.za>; Nkadimeng, Mahlwane (GPT) <Mahlwane.Nkadimeng@gauteng.gov.za>; MNGADI, KHULULEKILE (GPT) <KHULULEKILE.MNGADI@gauteng.gov.za>; Stephen. Mankupane (GPHEATH) <Stephen.Mankupane@gauteng.gov.za>; MBEKI, NOMBULELO (GPT) <NOMBULELO.MBEKI@gauteng.gov.za>; Rasivhetshele, Rudzani (GPT) <Rudzani.Rasivhetshele@gauteng.gov.za>; Mnene, Ayanda (GPT)

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Money was made available in March to the Gauteng Health Department to outsource radiation oncology services and address surgical backlogs in the province. PHOTO: SECTION27 and Cancer Alliance

OPINION: Worrying lack of urgency as Gauteng Health sits on money earmarked to outsource urgent cancer treatment

Comment & Analysis

9th June 2023 | Khanyisa Mapipa

It is almost three months since – partly through the efforts of SECTION27 and Cancer Alliance – money was made available to the Gauteng Health Department to outsource radiation oncology services and address surgical backlogs in the province.

In our article dated 10 March 2023 (https://www.spotlightnsp.co.za/2023/03/10/opinion-patients-to-benefit-from-new-funding-and-decision-to-let-private-sector-help-with-gautengs-oncology-backlog/), we indicated that Gauteng Treasury made available an amount of R784 million for the outsourcing of radiation oncology services as well as to service other surgical backlogs. Since then, we have been advised by the Gauteng Department of Health that, of the R784 million, an amount of R250 million has been set aside to realise the outsourcing of radiation oncology services set to benefit cancer patients – some who have been waiting since 2021.

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Fast-forward to today and there has still been no outsourcing of this urgent radiation oncology service.

This lack of urgency on the part of Gauteng Health, while every passing day becomes a matter of life and death for cancer patients is deeply concerning.



How we got here: the three-step process

On 27 March 2023, Cancer Alliance and SECTION27 met with the Gauteng Department of Health and the provincial treasury to discuss and solidify the steps to be taken to, with the money made available, ensure the urgent realisation of the outsourcing project. At this meeting, it was agreed that the Gauteng Department of Health would embark on a three-step process whereby it would update the list of patients awaiting radiation oncology services to reflect the current backlog.

Many cancer patients in Gauteng have been waiting for years to get radiation oncology treatment. PHOTO: Marco Verch/Flickr

As indicated in our previous article, Cancer Alliance in March 2022, had, at its own cost, employed the services of an independent consultant and with the consent of Charlotte Maxeke Johannesburg Academic Hospital, compiled a list of patients awaiting radiation oncology for over a year. At the time, it was found that there were approximately 3 000 patients awaiting radiation oncology services.

So, the first in the three-step process Gauteng Health was set to embark on, involved updating this backlog list to include patients who had not been serviced in 2022 and to remove those who had received radiation oncology services in the meantime.

To date, the Gauteng Department of Health has not produced its updated backlog list. They, however, confirmed that approximately 300 patients have been serviced since the Cancer Alliance backlog list was compiled in 2022, which places the

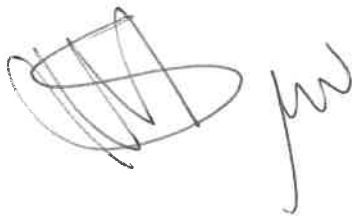
backlog list at approximately 2700. Some patients may in the meantime have been added to the backlog or passed away, so the real number could be a bit higher or lower.

> ***This lack of urgency and intention shown by the Gauteng Department of Health in the slow manner in which they are handling this matter is cause for great concern.***

The second step of the process is to attend to the medical assessment of the patients on the backlog list and to develop a list of qualifying criteria for those who will be referred to the private sector, depending on what is decided in the briefing with the private sector. The third step of the process is to conclude contracts with private sector providers to provide radiation oncology services.

Yet, at this point, we are unsure what developments the Gauteng Department of Health has made with respect to step two of the process, given that they have not yet completed an updated backlog list. We are aware that step three of the process has yet to be initiated.

This lack of urgency and intention shown by the Gauteng Department of Health in the slow manner in which they are handling this matter is cause for great concern.



Activists during a protest march in 2021 at Charlotte Maxeke Johannesburg Academic Hospital where they delivered a memorandum outlining their concerns. PHOTO: SECTION27 and Cancer Alliance

The meeting

Following numerous attempts, we finally met with the Gauteng Department of Health to get feedback on the progress made. The meeting was held on Friday, 2 June 2023.

There, to our surprise, it was still unclear whether the radiation oncology services would be handled by way of a tender or an outsourcing arrangement. Outsourcing, as explained to us in a presentation by the National Department of Health, is the process that was used during the COVID-19 pandemic that allowed state hospitals to send their sick patients to private hospitals to make up for the demand in the public sector. While a deviation from the normal tender process, this is a lawful process used in urgent cases.

We – Cancer Alliance and SECTION27 – contend that patients waiting for radiation oncology services for over two years now with some who have had repeated recurrences of their cancers as a result of not obtaining radiation oncology services in time (and thus have had to repeat chemotherapy treatment and/or surgery) amount to an urgent issue which is deserving of a deviation from the normal tender process.

The personal cost

Take, for example, **Noluthando Ndlovu, who first approached the public healthcare system in September 2020. She was diagnosed with inflammatory breast cancer – which is an aggressive type of breast cancer – soon thereafter and received chemotherapy for a six-month period, beginning in October 2020. Luckily, Noluthando's cancer reacted well to the chemotherapy and she was scheduled for surgery the following year in early May 2021. Much to her relief, the surgery was a resounding success. All that was left was for her to obtain radiation oncology treatment within the three months as required by the Clinical Guidelines for Breast Cancer Control and Management published by the National Department of Health, in line with international cancer treatment protocols. But Noluthando did not receive this treatment and her cancer returned in August 2021. She then had to undergo the gruelling process of chemotherapy and surgery and was again eligible for radiation treatment in October 2022.

Again, Noluthando did not receive these services.

Of the R784 million Gauteng Health received, an amount of R250 million has been set aside to realise the outsourcing of radiation oncology services set to benefit cancer patients. PHOTO: Nasief Manie/Spotlight

Noluthando's cancer returned for the third time. Unfortunately, as it stands, Noluthando's cancer is now not responding to the chemotherapy. The cost of the repeated chemotherapy and surgery due to the delay in accessing radiation oncology services is not the only one that Noluthando has to bear. She relays to us that her experience has caused trauma and anxiety for both her mother and her daughter. The uncertainty of her future has impacted her daughter's academic progress and has affected Noluthando's progress in her career. Her story is not an isolated incident. While radiation oncology is not in itself a cure for cancer, it is an important and crucial step in the treatment protocol and one which cannot be replaced with any other.

More undertakings

> ***The plan is to ensure that patients are treated through this outsourcing programme by the beginning of August 2023.***

When asked, Gauteng Health acknowledged that the tender process would take longer than the outsourcing process and its success also depends on the response received from the market. However, by comparison, the outsourcing project would guarantee that patients like Noluthando are able to access the service from the private sector as soon as it is concluded.

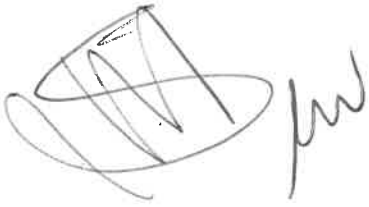
The World Health Organization in February this year said that an estimated 1.1 million new cancer cases are being reported in Africa each year with around 700 000 deaths from cancer. PHOTO: DialysisTechnicianSalary

At the meeting of 2 June 2023, the Gauteng Department of Health agreed to obtain a deviation from the normal tender process by Friday 9 June 2023. Following this, the department would hold a briefing session with prospective service providers within a two-week period. This would mean by Friday, 23 June 2023. The prospective service providers will then be given a period of two weeks to return with proposals, by Friday, 7 July 2023. These proposals will be assessed by a committee and the final award will be made by 21 July 2023. The plan is to ensure that patients are treated through this outsourcing programme by the beginning of August 2023.

Our hope is that the Gauteng Department of Health will, this time, live up to its undertakings. It is worrying that despite being provided with resources to help ensure access to radiation oncology services for the thousands of patients, very little has been done to date to ensure that these cancer patients get the long overdue care that they need. The department must and can do better.

*Mapipa is an attorney at SECTION27.

**Identity withheld



NOTE: This opinion piece was written by an employee of SECTION27. Spotlight is published by SECTION27 and the Treatment Action Campaign, but is editorially independent, an independence that the editors guard jealously. The views expressed in this article are not necessarily those of Spotlight.

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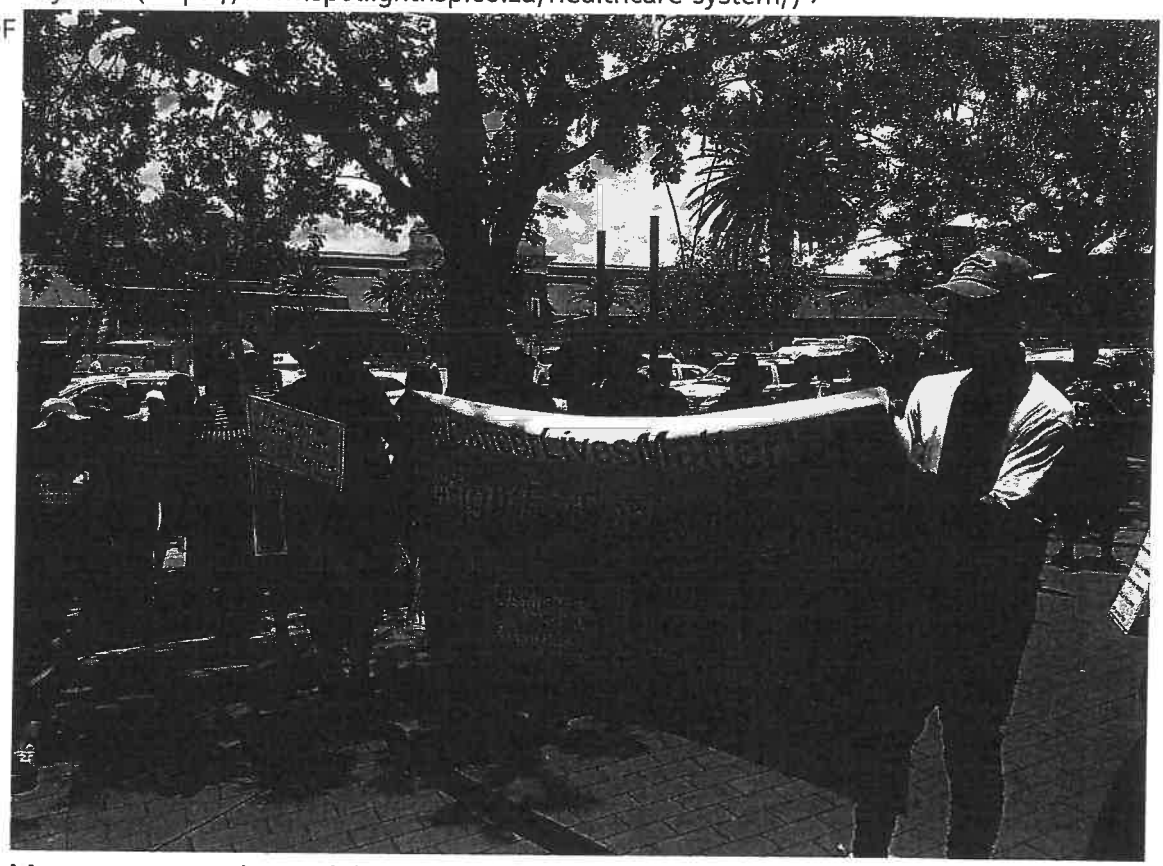
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Money was made available in March to the Gauteng Health Department to outsource radiation oncology services and address surgical backlogs in the province. PHOTO: SECTION27 and Cancer Alliance

RIGHT OF REPLY: Reducing the surgical and cancer treatment backlogs is an urgent priority

Comment & Analysis

22nd June 2023 | Dr Stephen Mankupane

Recently an opinion piece (https://www.spotlightnsp.co.za/2023/06/09/opinion-worrying-lack-of-urgency-as-gauteng-health-sits-on-money-earmarked-to-outsource-urgent-cancer-treatment/) was published on this platform bemoaning what the author described as a "... lack of urgency" to tackle the backlog of cancer treatment in Gauteng, accusing the Gauteng Department of Health (GDoH) of sitting on the money "... earmarked to outsource urgent cancer treatment".

There is no dispute over the fact that there is a need to act with urgency in attending to the backlog in surgical and oncology services.

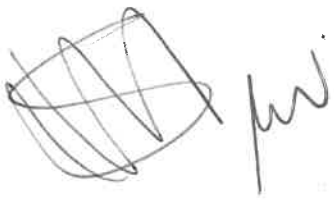
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There is an acknowledgement that a number of factors such as shortages in both personnel and equipment, the knock-on effect of the COVID-19 pandemic that stretched the capacity of the healthcare system as a whole, and the unfortunate fire that broke out at the Charlotte Maxeke Johannesburg Academic Hospital (CMJAH) in 2021 has had a ripple effect when it comes to cancer treatment, not only for the province but for the country as a whole given the inter-dependence of the system.





Charlotte Maxeke Hospital in Johannesburg. Despite millions being paid for security at Gauteng health facilities, theft of copper piping and cables persists, endangering the lives of patients and healthcare workers. PHOTO: Gauteng Health

It is within this context that the MEC for Health and Wellness, Nomantu Nkomo-Ralehoko when she tabled the department's budget vote on 25 May this year specifically focused on the need to channel more resources toward oncology services.

Funding is a crucial factor for the success of any healthcare initiative. Understanding this, the Gauteng Provincial Treasury has demonstrated its support for this vital cause by allocating R784 million specifically to address the surgical backlog, including radiation oncology services. This financial backing represents a firm commitment to improving cancer care and provides us with the necessary resources to make this initiative a reality.

The MEC further announced that as part of expanding services to communities, oncology services will now be taken to cover township-based teaching hospitals namely Chris Hani Baragwanath Academic Hospital and Dr George Mukhari Academic Hospital. Currently, oncology services are provided through Charlotte Maxeke, Baragwanath, and Steve Biko Academic hospitals. We currently have 2 000 patients per month benefitting from oncology services at Charlotte Maxeke and Steve Biko hospitals.

Nomantu Nkomo-Ralehoko, MEC for Health in Gauteng. PHOTO: GP Health and Wellness/Twitter

Furthermore, in order to ensure that patients requiring radiation oncology services are not disadvantaged, the provincial department through engagement with multiple stakeholders such as Cancer Alliance and SECTION27 has identified the need to appoint private sector providers to supply radiation oncology services for this financial year.

Outsourcing these services represents a strategic move aimed at harnessing the expertise and efficiencies of the private sector. This is expected to be instrumental in enhancing the quality of care and reducing waiting times for patients in need of radiation therapy. The outsourcing must be done within the confines of applicable legislative frameworks such as the Public Finance Management Act and supply chain management (SCM) processes.

The tender process is currently underway after the department completed specifications for the outsourcing of radiation oncology services for Charlotte Maxeke and Steve Biko Academic hospitals.

As part of exploring various options to expedite the outsourcing approach, the provincial department envisaged following a closed tender to invite a limited number of service providers to bid. However, the specifications to the technical proposal were divided into three categories – for the Professional/Specialist Radiation Oncologist, Technical Service/Oncology treating machine, and the radiation planning service. The market analysis conducted revealed that there are a number of service providers who can provide the needed services.

To prevent any irregularities in the tender process, the department decided to follow an open tender process with a shortened tender advert period of 14 days. This will allow specialist radiation oncologists and radiation planners to be availed the opportunity to tender as per categories 1 and 3.

On 23 November 2021, Cancer Alliance and its partners SECTION27 and the Treatment Action Campaign held a protest at Charlotte Maxeke Johannesburg Academic Hospital and delivered a memorandum outlining their concerns. PHOTO: SECTION27 and Cancer Alliance

We recognise the urgency of the situation and want to assure the public that we are committed to handling the outsourcing of radiation oncology services diligently and are nearing implementation.

The anticipated impact of outsourcing radiation oncology services is expected to be far-reaching. By leveraging the capabilities and expertise of external service providers, we aim to improve the accessibility and quality of radiation therapy for cancer patients. This showcases a proactive and adaptive approach in response to the mounting challenges posed by the increasing prevalence of cancer.

Additionally, it is important to point out that we have advertised a tender for one Brachytherapy machine for Steve Biko Academic Hospital, which closed end of May. Specifications for one Linear Accelerator (Linac) machine for Charlotte Maxeke were done and the advertisement of the tender is underway. These machines are essential in the treatment of cancer and acquiring them is a significant step in improving the quality of cancer care.

PHOTO: Nasief Manie/Spotlight

The department has furthermore, procured four Linear Accelerator (Linac) machines, which are essential in the treatment of cancer. Two of these Linac machines are allocated for Chris Hani and two for Dr. George Mukhari Academic institutions.

The commissioning and operationalisation of the four Linac machines depend on the construction of special bunkers for the safe operation of radiation therapy equipment. The turnkey project to construct these bunkers at Baragwanath and Dr George Mukhari is envisaged to be completed within this financial year.

By strengthening our infrastructure and expanding our resources, we are positioning the department to provide better care for cancer patients.

As we forge ahead with these initiatives, we remain mindful of the tremendous responsibility we carry in the fight against cancer. Our actions today have the potential to bring hope and make a meaningful difference in the lives of countless individuals and families affected by this disease. Through continued investment, innovation, and strategic partnerships we strive to drastically reduce the surgical and radiation oncology backlogs.

Mankupane is the Acting Head of Hospital Services at the Gauteng Department of Health.

[redacted]

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	• Copy of Central Supplier Database (CSD) Registration Summary Report **NB: All mandatory documents Commissioned and/or Certified Copies must be in line with the Justices of the Peace and Commissioners of Oaths Act, No.16 of 1963.**
Part 2	All the supporting documents of proof required for the Functionality Evaluation: a) Company profile b) Contingency plans c) Company Reference letters d) Contractual proof And any other supporting document for the Functional Evaluation
Part 3	Financial Proposal of the tender: Completed Price Schedule documents. a) SBD 3.3: Price Schedule – Professional Services b) Annexure A: Price Schedule c) SBD 6.1:Preference Points Claim Form in terms of the Preferential Procurement Regulations 2022

6. SCOPE OF WORK

The service provider/s that will be contracted by the Gauteng Department of Health must provide either:

- **Category 1 (6.1)** Technical Proposal of the tender for Professional/Specialist Oncologist Service; and/or

- **Category 2 (6.2)** a Technical Proposal of the tender for the Technical Service and/or
- **Category 3 (6.3)** a Radiation Planning Service.

6.1 CATEGORY 1: TECHNICAL PROPOSAL OF THE TENDER FOR PROFESSIONAL/SPECIALIST ONCOLOGIST SERVICE

The technical proposal of the tender for Professional/Specialist Oncologist service refers to a Radiation Oncologist(s) that is able to provide radiotherapy simulation and planning as per SBAH and CMJAH breast and prostate treatment guidelines. Additionally, they will monitor the patient while receiving radiotherapy and discharge the patient back to State with a written report upon completion of radiotherapy treatment.

The following are minimum requirements for the professional/ specialist oncologist service:

6.1.1 Admission criteria prostate cancer patients:

Patients requiring **prostate cancer radiation oncology treatment** that are:

- Localized prostate cancer or loco-regional prostate cancer with no evidence of extrapelvic or distant metastases will be admitted and treated as per the CMJAH/SBAH prostate cancer moderately hypofractionated protocol i.e. 3Gy X 20# to 60Gy to the prostate +/- 2.2Gy X 22# to 44Gy to the pelvic lymph nodes using either Intensity Modulated Radiotherapy (IMRT) or Volumetric Modulated Arc Therapy (VMAT).
- Patients who require radiotherapy to the prostate +/- the pelvic lymph nodes and seminal vesicles: the decision on the treatment volumes will be at the discretion of the treating Radiation Oncologist and must be indicated on the treatment plan provided for approval before proceeding with treatment.
- If Androgen deprivation is required concurrently with treatment, the patient will be administered at the respective referral units (CMJAH and SBAH).

6.1.2 Admission criteria breast cancer patients:

Patients requiring **breast cancer radiation oncology treatment** that are:

- Localized or locally advanced breast cancer i.e. no distant metastatic disease will be treated as per a moderately hypofractionated protocol i.e. 2.67Gy X 15# to 40.05Gy using 3D CRT techniques. A simultaneous integrated boost of 3.2Gy X 15# to 48Gy using either IMRT or VMAT.
- For patients who require treatment to the breast/chest wall +/- axillary nodal radiotherapy: nodal radiotherapy will be included where clinically indicated. This deviation must be based on international evidence-based guidelines and should be motivated to GDOH. This must be clearly indicated in the treatment plan provided before approval before commencement of radiotherapy.

6.1.3 Role of the private oncologist and treating radiotherapy facility:

The service provider will do the following:

- Accept patients based on the state oncologist's written referral
- Carry out an initial assessment of the patient referred to them by the state radiation oncology facility and provide a radiotherapy treatment plan. A signed informed consent form should be obtained from the patient. The consent form must be signed and dated by patient, treating radiation oncologist and a witness. The patient should be counseled with regards to risk of acute and late side effects and management thereof.
- The radiotherapy treatment plan must include the site, description of the Planning Target Volume/s (PTV), dose, beam energy, technique and simulation instructions. A clear treatment verification protocol should be indicated. The treatment plan must be signed and dated. Any subsequent amendments with regards to dose, volume or techniques must be communicated before proceeding with treatment.
- Carry out radiotherapy simulation and planning as per guidelines e.g. bladder filling and rectum emptying protocol for prostate cancer and breast board immobilization.

- The Radiation Oncologist will also approve radiotherapy treatment plans according to CMJAH and SBAH guidelines. The copy of the approved plan should be provided to the Heads of Department of Radiation Oncology at CMJAH and SBAH. This should include, but not be limited to:
  i. Dose to organs at risk. This includes bladder, rectum, femoral heads, penile bulb and small bowel in prostate cancer. Breast cancer: dose to ipsilateral lung, contralateral lung, contralateral breast, heart, spinal cord. The dose to OAR should be reported as per guidelines that will be provided;
  ii. Dose to PTV: This should include dose to primary (with description), nodes. This should include the prescribed dose, D95%, maximum dose, D50%, mean. For IMRT/VMAT this should include D2%, D98%, mean, D50%, total monitor units and conformity index;
  iii. Record of weekly treatment review;
  iv. Record of signed verification for quality assurance purposes and any deviations that were actionable; and
  v. Document all acute toxicities and treatments thereof.

- Prescribe radiation dose according to agreed standards (Breast: 15 fractions over 3 weeks; Prostate: 20 fractions over 4 weeks)
- Requests for deviations from the state standard treatment will be motivated for in writing or by discussion with the head of radiation oncology at CMJAH or SBAH for approval.
- Monitor the patient while receiving radiotherapy
- Deliver radiation therapy with Linear Accelerator (LINAC) to the prescribed dose
- Prescribe any supporting medicines for symptoms control which will then be collected at either CMJAH or SBAH pharmacy by the patient
- If further investigations are required, e.g. CT scans, ultrasound, MRI scans, these should be discussed with the registrar on call, and the patient sent with a referral note detailing why the scans are required, the name of the registrar discussed with, for the patient to have the investigations booked.
- Report any adverse effects to the state oncologist
- Refer back the patient with a written report upon completion of radiotherapy
- Avail copies of the radiotherapy treatment records to the state oncologist
- Arrange with radiotherapy service provider on tender to provide the technical radiotherapy services
- If a patient on treatment requires acute admission, this will be communicated and discussed with the registrar on call. If the registrar accepts the patients, the patient is to be sent with a referral note to the radiation oncology department (during office hours) or to casualty (after-hours).
- A radiation oncologist (if working on individual capacity) or radiation oncology group practice (if group practice) will not be permitted to treat >15% of total patient number referred for private sector for treatment.

6.2 CATEGORY 2: TECHNICAL PROPOSAL OF THE TENDER FOR THE TECHNICAL SERVICE

The technical proposal of the tender for the technical service refers to radiotherapy facilities capable of delivering equivalent radiotherapy treatments to patients who meet the admission criteria.

The following are minimum requirements for the technical treatment service:

- The facility must be accredited by SAHPRA and SAOC.
- The center should be adequately staffed and a list of qualified radiotherapist, medical physicists including proof of HPCSA registration.
- A facility may not treat >15% of the total quota of patients receiving treatments through the private sector.
- The service provider may not outsource any part of the service to another service provider (Third party).

6.2.1 Access to clinical care services for radiation therapy

6.2.2 Radiation unit or hospital waiting area

6.2.3 For immediate resuscitation and emergencies where applicable to the emergency room

6.2.4 Provide the necessary radiation staffing complement based on the volume of patients and respective treatment slots for the planning and delivery of radiation treatment.

6.2.5 The contracted radiation oncologists will be given access to the radiotherapy planning systems to enable evaluation and approving of plans on-site and remotely. The relevant VPN and CITRIX application will be installed on the contracted radiation oncologists' respective personal computer and cell phone.

6.2.6 CT Scans (Planning)

Access to radiology at the treatment unit (or hospital) for 1 CT scan, for treatment planning purposes only. If repeat CT scans are required, this should be covered in the global fee paid for the treatment.

Cost of the CT scan for planning is to be included in the total cost of treatment tariff proposed and agreed. A copy of the treatment set up sheet including positioning, tattoo, reference points and immbolisation systems must be provided.

6.2.7 Radiation Treatment

6.2.8 Radiotherapy services for treatment planning, quality assurance and treatment delivery. The treatment units employed physicists will be responsible for the quality assurance services as per SAHPRA requirements.

6.2.9 External Beam Radiation Therapy (EBRT)

6.2.10 Step 1 Treatment prescription: The patient will be referred by a GDoH contracted radiation oncologist. This contracted radiation oncologist may be from private or the public sector. The radiation oncologist will consult, assess the patient and prescribe the radiation treatment, which will be sent by the contracted radiation oncologist to the respective GDoH contracted unit. Prescriptions will be in line with the public sector (CMJAH/SBAH) treatment guidelines, any deviation from treatment protocol must be approved by the head of radiation oncology, or in his/her absence, but the official acting in this capacity.

6.2.11 Step 2 Treatment planning: Patient will be contacted by the respective treatment unit to come in for a planning scan and will then be scanned. The radiation oncologist managing the patient will be contacted to contour target volumes. The treating unit will be responsible for contouring organs at risk. Once the tumour volumes are contoured, the treatment unit will be responsible for generating a radiotherapy plan in accordance with the radiation oncologist's specifications. Once the plan is ready, the radiation oncologist will be contacted by the treatment unit to assess the plan, and if meeting their specifications, to approve the plan. The Quality Assurance (QA) check will be performed on the plan before the patient is contacted by the treatment unit to come in for treatment.

6.2.12 Step 3 Treatment delivery: Patient will be transported to the treatment unit at the cost of the treatment unit. Treatments will be delivered daily or as per the radiation oncologists' prescription. The treating radiation oncologist should be provided with an office for clinical assessment and weekly review of the patient at the unit. Once the treatment course is complete, the patient can be discharged from the unit with a full treatment record.

6.2.13 All treatment units must be capable of providing Intensity modulated radiotherapy (IMRT) treatment planning and delivery at a minimum to be consistent with the treatment state sector treatment protocols. QA protocols for verification must be in accordance with guidelines and as per treatment technique used.

6.2.14 The treating unit will provide all equipment and consumables related to the services during the scheduled treatment slots.

6.2.15 Capacity to deliver;

- Transport requirements Patients will be admitted at a state hospital. The private radiotherapy treating facility is responsible for safe transport of patients to and from the designated facility. All costs for transport will be met by the appointed treating facility. Transport should be safe, comfortable. It is the responsibility of the treating facility to ensure that drivers have the appropriate driving licenses and that designated vehicles and roadworthy and safe for patient transport. All risks and indemnities will be borne by the designate facility.

- Staff compliment

-There should be sufficient radiotherapists and physicists per facility. The ratio of staff to patient/ LINAC numbers should meet the minimum requirements as set by International Atomic Energy agency (IAEA). Please note that the ratios are calculated based on the total number of patients treated by the facility on a daily basis. The IAEA staffing requirements for radiation facilities may be accessed online.

- Additional Treatment requirements

Treatment -Weekly reviews should be done on site. Facilities should provide a comfortable waiting area for patients while they await treatment, consultation or transport. This should include seating areas, toilet facilities and change rooms. In the event that a patient is required to wait >4 hours at the facility, then meals should be provided for. The clinical consulting room should meet required standards including an examination couch and seating.

6.3 CATEGORY 3: RADIATION PLANNING SERVICE:

This refers to a centralized planning service that is able to provide treatment planning for patients simulated/scanned at SBAH and CMJAH.

The following are minimum requirements for the radiation planning service:

6.3.1 Provide remote treatment planning services for radiation oncology.

6.3.2 Treatment planning service from planning Computer Tomography (CT) scan to patient treatment

6.3.3 Includes CT Import, fusion, normal tissue contouring and plan review with treating Radiation Oncologist

6.3.4 Includes consultation with service providers Radiation Oncologist, Medical Physicist, and therapy staff.

6.3.5 Fully remote/off-site

6.3.6 A Treatment Planning System will be utilized to facilitate the execution of the scope of work, but no hardware or software is to be transferred or sold.

6.3.7 A treatment plan includes all reasonable discussions and consultations required for the Radiation Oncologist, Medical Physicist, and therapy staff to create an acceptable plan with which to treat the patient.

6.3.8 The treatment plans must be reported as per appropriate International Commission on Radiation Units and Measurements (ICRU) guidelines for 2D, 3DCRT and IMRT where applicable. Parameters including planning target volume (PTV) dose reporting, oragn at risk (OAR) doses must be adhered to. These must be within acceptable limits as set by guidelines and the referring state facility.

6.3.9 The treatment planning service associated with the plan includes all processing from CT to treatment, which includes CT Import, fusion, normal tissue contouring, plan review with Radiation Oncologist in charge of the patient, and plan documentation in the electronic medical records (EMR).

6.3.10 A standard treatment plan will be delivered to the service provider by the end of Standard Hours on the 3rd Business Day following the date of the treatment plan request.

6.3.11 All plans will be fully compatible and ready to immediately use on the radiotherapy unit in the state facility after the Radiation Oncologist in charge approval.

6.3.12 All remote planning must be POPPI compliant. If cloud-based services are to be provided then the cost of network setup, integration and data storage must be included.

6.3.13 Minimum number of dosimetrists/planning radiographers/physicists: This remains at the discretion of successful bidder. Sufficient staff should be available to ensure plans are of acceptable quality (as per international guidelines for assessment of plans) and such that the facility adheres to the turnaround time stipulated above

6.4 BIDDING OPTIONS

Bidders may choose to bid for 1, 2, 3 or all three categories and submit the required documents for that particular category as indicated in the below categories:

Table. 2 Bidders must select and indicate which category they are bidding for:

Categories	**Indicate with an X or Tick**
CATEGORY 1	
CATEGORY 2	
CATEGORY 3	

7. EVALUATION OF THE BIDS

The evaluation of the bids will be done in accordance with the requirements of the Preferential Procurement Policy Framework Act (Act 5 of 2000), Preferential Procurement Regulations, 2022 and the Gauteng Department of Health Preferential Procurement Policy, 2022 in two stages:

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GAUTENG PROVINCE
HEALTH
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

FRIDAY, 02 FEBRUARY 2024

GAUTENG HEALTH DISMISSES MISLEADING CLAIMS ON DELAYS IN AWARDING OF CANCER TREATMENT TENDER

The Gauteng Health Department (GDoH) has noted the recent media reports which seeks to suggest that there are deliberate delays regarding the finalisation of a tender for the outsourcing of oncology radiation services for breast and prostate cancer patients.

Contrary to the claims made, the department has made progress in addressing the backlog in surgical and radiation oncology services since the allocation of R784 million in May 2023, to address the issue. R534 millions of this amount has been invested within this financial year on oncology medical and allied equipment such as cutting-edge linear accelerator machines and the building of bunkers for some of the machines.

In addition, R250 million has been allocated for the outsourcing of the radiation oncology tender which is at an advanced stage of finalisation. The tender was advertised on the 20th of October 2023 and closed on the 3rd of November 2023. The Department commenced with the evaluation of the tender on the 21st of November 2023 and concluded on the 16th of January 2024. Currently, the department is awaiting the probity auditor's review on the integrity of the tender process.

While the department understands the urgency and importance of finalising the procurement process to ensure that patients receive the necessary care, it is imperative to note that government supply chain processes must be followed as outlined in the PFMA. The GDoH can attest that the evaluation process has been thorough and meticulous to ensure that the best possible service provider is selected.

The GDoH dismisses any false and misleading claims reported on the alleged delays and assures the public that provision of high-quality healthcare services for all patients in Gauteng remains our utmost priority.

Ends/

Issued by Gauteng Department of Health

Motalatale Modiba, Head of Communication: 064 803 0808 Healthmediaenquiries@gauteng.gov.za	Tshepo Shawa, spokesperson for the MEC for Health: 072 222 6333 or Tshepo.Shawa@gateng.gov.za

For media releases, speeches and news visit the Gauteng Department of Health's portal at www.health.gpg.gov.za.

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GAUTENG PROVINCE
HEALTH
REPUBLIC OF SOUTH AFRICA

MEDIA STATEMENT

TUESDAY, 30 APRIL 2024

GAUTENG HEALTH PROVIDES AN UPDATE ON RADIATION ONCOLOGY SERVICES TENDER

The Gauteng Department of Health (GDoH) wishes to give an update on the finalisation of the radiation oncology services tender.

The Department is pleased to announce that a service provider has been appointed to provide radiation oncology services as outlined by the Department's standards for comprehensive quality oncology care as per the applicable treatment guidelines.

Currently, radiation oncology services are offered at Charlotte Maxeke Johannesburg Academic Hospital and Steve Biko Academic Hospital. The finalisation of the radiation oncology services tender will assist to expand the provision of radiation oncology healthcare service in the province.

Contrary to allegations that the Department has not utilised the R784 million allocated to address the backlog in surgical and radiation oncology services, a total of R534 millions had already been invested on oncology, medical and allied equipment such as cutting-edge linear accelerator machines and the building of bunkers for some of the machines.

Furthermore, R250 million has been allocated for the outsourcing of the radiation oncology tender which has been finalised for a period of one year. The Department has already commenced with another tender process to ensure that when the 12 months contract lapses the services continue seamlessly as the Department increases radiation oncology services.

The Department remains committed to provide quality healthcare service to all members of the community hence we are patient-centred, clinician-led, and stakeholders-driven.

GDoH today received a memorandum from Cancer Alliance, Section27 and Treatment Action Campaign on the same issue. The Department will look into the issues raised and respond accordingly.

Ends//

Issued by the Gauteng Department of Health

Motalatale Modiba, Head of Communication: 064 803 0808 Healthmediaenquiries@gauteng.gov.za	Tshepo Shawa, spokesperson for the MEC for Health: 072 222 6333 or Tshepo.Shawa@gateng.gov.za

For media releases, speeches and news visit the Gauteng Department of Health's portal at www.gauteng.gov.za

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+SECTION27
catalysts for social justice

TO: **Mr Arnold Malotana**
Head of Department, Gauteng Department of Health
Per email: arnold.malotana@gauteng.gov.za / rorisang.matuloe@gauteng.gov.za

AND TO: **Dr Stephen Mankupane**
Head of Hospital Services, Gauteng Department of Health
Per email: stephen.mankupane@gauteng.gov.za

AND TO: **Mr Masibolekwe Ndima**
Chief Financial Officer, Gauteng Department of Health
Per email: Masibolekwe.ndima@gauteng.gov.za

AND TO: **Dr David Selby**
Director of Supply Chain Management, Gauteng Department of Health
Per email: david.selby@gauteng.gov.za

AND TO: **Mr Montwedi Botsane**
Chief Director of Budget and Revenue Management, Gauteng Department of Health
Per email: Montwedi.botsane@gauteng.gov.za

05 June 2024

Dear Messrs

IN RE: CANCER ALLIANCE // MEC FOR HEALTH, GAUTENG AND OTHERS

1. We refer to the above matter as well as the open tender for the appointment of service providers for the outsourcing of radiation oncology services for the Gauteng Department of Health (GDoH)

and Wellness for a period of (one) 1 year (GT/GDH/89/2023) ("the tender ").

2. We act on behalf of the Cancer Alliance.

3. On 30 April 2024, SECTION27, Cancer Alliance and the Treatment Action Campaign held a protest against GDoH. During the course of the protest, we delivered a memorandum of demands, which was accepted by the Head of the Department, Mr Arnold Malotana, the Head of Hospital Services, Dr Mankupane and GDoH's spokesperson, Mr Motalatale Modiba. A copy of the memorandum is attached as annexure "**CA1**".

4. We are yet to receive a response to the memorandum, however – seemingly as a response to the protest and the media attention it garnered – on 30 April 2024, GDoH issued a statement titled "Gauteng Health provides an update on radiation oncology services tender". In the statement it noted the following:

   4.1. A service provider has been appointed to provide radiation oncology services;

   4.2. The R784million allocated by the Gauteng Treasury to address radiation oncology backlogs and other surgical backlogs has been divided into two parts i.e. R250 million and R584 million:

      4.2.1. The R250 million has been allotted for the outsourcing of radiation oncology services for a period of one year with a possibility of extending the tender for a further one-year period once the current tender period lapses; and

      4.2.2. The R584 million has been invested in oncology, medical and allied equipment such as cutting-edge linear accelerator machines and the building of bunkers for some of the machines.

   4.3. An undertaking to investigate the issues raised in the memorandum delivered by SECTION27, Cancer Alliance and TAC and revert.

5. In a television interview hosted by Morning Live presenter, Leanne Manas, on 29 April 2024, GDoH, represented by Dr Ntsakisi Maluleke, confirmed that only the portion of the tender that relates to radiation planning services has been awarded. The R250 million allotted for radiation

oncology services is, therefore, to be used for radiation planning services, meaning no actual radiation oncology services will be received by the patients on the backlog list.

6. It is has become apparent to us that GDoH does not intend to outsource for fully integrated radiation oncology services to assist the patients on the radiation oncology backlog list. Notwithstanding the fact that these patients have been waiting for treatment for years and as a result their treatment needs have become urgent.

7. As conceded by Dr Maluleke during her interview, "the building of bunkers takes time" and so does the procurement of radiation oncology machinery. This is time that the patients on the radiation oncology backlog list simply cannot afford. In this regard, we contend that the plan devised by GDoH to outsource only for radiation oncology planning services amounts to a failure on the part of GDoH to meet its constitutional mandate under section 27 of the Constitution.

8. In the circumstances we request that you, urgently and without delay:

Cease any further paying, disbursing or otherwise dealing with the amount of R250 million which has been allotted only for radiation oncology planning services according to the tender;

8.1. Take steps to provide urgent radiation oncology services to the patients on the backlog list, including:

8.1.1. Updating radiation oncology backlog list;
8.1.2. Clinically assess all patients on the backlog list;
8.1.3. Provide patients with radiation oncology planning services; and
8.1.4. Provide patients with radiation oncology treatment.

8.2. Provide us with updates on the progress made by GDoH with respect to the above.

9. We request that you provide us with your response by no later than close of business on Friday, 7 June 2024. **Should we not receive a response, we will be left wit no other alternative than to approach a court for urgent relief.**

10. Our client's rights remain reserved.

Yours sincerely



Khanyisa Mapipa

Head of Health Rights Programme

SECTION27

COPY TO: **Mr Mncedisi Vilakazi**

Deputy Director General of Sustainable Fiscal Resource Management, Gauteng Treasury

Per email: Mncedisi.vilakazi@gauteng.gov.za

AND TO: **Mr Donald Onyango**

Chief Economist in Public Finance, Gauteng Treasury

Per email: Donald.onyango@gauteng.gov.za

AND TO: **Mr Rudzani Rasivhetshele**

Director of Public Finance: Social Sector Services, Gauteng Treasury

Per email: Rudzani.rasivhetshele@gauteng.gov.za

AND TO: **Ms Nombulelo Mbeki**

Head of Supply Chain Management, Gauteng Treasury

Per email: nombulelo.mbeki@gauteng.gov.za

AND TO: **Ms Sindiswa Ngaka**

Deputy Director Supply Chain Management, Gauten Treasury

Per email: sindiswa.ngaka@gauteng.gov.za



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catalysts for social justice

TAC
TREATMENT ACTION CAMPAIGN

CANCER ALLIANCE
Collective Voices for Cancer in South Africa

MEMORANDUM OF DEMANDS

Dear MEC Nomantu Nkomo-Ralehoko

As cancer patients awaiting radiation oncology services and activists for the health rights of cancer patients, we hereby demand that you take steps to:

1. Update the list of patients awaiting radiation oncology services;
2. To the extent that this has not been done successfully – advertise for and appoint radiation oncology service provider(s) for the treatment of patients on the backlog list;
3. Provide us with an update of the process and progress made by Gauteng Department of Health.

It is shocking that there has been a year-long delay in providing life-saving treatment to patients living with cancer while resources in the way of funding are available, particularly as the issue of the growing number of cancer patients awaiting radiation oncology treatment has been brought to the attention of the office of your predecessor, Ms Nomathemba Mokgethi, and the former head of the Gauteng Department of Health, Dr Nomonde Nolutsungu, as far back as June 2020 by Cancer Alliance and the Treatment Action Campaign. We are now approaching 4 years since the initial correspondence on this issue was sent to your office and still, the patients we advocate for are no better off.

In February 2022 after months of silence, the provincial department of health took some action on the matter and established the Gauteng Cancer Crisis Task Team.

The task team met a total of 8 times before it was dissolved. The task team achieved nothing in the mandate it was set out to achieve and this despite numerous recommendations made by Cancer Alliance and the Treatment Action Campaign on ways to resolve the cancer crisis.

As you are aware, the cancer crisis in Gauteng is propelled by the scarcity of sufficient and operational radiation oncology machinery, as well as extreme shortages in radiation oncology staff in the two radiation oncology centres in the province; namely Steve Biko Academic Hospital and Charlotte Maxeke Johannesburg Academic Hospital (CMJAH), with the latter being the worst of the two. At its peak performance – in 2020 – CMJAH had 7 operational radiation oncology machines, today it has 2 operational machines while servicing approximately 2 000 new patients per year. Several tender processes aimed at purchasing new equipment have failed or have not been finalised, one such tender process for the procurement of a brachytherapy machine was initiated in 2019 and yet five years later, the machine has not been procured. The extreme delays in the procurement of replacement machinery and the building of appropriate bunkers to house machines purchased with erroneous specifications have led to a mounting backlog list as patients wait for treatment.

It has been a year since SECTION27 and Cancer Alliance approached Gauteng Treasury for assistance and motivated for the ringfencing of R784 million for the outsourcing of radiation oncology treatment for the benefit of the patients on the radiation oncology backlog list.

Following the allotment of funds in March 2023, it was agreed that Gauteng Department of Health would take specific steps to initiate the outsourcing programme. These steps included initially the updating of the backlog list as a year had passed since it was compiled in March 2022, followed by the appointment of a service provider to provide the radiation oncology services. To date, we are unsure whether the backlog list has been updated. We are however aware that there has been no appointment of a service provider to provide these services as the patients we are advocating for remain desperate for treatment. It is these undertakings that we are demanding that you act in accordance with.

Time and time again, Gauteng Department of Health has failed to act in accordance with its promises to resolve this crisis. Over the past year, SECTION27 and Cancer Alliance have held two meetings both of which were attended by Gauteng Department of Health and Gauteng Treasury, the last meeting being on 2 June 2023 with the health department. In this meeting, the department undertook to a series of steps that would ultimately culminate in an appointment of a service provider by early August 2023. These steps were never taken, and a service provider was never appointed. Instead, under

instruction from the current head of Gauteng Department of Health, Mr Arnold Malotana, officials at GDoH were instructed to cease all communications with SECTION27 and Cancer Alliance.

It was only after threats of litigation directed at Gauteng Department of Health, following the 2023 Medium Term Budget that Gauteng Department of Health advertised a tender for the outsourcing of radiation oncology services in October 2023, with a closing date on 2 November 2023. The 90-day validity period concluded on 1 February 2024.

Almost 4 years since Cancer Alliance's initial communication with your office on this issue, we made further follow-ups on the appointment of a service provider, instead of announcing the appointment, on 1 February 2024, coincidentally being the last day of the tender validity period, the health department issued a media statement in which it sought to "dismisses misleading claims on delays in awarding of cancer treatment tender" and assure the public and the media that the department was in the final stages of making an award. The department has yet to deliver on this promise too. Nothing in the actions or inaction demonstrated by the department in the past four years refutes the claims that its officials have failed to deliver radiation oncology treatment to the people who so desperately need it.

It has come to our attention that the Gauteng Department of Health may have decided to pursue a different direction – one that involves outsourcing only for the planning portion of the radiation treatment and not actually the provision of radiation treatment. The motivation for this has apparently been that radiation costs R200 000 per patient in the private sector. While these are unverified statements, we would like to point a few things out:

1. Fully integrated radiation oncology services are and have always been expensive in the private sector, this is precisely the reason that R784 million was made available. Gauteng Treasury conducted thorough market research which informed this amount. R150 000 to R220 000 is the money that patients who have had to sell their possession to receive urgent and expedient care in the private sector have had to pay after waiting for too long in the public sector for these services. Take for example, Frances Du Toit, a cancer survivor and mother of four, who after over two years of waiting, finally gave up on standing by for radiation oncology services at CMJAH. In July 2023, Frances and her husband eventually took the decision to obtain loans from the bank and sell some of their material possessions to fund radiation oncology services in the private sector. Frances' treatment cost her a total of R153 000. A debt she now has looming over her head.

2. The ringfenced amount of R784 million was specifically ringfenced for the outsourcing of radiation oncology services. Each year, following deliberations with the department of health, the Department of Treasury makes available money for the running of the various programmes of the Gauteng Department of Health. This money is the money that is meant to be used for the purchasing of radiation oncology services and the appointment of staff. Yet, as reports suggest, the Gauteng Department of Health plans to use money allocated for the plight of patients who have been waiting for too long for these services, to service the underlying issues that caused the backlog. This is unacceptable, particularly as your department has failed to spend R2.7 billion rand in the last financial year.

3. In negotiations with the former head of the Gauteng Department of Health, Dr Nolutsungu, it was made clear that the purpose of this intervention would be to ensure the speedy provision of services for the patients on the backlog list as theirs is the most urgent cases. A plan to use the money to renew the radiation oncology departments at CMJAH and Steve Biko Academic Hospital ignores the very dire fate that will befall those on the backlog list during the planning phase of your intervention.

4. Lastly, the plan to outsource radiation oncology planning, while it may address the delays in the planning phase of radiation oncology treatment, it does nothing for the delivery of the actual treatment. Many of our clients, who are patients on the waiting list, have undergone radiation planning in the public sector – numerous times – and are still awaiting radiation oncology treatment as they suffer multiple recurrences. The problem is not solely a radiation oncology planning problem but a treatment problem. Very few of those who rely on the public healthcare system have access to or are able to afford loan facilities. These people rely on your office as the custodian of their right to access healthcare. For example, Ms Thato Moncho, a single mother, has been waiting for radiation oncology treatment for over three years. In this time, Ms Moncho has suffered three recurrences of her cancer, with the latest pathology results showing that her cancer has now spread to her lungs. Any further delays in treatment place Ms Moncho and patients like her at risk of suffering further recurrences and possibly even death.

The department has delayed significantly in the provision of these services at its own facilities. Even after the intervention of civil society organisations, which saw to the allocation of funding specifically for the assistance of patients on the backlog list, the department has still delayed. There has been no legitimate explanation provided by the department for its inability to act in accordance with its

mandate in this instance and yet the lives of patients continue to hang in the balance. We therefore demand that you take immediate and urgent actions to realise the outsourcing of radiation oncology services in the province, as undertaken by your department time and time again, including updating the radiation oncology backlog list – to the extent that this has not been done yet – and appointing a service provider to provide complete and integrated radiation oncology services for the patients on the backlog list.

We further demand that you provide us with an update regarding the progress made by the department on the tender under consideration according to your department's press statement released on 1 February 2024, mentioned above. It is unconscionable that the lives of thousands of people remain in jeopardy for years when resources have been made available to service their needs. We hope that you will see this as an opportunity to meet the departments constitutionally mandated responsibilities to secure radiation oncology services for these patients.

30 April 2024

SECTION27, TAC and Cancer Alliance

SJM 20

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: .....

In the matter between:

CANCER ALLIANCE	Applicant
And	
MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE	First Respondent
HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent
CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL	Eighth Respondent

T.M

MINISTER OF FINANCE	Ninth Respondent
NATIONAL TREASURY	Tenth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

THATO MONCHO

do hereby make oath and say that:

1. I am an adult female residing at 88/10316 Mabasotho Street, Orlando West.

2. The facts contained herein are, unless indicated by context, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I confirm that I am a patient on the waiting list for radiation oncology services at Charlotte Maxeke Johannesburg Academic Hospital (CMJAH), the sixth respondent in the above matter. In this regard, I attach a copy of my hospital card as annexure "**TM1**".

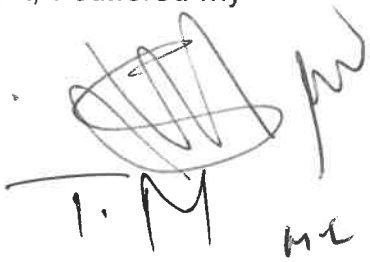
4. On or about 17 September 2020, I was diagnosed with stage 2 inflammatory breast cancer.

5. As part of my treatment protocol, I was initially treated with 9 (nine) cycles of chemotherapy. I received my chemotherapy at Helen Joseph Hospital (HJH). The chemotherapy was administered to me over a six-month period, from 6 October 2020 to 9 April 2021.

6. On or about 10 May 2021, I underwent a lumpectomy, which is a procedure to remove the tumour in the breast and a small amount of surrounding tissue. Following my surgery, I underwent a series of tests to determine the success of the surgery. These tests returned clear, meaning that the surgeon had removed all the affected tissue. I was thereafter referred for radiation oncology treatment, which as I was told would be the last but important step in my treatment protocol.

7. It is my understanding that radiation oncology treatment is the introduction of radio-active rays to the affected area for the purpose of destroying any remaining cancerous cells and that without it, the likelihood is high that should there be remaining cancer cells, they may regrow and cause a recurrence of the cancer.

8. On or about July 2021, approached the radiation oncology unit at CMJAH to request radiation oncology services. I was advised that there is currently a backlog of patients awaiting radiation oncology services going as far back as 2018. I explained that my oncologist had specifically stated that my oncologist had advised that my cancer is an aggressive type of cancer which has a high likelihood or recurring, despite this, I was placed on the waiting list. In or around September 2021, while waiting to be booked for radiation oncology treatment, I suffered my first recurrence.



9. In or around September 2021, I was prescribed 9 (nine) further cycles of chemotherapy which I completed over a five-month period from September 2021 to April 2022. On or about 21 May 2022, I underwent a full right mastectomy, which is the removal of the right breast.

10. Following the surgery, I was once again referred for radiation oncology treatment. I was advised once again of the backlog faced by the radiation oncology unit at CMJAH. In September 2022, I was called to CMJAH for radiation planning. I was advised that the process would involve medical tests to determine my body's readiness to undergo radiation therapy, including blood tests. During this time, I also underwent a process of contouring i.e. the identifying of cancer cells and the making of markings the skin to direct the radiation beams, which, as I understand it, forms part of the radiation planning process.

11. On or about 24 October 2022, while waiting for radiation oncology services, I suffered my second recurrence.

12. I had to, once again, be placed on chemotherapy. I was prescribed nine cycles of chemotherapy, which was administered to me over a four-month period, between October 2022 and February 2023. The chemotherapy was successful in clearing the cancerous cells and once again, my oncologist referred me for radiation oncology services.

13. In or around March 2023, while waiting for radiation oncology services, I suffered yet another recurrence. My oncologist, Dr Tshabalala, ordered a number of tests for me, including a computed tomography (CT) scan. They were concerned that because my cancer was aggressive and this was the second recurrence, it may have spread to other organs.

14. The radiation oncologist at CMJAH, Dr Durven Ramiah, advised that there was very little they can do for me at this point. They have offered me ultra-voltage radiation on my right breast but advised that they could not provide me with radiation on my left breast as that is the side where the cancer has spread.

15. I am currently on chemotherapy and awaiting a further CT scan which will determine whether the cancer is in remission or whether it is still spreading. My fear is that should the scan return with a positive result, meaning that the cancer is in remission and there are no longer cancer cells in my lungs, I will once again be eligible for radiation oncology treatment, which treatment I may not receive.

16. I work as a professional trainer and up until recently, I was employed by Virgin Active, however, due to work conflicts with colleagues which were rooted in the amount of sick leave I have to take for my illness, I had to resign from my position. I am currently unemployed and cannot afford radiation oncology services in the private sector.



17. I have a 14 year old daughter, who still needs her mother. It is my dream to live so that I can watch her grow, complete school and pursue her dreams, however at this point, I believe that CMJAH is robbing me of that opportunity.

Deponent

Signed and sworn before me at Boonsen on this the 20 day of June 2024, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no obligation to taking the prescribed oath and that she considers such oath to be binding on her conscience.

Commissioner of oaths

Title/ Office: CSC

Full names: Lunga Mthembu

Address: Unit 6 Boonsen Rd

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICE CENTRE
2024 -06- 20
BOOYSENS

PMI: 3732441 Miss MONCHO, THATO
ID/DoB:8402140861089 GENDER:F AGE:40/4
20.06.2024
07:59:56
Charlotte Maxeke Johannesburg Academic Hospital
BILLING GROUP: H0 FREE SERVICES PATIENTS
CASE:2600950050
Ward/Clinic: NMON
OLD PMI: NA
DEMETRIOU G. (0005601398)
TEL(M): 0732225417 TEL(H): 0118554607
10316 MABASOTHO STR
ORLANDO WEST
MEMBER NAME: Miss MONCHO, THATO
FUNDER NAME:
MEMBER NR.#: 8402140861089
OUT
Breast
JH101 TM1
PLEASE ENSURE THAT YOU RECEIVE A RECEIPT FROM THE CASHIER FOR ALL PAYMENTS MADE

(BREAD WINNER)

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NOMMER NUMBER		14/01/21		one		495
PENSIOEN Nr. PENSION No.	30/07/21	08/03				1 hour

HANDELING | DEUR WIE | DATUM

JH101

PLEASE ENSURE THAT YOU RECEIVE A RECEIPT FROM THE CASHIER FOR ALL PAYMENTS MADE

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NMON ST
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(W)
F/14/02/1984(37/7)

NMON CASE:2600950050
MEMBER NAME: Miss MONCHO, THATO
MEMBER NR.#: 8402140861089

Miss MONCHO, THATO
ID:8402140861089 GENDER:F AGE:39/7
TEL(M): 0732225417 TEL(H): 0118554607
ORLANDO WEST
0318 MABASOTHO STR
04
3732441

DATUM DATE	TYD TIME	DOKTER DOCTOR	I.D. PASIENT PATIENT	AREA
11/10/21		onc		495
18/10/21		onc		495
25/10/21		onc		495
09/11/21		onc		495
01/12/21		onc		495
08/12/21				495

APPOINTMENTS — AFSPRAKE

Datum Date	Time Tyd	Doctor Geneesheer	Clinic ID No. Kliniek ID Nr.	Patient ID No. Pasient ID No.	Area Gebied
			12/12/23	onc	495
			23/01/24	onc	495
			09/07/24	onc	495
			19/03/24	onc	495
			09/04/24	onc	495
			21/05/24	onc	495
			15/07/2024 4hrs	CT Scan	252
			02/07/24	onc	495
				T.W	

SJM21

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: .....

In the matter between:

CANCER ALLIANCE	Applicant
And	
MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE	First Respondent
HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent
CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL	Eighth Respondent

MINISTER OF FINANCE	Ninth Respondent
NATIONAL TREASURY	Tenth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

LYDIA BRENDA STAATS

do hereby make oath and say that:

1. I am an adult female residing at 23 Alaska Road, Selcourt, Springs.

2. The facts contained herein are, unless indicated by context, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I confirm that I am a patient in the radiation oncology department at Charlotte Maxeke Johannesburg Academic Hospital (CMJAH), a hospital run by the sixth respondent in the above matter. In this regard, I attach a copy of my hospital appointment card is attached as annexure "**LBS1**".

4. In or around February 2022, I was diagnosed with Oestrogen Positive Stage 3 breast cancer.

L.S.
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5. As part of my treatment protocol, I was initially treated with 8 (eight) cycles of chemotherapy. I received my chemotherapy at CMJAH. The chemotherapy was administered to me over a five-and-a-half-month period, from 25 March 2022 to 6 September 2022.

6. Thereafter, on 17 November 2022, as part of my treatment protocol, I underwent surgery to remove cancerous tumours in my breast. This surgery was conducted at Helen Joseph Hospital in Johannesburg. I was advised by my surgeon at the time, Dr Carol Benn, that my type of cancer as well as its stage necessitated a full left mastectomy, which is the removal of the left breast, as well as an auxiliary lymph node removal, as the cancer had spread to the lymph nodes in and around the affected area.

7. Following my surgery, I underwent a series of pathology tests to determine the success of the surgery. On or around 28 November 2022, I received my pathology test results, which indicated that the surgery was a success and that I qualified for radiation oncology.

8. I was advised by my oncologist at CMJAH that due to the type of cancer I am diagnosed with, there was a high likelihood of a recurrence. I approached a radiation oncologist in the private sector for a second opinion and was advised by the private radiation oncologist, Dr Karen Motilall, to obtain radiation oncology treatment as soon as possible, but in any event, before the expiry of the three-month period following my surgery to prevent a recurrence of my

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cancer. Meaning I needed radiation oncology services by no later than February 2023 to prevent a recurrence of my cancer.

9. On or around 28 November 2022, I approached the radiation oncology department at CMJAH and requested radiation oncology services. I was advised that the unit had an 18-month backlog of patients awaiting radiation oncology services and that unless I was critical, I would have to wait. I was advised that the reason for the backlog was that there were too many cancer patients and too few machines. I was not provided with an estimated date of when I would begin my radiation oncology treatment.

10. In or around February 2023, I approached the radiation oncology department at CMJAH again and requested radiation oncology services. I was advised that my name had been placed on the waiting list and that I should return the following month.

11. In or around March 2023, I approached the radiation oncology department at CMJAH again and requested radiation oncology services. I explained that my oncologist had advised that I am at a high risk for a recurrence of my cancer. I was advised that almost all the patients on the waiting list were at a high risk for a recurrence and that I should return the following month.

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12. In or around April 2023, I again approached the radiation oncology department at CMJAH and requested radiation oncology services. On this occasion, I was advised to return after four months.

13. In May 2023, my oncologist arranged for my 6-month post-surgery mammogram, which I was advised, is standard procedure. The mammogram revealed a suspicious-looking lymph node. This necessitated a biopsy of the lymph node which was performed on or about 26 May 2023. I recall lying on the examination table with tears in my eyes, as my doctor was performing the biopsy, because I knew intuitively that the cancer had returned. For one, I had not obtained radiation oncology services within the time period specified as per my treatment protocol and secondly, I was at a high risk of suffering a recurrence. In my mind these were all indications that suffering a recurrence was inevitable for me.

14. On or about 8 June 2023, the biopsy results were shared with me which confirmed that the cancer had returned. I was then referred to my oncologist at CMJAH.

15. On or about 12 June 2023, my oncologist, Dr Tshabalala, advised that because this was a recurrence of the cancer, there was a high likelihood that the cancer had spread to my other organs. As a result, I was immediately prescribed 16 (sixteen) cycles of intensive chemotherapy. However due to issues with my

LS AG

white blood cells and my platelet count being too low, only 4 cycles were administered to me.

16. The chemotherapy was not without its effects. A repeat administration of chemotherapy and this time a stronger dose of chemotherapy had extreme side effects, including hair loss, low white blood cell and platelet count which results in excessive bleeding and extreme susceptibility to other illness, tremors which make it difficult for me to perform simple tasks such as writing. Emotionally, I was flummoxed. I was in an utter state of shock. I could not believe that I had to muster the energy and strength to fight cancer again and all because I have not received radiation oncology services.

17. While undergoing my second round of chemotherapy, I was referred for various tests, including bone scans and computed tomography (CT) scan to assess whether my cancer had indeed spread to other organs. These scans returned clear results, meaning that the cancer had not spread to other organs. As a result, given that the cancer had not spread to other organs, my oncologist took me off the intensive chemotherapy. On or about 21 August 2023 I had my last dose of intensive chemotherapy.

18. Following receipt of the test results, on or about 21 September 2023, I underwent a further surgery to remove the cancerous lymph node. My surgeon advised that the reason the cancer recurred was because I did not receive radiation oncology services.

L.S
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19. On or about 13 June 2024, I was informed that I had made it to the top of the radiation oncology list and that my first radiation oncology treatment, should my blood test results come back clear, is scheduled for 17 June 2024. I have waited a total of 18 (eighteen) months for a treatment that ought to have been provided to me within 3 (three) months following my first surgery.

20. I am a mother to two teenage girls. My eldest daughter is 19, while my youngest daughter is 16. Both my children still need their mother, more especially my youngest daughter as she is still attending high school. Part of the emotional turmoil of living with this disease has been my anxiety about leaving my girls without a mother, should I succumb to this disease. They have been the motivation behind my fight against cancer. It is my understanding from the medical advice which has been provided to me by my oncologist that radiation oncology is designed to "zap" all the remaining cancer cells following the surgery and that it has a high success rate in preventing recurrences.

21. In March 2023, following my numerous attempts to obtain radiation oncology services at CMJAH, a family friend created an online crowdfunding profile. The purpose of this profile was to source funding for radiation oncology services in the private sector. The website used for the crowdfunding requires one to set a target amount and in preparation for this, I consulted with several radiation oncologists to determine how much a full course of radiation oncology would cost. The cheapest radiation oncologist quoted an amount of R153 000 (one



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hundred and fifty-three thousand rand). The other radiation oncologists quoted amounts between R200 000 (two hundred thousand rand) and R220 000 (two hundred and twenty thousand rand).

22. The private radiation oncologists also advised me that in order to receive the benefits of radiation oncology, it was necessary for me to obtain my radiation oncology treatment within the three-month period following my surgery. They advised that in March 2023, I may already have been too late to receive the service with any effective outcome.

23. I am unemployed and live off the R350 (three hundred and fifty rand) unemployment social security grand. I cannot afford private radiation oncology services. Currently, through my crowdfunding initiatives I have managed to raise an amount of R11 100 (eleven thousand one hundred rand), which is still very far from my goal of R153 000 (one hundred and fifty-three thousand rand).

24. Living with cancer has also limited my ability to seek employment. My chemotherapy regiment requires me to be at the hospital for a full day every three weeks, thereafter I usually suffer the immediate side effects for approximately a week, where I am unable to do much of anything. This makes it incredibly difficult to find employment. My oncologist has advised that it would be necessary for me to continue my chemotherapy treatment until such time as I obtain radiation oncology services. It felt as though my life was on hold until I could obtain radiation oncology services.

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25. Unfortunately, my story is not unique. I know of many patients, some of whom I have befriended as part of a support group, who are desperately awaiting radiation oncology services, some who are now beyond help and others, like me, who are still clinging onto hope.

26. My wish is that through this court case, some of those on the waiting list may be able to obtain the services we so desperately need so we can start to rebuild our lives following our brave fight against this disease.

Deponent

Signed and sworn before me at Springs on this the 17th day of June 2024, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no obligation to taking the prescribed oath and that she considers such oath to be binding on her conscience.

Atlegang Govuza
Commissioner of Oaths
Practising Attorney SA
The MARC | Tower 1
129 Rivonia Road Sandton

Commissioner of oaths

Title/ Office:

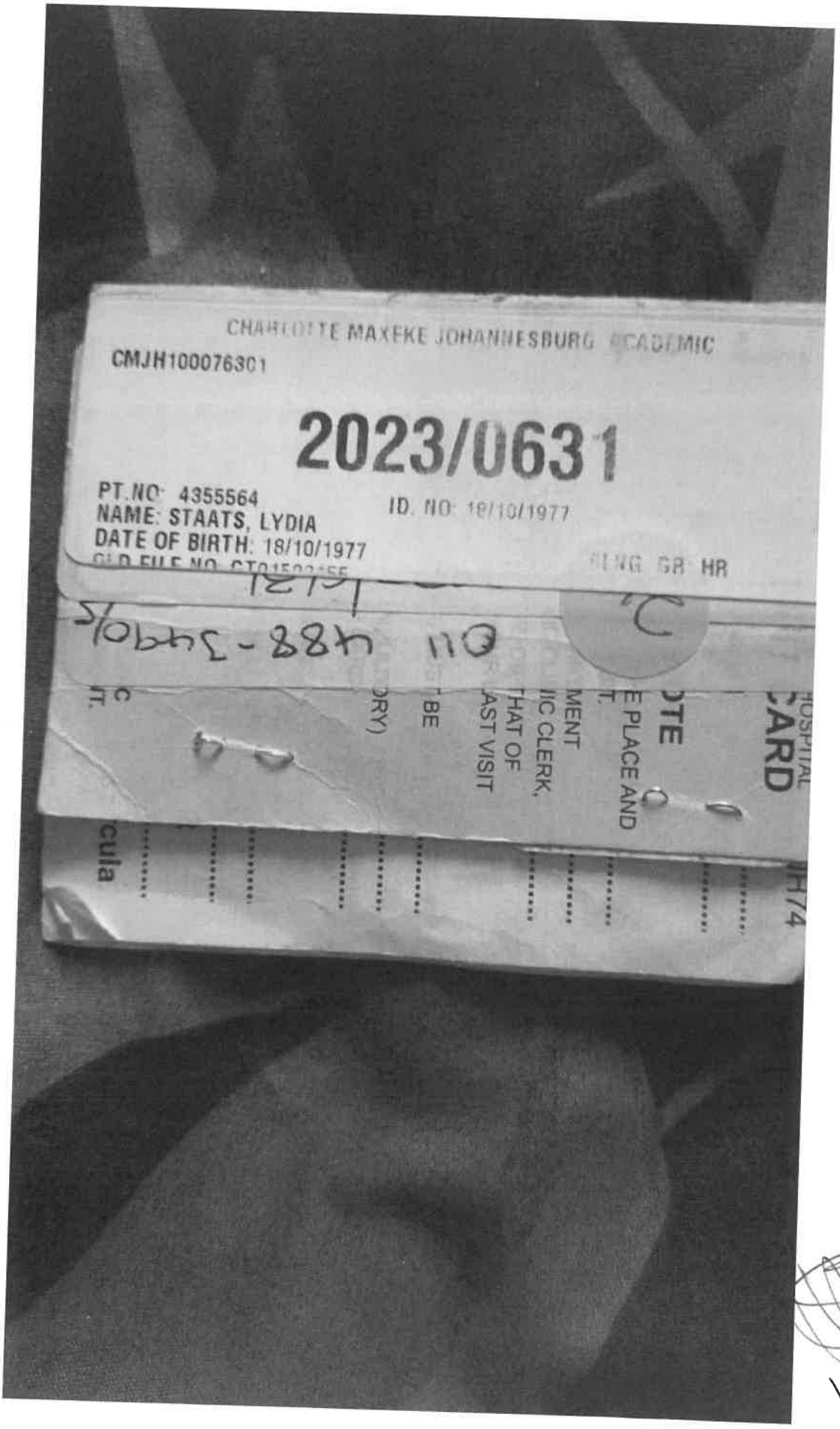
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Address:

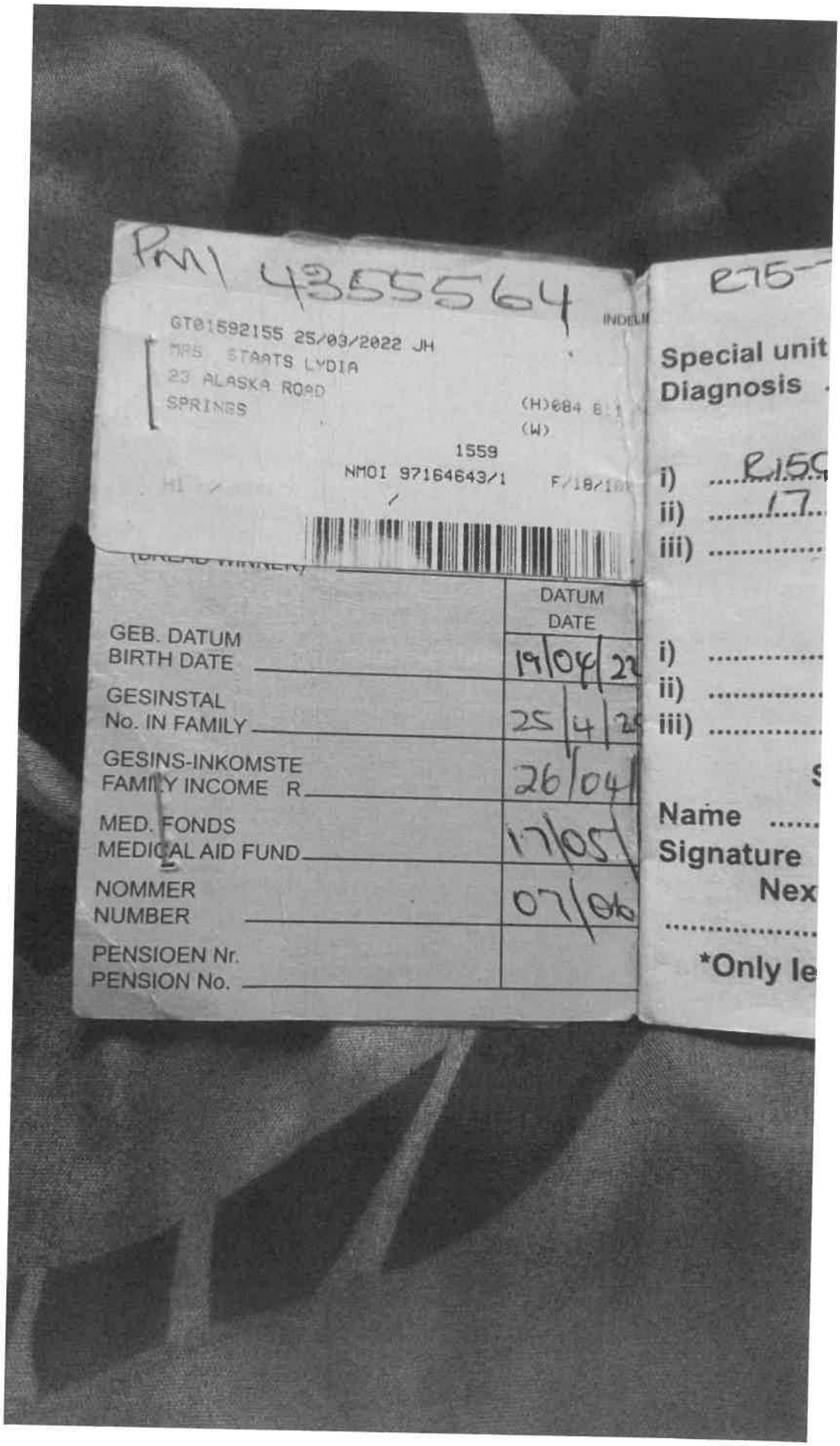
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CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC
CMJH100076301
2023/0631
PT.NO: 4355564
NAME: STAATS, LYDIA
DATE OF BIRTH: 18/10/1977
ID. NO: 18/10/1977
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SJM 22

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: .....

In the matter between:

CANCER ALLIANCE	Applicant
And	
MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE	First Respondent
HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent
CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL	Eighth Respondent

S.P.K

K.G.

MINISTER OF FINANCE	Ninth Respondent
NATIONAL TREASURY	Tenth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

KELEBOGILE GLORIA MARKS

do hereby make oath and say that:

1. I am an adult female residing at 69 Dekker Street, Krugersdorp West.

2. The facts contained herein are, unless indicated by context, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I confirm that I was a patient on the waiting list for radiation oncology services at Charlotte Maxeke Johannesburg Academic Hospital (CMJAH), the sixth respondent in the above matter. In this regard, I attach a copy of my hospital card as annexure "**KGM1**".

4. I was diagnosed with stage 3 breast cancer in or around July 2018.

S.P.J.C

K.G.

5. As part of my treatment protocol, I was initially treated with 9 (nine) cycles of chemotherapy. I received my chemotherapy at CMJAH. The chemotherapy was administered to me over a five-month period, from 31 August 2018 to 31 January 2019.

6. Thereafter, on 29 March 2019, as part of my treatment protocol, I underwent a lumpectomy, which is a surgery where the cancerous tumour is removed as well as a small amount of the surrounding tissue. This surgery was conducted at Helen Joseph Hospital in Johannesburg.

7. Following my surgery, I underwent a series of tests which confirmed that the surgery was successful. My oncologist, Dr Mayette, referred me to radiation oncology. I was advised that there was a backlog of radiation oncology patients awaiting treatment. This backlog, as it was explained to me, was due to the fact that the radiation oncology unit was only operating on one machine.

8. In October 2019, I was called to CMJAH for radiation planning. I was advised that the process would involve medical tests to determine my body's readiness to undergo radiation therapy, including blood tests. During this time, I also underwent a process of contouring i.e. the identifying of cancer cells and the making of markings the skin to direct the radiation beams, which, as I understand it, forms part of the radiation planning process. Despite receiving these markings, I still did not receive the treatment.



K.G.

Sp.K

9. In or around September 2020 while waiting for radiation oncology treatment, I suffered a recurrence of the cancer. On this occasion I was prescribed 6 cycles of chemotherapy, which were administered to me over four months, between September 2020 and December 2020.

10. In or around December 2020, I underwent a full left mastectomy which is a surgical procedure and removal of the left breast. Again, my oncologist referred me for radiation oncology treatment. In the interim I was placed on chemotherapy medication.

11. In September 2021, I was once again called to CMJAH to obtain radiation oncology planning services. Again, I underwent the process of contouring where markings to direct the radiation beams were made on my skin.

12. In or around October 2021, I received radiation oncology services at CMJAH. In total, I waited a total of two years and seven months to obtain radiation oncology services. I am advised that had I obtained radiation oncology services sooner, the likelihood of me suffering a recurrence of the cancer was very low.

13. Further, the multiple repeat doses of chemotherapy were not without their effect on my body. During my chemotherapy treatments, I suffered from swollen feet, loss of taste and hair loss.

S.P.K

K.G.

14. In my view, the department of health could save money if it provided radiation oncology services in accordance with the treatment protocol guidelines. This would prevent recurrences which mean that people must repeat their chemotherapy and surgeries.

Deponent

Signed and sworn before me at Krugersdorp on this the 22nd day of June 2024, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no obligation to taking the prescribed oath and that she considers such oath to be binding on her conscience.

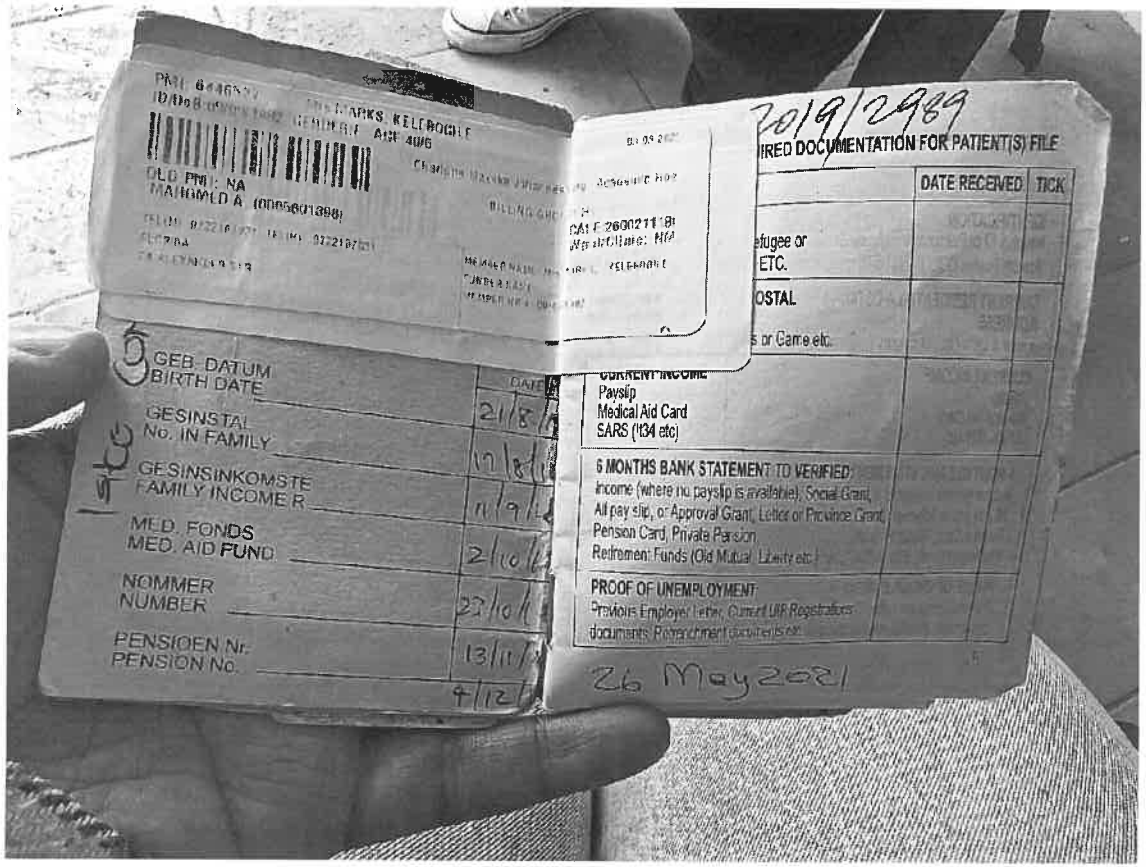
SIBUSILE PEARL KHUSI
COMMISSIONER OF OATHS
EX OFFICIO
ATTORNEY (RSA)
6TH FLOOR, [illegible] STREET
SANDTON 2196
DATE: 22 June 2024

Commissioner of oaths

Title/ Office:

Full names:

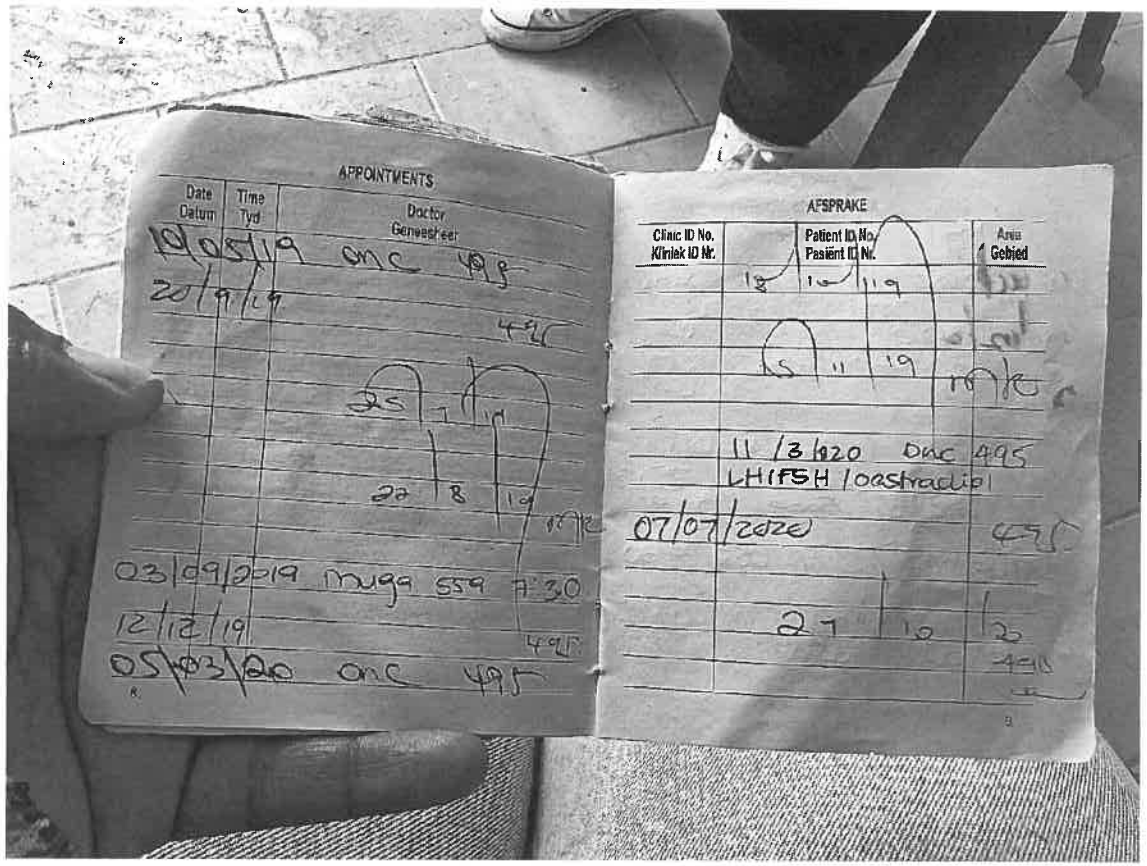
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IRED DOCUMENTATION FOR PATIENT(S) FILE
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Medical Aid Card
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6 MONTHS BANK STATEMENT TO VERIFIED
Income (where no payslip is available), Social Grant,
Pension Card, Private Pension
Retiremen Funds (Old Mutual, Liberty etc.)
PROOF OF UNEMPLOYMENT
documents: Retrenchment
26 May 2021
GEB. DATUM
BIRTH DATE
GESINSTAL
No. IN FAMILY
GESINSINKOMSTE
FAMILY INCOME R
MED. FONDS
MED. AID FUND
NOMMER
NUMBER
PENSIOEN Nr.
PENSION No.
OLD PMI: NA
MAIHOMLD A (0005601398)

S.p.c

K.G.

KGM1


APPOINTMENTS
Date Datum
Time Tyd
Doctor Geneesheer
19/05/19 onc 495
20/9/19
03/09/2019 muga 559 7'30
12/12/19
05/03/20 onc 495
AFSPRAKE
Clinic ID No. Kliniek ID Nr.
Patient ID No. Pasiënt ID Nr.
Area Gebied
11/3/2020 onc 495
LH FSH Oestradiol
07/07/2020 495

S.p.k

K.G.

APPOINTMENTS

Date / Datum	Time / Tyd	Doctor / Geneesheer
06/11/2020		KGC
04/12/2020		KGC
20/01/2021		KGC
18/02/21 Expedite DXT		
25/02/21 Post Recall		
28/05/2021 SCAN 730 *		
08/06/21		KGC
18/06/21		KGC

AFSPRAKE

Clinic ID No. / Kliniek ID Nr.	Patient ID No. / Pasiënt ID Nr.	Area Gedek
07/5/2021		KGC
22/6/21 (Onco Area)		
05/08/21 (Onco Area)		KGC
27/8/2021		KGC
20/08/21 730 Scan 252		
15/10/2021 ONC		KGC
27/10/21 BIC 348 Sent KT		
29/11/21 ONC		KGC
03/12/2021 Pt Post Op 113		KGC

s.p.k

K.G.

APPOINTMENTS

Date Datum	Time Tyd	Doctor Geneesheer
	07/01/2022	45
04/01/22		THSO SOU RSO
25/04/2022		BC FU 348
Offline		
01/04/22	on-	GFS
26/04/22	BC FU 348	

AFSPRAKE

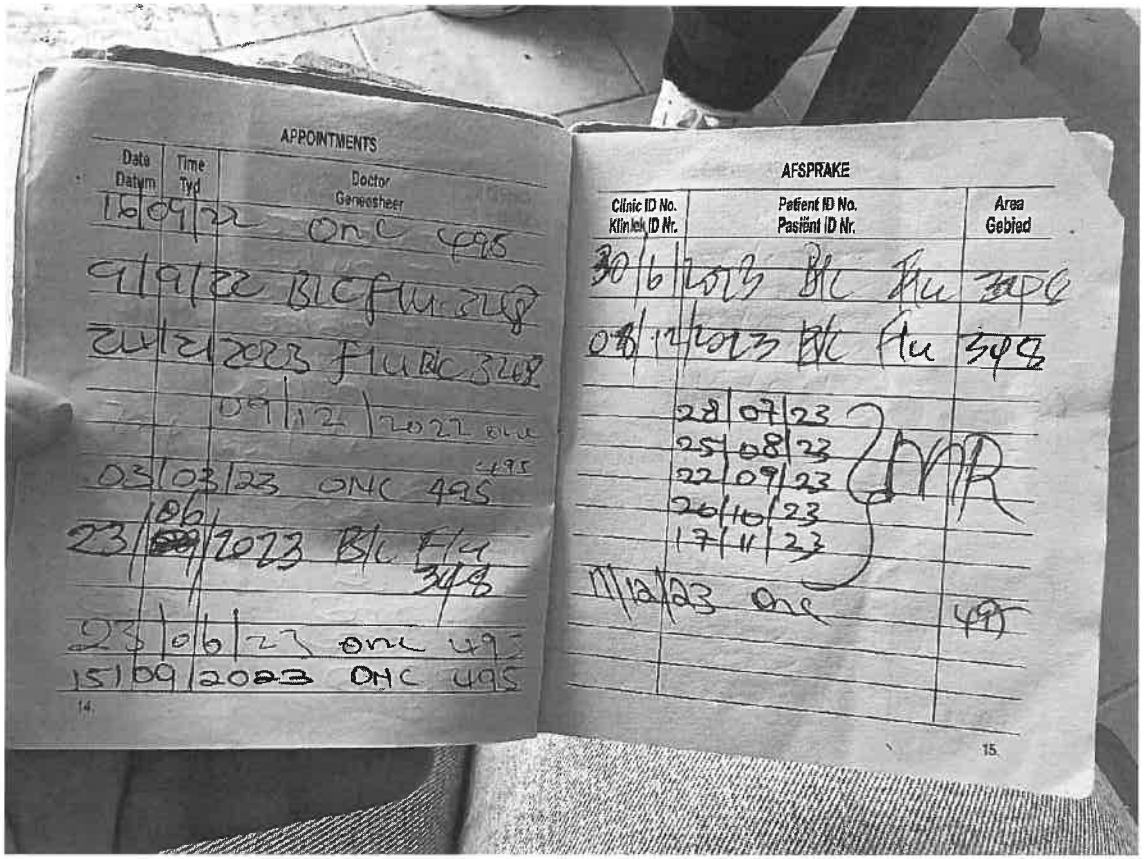
Clinic ID No. Kliniek ID Nr.	Patient ID No. Pasiënt ID Nr.	Area Gebied
	25/03/22	
	22/04/22	
	20/05/22	MK
	17/06/22	
	15/07/22	
	12/08/22	
	ex 1/2022	GFS
09/01/22	BC FU 348	
27/01/2022		
17/02/2022		
17/03/2022		
14/04/2022		
11/05/2022		
8/6/2022	Report.	

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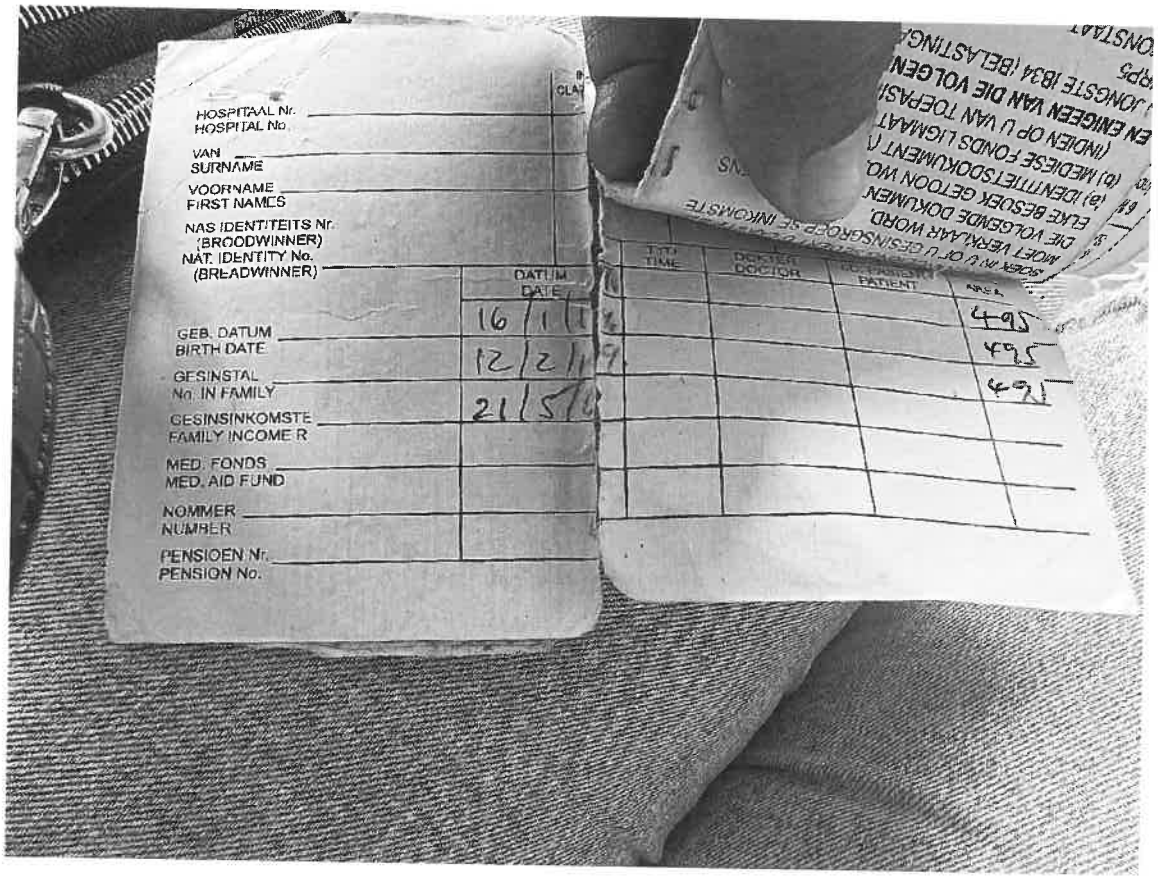
S.P.K

K.G.


APPOINTMENTS
Date Datum
Time Tyd
Doctor Geneesheer
16/09/22 ONC 495
09/12/2022 BLC Flu 348
09/12/2022 Flu BLC 348
09/12/2022 BLC Flu 495
03/03/23 ONC 495
23/06/2023 BLC Flu 348
23/06/23 ONC 495
15/09/2023 ONC 495
14
AFSPRAKE
Clinic ID No. Kliniek ID Nr.
Patient ID No. Pasiënt ID Nr.
Area Gebied
30/6/2023 BLC Flu 348
08/12/2023 BLC Flu 495
28/07/23
25/08/23
22/09/23
26/10/23
17/11/23
DNR
11/12/23 ONC 495
15

S.p.k

K.G.


HOSPITAAL Nr.
HOSPITAL No.
VAN
SURNAME
VOORNAME
FIRST NAMES
NAS IDENTITEITS Nr.
(BROODWINNER)
NAT. IDENTITY No.
(BREADWINNER)
DATUM
DATE
GEB. DATUM
BIRTH DATE
16/1
GESINSTAL
No. IN FAMILY
12/2
GESINSINKOMSTE
FAMILY INCOME R
21/5
MED. FONDS
MED. AID FUND
NOMMER
NUMBER
PENSIOEN Nr.
PENSION No.
TYD
TIME
DOKTER
DOCTOR
PASIENT
PATIENT
495
495
495

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SJM 23

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

Case No.: .....

In the matter between:

CANCER ALLIANCE	Applicant
And	
MEMBER OF EXECUTIVE COUNCIL FOR HEALTH, GAUTENG PROVINCE	First Respondent
HEAD OF DEPARTMENT: HEALTH GAUTENG PROVINCE	Second Respondent
MEMBER OF EXECUTIVE COUNCIL FOR GAUTENG TREASURY, GAUTENG PROVINCE	Third Respondent
VARIAN MEDICAL SYSTEMS AFRICA (PTY) LTD	Fourth Respondent
MINISTER OF HEALTH	Fifth Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Sixth Respondent
CHIEF EXECUTIVE OFFICER: CHARLOTTE MAXEKE JOHANNESBURG ACADEMIC HOSPITAL	Seventh Respondent
CHIEF EXECUTIVE OFFICER: STEVE BIKO ACADEMIC HOSPITAL	Eighth Respondent

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MINISTER OF FINANCE	Ninth Respondent
NATIONAL TREASURY	Tenth Respondent

SUPPORTING AFFIDAVIT

I, the undersigned,

FRANCES MAUREEN DU TOIT

do hereby make oath and say that:

1. I am an adult female residing at 29 Winston Road, Homestead Park.

2. The facts contained herein are, unless indicated by context, within my own personal knowledge and are to the best of my knowledge and belief both true and correct.

3. I confirm that I was a patient on the waiting list for radiation oncology services at Charlotte Maxeke Johannesburg Academic Hospital (CMJAH), the sixth respondent in the above matter. In this regard, I attach a copy of my referral note for radiation oncology treatment as annexure "**FMT1**".

4. In or around April 2021, I was diagnosed with Stage 2 breast cancer.

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5. In or around April 2021, as a first step in my treatment protocol, I was prescribed chemotherapy tablets at Helen Joseph Hospital (HJH) in Johannesburg. I was on chemotherapy for approximately a month before I underwent surgery to remove the cancerous lump in my left breast. I underwent my first surgery on or about 23 May 2021.

6. Following the surgery, I underwent a series of tests to confirm that the surgery was successful. The test results returned clear.

7. On or about 14 July 2022, I was referred for radiation oncology treatment at CMJAH.

8. In July 2022, I approached CMJAH and requested radiation oncology treatment. I was advised that there was a backlog of radiation oncology patients and that, at the time, I was looking at a wait of approximately two years as the hospital was still treating patients diagnosed in 2018.

9. In light of the radiation backlog, my oncologist at CMJAH, Dr Choma, advised that I have a full left breast mastectomy, which is a surgical procedure to amputate the breast. I was told that a full left breast mastectomy would reduce the chance of a recurrence while I wait for radiation. It was clear to me that the advised amputation was only offered as an option because I would not be able to obtain radiation oncology treatment within the three months after my surgery as per my treatment protocol. After expressing my hesitations with this

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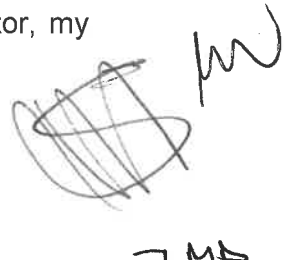
ZMP

treatment choice, my oncologist referred me to two further oncologists. The third oncologist referred me for a mammogram at HJH.

10. Concerned by the treatment options I had been given at CMJAH, I then approached the surgeon who had performed my first surgery, Dr Carol Benn, to obtain a further information regarding my options. Dr Benn had since moved her practice to Netcare Milpark Hospital but was still consulting, free of charge, with some of her patients from HJH. After examining my mammogram from HJH, Dr Benn's opinion was that instead of a complete breast removal, I had the option of having a surgery to clear the cancerous margins of my breast tissue. Dr Benn also explained that the only way that this treatment would be effective and I could save my breast is if I obtained radiation oncology treatment soon after my surgery and in any event before the expiry of the three month period.

11. In May 2023, I underwent my second surgery to remove the cancerous margins. This surgery was provided to me by Dr Benn, pro bono. Following my surgery, I returned to HJH for a computed tomography (CT) scan. This scan indicated that all my margins were clear. Thereafter Dr Benn referred me to a private radiation oncology provider, Dr Motilal.

12. In June 2023, I consulted with Dr Motilal. She quoted me the discounted price of R153 000 (one hundred and fifty-three thousand rand) for a full course of radiation oncology treatment. Knowing that the backlog list at CMJAH was approximately two years long and that I had a high likelihood of suffering a recurrence of the cancer before obtaining the radiation oncology services in the public sector, my



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husband and I decided to take out a loan to pay for the radiation oncology services in the private sector.

13. I obtained radiation oncology services through the private sector in or around July 2023. I had been waiting for radiation oncology services for a period of two years from July 2021. I am convinced that had my husband not obtained the bank loan for my radiation oncology services, I may still be waiting for these services at CMJAH and may have perhaps even suffered a recurrence in my left breast.

14. I work as a part-time receptionist at Technident – a dental technology company – it is only through the assistance of my spouse, who also works at Technident, that I could obtain radiation oncology services in the private sector. I recognize and sympathize with the fact that not everyone has the fortune of being able to secure a loan to obtain timely healthcare services.

15. The diagnosis of cancer is world-shattering as it is, the fight to overcome cancer often feels unsurmountable. All of these emotions are compounded by the lack of urgency and care for patients at CMJAH.

16. When I was first diagnosed with breast cancer, in or around, April 2021, I was working full time as a receptionist at my current employer, however, due to the uncertainty of my illness and the long and draw out process of seeking radiation oncology services, my employer had no other option but to replace me. Following receipt of my full treatment, I was able to return to work, however my employer could only offer me a part-time position on my return. My lack of full-time

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employment has only made it more difficult to repay the debt that my spouse and I have incurred in order to secure treatment for me.

17. I am a mother of four. My eldest child is 14 years old, the two following him are 11-year-old twin girls and my last-born child is a 6-year-old boy. My children are still very young and need their mother. The emotional toll of living with cancer is very difficult on the patients however, I believe that the burden carried by family members, including children in supporting us, is very much understated.

18. In January 2024, I suffered a recurrence in my right breast. I am currently receiving chemotherapy treatment at CMJAH. It is inevitable that I will need to receive radiation oncology treatment again and my concern is that I may again not receive radiation treatment in a timely manner.

Deponent

Signed and sworn before me at Johannesburg on this the 22nd day of June 2024, the deponent having acknowledged that she knows and understands the contents of the affidavit, that she has no obligation to taking the prescribed oath and that she considers such oath to be binding on her conscience.

S.P.K

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Commissioner of oaths

Title/ Office:

Full names:

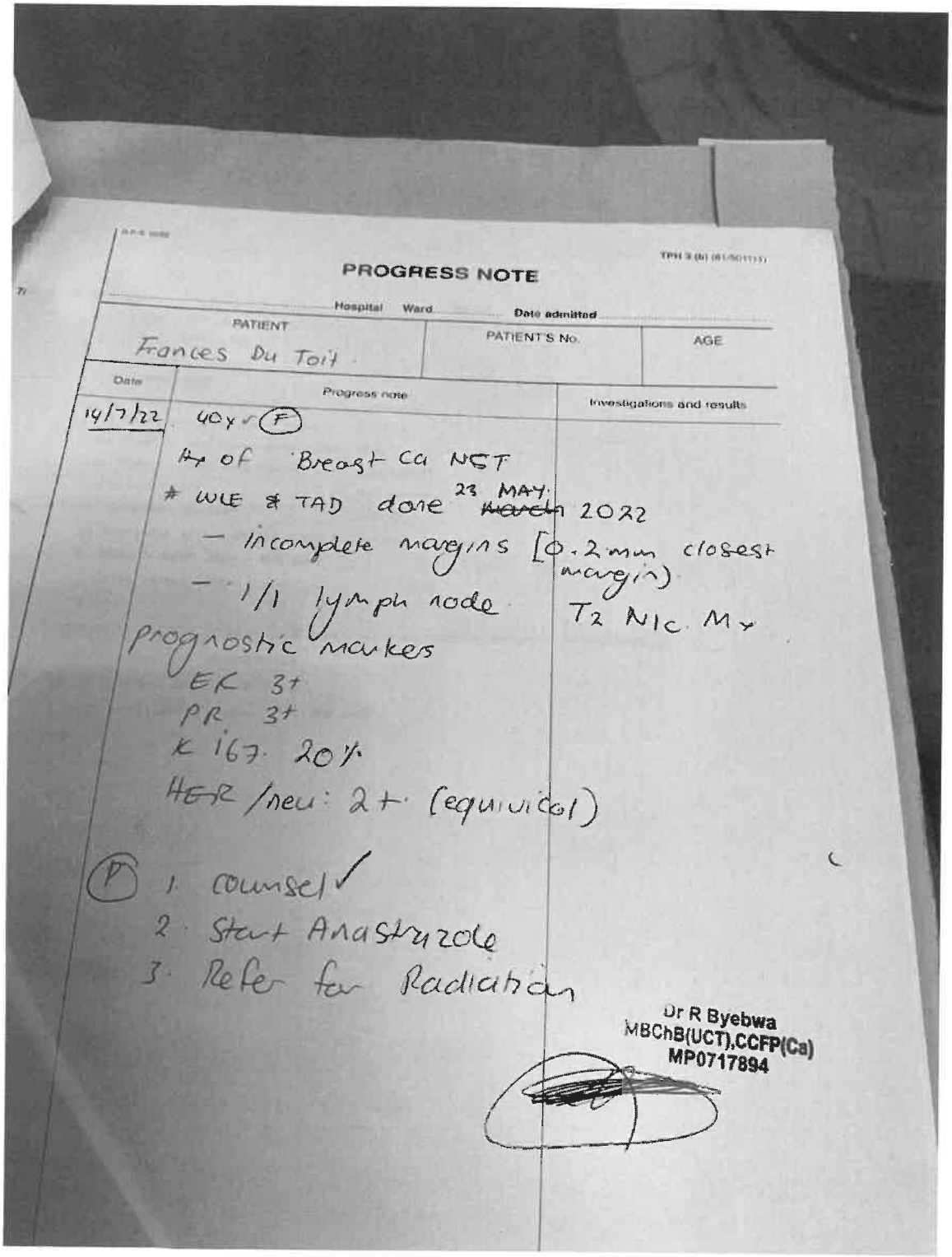
Address:

SIBUSILE PEARL KHUSI
COMMISSIONER OF OATHS
EX OFFICIO
ATTORNEY (RSA)
6TH FLOOR, 61 KATHERINE STREET
SANDTON 2196

DATE: 22 June 2024

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FMT1



TPH 3 (b) (61/501111)

PROGRESS NOTE

Hospital Ward Date admitted

PATIENT	PATIENT'S No.	AGE
Frances Du Toit		

Date	Progress note	Investigations and results
14/7/22	40y ♀ (F) Hx of Breast Ca NST * WLE & TAD done 23 MAY ~~March~~ 2022 – incomplete margins [0.2mm closest margin) – 1/1 lymph node T2 N1c Mx Prognostic markers ER 3+ PR 3+ K 167. 20% ~~HER~~ /neu: 2+ (equivocal) (P) 1. counsel ✓ 2. Start Anastrazole 3. Refer for Radiation	

Dr R Byebwa
MBChB(UCT),CCFP(Ca)
MP0717894

S.P.K

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