

INVESTIGATION REPORT INTO ALLEGATIONS AGAINST RAHIMA MOOSA MOTHER AND CHILD HOSPITAL (RMMCH)



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Kantoro ya Mosekaseki wa Maphelo



Contents

	ACKNOWLEDGEMENTS	iii
	EXECUTIVE SUMMARY	1
	BREACHES OF NORMS AND STANDARDS	22
	LIST OF ABBREVIATIONS / ACRONYMS	24
	DEFINITIONS	25
1	BACKGROUND AND INTRODUCTION	26
2	POWERS AND JURISDICTION OF THE HEALTH OMBUD	27
3	THE COMPLAINT	27
4	METHODOLOGY AND APPROACH TO THE INVESTIGATION	28
5	ENGAGEMENT WITH COMPLAINANT	29
4	INTERVIEWS	30
	(a) Narrated by Ms. Nazeerah Ismail and Ms. Salma Bhikhoo	30
	(b) Dr. Nomonde Nolutshungu	31
	(c) Dr. Nomathemba Emily Mokgethi	33
	(d) Mr. Ashley Sauls	35
	(e) Security Guards	36
	(f) Dr. Tim De Maayer	37
	(g) Dr. Frew Gerald Benson	38
	(h) Ms. Lesley Anthea Rose	40
	(i) Ms Loretta Louw	41
	(j) Mr Theodorus Ernest Van Wyk	44
	(k) Mr. Gustave Cilliers	44
	(l) Mr Tyrone Wessels	45
	(m) Dr. Amy Wise	46
	(n) Dr. Nozuko Precious Mkabayi	48
	(o) Ms. Louisah Basani Baloyi	52
	(p) Responses from Dr. F Kgongwana	54
6	INVESTIGATION FINDINGS	56
6.1	Whether expectant mothers were sleeping on the hospital floor	56
6.2	Whether the CEO was working full-time at RMMCH and whether she had only worked 182 days since her appointment	58
6.3	Whether the health and dignity of patients, and the well-being of healthcare workers is severely compromised	61
7	ADDITIONAL FINDINGS	62
7.1	Human Resources	62
7.2	Infrastructure	65
7.3	Blood Bank and Laboratory Services	66

Contents

7.4	CT scan machine	66
7.5	Security challenges	66
7.6	Shortage of Nursing Staff	67
7.7	Flouting of SCM Processes	68
7.8	The influx into Gauteng	68
7.9	Nosocomial Infections	68
7.10	Infection Prevention and Control	69
7.11	Racism	70
7.12	RMMCH Hospital Board	70
7.13	Nonavailability of an adult ICU at RMMCH	70
7.14	Dr. NP Mkabayi's transfer to GDoH offices	72
	RESPONSES TO THE PROVISIONAL REPORT	73
8.	CONCLUSIONS	76
9.	RECOMMENDATIONS	78
	Gauteng Department of Health	78
9.1	Appointment of RMMCH CEO	78
9.2	Transfer of Dr NP Mkabayi to the GDoH	79
9.3	Review Provincial HR processes for the appointment of Hospital CEOs	79
9.4	Prioritization of RMMCH for Infrastructure Refurbishment	80
9.5	Gazetting of RMMCH as a Tertiary Hospital	80
9.6	Address leadership and Governance issues	80
9.7	Implement Recommendations made in the 2017 report "An Unsafe Hospital" by Prof. A Coovadia and Prof. H Lombaard.	81
9.8	Strengthen Gauteng HoD oversight of hospitals	81
9.9	Reclassification of Discoverers CHC	81
9.10	Review RMMCH staff establishment	81
9.11	Availability of 24-hour Laboratory and Blood Bank Services	81
9.12	Construction of additional maternity capacity	81
9.13	Establishment of an adult ICU at RMMCH	82
9.14	Monitoring of RMMCH Hospital Board	82
	RMMCH Acting CEO	82
9.15	Development of HR capacity	82
9.16	Discharge Lounge	82
9.17	Security System upgrades	82
9.18	Disciplinary Inquiry	83
	REFERENCES	84
	LIST OF ANNEXURES	86



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EXECUTIVE SUMMARY

This is the final report of the Office of the Health Ombud (the Ombud) issued in terms of Section 81A (11) of the National Health Amendment Act (NHAA), 12 of 2013, to inform the complainant and respondents of his findings and recommendations.

The Report communicates the Ombud's findings and recommendations in terms of section 81A (11) of the NHAA, following a complaint into allegations of the circumstances relating to the care of expectant mothers at Rahima Moosa Mother and Child Hospital (RMMCH) in Gauteng Province.

The complaint was lodged by a Member of Parliament's Health Portfolio Committee, Hon. Haseenabanu Ismail (Hon. H Ismail) on 06 April 2022. The complaint was risk-rated high and allocated Reference No: **32357**.

The complaint was prompted by two main factors, including the media uproar sparked by video footage published by News24 <https://www.news24.com/news24/SouthAfrica/News/watch-pregnant-women-sleeping-on-the-floor-at-joburg-hospital-20220402?s=08>; and an email from Ms. Salma Bhikhoo (Ms. S Bhikhoo) relating to the unpleasant conditions found at RMMCH when she took a family member, Ms. Nazeerah Ismail (Ms. N Ismail), to the hospital for delivery.

In the main, Hon. H Ismail (the Complainant) alleged that:

- a) Expectant mothers at RMMCH were sleeping on the hospital floor.
- b) The Hospital's Chief Executive Officer (CEO), Dr. Nozuko Precious Mkabayi (Dr. NP Mkabayi), was not working full-time to ensure everything ran smoothly. Since the CEO was appointed on 01 January 2021, she had only spent 182 days at the hospital.
- c) Patients' health and dignity, and the well-being of healthcare workers was severely affected.
- d) RMMCH has seen an increase in patient load, with no concurrent increase in infrastructural development. The hospital has two maternity obstetrics units in its drainage area that refer patients to it.
- e) The hospital is classified as a specialised hospital, and patients are referred from hospitals in the west Rand, as well as Community Health Centre (CHC) and Clinics in regions B and C of the Johannesburg Metropolitan Council.

The Ombud was assisted by a team of three Investigators, Ms. Madithapo Masemola (Ms. M Masemola), Ms. Joyce Monyela (Ms. J Monyela), and Mr. Douglas Mapheto (Mr. D Mapheto), in terms of section 81(3)(c), of the NHAA, to investigate the complaint.

On analysis of the complaint and the allegations, the following issues were identified and investigated:

- a) Whether expectant mothers at RMMCH slept on the hospital floors.
- b) Whether Dr. NP Mkabayi was working full-time at the hospital to ensure everything ran smoothly and whether she only spent 182 days at the hospital since her appointment on 01 January 2021.
- c) Whether the health and dignity of patients and well-being of healthcare workers was severely compromised.

Allegations (d) and (e) above were not identified for investigation as these are not allegations per se but support the first allegation relating to the problem of overcrowding at RMMCH.

The investigation was conducted in terms of section 81A (1) of the National Health Amendment Act (NHAA), 12 of 2013, which gives the Ombud the powers to consider, investigate and dispose of the complaint relating to breaches of the norms and standards in a fair, economical and expeditious manner; and in terms of Regulation 42 of the Procedural Regulations, which regulates how the power conferred upon the Ombud by section 81A(1) of the NHAA must be exercised.

The investigation was conducted through analysis and triangulation of information and documentary evidence received from the health establishment, Gauteng Provincial Department of Health (GDoH), the Health Professions

Council of South Africa (HPCSA), onsite visits, and interviews with relevant personnel, application of the relevant legislation and media articles to enable the Ombud to make a decision regarding resolution of the complaint.

In total, interviews were conducted with **34** individuals, between 04 August 2022 – 29 November 2022. Two witnesses were interviewed twice.

A provisional Report was issued on 21 December 2022 in terms of Section 81A (5) of the National Health Amendment Act (NHAA), 12 of 2013, to the following persons: Hon. H Ismail; Dr. A Manning; Dr. NE Mokgethi; Dr. N Nolutshungu; Dr. NP Mkabayi; Ms. LB Baloyi, and Ms. T Goduka. The objective was to afford any implicated person the opportunity to be heard and provide evidence to vary/disprove the Ombud's findings and recommendations.

Feedback to the Provisional report from all seven individuals indicated that the Ombud's findings were not only confirmed but others strengthened by almost all the responses that were received.

The Ombud's investigations established the following:

a) Whether expectant mothers at RMMCH slept on the hospital floor.

- i. ***The allegation that expectant mothers at RMMCH slept on the hospital floor was substantiated and confirmed.***
- ii. Viral video footage published by News24 on 04 April 2022 depicted pregnant women sitting on chairs and sleeping on the floors on the night of 31 March 2022 / 01 April 2022. Mr. Mfuno Khosa, a Professional Nurse (PN) who was on the night shift on 31 March 2022 confirmed that all 39 beds in Ward 15 where expectant mothers were admitted, were fully occupied, and 20 expectant mothers were accommodated on chairs in the passage. Dr. Frew Gerald Benson (Dr. FG Benson), the Senior Clinical Manager, and Ms. Lesley Rose (Ms. LA Rose), the Assistant Manager of Nursing Services at RMMCH, corroborated the submission.
- iii. Ms. LA Rose and Ms. Rhona Luphai (Quality Assurance Manager) indicated that antenatal patients are usually moved to other wards to create space, but on the 31 March 2022 / 01 April 2022, there were no vacant beds.
- iv. Dr. FG Benson indicated that the hospital was still (in 2022) operating under the auspices of the 1996 Service Plan and was unable to deal with the number of patients admitted. Dr. NE Mokgethi, the former MEC of Health in Gauteng, highlighted that on 04 April 2022, the RMMCH management reported that CHBAH was diverting patients to RMMCH on the 31 March 2022 from 20h48 until 01h00 on 01 April 2022; and CMJAH diverted their patients to RMMCH from 00h00 midnight on 01 April 2022, exacerbating the overcrowding at RMMCH on 01 April 2022.
- v. Dr. Thomas Kleyenstuber (Head of Anaesthetics) indicated that the issue of overcrowding of the hospital is compounded by the cancellation of elective Caesarean Section (C/S) cases to accommodate emergency C/S cases. He said that the *"Obstetric doctors' book more elective C/S than the hospital can accommodate"*. This was corroborated by Ms. D Mukwevho, Prenatal Ward supervisor, who indicated that *"doctors admit patients knowing very well that there are no vacant beds"*.
- vi. Dr. FG Benson estimated that 40% of patients admitted at the RMMCH were foreign nationals (not stipulated as documented or undocumented). Dr. NE Mokgethi said the issue of foreign nationals is the leading cause of overcrowding at Gauteng hospitals, which calls for a policy change, while Dr. N Nolutshungu said foreign nationals put pressure on hospitals, as they are not catered for in the budget.
- vii. Ms. LA Rose provided a verbal explanation of the RMMCH Divert Policy. The investigation found that there had never been a documented Divert Policy at RMMCH, and despite several requests during the investigative period, no document was submitted to the Ombud. Accordingly the investigation found that there was no

written Divert Policy / SOP at the time of the incident. Following the lodgement of the complaint and OHO intervention, a RMMCH Divert Procedure was developed and signed off on 20 June 2022.

- viii. Dr. FG Benson responded to the Provisional Report by indicating that, *“the hospital is functioning under the Protocol for Ambulance Diversion of Maternity Units at Three Johannesburg Academic Hospitals in Johannesburg District, adopted on 13 September 2013. This protocol was adapted from the provincial Ambulance Diversion policy as outlined in Circular 1 of 2003, ‘Emergency Medical Service: Ambulance Diversion Procedures.’* A copy of the Protocol was provided to the Ombud on 06 January 2023, following the release of the Provisional report.

Dr FG Benson further indicated that *“it is not accurate to assume that ambulance diversions can be used to prevent overcrowding as the policy is only applicable to patients brought into facilities by ambulances.”* This statement reflects the pitfalls of utilising a District Protocol that addresses only one modality of patient transport to hospitals such as RMMCH and serves to further highlight the importance of developing a Divert Policy and SOP tailored specifically to address the unique needs of RMMCH.

- ix. GDoH has failed expectant mothers by not taking reasonable legislative and other means within its available resources to achieve the progressive realisation of the right to access health care services as required by Sections 27 (1) (a), 2, and 3 of the Bill of Rights in the Constitution.
- x. The issue of overcrowding at RMMCH is a longstanding challenge. It also indicates that the hospital does not comply with the prescribed Regulation 8(1) of the Norms and Standards Regulations Applicable to Different Categories of Health Establishments (Norms and Standards Regulations), published on 02 February 2018, which requires health establishments to maintain an environment which minimises the risk of disease outbreaks and transmission of infection to users, healthcare personnel, and visitors. Overcrowding poses a high risk of disease outbreak and infection transmission not only to healthcare users but also to healthcare personnel and visitors. In the case of RMMCH this risk would include neonates, who are at greater risk.
- xi. Regulation 5(1) of the prescribed Norms and Standards Regulations states that: *“The health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition.”*
- xii. Based on the evidence gathered, it can be concluded that the pregnant women sitting on the chairs and sleeping on the floor were not attended to in a manner that was consistent with the ‘nature and severity of their health condition’.
- xiii. Expectant mothers sitting on the chairs and sleeping on the floor at RMMCH was because of shortage of space and overcrowding.
- xiv. If RMMCH had an approved written Divert Policy / SOP in place before the incident occurred, the Divert Policy / SOP may have been implemented to avoid overcrowding.

b) Whether Dr. NP Mkabayi was working full-time at the hospital to ensure that everything was running smoothly and whether she spent 182 days at the hospital since her appointment on 01 January 2021.

- i. The allegation that the CEO of RMMCH was not full-time at the hospital to ensure that everything ran smoothly was substantiated and confirmed.
- ii. The investigation considered the question tabled by Mr. Jack Bloom, Democratic Alliance (DA) member, to the Gauteng Provincial legislature on 08 March 2022 and Dr. NE Mokgethi’s response to the legislature on 24 March 2022 that Dr. NP Mkabayi had **physically** spent **182 days** at the hospital since her appointment on 01 January 2021.

- iii. Calculations considered the total number of days in 2021, weekend days, public holidays, and of documented leave taken by Dr. NP Mkabayi during 2021. **A shortfall of 27 days (209 – 182) that were unaccounted for was identified.**
- iv. The investigation established that Dr. NP Mkabayi was the source of the response to the Gauteng Provincial legislature, as the calculations were provided to GDoH from her office, as cited by Dr. Freddy Kgongwana (Dr. F Kgongwana) Acting Deputy Director-General: Hospital and Specialised Services at GDoH. Ms L Louw, human resources (HR) Manager at RMMCH stated that she had *“no idea how the 182 was reached as HR department was not involved in compiling the response to the Legislature.”*
- v. Dr. NP Mkabayi failed to provide proof of the dates she attended Microsoft Teams meetings from home. She also was unable to provide evidence to prove that Dr. F Kgongwana granted her permission to work from home as well as evidence of the Microsoft Teams meetings she said she attended from home, as per clauses 5.5 and 5.6 of Circular No. 1 of 2021 Ref number 20/01TEHWP. This information was requested on three separate occasions (04 June 2022, 12 August 2022, 29 November 2022).
- vi. A schedule/roster indicating when Dr. NP Mkabayi would be working from home was also not available at RMMCH. Ms. LB Baloyi, GDoH DDG Corporate Governance indicated that she was unaware of the existence of a roster/schedule of this nature as she did not find evidence of a schedule when she joined GDoH in March 2022.
- vii. Analysis of Dr. NP Mkabayi’s leave profile, by Ms. L Louw, RMMCH HR, and the investigation team identified that the dates of several leave forms and Delegation of Authority (DoA) letters did not correspond. As an example:
 - a. An annual leave application for Dr. NP Mkabayi from 09 – 16 July 2021 was signed and approved, but the corresponding DoA documentation for Dr. FG Benson as acting CEO was dated 05 to 16 July 2021. Dr FG Benson confirmed these dates as accurate. There was therefore no proof that Dr. NP Mkabayi was on approved leave from 05 – 08 July 2021. The annual leave application received from Dr. F Kgongwana on 09 January 2023 was for the period **04 – 08 July 2022.**
 - b. There was no leave application from 04 - 07 September 2021, but there was a DoA documentation for Dr. FG Benson as acting CEO. Dr. FG Benson confirmed these dates as accurate.
 - c. There were no leave applications on the following dates: 11 June 2021, 10 September 2021 and 20 – 23 September 2021, but there was DoA documentation filed with HR.
 - d. These irregularities could not be explained by Dr. NP Mkabayi during her interview on 17 August 2022.
- viii. Ms. L Louw indicated that the RMMCH HR department captured all approved leave and DoA forms that were provided to them by the CEO's office, as Dr. NP Mkabayi reported to her supervisor, Dr. F Kgongwana, who was based in the provincial GDOH offices. Any leave granted was not directly communicated to the RMMCH HR department by GDoH.
- ix. Calculations of leave taken by Dr. NP Mkabayi indicate the following:

2021 Calculations:

	Public holidays	Weekends	Leave utilised
The year 2021 (365 days)	9	104	43
Total: 365 days	9	104	43
365 – 113 = 252 (Number of days worked minus P/H and Weekends)			
252 - 43 (Number of days worked minus leave utilised) = 209 days worked (01/01/2021 till 31/12/2021)			

NB: Leave utilised include leave days taken according to delegation letters, but no leave forms submitted to HR for capturing.

- x. Of the 43 days of leave taken, there were 28 days of annual leave, 10 days of sick leave and 5 days of family responsibility leave. **Dr. NP Mkabayi exceeded the number of annual leave days she was entitled to in 2021 (22 days), by 6 days. (Annexure AA)**
 - xi. An additional question enquiring about *“the latest information about how many days the CEO has been at work since she was appointed”* was raised by Mr. Jack Bloom on 26 July 2022.
 - xii. In the response provided by Dr. NE Mokgethi to the Gauteng Provincial Legislature dated 08 August 2022, she indicated that Dr. NP Mkabayi had spent **346 days** at RMMCH since she was appointed.’ **(Annexure M)**
 - xiii. Sections 5.7 - 5.9 of the **“Determination on Leave of Absence in the Public Service”** document, published in August 2021, provides detailed guidance to both employees and supervisors regarding the application for-, and approval of- leave. Section 5.10 stipulates that *“Failure by the employee to submit his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken.”*
 - xiv. **Based on the answer provided in paragraph (ii) above, the investigation found that 27 days were unaccounted for, and there were substantive irregularities regarding Dr. NP Mkabayi’s leave.**
 - xv. Between 24 March 2022 and 08 August 2022, the investigation found that there was a total of 93 working days, 140 weekend days and six public holidays.
 - xvi. **Based on the answers provided in paragraphs (ii and xii) above, if the CEO was at RMMCH every day, and did not take any annual or sick leave, she would have been at work for 275 days (182 + 93), not 346 days. Accordingly, the investigation found that 71 days were unaccounted for.**
 - xvii. Following on (v) and (xiii) above, the investigation further found that the GDoH failed to promote and implement relevant HR policies (e.g. the “work from home” policy based on Circular No. 1 of 2021) in a standardised and transparent manner. This led to so-called “trust agreements”, such as those between Dr NP Mkabayi and Dr FG Benson, and Dr NP Mkabayi and Dr F Kgongwana where each party “trusted” that the other party was fulfilling their professional responsibilities. It has been demonstrated that this manner of working is not only fraught with pitfalls (once the trust relationship has broken down), but it is also open to abuse, as there is no accountability.
- c) Whether the health and dignity of patients, and the well-being of healthcare workers is severely compromised.**
- i. **The allegation that the health and dignity of patients, and the well-being of healthcare workers is severely compromised was substantiated and confirmed.**
 - ii. In the event of excessive numbers of patients in the pre-natal ward, the doctors did not thoroughly examine patients sitting on the chairs. Clinical decisions were made based on what was written on the patient file, without assessing the patient fully. This practice borders on negligence.
 - iii. Most patient operations were postponed due to the need to accommodate emergency C/S cases, leading to a backlog and long waiting times (up to two weeks), according to Mr. M Khoza. He said these affected patients negatively, as some ended up with complications.
 - iv. The challenges of overcrowding, staff shortages, and a dire lack of specialized nursing staff compromised the health and well-being of the healthcare workers. Significantly, these challenges affect patient safety, by placing patients' lives at risk.

- v. The investigation revealed crumbling infrastructure throughout the hospital, free-flowing sewage between buildings, a pervasive foul-smelling environment, filthy ablution facilities and leaking steam pipes leading to poor heating in the wards, which does not provide a conducive, healthy, and safe environment for the provision of quality care for patients by healthcare workers.
- vi. Section 10 of the Bill of Rights in the Constitution addresses Human dignity, and it states that “*everyone has the inherent dignity and the right to have their dignity respected and protected*”. RMMCH was found to be in violation of this Constitutional mandate by:
 - a. Allowing healthcare professionals to continue to work in an unsafe environment.
 - b. Expecting pregnant women to sit on plastic chairs while admitted to the hospital for delivery of their babies.
 - c. Sitting on plastic chairs with post-delivery stitches.
 - d. Acquiescing that pregnant women regularly sleep on the hospital floor in Ward 15 is unethical and disrespectful.
- vii. Regulation 5(1) of the prescribed Norms and Standards Regulations states that “*The health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition.*” From the evidence gathered, the investigators determined that the pregnant women sitting on the chairs and sleeping on the floor were not attended to in a manner that was consistent with the nature and severity of their health condition.
- viii. As indicated previously, the issue of overcrowding at RMMCH is a longstanding challenge. It also indicates that the hospital does not comply with Regulation 8(1) of the Norms and Standards Regulations which requires health establishments to maintain an environment that minimizes the risk of disease outbreaks and transmission of infection to users, healthcare personnel, visitors, and neonates.

d) Additional Findings

Human Resources

During the period of this investigation, the Ombud observed that at least two Tertiary Hospital CEOs in Gauteng were suspended for alleged maladministration (poor governance) and misappropriation of funds (Tembisa Tertiary Hospital and Kalafong Hospital), raising questions about the calibre of individuals recruited into these positions, as well as the GDoH HR processes followed.

- i. The investigation found several lapses in the pre-employment processes followed by the Gauteng Department of Health when filling the position of the CEO at RMMCH. The post of RMMCH CEO was advertised in the Sunday Times with a closing date of 05 June 2020.

The requirements of the position, as quoted in the advertisement included: ‘*a degree in a health-related field, registration with the relevant professional body, a post graduate **degree** in management will be an added advantage. Management experience in the health environment is required. A valid driver’s license is an inherent requirement.*’

- ii. According to the Department of Public Service and Administration (DPSA) guidelines on the Benchmark Job Description for the CEO of Hospitals, Ref. 1/8/8/18 issued on 20 April 2004, the appointment requirements of the CEO position on level 2 Regional Hospitals are: “*Formal 3 year or higher tertiary qualification in Management or a related Health/Medical Science qualification, and Strong business orientation with proven skills and abilities in Health Management, and Proven Management competencies with specific reference to the Health care environment.*”

Requirements noted in other advertised CEO positions included: *A degree/advanced diploma in a health-related field, registration with relevant professional council; PLUS A degree/diploma in health management*

OR a degree/advanced in a management field. PLUS At least 5 (five) years management experience in the health sector. Experience as a health service manager or significant experience in management in a health service environment. Unendorsed valid Code B driver's license (Code 08).

When compared with several other equivalent advertised CEO posts in different provinces, the advertised requirements were found to be deficient for a senior position at this level. The requirements for such a senior position also appeared to be incomplete, vague, and non-specific, as if tampered with in some manner, and not in line with DPSA guidelines and common practice. In hospitals, CEO positions are the most senior positions, upon which leadership, management, administration and quality service delivery rest. The Head of Department (HoD) and the Member of the Executive Council (MEC) rely upon these individuals and therefore only the best thoroughbreds in health should be appointed to occupy these positions.

The requirements for the RMMCH advertised CEO post allowed anyone who does not have the necessary skills and abilities in Health Management, as well as Management competencies in the health care environment, to apply and possibly be appointed to the CEO position.

- iii. Dr. NP Mkabayi's interview / HR package was provided to the Ombud by Ms LB Baloyi. The investigation established that there were two important documents missing in the package: there was no copy of Dr. NP Mkabayi's post-graduate HIV management diploma (which was noted to be an advantage in the RMMCH CEO job advertisement) and there was no copy of Dr. NP Mkabayi driver's license (this was a requirement in the RMMCH CEO job advertisement).
- iv. The Z83 form submitted by Dr. NP Mkabayi makes no mention of her chronic mental illness. Dr. NP Mkabayi answered *"No" to the question "Do you have a disability"* because she did not consider herself to be disabled. During the interview with the former MEC, Dr. NE Mokgethi, she indicated that if there was any indication of a chronic illness, this would be noted on Dr. NP Mkabayi's Z83 form. However, during Dr. NP Mkabayi's interview, she confirmed that she did not indicate her chronic ill health on the Z83 form during the application process, and she also did not disclose her condition during the interview, as she does not view this as a disability. However, her condition had been disclosed on social media and alluded to in her letters of reference.
- v. A mental, or any other disability, is present when a disorder causes significant functional impairment in the major spheres of life such as professional-, academic-, physical- or social performance. This can either be a temporary disability or a permanent disability. In the case of a psychiatric disorder, the disability may be episodic, but as it progresses, inter-episodic performance may also decline if the condition becomes chronic in nature.
- vi. The pre-employment reference checks indicated that written references were provided by two of three referees. Both referees indicated that Dr. NP Mkabayi does not work well in stressful situations and either *"retreats into blocking out" or "breaks down due to illness."* One reference indicated that she was 'not clinically competent and required to be referred to HPCSA for serious deficiencies.
- vii. GDoH did not follow the correct HR steps and processes in terms of investigating and following up on the issues raised by both referees, as well as clarifying the discrepancies between the two references. Although both referees were from the same institution – one indicated that there had been 'no disciplinary action taken against her at this institution', whereas the other referee indicated that Dr. NP Mkabayi had been 'reported to the Senior Management Team at the institution and HPCSA for repeated clinical incidences.'
- viii. The investigation also found that the appointment of Dr. NP Mkabayi as CEO of RMMCH was not in the best interests of Dr. NP Mkabayi herself. During both of her interviews, she was tearful. During her second interview with the Ombud, she indicated that the 'environment at RMMCH was a highly stressful one where it appeared that no one appreciated her efforts' and 'there appeared to be an attempt to remove her as CEO'. She also indicated that she did not receive much support from the Gauteng Provincial office. She clearly needed more support in such a *'lonely and stressful environment'*.

- ix. Between 12 January 2021 – 31 December 2021, Dr. NP Mkabayi took 10 days of sick leave. There are three instances that the Ombud is aware of where she consulted with her psychiatrist i.e., 18 November 2021, 09 December 2021 and 20 January 2022 where a sick leave form was not submitted to HR.
- x. Following the commencement of the Ombud's investigation of the issues raised at RMMCH, in 2022, Dr. NP Mkabayi has been absent from work on sick leave for a minimum of 43 days due to mental and other illnesses (24 June 2022 – 11 July 2022; 30 August 2022 – 30 September 2022 and 7 October 2022 – 18 October 2022). There were also instances during June and July 2022 when the Investigators were informed that Dr. NP Mkabayi was on sick leave, but she would appear at RMMCH later in the day, e.g., on 15 June 2022.
- xi. Dr. NP Mkabayi confirmed that there were two complaints to HPCSA about her in 2016, alleging that she was an 'impaired practitioner'.

In 2017, an HPCSA investigation indicated that *'from the evidence received, the Committee could not find any evidence to declare her an impaired practitioner in terms of section 51 of the Health Professions Act of 1974.'*

- xii. Information received from the HPCSA on 12 December 2022 indicates that there is a new investigation against Dr NP Mkabayi, to determine if she has a health impairment. The Health Committee of the HPCSA referred her to a specialist psychiatrist for evaluation in 2021 but she failed to honour the appointment on two occasions. This investigation was initiated by Dr. NP Mkabayi through an email addressed to the HPCSA.
- xiii. The HPCSA in December 2022 informed the Ombud that on 10 December 2020, Dr. NP Mkabayi sent an email reporting to the HPCSA that *"she was recently admitted at a psychiatric unit in Cape Town for Bipolar Mood Disorder type 1 and that she had experienced a relapse."* The HPCSA forwarded this new information to a competent Health Committee for assessment. Throughout 2021 the HPCSA Health Committee recommended that Dr. NP Mkabayi undergoes a proper psychiatric assessment to assist her in stabilising her condition. This simple advice failed because Dr. NP Mkabayi failed to honour appointments made with the HPCSA. Hence, on 07 December 2022, the HPCSA Health Committee issued an intention to *"suspend her from practicing the profession in South Africa on the basis of health impairment."*
- xiv. The above information from the HPCSA, if confirmed to be true, must be viewed in serious light for the following reasons:
 - a) When Dr. NP Mkabayi assumed the position of CEO of RMMCH in January 2021, she knew that she had recently relapsed and had been admitted to a psychiatrist unit and therefore was an 'impaired' practitioner.
 - b) Dr. NP Mkabayi allegedly did not inform or disclose this new information to her employer, GDoH.
 - c) Dr. NP Mkabayi worked for all this time *"in a very stressful position and overwhelming environment"*, despite attempts by the HPCSA to assist her.
 - d) Dr. NP Mkabayi spent the better part of 2021 and 2022 'to and froing with the HPCSA', implying that she had not fully recovered.
 - e) Available evidence indicates that in October 2022 Dr. NP Mkabayi was admitted at Tara Hospital.
 - f) In addition, during the interview with the Ombud in November 2022, she did not find it necessary to share or disclose this information, except to indicate that she was due for an appointment for a psychiatric assessment to be arranged.
- xv. Dr. NP Mkabayi confirmed during her interview with the Ombud that she found the job of RMMCH CEO 'very stressful and overwhelming.'
- xvi. The investigation found that during stressful situations, Dr. NP Mkabayi's condition appears to affect the way she works, as she appears to make mistakes and back away. Several instances of hospitalisation have occurred after she was confronted with stressful situations.

- xvii. Although the HPCSA investigation was not provided with evidence to declare her an impaired practitioner (clinically) in 2017, there was no assessment of her competence to oversee and manage large institutions and large teams of skilled personnel. The investigation found that a distinction must be made between clinical and leadership/managerial competencies. Clinical management is often standardised and guided while leadership/managerial position are often complex, unpredictable, and not standardised or guided.
- xviii. Dr. NP Mkabayi provided a confidential Pre-employment Competency Assessment Report to the Ombud on 12 October 2022. The report indicated Dr. NP Mkabayi's strengths and weaknesses.
- xviii. On 03 September 2018, the "Bloemfontein Courant" ran an article in titled "*Doctors argued to seek help to avoid unnecessary suicides.*" The article outlined a meeting that was held at Gallery in Levasseur in Bloemfontein on 02 September 2018. During that meeting, Dr. NP Mkabayi said, "*she was forced to leave her profession of more than 20 years ago after she was declared unfit.*" According to Dr. NP Mkabayi, she was diagnosed with Bipolar Mood Disorder in 1997. After discovering her condition, she said she was declared unfit to deal with patients. Even though she was highly qualified and had won a few awards within the profession, she ended up being underpaid and bullied at work. She said there were times when she was in denial and couldn't take her treatment. "*Finally, about a month ago, I voluntarily left my profession, and I am currently unemployed. Somehow, I managed to write a book about my journey, which hasn't been published.*" (<https://www.bloemfonteincourant.co.za/doctors-argued-to-seek-help-to-avoid-unnecessary-suicides/>).
- xix. Dr. NP Mkabayi disputed the above report, as she indicated that she had been misquoted. However, she had not taken any measures to correct the false report about her being impaired between 2018 – 2022. Left uncorrected, it assumes the position of being truthful.
- xx. Differences were noted in the narrations of Dr. NP Mkabayi and Ms. LB Baloyi regarding the same issue. On the issue of the secondment of Dr. NP Mkabayi to the GDoH provincial office in October 2022, Ms. LB Baloyi indicated that when Dr. NP Mkabayi returned from sick leave, a meeting had been convened where the issue of secondment had been discussed with Dr. NP Mkabayi (who was in agreement with the secondment) and a letter had been issued to Dr. NP Mkabayi to this effect. Dr. NP Mkabayi however, indicated that a meeting had been convened to inform her of her 'temporary' placement at the provincial GDoH offices while the provincial managers 'were dealing with Dr. FG Benson, who was a problem'. She indicated that while she disagreed with the solution of placing her at the Provincial office, as she was not the 'problem', she reluctantly agreed, as this was for a temporary period. She also indicated that she had not received any letter regarding the secondment. During her interview with the Ombud on 29 November 2022 she was looking forward to returning to her position as CEO of RMMCH.
- xxi. The second issue where differences were noted was regarding whether Dr. NP Mkabayi had been granted approval for RWOPS and undertook private work in addition to her RMMCH responsibilities. Ms. LB Baloyi indicated that she did not think Dr. NP Mkabayi engaged in RWOPS as 'she was the one doctor who did not sign other doctors' requests for remunerative work outside public service (RWOPS). Ms. LB Baloyi also indicated that she had a list of doctors who had RWOPS approval 'on her phone' and would share the list with the Ombud. Following release of the Provincial report, Ms. LB Baloyi indicated that Dr NP Mkabayi does not have approval for RWOPS. A list has not been shared as yet. During the interview, Dr. NP Mkabayi indicated that she had approval for RWOPS, and she undertook work in her private capacity. She also provided the Ombud with a signed RWOPS approval, effective February 2022. Once again, contradiction was noted between the statements of Ms LB Baloyi and Dr NP Mkabayi regarding the same matter.
- xxii. These differences highlight the gaps, transparency, and accountability within GDoH in terms of supervision and management of CEOs at the different hospitals. The discrepancies noted pertain to very serious HR matters, which do not seem to be managed in an honest and appropriate manner by GDoH provincial managers at the highest level.
- xxiii. Both versions cannot be true.

Infrastructure:

- i. RMMCH was built in 1943 and has never received any substantial upgrades since then. The aging infrastructure and sewage reticulation system is failing, leading to pipe spillages and toilet blockages. There does not appear to be ongoing maintenance of the hospital infrastructure, despite the allocation of budget, personnel, and the obvious need.
- ii. An inspection in loco by the Ombud investigators confirmed crumbling infrastructure in the majority of the hospital, including damp-soaked walls, corroded flooring, damaged ceilings in various departments, free-flowing sewage between buildings, a pervasive foul-smelling environment, filthy ablution facilities, rusty leaking steam pipes and overgrown gardens filled with long grass and weeds was the norm. The exceptions found were the spotless, refurbished administrative / executive department, radiology unit and a donor-sponsored Paediatric unit.
- iii. Dr. N Nolutshungu indicated that the hospital had been submitted to the National Department of Health (NDoH) as one of the three (3) and the 11 hospitals for occupational health and safety (OHS) compliance and refurbishment in Gauteng following the Premier's State of the Province Address in 2022. Following the lodgement of the complaint and the Ombud intervention, RMMCH has also been identified as part of eleven hospitals to be upgraded in Gauteng province.

Blood Bank (SANBS) and Laboratory (NHLS) Services:

- i. The hospital's laboratory and blood services do not operate 24 hours a day. This is highlighted as a major gap as RMMCH provides high-risk specialist obstetrics, gynaecology, neonatology, paediatric and surgical services where these services are obligatory.
- ii. Currently all after-hours laboratory specimens are sent to Helen Joseph Hospital (HJH) where results availability depends on the type of test done. Dr. T De Maayer confirmed the difficulties experienced by clinicians due to the absence of 24-hour laboratory and blood bank services.
- iii. With regards to blood and blood products, RMMCH currently relies on an emergency fridge, where a maximum of three units of whole blood is stored. When these units are depleted, they are replaced by SANBS within 12 hours. This poses a great patient safety risk.
- iv. Dr. A Wise (Acting HoD Obstetrics and Gynecology (O&G)), raised concerns that the storage of three units of whole blood was not a feasible or sustainable solution for a hospital such as RMMCH, for example, one patient with a ruptured uterus would require over three (3) units of blood, depleting the emergency stock in a few minutes.
- v. If blood or blood products are urgently needed after the SANBS's regular working hours, a driver from RMMCH collects these from HJH's SANBS, which is located 2.5 kilometres away. The fact that the SANBS is only available until 16h00 is problematic for RMMCH, given the specialist health services provided, where lifesaving blood and blood products are required without delay.
- vi. The investigation found that although HJH was 2.5 kilometres (10 minutes by car) from RMMCH, the possibility of logistical delays and human errors could not be ruled out, even in a well-functioning system, which might lead to unintended outcomes, including increased rates of morbidity and mortality.
- vii. It is shocking that to date no attention has been given to this matter by the GDoH – and the *status quo* remains. In the 21 century, modern medical practice dictates that hospitals providing specialised tertiary services, such as RMMCH, require 24-hour laboratory and blood bank services.

Radiology services (CT scan):

- i. There is one CT Scan machine at RMMCH. According to RMMCH records, the current machine was purchased in 2006, and the end production model was in 2014. The end-of-life service of the CT scan is documented as 31 December 2023, after which parts will be unavailable, and the service provider will not provide service maintenance.
- ii. The CT scan has been problematic since February 2022. Mr. Wessels indicated that the cost to fix the CT scan machine was estimated to be over R500,000. Between February 2022 - June 2022, attempts were made to repair / maintain the RMMCH CT scan machine and replace a non-functional part using a second-hand part sourced from an old CT Scan machine at CMJAH. The cost incurred by RMMCH to repair / maintain the CT scan machine (out of the maintenance contract) and fit the part was R714,730.36. A service quote provided by Phillips LTD South Africa (0755625, dated 22 June 2022), revealed that the repairs to the CT scan machine would cost R951,337.51. Dr. N Nolutshungu indicated that Dr. N Mkabayi had informed her that RMMCH made arrangements to refer patients requiring CT scan services to Nelson Mandela Children's Hospital and CMJAH.

Hospital Board:

- i. Section 41(6)(a)(i) – (iii) of the National Health Act (NHA) 61 of 2003 provides that: *“the relevant member of the Executive Council must appoint a representative board for each public health establishment classified as a hospital or for each group of such public health establishments within the relevant province; prescribe the functions of such boards and prescribe procedures for meetings of the board”*.

This section gives the Member of the Executive Council the powers to appoint representative hospital board for each central hospital or group of central hospitals.

- ii. RMMCH shared a Hospital Board with HJH. On 01 April 2019, a Hospital Board (overseeing HJH and RMMCH) was constituted and appointed. Dr. Nomathemba Emily Mokgethi (Dr. NE Mokgethi) stated that the functionality of the Hospital Board was questionable. Dr. NP Mkabayi confirmed the assertion and said there were no minutes of the Hospital Board meetings accessible at RMMCH.
- iii. Following lodgement of the complaint and the Ombud intervention, Dr. FG Benson indicated that a new RMMCH board was appointed on 12 July 2022 and introduced to RMMCH EXCO members in September 2022. This version was corroborated by Dr. NP Mkabayi and Ms LA Rose.

Security challenges:

- i. Security at RMMCH is poor and the security personnel are not adequately equipped with the *‘tools of the trade’*. The observations made during the investigation include a lack of access control to record the motor vehicles entering and exiting the hospital. Most of the interviewees, including the security staff, shared that they felt unsafe at RMMCH. They shared that the area surrounding the hospital was unsafe and that nurses had to be accompanied to board taxis in the evening as some had been robbed.
- ii. Dr. NP Mkabayi shared that CCTV was not working since her appointment. The investigators also observed the lack of access control at the gate, where individuals were never searched upon entry or exit from the hospital premises. CCTV is not functional, compounding the problem. On 05 December 2021 at 00h41, an intern doctor was hijacked in the car park **within** the hospital premises.
- iii. Regulation 17(1) of the Norms and Standards Regulations provides that: *“the health establishment must have a system to protect users, health care personnel and property from security threats and risks.”*

Sub-regulation (2) states that *“the health establishment must ensure that security staff is capacitated to deal with security incidents, threats, and risks.”* RMMCH and the GDoH breached Regulation 17(1) and (2) of the Norms and Standards Regulations, by failing to ensure that the security staff appointed at RMMCH is capacitated to deal with security incidents, threats, and risks and to guarantee the safety of users, health care personnel and its’ property.

Shortage of Nursing Staff:

- i. The investigation found that over the years, RMMCH made several attempts to alert the GDoH about the staff shortage in the maternity ward. Letters written by the retired CEO, Ms. S Jordaan, dated 19 July 2017 and 02 October 2017, indicate a hospital with a serious nursing staff shortage.
- ii. Due to the longstanding nursing staff shortage, RMMCH currently relies on so-called ‘Agency Nurses’ to deal with nursing shortages. Between 01 November 2021 – 31 March 2022, Ms. L Rose requested Bid Adjudication Committee (BAC) approval to utilize Nursing Agencies on an ADHOC basis. According to Mr. T Wessels and Mr. T Van Wyk, an EX-POST FACTO Application was also requested (following the expiration of the Service Level Agreement) to pay Nursing Agencies.
- iii. The request to use Nursing Agencies on an ADHOC basis for the 2021/2022 financial year amounted to R5,324,000.00. Of this, R2,343, 891.85 was earmarked for the Ex Post Facto payment to Nursemate Nurse Services (Vendor No: 1100155844). The request was approved on 10 February 2022, by Dr. S Zungu, former HoD of GDoH, to ensure continued service delivery at RMMCH.
- iv. Regulation 19(1) of the Norms and Standards Regulations provides that: *“the health establishment must ensure that they have a system in place to manage health care personnel in line with relevant legislation, policies, and guidelines”*. Sub-regulation (2) (a) states that: *“for the purpose of sub-regulation (1) the health establishment must, as appropriate to the type and size of the health establishment, have and implement a human resource plan that meets the needs of the health establishment.”*
- v. The investigation established that RMMCH violated Regulation 19(1) and (2)(a) of the Norms and Standards Regulations as the available HR plan did not meet the needs of the health establishment.

Flouting of Supply Chain Management (SCM) Processes:

- i. A global lack of knowledge of SCM processes was identified at all levels within RMMCH, which was confirmed by Dr. T De Maayer, Mr. G Cilliers and Dr. NP Mkabayi.
- ii. Allegations of end-users failing to check minimum stock levels, leading to emergency orders to the SCM department were made. This was substantiated and confirmed. In addition, several challenges were identified in the process of ordering and procurement of goods.
- iii. Dr. NP Mkabayi stated that in some instances, RLS01 documents would be incorrectly completed when sent for her approval. If these documents were returned for corrections, the department involved would delay until she was on leave, and the designated person acting on her behalf would then approve the documents. The SCM termed this process *“Comply and Complain later.”*
- iv. The delays on the end user's part to submit procurement requests in a timely manner and clinician's preferences of types of equipment and stock led to a systematic reliance on SCM deviations.

“An Unsafe Hospital” (Cited directly from the report dated 02 December 2016);

- i. A detailed report compiled by Prof. A Coovadia and Prof. H Lombaard and updated in 2017 titled *“An unsafe hospital”* confirmed challenges at RMMCH.

The issues and recommendations raised by Prof. A Coovadia and Prof. H Lombard in the report remain pertinent to date and are consistent with the findings of the Ombud investigation.

The report relates to the challenges faced by RMMCH over a prolonged period and was necessitated by the occurrence of an outbreak of a hospital acquired infection in the neonatal nursery that is directly related to the capacity issues at the institution. The investigation focused on the following challenges:

- (a) Current MRSA outbreak in the neonatal nursery.
- (b) Capacity in the neonatal division of the Department of Paediatrics and Child Health.
- (c) Required capacity for the neonatal unit.
- (d) Increasing trend of utilisation of neonatal services at RMMCH.
- (e) Statistics of the Department of Obstetrics and Gynaecology.
- (f) Challenges in Obstetrics.
- (g) Risk Assessment – Current and future risk.
- (h) Proposed solution and Remedial Actions.

- ii. The report recommended that the GDoH revisit the decision to downgrade Discoverers district hospital into a Community Health Centre (CHC). The recommendation was that Discoverers CHC be reclassified as a district hospital to alleviate RMMCH's burden of patients and avoid overcrowding.

Further recommendations included establishing an Memorandum of Understanding (MoU) within the hospital, where Normal Vaginal Deliveries (NVDs) would be handled and establishing a discharge lounge to accommodate discharged patients awaiting relatives.

- iii. Despite raising valid concerns and realistic solutions to address the challenges of overcrowding at the RMMCH, there is no evidence to indicate that the recommendations were considered or implemented.

RMMCH catchment population:

- i. Gauteng is the smallest province of South Africa's nine provinces but comprises the largest share of the South African population. It measures 18,176 square kilometres, with a population of 16.1 million (midyear estimates 2022).

As the economic hub of South Africa, and a strategic location for major foreign investments within the African continent, Gauteng attracts both South African (SA) and non-South African (non-SA) citizens seeking better employment opportunities.

- ii. Due to inadequately implemented border control policies, and corruption, there are also many informal / undocumented migrants within Gauteng, from neighbouring countries who seek health care services at public hospitals such as RMMCH.
- iii. Statistics of patients admitted at RMMCH in the past 3 financial years reveal that 43%, 41%, and 41% of all patients admitted to RMMCH in the 2019/2020, 2020/2021, and 2021/2022 financial years, were non-SA citizens, respectively. The statistics do not indicate whether these individuals were documented (formal) or undocumented (informal) foreign nationals.

Nosocomial Infections

- i. Ms. BML Williams, working in the Infection Prevention and Control (IPC) unit, reported sporadic incidents of nosocomial infections in the neonatal unit due to overcrowding.
- ii. She indicated that at one stage in 2018, there were 55 neonatal babies admitted in a unit approved for 35 beds, as *"they cannot turn a neonate away."*

Ms. B Williams stated that staff shortages, overcrowding, and poor hand hygiene were the contributory factors.

Infection Prevention and Control

- i. The investigation found that during August - September 2022 Povidone-Iodine and SteriPrep solutions were out of stock at RMMCH.
- ii. Sister T. Goduka, (Sr. T Goduka) Operational Manager for the Theatre Department, was informed that Dr. NP Mkabayi had given instructions that RMMCH should borrow Povidone-Iodine and SteriPrep solutions from other health establishments.
- iii. However, Sr. T Goduka took it upon herself (without consultation of RMMCH management) to dilute Sterisrub and water to make a 'self-made' concocted solution used to prepare the skin before surgical abdominal procedures. This self-made concoction was utilised in theatre to clean patients' skin in preparation for surgical procedures.

Several patients who were operated on during this period developed sepsis and had to be taken back to theatre for 'relook' operative procedures. A total of eleven patients required 'relook' surgeries in August and September 2022, as compared to zero patients in preceding months.

- iv. Responding to the Ombud's provisional report, Dr. FG Benson confirmed that Sr. T Goduka did not consult RMMCH when the decision to make the 'self-made' solution but did not condemn the act as the senior clinical manager of RMMCH, which is of concern.
- v. Sr. T Goduka stated in her response that the plan to counter surgical pressure was to use Sterisrub with water. Evidence was not provided to indicate that Sterisrub and water was indicated for surgical preparation of abdominal procedures.
- vi. Hospitals have protocols of prescribed solutions in theatre that should be used to prepare surgical sites. The solutions are accredited and safe for utilisation. The investigation found that it was unprofessional, unethical and inexplicable for Sr.T Goduka to concoct a 'self-made solution' which was not accredited by any authority and quantities of each used could not be explained by Sr. T Goduka, except that she said, "*I ensured there was not much foam.*"
- vii. Sterisrub is indicated for scrubbing hands in theatre; after which sterile gloves are worn to ensure sterility. Sterikleen is indicated to disinfect hands. Utilising this solution to prepare operation sites is professionally and technically wrong as it is not indicated for this purpose.
- viii. When patients present at the hospital, they do that because they are assured of safe care because all resources used undergo rigorous scientific testing and scrutiny.
- ix. Aside from the significant risks to patient safety due to sepsis and unnecessary surgical procedures posed by this inexplicable action, other issues including unnecessary expenditure and increased theatre backlogs served to compound the already overstretched resources within RMMCH.

Racism

- i. During interviews with hospital staff, some highlighted racism as a problem at RMMCH, based on subjective experiences of staff treatment by the CEO and employment practices, particularly during the Covid-19 pandemic.

- ii. While the Ombud probed these allegations, there was no evidence to substantiate them.

Lack of an Intensive Care Unit (ICU) for adults at RMMCH

- i. The investigation established that there was no Intensive Care Unit (ICU) for adults at RMMCH. Any adult patients requiring ICU services are placed into an operating theatre, which is then closed until a vacant ICU bed is found. Dr. T Kleyenstuber indicated that this could take up to 12 hours, depending on the availability of ICU beds within Gauteng province.
- ii. The lack of dedicated ICU facilities at RMMCH has been described as a longstanding challenge, which has led to the development of a vicious cycle – closure of theatres for use as ICU facilities lead to cancellation of scheduled operations, which in turn lengthens the surgical backlog and leads to patient and healthcare worker dissatisfaction and unhappiness.
- iii. The cancellation of scheduled / elective C/S cases leads to overcrowding in the ward and with some cases requiring emergency C/S thereby compromising patient safety and lowering the quality of health services rendered.

Conclusion

- i. ‘Dirty, Filthy, Unsafe’ – these were the most common words used to describe the hospital in 2022 – a far cry from the hospital that received a Khanyisa award for the best regional hospital in 2016. (<https://midrandreporter.co.za/171354/health-workers-honored-at-khanyisa-health-awards/>).
- ii. During the investigation into allegations against RMMCH, the most striking thing has been the fact that the hospital has been neglected to such an extent, in almost all respects, for several years. Throughout the investigation, the decay was evident – permeating onsite inspection visits, witness interviews and analysis of documentary evidence. The failure of leadership, management and governance resides at all levels – province, district and RMMCH itself.

Within RMMCH, senior managers, including Dr FG Benson, were found to exhibit a significant lack of discipline and manipulative behaviours. In the main, this was done through exerting inappropriate influence on subordinates, promoting a culture of non-compliance and lack of accountability.

The callousness and apparent disregard for human safety is chilling, evident in the dire lack of resources for a hospital providing critical tertiary level specialist services in the 21st century. These include financial and human resources, and 24-hour essential support services *in loco*. Quite simply, it appears that “no one seems to care”.

- iii. Two individuals – Dr T De Maayer and Mr A Sauls – were found to have made a significant contribution in their respective roles towards advocacy for patient safety and the provision of quality health services. Their actions on various platforms, and the subsequent public outcry, have highlighted the importance for all healthcare institutions to uphold and apply the principle of good governance particularly within the context of patient care.
- iv. The Ombud has found incontrovertible proof that confirms and substantiates the three (3) allegations raised in the complaint lodged by Hon. H Ismail. In addition to the initial issues raised, a further fourteen (14) findings were identified by the investigation. Key recommendations have been tabled for implementation by the Gauteng MEC and HoD for Health and RMMCH CEO.
- v. Overall, the GDoH is in a mess, and this has been going on for some time, at least seven years. The criteria used by GDoH to select Hospital CEOs is far below the required standard for such senior positions.

- vi. The monitoring and evaluation systems are weak, and the CEO appointment systems are weak to non-existent. This finding by the Ombud is informed by the experiences of investigating i) the Life Esidimeni tragedy in Gauteng in 2016, ii) the Tembisa Provincial Tertiary Hospital COVID-19 death in 2021, and iii) the current RMMCH complaint.
- vii. It is important that the Health MEC and Premier prioritise the quality of health services within the province. As the economic hub of the republic, a quality health system and a healthy citizenry is an absolute necessity. The success of the NHI is dependent on a quality health system and the GDoH should lead by example. (Prof. Makgoba, 2017 and 2021)

Recommendations

Given the complexity of the findings uncovered by the investigation, and following on comments to the Provisional Report, recommendations are made at several levels:

Gauteng Provincial Department of Health

1. Appointment of RMMCH CEO

- 1.1 Given that Dr. NP Mkabayi has accepted a permanent transfer from RMMCH to Head Office, the Gauteng Head of Department of Health should ensure that a suitable, and permanent CEO for RMMCH is identified and appointed as a matter of priority, within three (3) months.
- 1.2 The advertisement for the CEO position should be in line with standardised requirements for CEOs of regional and tertiary level hospitals to ensure any potential candidates meet all the relevant criteria and are 'fit for purpose'.
- 1.3 The following recommendations are made with regards to the advertisement for the CEO position in 1.2 above:

REQUIREMENTS: • Matric Certificate (Grade 12), A degree/advanced diploma in a health-related field, registration with relevant professional council; **PLUS** A degree/diploma in health management **OR** degree/advanced in a management field. **PLUS** At least 5 (five) years management experience in the health sector. Experience as a health service manager or significant experience in management in a health service environment. Unendorsed valid Code B driver's licence (Code 08).

KNOWLEDGE, SKILLS, TRAINING AND COMPETENCE REQUIRED: Knowledge of relevant legislation such as the National Health Act (NHA), Public Finance Management Act (PFMA), Public Service Act and related regulations and policies.

Core Competencies: Strategic capacity and leadership, Programme and Project Management, Financial management, Management of people and empowerment.

Progress Competencies: Service delivery innovation, knowledge management, Problem solving and analysis, Communication, Client orientation and customer focus.

KEY PERFORMANCE AREAS: To plan, direct, co-ordinate and manage the delivery of clinical and administrative support services in an effective and efficient manner, working with the key executive management team at the hospital and within the legal and regulatory framework, and government requirements, • To represent the hospital authoritatively at provincial and public forums, • To provide strategic leadership to improve operational efficiency within the health establishment to improve health outcomes.

Strategic Planning: Prepare a strategic plan for the Hospital to ensure that it is in line with the 10-point plan, national, provincial, regional and district plans as well as the Department's strategies goals and Objectives.

Financial Management: Ensure that adequate policies, systems and procedures are in place to enable prudent management of financial resources, financial planning, resource mobilization, including monitoring and evaluation; Ensure appropriate asset management and accountability of all assets of the institution; Identify strategic and operation risks and ensure that strategies are in place to address these, as well as monitor the progress; Maximise revenue through collection of all income due to the hospital.

Facility Management: Ensure business support and systems to promote optimal management of the institution as well as optimal service delivery, ensure that systems and procedures are in place to ensure planning and timeous maintenance of facilities and equipment.

Human Resource Management: Implement and maintain human resource management policies and guidelines, systems and procedures that will ensure effective and efficient utilization of human resources; Promote a safe and healthy working environment through compliance with the Occupational Health and Safety Act, including occupational health and safety committees; Ensure continuous development and training of personnel and implement monitoring and evaluation of performance.

Procurement and Management of Equipment and Supplies: Implement a procurement and provisioning system that is fair, transparent, competitive and cost effective in terms of provincial delegated authority in line with PFMA, and Supply Chain Management prescripts; Ensure that goods and services are procured in a cost effective and timely manner; Ensure sound contract management for all contracted services.

Clinical and Corporate Governance: Oversee clinical governance to ensure high standards of patient care, establish community networks and report to the Hospital Board and other relevant oversight committee/bodies; Ensure the establishment of the relevant governance structures linked to clinical and non-clinical functions and responsibilities; Manage all the institutions risks and implement strategies to ensure optimal achievement of health outcomes.

- 1.4 Only candidates with relevant and proven expertise and experience should be short-listed, with detailed records indicating the reasons for short-listing or rejecting each candidate.
- 1.5 An experienced CEO knowledgeable in management of regional level hospitals should be appointed. It would be critical that the new CEO is viewed as a leader who would have the ability to unite the health workforce with RMMCH.
- 1.6 To ensure success, the GDoH should provide ongoing regular support to the new RMMCH CEO, which should be documented on a monthly basis.

2. Transfer of Dr NP Mkabayi to the GDoH

- 2.1 The Ombud supports the GDoH decision to transfer Dr. NP Mkabayi from RMMCH on a permanent basis. This decision is in the best interest of Dr. NP Mkabayi, RMMCH and the GDoH.
- 2.2 The Gauteng MEC for Health should offer professional and psychological support and assistance to Dr. NP Mkabayi in her new position at the GDoH.
- 2.3 GDoH should not only provide supervision and support but also ensure that Dr NP Mkabayi undertakes training to remediate the gaps that were identified in her competency assessment and the Ombud's findings.

- 2.4 The Ombud further supports the HPCSA process of an independent psychiatric evaluation and strict monitoring for Dr NP Mkabayi. This should be accelerated in line with Dr NP Mkabayi's own suggestions that she provided in writing to the Ombud.
- 2.5 Dr NP Mkabayi should provide written commitments to the HPCSA process and Programme and provide regular updates to the HPCSA and GDoH.
- 2.6 It is recommended that these activities (of stabilisation, the support/training and transfer of Dr NP Mkabayi) are undertaken for the remainder of Dr NP Mkabayi's contract period with GDoH coupled with regular assessment and monitoring by GDoH and the HPCSA.
- 2.7 Towards the end of her contract GDoH and HPCSA must make a final assessment and advise Dr NP Mkabayi on her future.

3. Review Provincial HR processes for appointment of Hospital CEOs

- 3.1 The Gauteng HoD for Health and DDG: Corporate Services must urgently review the Provincial HR processes for appointment of CEOs and other senior staff within six (6) months. The review should evaluate the provincial HR processes with regards to the advertised requirements and competencies required for the position, pre-employment reference checks and vetting for senior positions, especially those of Hospital Chief Executive Officers.
- 3.2 During the period of the investigation, it was noted that at least 2 Tertiary Hospital CEOs in Gauteng were suspended for maladministration and misappropriation of funds (Tembisa Hospital, Kalafong Hospital), raising questions about the calibre of individuals hired for these positions, as well as the HR processes followed.

4. Prioritisation of RMMCH for Infrastructure Refurbishment

- 4.1 The Premier should ensure that RMMCH is one of the first hospitals to be refurbished, within six (6) months.
- 4.2 Consideration should be given based on the collapsing sewage system, leaking steam pipes, dilapidated buildings, and unkempt surrounding areas within the hospital perimeter.
- 4.3 This will contribute to the improvement in the provision of quality health services and ensure that RMMCH complies with Regulation 8 (1) of the Norms and Standards Regulations.

5. Gazetting of RMMCH as a Tertiary Hospital

- 5.1 GDoH should prioritise and fast-track the gazetting of RMMCH as a Tertiary hospital which would ensure that RMMCH receives a tertiary grant, within eight (8) months.
- 5.1 This classification is critical for RMMCH as it provides specialist services to women and children, functions as the only Mother and Child hospital in Johannesburg and is utilised as a part of the University of Witwatersrand for the training of health workers, including nurses, medical doctors, specialists, super specialists, and allied health workers.
- 5.2 The grant will also enable the hospital to procure commodities, equipment, and supplies according to its mandate.
- 5.3 In the interim (within two (2) months) GDoH should apply short-term interventions including the application of PFMA section 16A to ensure allocation of additional funds for RMMCH.

6. Address leadership and Governance issues

- 6.1 The Gauteng MEC of Health must urgently appoint an independent forensic and audit firm within two (2) months to:
- 6.2 Conduct a competency, 'fit for purpose' assessment of the leadership and management staff at RMMCH.
- 6.3 Assess the need to upskill all RMMCH managers / EXCO members to ensure they are able to perform their functions in line with the expectations of RMMCH service delivery.
- 6.4 Review corporate governance at the hospital in line with appropriate and applicable King IV corporate governance principles to promote and improve a culture of good corporate governance. Several witnesses indicated that within RMMCH a culture of not following proper processes and protocols existed, which was further propagated by the lack of repercussions for perpetrators.
- 6.5 Investigate HR practices pertaining to Dr. NP Mkabayi, with particular focus on her appointment, supervision, leave management and related irregularities, and resolution of complaints.
- 6.6 This will ensure that RMMCH complies with Regulation 18 of the Norms and Standards Regulations.

7. Implement Recommendations made in the 2017 report "An Unsafe Hospital" by Prof. A Coovadia and Prof. H Lombaard.

The issues and recommendations raised by Prof. A Coovadia and Prof. H Lombard in the report remain pertinent to date and are consistent with the findings of the Ombud investigation.

- 7.1 The MEC and HoD for Health should revisit the 2017 RMMCH report with a view to implementing the recommendations, as a matter of urgency.
- 7.2 A comprehensive implementation plan is to be submitted to Ombud within six (6) months including detailed realistic strategies, time frames, and names, designations and contact details of persons responsible for implementation.

8. Strengthen Gauteng HoD oversight of hospitals

- 8.1 The HoD's office should be sufficiently strengthened to conduct comprehensive oversight of hospitals in Gauteng. A detailed implementation plan is to be shared with the Ombud within one (1) month.

9. Reclassification of Discoverers CHC

- 9.1 The recommendation is consistent with recommendations made in the 2017 report by Prof. Coovadia and Prof. Lombaard.
- 9.2 GDoH is to prioritise the reclassification of Discoverers CHC to a district hospital, within six (6) months, to alleviate the patient load within the region.
- 9.3 It will also ensure compliance with Regulations 5 (1) and 8 (1) of the Norms and Standards Regulations.

10. Review RMMCH staff establishment

- 10.1 The GDoH should prioritise the review of the RMMCH staff establishment and appoint staff in line with their skill sets in all departments to ensure compliance with Regulation 19 (2) (a) of the Norms and Standards Regulations.

10.2A review of the utilisation of nurses from Nursing Agencies is also recommended to reduce the strain on the goods and services budget.

10.3A report detailing progress in this regard should be sent to the Ombud within six (6) months.

11. Availability of 24-hour Laboratory and Blood Bank Services

11.1The GDoH should ensure that RMMCH, a specialist hospital, has Laboratory Services and Blood Bank Services available 24 hours a day, within two (2) months.

11.2In the interim, within one (1) month, a larger “Smart Fridge” should be procured to ensure the storage of adequate quantities of emergency blood at RMMCH.

12. Construction of additional maternity capacity

12.1 The GDoH should provide additional maternity capacity within the district, including but not limited to the construction / refurbishment / repurposing of buildings suitable for a Maternity Obstetric Unit (MOU) to cater for the delivery of low-risk maternity cases within the region, within twelve (12) months. This will further alleviate the overcrowding experienced at RMMCH.

12.2 The staff allocated to the MoUs should include Advanced Midwives to ensure support.

13. Establishment of an adult ICU at RMMCH

13.1 The GDoH is to fast-track the establishment of a fully functional adult ICU at RMMCH within six (6) months.

13.2 The ICU will ensure that patients are treated in a manner consistent with the nature and severity of their health condition as provided for in Regulation 5 (1) of the Norms and Standards Regulations and allow scheduled surgical procedures within the theatres to continue in an uninterrupted manner.

14. Monitoring of RMMCH Hospital Board

14.1 The Gauteng MEC of Health is to diligently monitor that the appointed Hospital Board is adequately trained and able to discharge their functions to ensure compliance with Regulation 18 of the Norms and Standards Regulations. This should be implemented with immediate effect.

RMMCH Acting CEO

1. Development of HR capacity

1.1 The Acting CEO of RMMCH must ensure that the Hospital has a system in place to manage healthcare personnel in line with relevant legislation, policies, and guidelines, within one (1) month.

1.2 A suitable HR plan that meets the needs of the health establishment in line with Regulation 19(1) and (2)(a) of the Norms and Standards Regulations must be developed and implemented, within one (1) month.

1.3 The HR department should be upskilled and capacitated to carry out the mandate of RMMCH, within three (3) months.

2. Discharge Lounge

2.1 The Acting CEO of RMMCH should identify a suitable area to create a Discharge Lounge, within one (1) month. This will cater for discharged patients who are waiting to return to their homes.

- 2.2 The Discharge Lounge should be allocated dedicated staff to ensure that patients are monitored until they leave the hospital premises.

3. Security System upgrades

- 3.1 The Acting CEO of RMMCH and HoD must, within one (1) month, submit to the Ombud a security plan to protect users, health care personnel, and hospital property from security threats and risks and ensure that security staff is capacitated to deal with security incidents, threats, and risks.
- 3.2 A clear plan is to be developed within one (1) month regarding the safety of healthcare staff over 24 hours, both within the hospital premises as well as within the immediate areas of the hospital periphery to ensure RMMCH complies with Regulation 17 (1) and (2) of the Norms and Standards Regulations.

4. Disciplinary Inquiry

- 4.1 The Gauteng Department of Health and RMMCH should institute a disciplinary inquiry within one (1) month following prevailing policy and compatible with the Labour Relations Act, 66 of 1995 against the following personnel:

- 4.1.1 **Sr. T Goduka** for using an unauthorised self-concocted solution in the maternity operating theatres during August and September 2022.

- 4.1.1.2 By doing so, she put the lives of patients at risk and the reputation of GDoH at stake. Her actions led to several adverse events (post operative wound sepsis), which necessitated eleven 'relook' surgeries in theatre in August and September 2022.

- 4.1.2 **Dr. NP Mkabayi** for her failure to ensure that the RMMCH has functional systems in place by:

- (a) Failing to ensure adequate HR controls were in place, to restrict access to and loss of RMMCH personnel information.
- (b) Flouting standard HR practices by requesting her own HR personnel file, not signing for it, storing it in her office - from where it subsequently went missing - and not reporting the loss to the HR department or the South African Police Service (SAPS).
- (c) Failure to manage leave as stipulated in her contract with GDoH and in accordance with sections 5.7 - 5.9 of the "**Determination on Leave of Absence in the Public Service**" document.

BREACHES OF NORMS AND STANDARDS

No	Investigation Findings	Related Norms and Standards
1.	The dignity and well-being of pregnant women was compromised as they were expected to sit on plastic chairs in the prenatal ward (ward 15) while awaiting delivery, and sleep on the hospital floor due to overcrowding	Regulation 5 (1) states that <i>"the health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition."</i> Regulation 8 (1) provides that <i>"the health establishment must maintain an environment which minimises the risk of disease outbreaks, the transmission of infection to users, health care personnel and visitors."</i>
2.	RMMCH Human Resource Department (HRD) failed to ensure proper controls to monitor leave processes at the hospital RMMCH HRD failed to put measures in place to control and monitor HR files of health personnel	Regulation 19 (1) provides that <i>"the health establishment must ensure that they have systems in place to manage health care personnel in line with relevant legislation, policies and guidelines."</i>
3.	The dignity of patients and the well-being of healthcare workers are severely compromised	Regulation 5 (1) states that <i>"the health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition."</i> Regulation 19 (1) states that <i>"the health establishment must ensure that they have systems in place to manage health care personnel in line with relevant legislation, policies, and guidelines."</i>
4.	RMMCH was built in 1943 and has never received any substantial upgrades. The aging infrastructure and sewage reticulation system are failing, leading to pipe spillages and toilet blockages	Regulation 15(1) provides that: <i>"the health establishment must ensure that engineering services are in place"</i> . Sub-regulation (2) provides that, for the purposes of sub-regulation (1), <i>"the health establishment must have 24 hour electrical power, lighting, medical gas, water supply and sewerage disposal system"</i> .
5.	Laboratory and Blood Bank services are not available on a 24-hours basis at RMMCH. The only CT scan machine, purchased in 2006 has reached its end-of-life, and is currently functioning sub-optimally	Regulation 11(1) states that <i>"health establishments must ensure that diagnostic services are available and safe for users and for health care personnel involved in delivering these services."</i>

No	Investigation Findings	Related Norms and Standards
6.	<p>RMMCH security is inadequate. There are no access control measures to monitor hospital entry and exit</p> <p>A case of hijacking within RMMCH premises was reported; most interviewees stated that they felt unsafe within the hospital premises</p>	<p>Regulation 17(1) states that: <i>“the health establishment must have a system to protect users, health care personnel and property from security threats and risks.”</i></p> <p>Sub-regulation (2) states that <i>“the health establishment must ensure that security staff is capacitated to deal with security incidents, threats, and risks.”</i></p>
7.	<p>Severe chronic shortage of nursing staff for over five years</p> <p>RMMCH is dependent on Nursing Agencies to provide staff and skilled professional nurses</p> <p>Procurement of these services is through the goods and services budget, leading to over-spending</p>	<p>Regulation 19 (1) provides that <i>“the health establishment must ensure that they have systems in place to manage health care personnel in line with relevant legislation, policies and guidelines.”</i></p> <p>Sub-regulation (2) (a) states that: <i>“for the purpose of sub-regulation (1) the health establishment must, as appropriate to the type and size of the health establishment, have and implement a human resource plan that meets the needs of the health establishment.”</i></p>
8.	<p>Sporadic incidents of nosocomial infections in the neonatal unit</p> <p>Use of diluted disinfectant (Povidone- Iodine) solution for skin cleansing pre-operatively led to eleven post-operative ‘relook’ surgeries between August – September 2022</p>	<p>Regulation 8 (1) provides that <i>“the health establishment must maintain an environment which minimises the risk of disease outbreaks, the transmission of infection to users, health care personnel and visitors.”</i></p>
9.	Non-functional RMMCH Hospital Board	<p>Regulation 18 deals with Governance and it provides that: <i>“the health establishment must have a functional governance structure with written Terms of Reference”</i></p>

LIST OF ABBREVIATIONS / ACRONYMS

AHoD	Acting Head of Department	ICT	Information and Communication Technology
AM	Administration Manager	KMC	Kangaroo Mother Care
BAC	Bid Adjudication Committee	LRO	Labour Relations Officer
CCTV	Closed-circuit television	MEC	Member of the Executive Council
CEO	Chief Executive Officer	MMC	Member of Municipality Council
CHC	Community Health Centre	MMO	Managing Medical Officer
CHAI	Clinton Health Access Initiative	MOU	Maternity Obstetric Unit
CHBAH	Chris Hani Baragwanath Academic Hospital	MRSA	Methicillin-resistant Staphylococcus aureus infection
CMJAH	Charlotte Maxeke Johannesburg Academic Hospital	NDoH	National Department of Health
CS	Cesarean section	NB	Nota Bene
CT-SCAN	Computed tomography Scan	NHA	National Health Act
DA	Democratic Alliance	NHAA	National Health Amendment Act
DID	Department of Infrastructure Development	NHLS	National Health Laboratory Service
DDG	Deputy Director General	NVD	Normal Vaginal Delivery
DoA	Delegation of Authority	O and G	Obstetrics & Gynaecology
DoH	Department of Health	OHO	Office of the Health Ombud
DPSA	Department of Public Service and Administration	OHSC	Office of Health Standards Compliance
ED	Emergency Department	PA	Personal Assistant
EXCO	Executive Committee	PFMA	Public Finance Management Act
GDoH	Gauteng Department of Health	RMMCH	Rahima Moosa Mother and Child Hospital
ICU	Intensive Care Unit	RWOPS	Remunerative Work Outside the Public Service
HE	Health Establishment	SA	South Africa
HIV	Human immunodeficiency virus	SANBS	South African National Blood Service
HJH	Helen Joseph Hospital	SCM	Supply Chain Management
HoD	Head of Department	SLA	Service Level Agreement
HPCSA	Health Professions Council of South Africa	SOP	Standard Operating Procedure
HR	Human Resource	USAID	United States Agency for International Development
HRD	Human Resource Department		
HRM	Human Resource Manager		

DEFINITIONS

- '**Ad hoc**': means made or happening only for a particular purpose or need, not planned before it happens.
- **Constitution** means the Constitution of the Republic of South Africa, 1996
- '**Ex post facto**' **payment** means retrospective approval of payment for work already done without prior approval.
- **Health Establishment (HE)**: means a whole or part of a public or private institution, facility, building, or place, whether for profit or not, that is operated or designated to provide inpatient or outpatient treatment, diagnostic or therapeutic intervention, nursing, rehabilitative, palliative, convalescent, preventative, or other health services.
- '**In loco**' inspection means on-site inspection of the place where an incident connected with the complaint being investigated occurred.
- **Minister of Health**: means the Cabinet member responsible for Health.
- **National Health Act**: means the National Health Act, 2003 (Act No.61 of 2003);
- **National Health Amendment Act**: means the National Health Amendment Act, 2013 (Act No 12 of 2013).
- **Norms and Standards Regulations applicable to different categories of health establishments** means the Norms and Standards Regulations published on 02 February 2018.
- '**Nota bene**': means mark well or note well, to indicate that a particular information is important.
- **Office of Health Standards Compliance (OHSC)**: means a regulatory body established in terms of section 77 (1) of the National Health Act.
- **Ombud**: means a person appointed as the Ombud in terms of Section 81 (1) of the National Health Act.
- **Procedural Regulations Pertaining to the Functioning of the Office of Health Standards Compliance and Handling of Complaints by the Ombud** means the Procedural Regulations published on 02 November 2016.

1. BACKGROUND AND INTRODUCTION

- 1.1 Rahima Moosa Mother and Child Hospital (RMMCH), formally known as Coronation Hospital, was opened in 1944 in the suburb of Coronationville in Johannesburg. Initially, established for people classified as Coloureds and Indians. The hospital started admitting black patients in 1955. In 1995, all obstetrics and gynaecology services were moved from the former J.G. Strijdom Hospital to Coronation Hospital. In 1997, J.G. Strydom hospital was renamed Helen Joseph Hospital (HJH).
- 1.2 On 29 September 2008, Coronation hospital was renamed RMMCH in honour of Rahima Moosa, an anti-apartheid activist who participated in the 1956 march protesting the 'pass laws' for non-white women. Pass laws were a form of South Africa's internal passport system designed to segregate the population, manage urbanisation, and allocate migrant labour. Also known as 'the natives' law', pass laws severely limited the movements of black African citizens and other ethnic groups by restricting them to designated areas. Before the 1950s, this legislation broadly applied to African men, and attempts to use it for women in the 1910s and 1950s were met with significant protests.
- 1.3 RMMCH is a 79 -year-old regional hospital, the only Mother-and-Child hospital in South Africa, delivering over 14 000 babies annually. Child health care services are offered up to the age of twelve years. The institution offers maternity, paediatrics, obstetrics and gynaecology, paediatric intensive care, neonatal unit, operating theatre, emergency, and high adult care services. Although RMMCH is designated as a specialist Mother and Child hospital, rendering tertiary-level hospital services, administratively, it remains classified as a regional hospital. Therefore, RMMCH does not receive a tertiary grant.
- 1.4 As of 15 June 2021, RMMCH had 338 approved and 341 usable beds, with an average bed occupancy rate of 95%. It serves a catchment population of 1,500,000 individuals. The RMMCH staff complement comprises 1274 staff members, with 27 vacant posts. The current RMMCH staff structure dates to 2005, as there have not been any adjustments since then.
- 1.5 Within RMMCH, all high-risk ante-natal patients are admitted to Ward 15, which has a bed capacity of 35 beds. Over the years, RMMCH staff improvised by repurposing some of the space to include an additional four beds, bringing the total bed capacity in Ward 15 to 39 beds. However, the space within Ward 15 remains inadequate to deal with the demand of daily admissions.
- 1.6 The investigation established that there was a longstanding practice of shifting patients around to address the lack of space in the event of high ante-natal demand. Patients in the post-natal ward would be moved to the gynaecology ward to make room for high-risk antenatal patients.
- 1.7 While useful in the short-term, this practice offered a non-sustainable solution, as often, both post-natal and gynaecology wards were full, with no vacant beds to shift patients around. In this case, all ante-natal patients admitted to ward 15 without access to a hospital bed would have to sit on plastic chairs, awaiting their turn to get a bed. As shifting patients from ward to ward was an informal, albeit well-known and accepted practice, there was no documented SOP to guide the process.
- 1.8 Dr. NP Mkabayi, the Chief Executive Officer (CEO), was appointed on 01 January 2021 and assumed duty on 12 January 2021. Before her appointment, Dr. FG Benson was appointed acting CEO from May 2018, following the retirement of the former CEO, Mrs. Jordaan who retired at the end of April 2018.

2. POWERS AND JURISDICTION OF THE HEALTH OMBUD

- 2.1 The Ombud derives his/her powers in terms of Section 81A (1) of the NHAA, 2013 (Act No.12 of 2013). The mandate of the Ombud stipulates that: "*the Ombud may, on receipt of a written or verbal complaint relating to norms and standards, or on his or her initiative, consider, investigate, and dispose of the complaint in a fair, economical and an expeditious manner.*" Section 81B (2) of the NHAA provides that: "*When dealing with any complaint in terms of this Act, the Ombud including any person rendering assistance and support to the Ombud - (a) is independent and impartial; and (b) must perform his or her functions in good faith and without fear, favour, bias, or prejudice.*".
- 2.2 RMMCH is a public health establishment, and its investigation falls within the scope of the Ombud's mandate as the Ombud has jurisdiction to investigate all health establishments in South Africa, both private and public.

3. THE COMPLAINT

- 3.1 Hon. Haseenabanu Ismail (Hon H Ismail), a member of the National Assembly and the Health Portfolio Committee, complained to the Ombud on 06 April 2022 via email against the RMMCH. Hon. H Ismail is a member of the Democratic Alliance (DA). The complaint was risk-rated high and allocated Reference No: **32357**.
- 3.2 Hon. H Ismail alleged the following:
- a) Expectant mothers were sleeping on the floor, as depicted by video footage of Mr. A Sauls taken at RMMCH in the early hours on 01 April 2022. The video flighted by News24 depicts women in an area that looks like a passage sitting on plastic chairs and other women lying on the floor with only a thin blanket underneath them. Images indicated luggage lying around, and the faces of the women were obscured to avoid identification. The voice of the videographer, later known as Mr. A Sauls, could be heard saying: "*Pregnant women, how can this be correct? Can someone tell me how can this be correct? Mothers on cold floors. Who is in charge now? I want to see someone in charge. Everyone is sitting.*" The video footage was 47 seconds long. The video was published by News24 and went viral on social media platforms. It may be found at: <https://www.news24.com/news24/SouthAfrica/News/watch-pregnant-women-sleeping-on-the-floor-at-joburg-hospital-20220402?s=08>.
 - b) Dr. NP Mkabayi, the CEO of RMMCH, was not full-time at the hospital since her appointment in January 2021 and has only spent 182 days at the hospital. Hon. Ismail stated that she was unaware of any CEO who worked from home during the high peak of the Covid-19 pandemic. She further alleged that Dr. NP Mkabayi was setting a poor example because the nurses and doctors did not have the luxury of working from home during the Covid-19 pandemic.
 - c) The dignity and health of patients were severely affected, as well as the well-being of the healthcare workers.
 - d) Hon. H Ismail stated that she understood that RMMCH had seen an increase in patient load with no increase in infrastructure development, compounded by being classified as a specialised hospital. She noted that referrals of most patients from other facilities, such as clinics, had increased the hospital's patient workload. (**Annexure A**)

3.3 Issues identified for investigation:

- a) Whether expectant mothers were sleeping on the floor.

- b) Whether Dr. NP Mkabayi was not full-time at the hospital and had worked 182 since her appointment in January 2021.
- c) Whether the dignity and health of the patients were severely affected, as well as the well-being of healthcare workers.

4. METHODOLOGY AND APPROACH TO THE INVESTIGATION

- 4.1 On 26 April 2022, Ombud sent a notice of complaint to the Gauteng Department of Health Head of Department (HoD), Dr. N Nolutshungu, and the RMMCH CEO, Dr. NP Mkabayi, to notify the province about the complaint and request information regarding the complaint in preparation for the investigation. (**Annexure B**)
- 4.2 On 24 April 2022, the Ombud sent a notice of reminder to the AHoD and RMMCH CEO requesting documentation, as the Ombud did not receive a response from the first notice sent. (**Annexure C**)
- 4.3 On 10 June 2022, a notification of investigation was sent to the HoD and RMMCH CEO to inform them of the Ombud's intention to conduct onsite investigations from 15 June 2022. (**Annexure D**)
- 4.4 The Ombud, in terms of Section 81A (3) (a)(b)(i)-(iv) of the National Health Amendment Act (Act 12 of 2013), authorised Ms. Madithapo Masemola (Ms. M Masemola), Ms. Joyce Monyela (Ms. J Monyela), both Health Care Case Investigators and Mr. Douglas Mapheto (Mr. D Mapheto), the Senior Investigator Legal Cases, from the OHO to gather the necessary information and peruse any documentation that has a bearing on the case at RMMCH.
- 4.5 Upon their arrival at RMMCH on 15 June 2022, Ms. M Masemola and Ms. J Monyela reported to the CEO's office. Dr. NP Mkabayi was not present at RMMCH. Ms. Rhona Luphai (Ms. R Luphai) informed the Investigators that the CEO was sick, and that Dr. FG Benson was acting on her behalf, even though a letter of delegation of authority to act had not been formally signed by Dr. FG Benson.
- 4.6 Notwithstanding these issues, a briefing session was held on the same day (15 June 2022). Towards the end of the session, Dr. NP Mkabayi arrived at RMMCH. Dr. NP Mkabayi selected Ms. R Luphai (Quality Assurance Manager) and Ms. M Tsibu (Risk / Communications Officer) to consolidate the documentation requested by the investigators.
- 4.7 All requested information was to be available by 24 June 2022 for collection. On the due date, Dr. NP Mkabayi sent an email to the Ombud indicating that the requested information was not ready as she was on sick leave. Ms. Lesley Anthea Rose (Ms. LA Rose), who was the acting CEO, in the absence of Dr. NP Mkabayi, requested an extension until 07 July 2022.
- 4.8 On 07 July 2022 and 14 July 2022, Ms. M Masemola collected the requested documents from RMMCH. Human resource documentation from Dr. NP Mkabayi's file could not be provided as the Human Resource Manager (HRM), Ms. Loretta Louw (Ms. L Louw), indicated that this was unavailable. Ms. L Louw indicated that Dr. NP Mkabayi requested her file from HR during Ms. L Louw's absence and never returned the file to HR. Ms. L Louw was requested to submit an affidavit explaining the circumstances surrounding Dr. NP Mkabayi's missing HR file. (**Annexure E**)
- 4.9 Ms. M Masemola, Ms. J Monyela, and Mr. D Mapheto reviewed and discussed the documents and other relevant evidentiary documents relating to this matter and mapped an approach to adopt a way forward for the investigation. The approach was principled but flexible and continually reviewed as more evidence was gathered and emerged. The Investigators offered the hospital a list of staff to be interviewed, which the Investigators indicated was not exhaustive.

4.10 Face-to-face interviews with RMMCH and GDoH staff were conducted to provide evidence. Additional witnesses were identified as the investigation proceeded. The majority of interviews took place at RMMCH. Furthermore, the investigators interviewed Hon H Ismail on 04 August 2022 to obtain further clarity regarding her complaint.

4.11 Between 04 August 2022 – 29 November 2022, 35 interviews were conducted. The interviewees comprised GDoH HoD, MEC, MMC, and RMMCH staff. Ms. L Louw: Assistant Director HR was re-interviewed to provide more information. Dr. NP Mkabayi was interviewed twice, as her initial interview could not be completed. (**Annexure F**)

5. ENGAGEMENT WITH COMPLAINANT

5.1 **Hon. Haseena Ismail** (Hon. H Ismail): interviewed on 04 August 2022 at the RMMCH boardroom.

5.1.1 She is a member of the National Assembly and the Health Portfolio Committee. Her political affiliation is with the DA. She indicated that she decided to complain to the Ombud because she had received complaints from Gauteng citizens about the state of HEs in Gauteng.

5.1.2 Hon. H Ismail said an email was sent to her by Ms. S Bhikhoo explaining RMMCH conditions. The care provided to Ms. N Ismail when she was admitted to RMMCH for the delivery of her baby was 'the final straw'.

(a) Expectant mothers sleeping on the floor:

(i) Hon. H Ismail narrated a video recorded on 01 April 2022, which was flighted by News24. She said she had no knowledge of who took the video, nor could she confirm it was indeed RMMCH. She highlighted that during the oversight visit meeting at RMMCH on 24 June 2022, Dr. FG Benson confirmed that he was aware of the incident wherein expectant mothers slept on the floor due to a shortage of beds and a lack of space. on Haseena Ismail siHo

(ii) Hon. H Ismail said the challenges RMMCH is experiencing are based on the age of the infrastructure, which was not designed to deal with the high influx of patients admitted. She said the staff shortages, load shedding with generators that were sometimes non-functional, and undocumented foreign nationals were some of the issues Dr. FG Benson mentioned as putting a strain on the hospital.

(iii) Hon. H Ismail said the lack of infrastructural development at RMMCH compounded the problem. She indicated that Dr. FG Benson stated during their visit that two sites identified as suitable for extending the hospital were sent to GDoH, but no response was received. Hon. H. Ismail highlighted underspending in the GDoH infrastructure budget and promised to make evidence available to the Investigators, but that was never provided.

(b) Dr. NP Mkabayi was not full-time at the hospital and had worked 182 days since her appointment in January 2021.

(i) Hon. H. Ismail said the allegation that the CEO worked 182 days was based on a response by the former MEC for Health in Gauteng, Dr. NE Mokgethi, dated 24 March 2022. Dr. NE Mokgethi was responding to questions tabled by Mr. JB Bloom, a member of the Democratic Alliance political party. [Legislature questions 5. HL022. (**Annexure G**)

(ii) Hon. H. Ismail said she received an email from Ms. S. Bhikhoo, who accompanied her pregnant relative, Ms. N Ismail, to RMMCH. Ms. S Bhikhoo informed her of the appalling conditions at RMMCH during Ms. N Ismail's admission. Hon. H Ismail said that Ms. S Bhikhoo told her that the toilets were filthy and that she could not wait for Ms. N Ismail's discharge.

- (c) **The dignity and health of the patients were severely affected, as well as the well-being of healthcare workers.**
- (i) Hon. H Ismail said that the well-being of healthcare workers was affected, based on the open letter written by Dr. Tim De Maayer (Dr. T De Maayer) to the media. The investigation found the assertion inconsistent as Dr. T De Maayer's open letter was published on 22 May 2022, whereas Hon. H. Ismail's complaint was lodged with Ombud on 06 April 2022.

INTERVIEWS

(a) Narrated by Ms. Nazeerah Ismail (Ms. N Ismail) and Ms. Salma Bhikhoo (Ms. S Bhikhoo)

- (i) Ms. N Ismail, a patient, and Ms. S Bhikhoo were interviewed on 12 November 2022 at Birchwood Hotel, Boksburg. The two were interviewed at the same time.
- (ii) Ms. N Ismail indicated that she was in active labour on 07 February 2022 and went to Germiston Hospital, where she was denied entry as they told her that she must go to a hospital within her area, and she ended up going to RMMCH. She said her husband and Ms. S Bhikhoo accompanied her to the hospital.
- (iii) Ms. N Ismail said the hospital staff at RMMCH refused her husband to accompany her to the ward, and she was made to carry her bags to the ward. Asked if it was due to the Covid-19 restrictions, her response was no; it was not. Ms. N Ismail indicated that the ward was dirty, and the toilets were filthy. The toilets did not flush, and during her admission, the health personnel lost her blood results; thus, blood specimens had to be repeated, leading to her staying for two more days in the hospital awaiting results.
- (iv) Ms. N Ismail said a nurse delivered her on 08 February 2022 at 05h00 and said the admission process went well even though some of the nurses were unpleasant; hence she raised the complaint to Ms. S Bhikhoo, who spoke to Hon. H Ismail regarding her admission at RMMCH. Ms. N Ismail indicated that even though in the post-natal ward, they were provided beds, they were made to sit on plastic chairs during the day with the babies in front of them, and some of the babies were placed in beds to make room for new mothers who just delivered. She said sitting on the chair was uncomfortable and painful, especially since she had an episiotomy. Ms. N Ismail said that even though the baby was okay, it was painful for her husband not to be present during the baby's delivery. She said the hospital never bothered to inform her family that she had delivered.
- (v) Ms. S Bhikhoo indicated that before taking Ms. N Ismail to RMMCH, she contacted a few people to check if it was a good hospital and was recommended. She indicated that one of the people she contacted was Hon. H Ismail, a DA representative in the Actonville area. She said on the day she asked for a bathroom and was referred to use the ED bathroom, which had bloody pads on the floor, faecal matter all over, graffiti on the walls, and the toilets were not flushing. She said she could not use the toilet.
- (vi) Ms. N Ismail was asked to describe the state of the hospital and said, *"RMMCH is disgusting as compared to other hospitals I know."*
- (vii) Ms. N Ismail was asked if she had seen any patient sleeping on the floor during her admission; her response was No, but she highlighted that in the postnatal where she was admitted after delivery, there were about 25 patients, and most of those were foreigners as they could not converse in South African languages or English.
- (viii) Ms. S Bhikhoo said they wanted HE to be upgraded to the point that would be a pleasant experience for everyone. Proper care is to be provided to patients with respect in a clean environment, and nurses to be compassionate. She said there was no reason why they were not allowed into the hospital to see Ms. N Ismail during her admission but confirmed that only patients were allowed inside the hospital.

- (ix) Ms. N Ismail said she raised the complaint to ensure no other pregnant woman goes through what she has gone through in the future.
- (x) Ms. N Ismail was called on her cell number at 15h05 on 16 November 2022 to verify if she had attended Ante-Natal Clinic during her pregnancy; she said she had not but had a private midwife who was taking care of her during her pregnancy.

(b) Dr. Nomonde Nolutshungu

(i) Narrated by Dr. Nomonde Nolutshungu (Dr. N Nolutshungu): Head of Department (HoD), Gauteng Province.

- (ii) Dr. N Nolutshungu was interviewed on 19 October 2022 at the Office of Health Standards Compliance boardroom.
- (iii) Dr. N Nolutshungu said working as the HoD, she observed a scarcity of leadership within the health department, especially at the executive level. She said some executive managers did not understand the importance of good quality service. Dr. N Nolutshungu said that sometimes executive decisions were not adequately communicated to HEs, which resulted in poor reception by the HEs.
- (iv) Dr. N Nolutshungu said there was no time that any issue was formally brought to her regarding challenges at RMMCH since her appointment in the GDoH. She said the first time she knew of RMMCH issues was when Dr. Tim De Maayer's (Dr. T De Maayer) open letter was in the public domain. She said she engaged with Dr. NP Mkabayi, the CEO of RMMCH, on how to deal with the issues highlighted by Dr. T De Maayer's letter. She said a report was sent to the National Department of Health (NDoH). Dr. N Nolutshungu said that while dealing with these issues, there was a report on the media that Dr. T De Maayer was served with a precautionary suspension - which she was unaware of as she had no part in the decision to suspend Dr. T De Maayer.
- (v) Dr. N Nolutshungu said that following the suspension of Dr. T De Maayer, the DDG - Hospital Services and MEC of Health – Dr. NE Mokgethi went to RMMCH. Due to prior commitments, she could not accompany them. She said the report given to her after that meeting was that Dr. T De Maayer's suspension was lifted, and an instruction was given to Prof. Ashraf Coovadia to issue a written warning to Dr. T De Maayer as the head of Paediatrics for talking to the media regarding internal issues of the hospital.
- (vi) Dr. N Nolutshungu said she requested assistance from the NDoH to address issues raised in Dr. T De Maayer's open letter as they had merit. She indicated she was part of a meeting where Dr. NE Mokgethi, Dr. MJ Phaahla (Minister of Health), and Mr. D Makhura (Premier of Gauteng Province) discussed issues regarding RMMCH and Charlotte Maxeke Johannesburg Academic Hospital (CMJAH). A resolution was reached that RMMCH needed assistance. A team of three individuals, led by Ms. Jeannette Hunter: DDG Primary Health at GDoH, was to offer support to the RMMCH bi-weekly based on a plan developed to address the issues raised. Dr. N Nolutshungu said Dr. Arthur Manning was appointed as the acting CEO of RMMCH. Dr. FG Benson was removed as the acting CEO as he did not appear to be assisting the situation, and his relationship with Dr. NP Mkabayi was strained.
- (vii) Dr. N Nolutshungu said she met with the RMMCH EXCO members, but Dr. NP Mkabayi was not around as she was said to be on sick leave. She said it was clear from that meeting that relations among EXCO members were very strained. The union representatives also highlighted how the CEO's relationship with RMMCH staff members affected their health.
- (viii) Dr. N Nolutshungu was asked how GDoH planned to deal with the issue of a CEO who is mostly not at the hospital, whose actions and inaction negatively impact patient care. In response, Dr. N Nolutshungu said that was a matter that concerns her a lot; GDoH was trying to find the best possible way to deal with the

issue. She indicated that after Dr. NP Mkabayi returned from sick leave in September 2022, a discussion was held with her and her supervisor, Dr. Stephen Mankupane (Dr. S Mankupane) Acting Deputy Director-General (ADDG): Hospital and Specialised Services to chart a way forward. The decision agreed upon was that the CEO would report to the GDoH, as going back to the RMMCH would be counterproductive.

- (ix) Dr. N Nolutshungu said she was unaware of how the calculations had been made to conclude that Dr. NP Mkabayi worked 182 days but said the response should have been formulated by Human Resources at GDoH in liaison with RMMCH as all HR matters pertaining to RMMCH personnel should be captured at RMMCH.
- (x) Dr. N Nolutshungu was asked if a schedule was drafted indicating the days Dr. NP Mkabayi was working from home based on Circular 1 of 2021; she responded that she would not be aware of the arrangements as those would have been between Dr. NP Mkabayi and her supervisor Dr. Freddy Kgongwana (Dr. F Kgongwana).
- (xi) Dr. N Nolutshungu said the RMMCH CEO confirmed that on 01 April 2022, patients were sleeping on the floor as the hospital was full, but it was not a common phenomenon.
- (xii) Dr. N Nolutshungu agreed that the patient's dignity was compromised due to overcrowding and infrastructure issues at RMMCH. She also highlighted that this was not isolated to RMMCH as it is a long-standing problem in Gauteng as the infrastructure of most of the HEs was old. Dr. N Nolutshungu said the former Premier of Gauteng, Mr. David Makhura, had planned to move infrastructural maintenance from the Department of Infrastructure and Development (DID) as most departments had complaints. She said that, unfortunately, the Premier left before the proclamation to obtain different service providers dealing with infrastructure maintenance was finalised.
- (xiii) Dr. N Nolutshungu said that while she would agree that service delivery is negatively affected at RMMCH, the clinicians were doing their best to provide quality health care.
- (xiv) Dr. N Nolutshungu said GDoH developed a six-month plan to deal with the supply chain challenges in the department to ensure they are automated, as this issue is prone to corruption. She also said support services and three clinical areas (Oncology, Maternal and Child Care, Mental Health) were identified for intervention in the six-month plan. She explained that the Clinton Health Access Initiative (CHAI) provided a person to assist with the work, which GDoH would fund.
- (xv) Dr. N Nolutshungu said that although RMMCH did not have a 24-hour blood bank and laboratory services, they relied on HJH, which is 10 minutes away. The system is efficient and works well between the hospitals.
- (xvi) Dr. N Nolutshungu said RMMCH had a Hospital Board despite its questionable functionality. She indicated that she was unaware of the date the new Hospital Board was appointed, as the appointment of the board fell under the mandate of the MEC for Health.
- (xvii) Dr. N Nolutshungu said that during the Premier's State of the Province address, the Premier cited that all HEs that do not comply with Occupational Health and Safety Standards, need refurbishment. The Premier requested such hospitals. A list of three (3) hospitals was submitted to the GDoH, and RMMCH was added to a list of hospitals to be prioritised for OHS compliance and refurbishment by the current administration.
- (xviii) Dr. N Nolutshungu was asked if there were plans to turn Discoverers CHC into a district hospital, as there are no MOUs around RMMCH. Her response was that plans are underway and that the GDoH is working with the Department of Public Service and Administration and Office of the Premier (OoP) to review the staff establishments of hospitals, as this was last done in 2005. Dr. N Nolutshungu said the review of the staff structure would address the utilisation of agency nurses. Dr. N Nolutshungu said the work was part of the six-month plan.

- (xix) Regarding the RMMCH CT scan, Dr. N Nolutshungu said when the CT scan machine was not working, RMMCH was assisted by Leratong Hospital and Nelson Mandela Children's Hospital. According to Dr. N Nolutshungu the part that was needed to fix the RMMCH CT scan machine was obtained from an old CT scan machine at CMJAH. Dr. N Nolutshungu said she was unaware that GDoH did not have a CT scan contract in place as the GDoH contract department deals with that.
- (xx) When the investigator asked if she was aware of the nosocomial infections at RMMCH, she responded that she was aware of the issue. She was not made aware that Povidone-Iodine solution was not available at the medical depot. She was also not aware that a nurse in the theatre concocted a solution that was used to clean patients' skin before operations leading to postoperative wound sepsis.
- (xxi) When asked if the issues at RMMCH would have been dealt with in the absence of external pressure as a result of the complaint from Hon H Ismail, video footage release by Mr A Sauls and open letter from Dr. T De Maayer, Dr. N Nolutshungu inhaled deeply. She said she viewed RMMCH as an exceptional hospital, the 'Jewel of GDoH.' She said there is an acting DDG (Dr S Mankopane) who is responsible for overseeing issues at GDoH HEs and reporting any issues to her office. She indicated that if the RMMCH issues were reported to her, she would have taken an interest in addressing them. However, this was not done. She also said the issues may have been reported to RMMCH management, but she was not aware whether the issues were escalated to GDoH before she joined the department, as nothing was ever reported to her.

(c) Dr. Nomathemba Emily Mokgethi

- (i) Narrated by Dr. Nomathemba Emily Mokgethi (Dr. NE Mokgethi) – Former MEC of Health, Gauteng Province.**
- (ii) Dr. NE Mokgethi was interviewed on 19 October 2022 at the Office of Health Standards Compliance. The interview occurred in the wake of a cabinet reshuffle in Gauteng, after which she was removed as the MEC of Health.
- (iii) Dr. NE Mokgethi said during her tenure, she received complaints from RMMCH. She said on 01 January 2022, when she was at RMMCH to welcome new born babies, she observed that almost all patients who delivered that day were foreign nationals. She said there was only one South African who was in the theatre for a C/S procedure. Dr. NE Mokgethi said staff reported that foreign nationals would come directly from Park Station to RMMCH with their luggage, adding to the problem of overcrowding at RMMCH. She said the other issue was that CMJAH patients were admitted at RMMCH due to the fire, raising the headcount compared to the past years. She said the policy regarding foreign nationals needed to be addressed because if hospitals were only catering to South Africans, there wouldn't be overcrowding.
- (iv) Dr. NE Mokgethi confirmed that she went to RMMCH accompanied by Ms. LB Basani Baloyi (Ms LB Baloyi): DDG Cooperate Services and Mr. Giyani Makamo (Mr G Makamo), Labour Relations Officer after the suspension of Dr. T De Maayer as the issue was becoming a political one. She said she first had a meeting with Dr. NP Mkabayi, then Prof A Coovadia, Dr. T De Maayer's supervisor, and lastly with Dr. T De Maayer, who wrote the open letter. Dr. NE Mokgethi confirmed that the issues raised by Dr. T De Maayer had merit. She said the issue that patients slept on the floor was real.
- (v) Dr. NE Mokgethi said she received a report that on the day of the incident that 'one of the hospitals was diverting patients to RMMCH, hence the overcrowding.'
- (vi) Following the video footage in the media on 04 April 2022, Dr. NE Mokgethi visited RMMCH and said that when she interviewed the patients sitting on chairs in the morning, they confirmed that the nurses told them not to sleep on the floor but to sit in chairs. She confirmed that there was a problem with overcrowding at RMMCH. Dr. NE Mokgethi said there was no suitable space at RMMCH for any extensions.

- (vii) Dr. NE Mokgethi said that she had heard that one of the women who was admitted at RMMCH on 31 March 2022 knew Mr. Ashley Sauls (Mr. A Sauls) as they attended the same church. This patient had called Mr. A Sauls to alert him of the conditions that day. She said the patient was accommodated in a bed in the morning when she did rounds in the sideward.
- (viii) Dr. NE Mokgethi said the information that Dr. NP Mkabayi worked only 182 days was received from Ms. LB Baloyi and Mr. Lucky Motsogi (GDoH HR). She thought that the information was sourced from RMMCH. She said she was unsure of how the total of 182 days was calculated but was aware that Dr. NP Mkabayi was appointed during the middle of the 2nd wave of Covid-19 as, at the time, some officials were working from home.
- (ix) Dr. NE Mokgethi was asked how they appointed a CEO who was usually not at the hospital to oversee patient care and the actions that the province was taking to avert risks. In response, Dr. NE Mokgethi said the question was relevant to the HoD. She said even that the Minister of Health, Dr. MJ Phaahla, raised a concern about Dr. NP Mkabayi's appointment, as he felt she should have been appointed in a role where she could be supervised. Dr. NE Mokgethi said the RMMCH environment was not good for Dr. NP Mkabayi as no one supported her or wanted her there. She said after her discussions with the Minister of Health, she engaged the HoD, Dr. N Nolutshungu, and a decision was taken that the DDG and LRO (Ms. LB Baloyi and Mr. G Makamo) must support RMMCH. She said she instructed that all issues raised in Dr. T De Maayer's letter be actioned. Dr. NE Mokgethi said Dr. A Manning was appointed to act as CEO of RMMCH as everybody complained about Dr. NP Mkabayi.
- (x) Dr. NE Mokgethi said the day it was announced that there would be a new MEC, she requested the HoD address the staff on 07 October 2022 to make them aware of the changes. Dr. NP Mkabayi's medical condition worsened in that meeting, and she was admitted to CMJAH. She was later transferred to Tara Psychiatric Hospital.
- (xi) Dr. NE Mokgethi was asked if Dr. NP Mkabayi disclosed her illness to the department when she was appointed; the response was if she had disclosed this, it would be written on the Z83 form.
- (xii) Dr. NE Mokgethi was asked if the GDoH would consider Medical Boarding or Incapacity Leave for Dr. NP Mkabayi. She responded that the HoD and DDG are working on the issue to determine the best solution.
- (xiii) Dr. NE Mokgethi said the patients were generally happy with the service they received from RMMCH and that the food was of good quality. She said the doctors and nurses were doing their best. She affirmed that, in her opinion, the only problem was that patients' dignity was compromised as they had to sleep on the floor due to overcrowding. She said an ongoing challenge was that simple things that could be bought using petty cash were never done, compromising quality care.
- (xiv) Dr. NE Mokgethi said when the RMMCH CT scan was out of order, a compatible part was sourced from CMJAH's old CT scan machine. She said Dr. NP Mkabayi arranged with Leratong Hospital for patients to be taken there until the issue with the CT scan machine was resolved.
- (xv) Dr. NE Mokgethi said she was unaware that the blood Bank and Laboratory Services at RMMCH did not function on a 24-hour basis.
- (xvi) Dr. NE Mokgethi confirmed that a new RMMCH Hospital Board (HB) was appointed in 2022 and requires training. She said RMMCH has never had a stand-alone Hospital Board. In her opinion, the former HB, overseeing RMMCH and HJH was non-functional. Dr. NE Mokgethi indicated that Dr. GF Benson was facilitating funding from the Netherlands to upgrade the infrastructure and address the water challenges.
- (xvii) Asked if the GDoH has a culture of violating patients' rights, Dr. NE Mokgethi said that could not be correct. She said on the day patients were sleeping on the floor, the hospital was full, and they were told to sit on the

chairs. Asked if she thought expecting a pregnant woman to sit on a chair the whole night was not violating their rights, Dr. NE Mokgethi agreed that this was a violation of patients' rights.

(d) Mr. Ashley Sauls

- (i) **Narrated by Mr. Ashley Sauls (Mr. A Sauls):** former MMC for Health and Social Development in the City of Johannesburg.
- (ii) Mr. A Sauls was interviewed at the OHSC offices on 26 October 2022. He was appointed as the Member of the Mayoral Committee (MMC) for Health and Social Development in the City of Johannesburg. His background is as a community activist. He indicated he wanted to do things no politician has done before. He wanted to do away with the scenario whereby a person on the ground could not connect with someone in a high office. Therefore, he publicized his personal cell phone number so that anyone on the ground could connect with him. This enabled the public to send complaints or compliments about health services directly to him. Within this context, he said that he received a WhatsApp text message at 22h00 on 31 March 2022 from Mr. Eurice Hendricks, a resident in the Coronationville area, concerning the situation of pregnant women sleeping on the hospital floor at RMMCH.
- (iii) Mr. A Sauls indicated that he tried to contact the RMMCH CEO to establish the facts about the content of that message, but there was no response on the number he called. He indicated that he never tried contacting the Gauteng MEC or HoD for health. Following receipt of the WhatsApp message, he visited RMMCH after 23h00 on 31 March 2022.
- (iv) To document the facts, Mr. A Sauls said he recorded a live video from the entrance of RMMCH. He said he introduced himself to the security guards and stated the reason for his visit. Mr. A Sauls further explained to the security guards that he wanted to see Ward 15. Mr. A Sauls confirmed that there was no COVID-19 screening performed before he entered RMMCH. He could not remember whether he was wearing a face mask or not.
- (v) Upon his arrival at Ward 15, Mr. A Sauls said he found more than 10 pregnant women sitting on the chairs and some sleeping on the floor. He said the Matron on duty did not deny anything concerning the situation. Mr. A Sauls insisted that the Matron try to place all the pregnant women in a hospital bed. Once that was achieved, he left RMMCH as his approach was geared towards problem-solving. He indicated that all conversations were captured on video.
- (vi) Following release of the video footage, Mr. A Sauls was invited for multiple media interviews on the matter. While he indicated that hospitals were not his competence, he stated that by virtue of his portfolio as MMC, the residents within the City of Johannesburg were under his care. Therefore, he was compelled to raise such issues.
- (vii) Mr. A Sauls said that based on what he witnessed at RMMCH, he supports the issues raised in Dr. De Maayer's open letter.
- (viii) Mr. A Sauls said after the incident of 31 March 2022, he received more complaints (<5 by WhatsApp; Multiple on social media), which he referred directly to the RMMCH CEO for resolution.
- (ix) When asked whether he reported the matter to the Executive Mayor via any report, briefing, or meeting, he responded that the Gauteng Executive Mayor was aware of his activities as it was a transparent process. Therefore, he used his discretion as the MMC for Health to deal with those matters. He indicated that he wrote to the Office of the MEC for Health, outlining the issues he experienced at RMMCH.
- (x) When asked about his relationship with the RMMCH CEO, Mr. A Sauls indicated that at the beginning there was resistance from the CEO as she was never keen to meet with him, however, her attitude improved

later. Following the release of the video footage, Mr. A Sauls said he had a meeting with the RMMCH CEO and EXCO members - none of whom disputed the fact that patients were sleeping on the floor. During the meeting the team reported that they were overburdened. The presentation by the CEO indicated that they were serving more undocumented foreign nationals than South Africans, although this was not confirmed.

- (xi) Mr. A Sauls indicated that he visited RMMCH on four occasions where he was shown the hospital. The CEO and the team took him around the hospital to show him the challenges that the hospital faced. He said the hospital was clean and looked organised. Mr. A Sauls said RMMCH was doing a lot with a little; therefore, one could believe their justification that the demand is high.
- (xii) When asked if he had visited other hospitals, Mr. A Sauls indicated that he had visited CHBAH. He said all his visits were recorded, and they could be found on his social media page. He said he never saw pregnant women sleeping on the floor at any other hospital besides RMMCH.
- (xiii) Mr. Sauls indicated that the action he took that day was not targeted at any particular facility either before or after the incident.
- (xiv) When Mr. A Sauls was asked what he could do as MMC to assist the hospital with its predicament, he responded that he would create awareness, raise the issues with the MEC, and engage the hospital CEO.
- (xv) Mr. A Sauls indicated that he had a formal conversation with Mr. Michael Sun, the MMC for Environment and Infrastructure Services Department (EISD), to assist the hospital in improving the services, mainly regarding load shedding. To ensure reductions in disruption to the water supply Mr. A Sauls said he contacted the MD for City Power and tried to facilitate the process.
- (xvi) Mr. A Sauls stated that the CEO thanked them for their contribution. He said within his office the acronym 'CARE,' ("Called to Act with passion, respond with compassion, and Execute our duties with military precision.") was coined.

(e) Security Guards

(i) Interviews with Security Guards (employed by LL Security Services)

- (ii) **Security Guard #1**, a security guard at the gate, said the car entered the premises under pretence as the driver stated they were bringing a pregnant patient to the labour ward for delivery. They were driving a white BMW. The registration is not known. The driver was flashing hazard lights and hooting when arriving at the gate. The Security Guard said he never checked inside the car to verify what the driver said, as the car's windows were tinted.
- (iii) **Security Guard #2**, a security guard at the Emergency Department (ED), said the white BMW parked at the doctor's parking located in front of the ED. She confirmed there was no pregnant patient, but two black men informed her that they were going to ward 15. The Security Guard advised the men to seek permission from the night supervisor in charge as visitors are not allowed during the night. However, they forced their way as she failed to stop them. The Security Guard then followed them to ward 15.
- (iv) Arriving at ward 15, the Security Guard confirmed that a few patients were lying on the floor. One of the men started shouting and asking the patients questions. Mr. Mfuno Khosa (Mr. M Khosa), who was in one of the ward cubicles, came to talk to the man as there was a lot of commotion. The Security Guard left the ward after the arrival of Mr. M Khosa to go back to ED.
- (v) The Security Guard said Ward-15 has burglar doors and a security guard to attend to whoever enters the ward. The burglar doors of ward 15 were unlocked on 01 April 2022 when one of the men, later identified as Mr. A Sauls, was the MMC in Johannesburg. After 25 minutes Mr. Sauls and the man accompanying him came to their car and left RMMCH.

(f) Dr. Tim De Maayer

- (i) Narrated by Dr. Tim De Maayer (Dr T De Maayer):** RMMCH Consultant Paediatric Gastroenterologist.
- (ii) Dr. T De Maayer was interviewed on 15 November 2022 at the OHSC offices. He indicated that he concluded his medical degree in 2000. He started his internship at Livingstone Hospital and served his community service at Tintswalo Hospital, where he spent 2 years doing Paediatric research before returning to RMMCH.
- (iii) Dr. T De Maayer said the open letter was addressed to the administrators he thought were not responding to clinicians' complaints. The target was the CEO up to the MEC. He indicated that complaints had been raised in consultant's meetings, and letters were written to the CEO, but there was no response. The letters were written between 2017 and 2021. Dr. T De Maayer explained that Prof. A Coovadia has an electronic system where complaints are logged and will be referred to the relevant people. He said letters written by doctors and Prof. A Coovadia were neither responded to by administrators nor acknowledged.
- (iv) Dr. T De Maayer said what drove him to write the letter was feeling he was doing a disservice to patients. He said: *"if I were a pregnant mom, I wouldn't like to deliver my baby at RMMCH"* because of the patient experience and adverse outcomes.
- (v) Dr. T De Maayer said while still a student in 1998, the RMMCH was excellent, but things have been getting worse since coming back. He said people just come to work and detach from patients due to the injustices happening at RMMCH. Dr. T De Maayer said: *"I need to live with my conscience."*
- (vi) Dr. T De Maayer said when he came back to RMMCH, there was not much deterioration; he started on different projects and was excited, but he also noted that there were nurse shortages as sometimes antibiotics ordered were not given.
- (vii) Dr. T De Maayer said when load shedding in South Africa started in 2008, it led to the unintended consequence of water shortages and that when he was trying to build the Gastroenterology unit at RMMCH but realised everything was crumbling down. He explained that even though he had seen colleagues resigning due to burnout, what kept him at RMMCH because there was no Gastroenterology unit in the Wits circuit and thus felt needed as he was achieving something.
- (viii) Dr. T De Maayer said he directly sent the letter to Mr. Mark Heywood (Mr. M Heywood) (Journalist), whom he trusted as they worked together when Mr. M Heywood was with Section 27. He explained that it took a few months before the letter was published. He explained that the support from the public shocked him, as he did not expect it.
- (ix) Dr. T De Maayer indicated that he met with Dr. NP Mkabayi in the presence of Prof. A Coovadia after the letter was published. The response was almost positive that he spoke about the issues, but the CEO cautioned him about going to the media. What came as a shock was when he was suspended unexpectedly sometime after the meeting. He was unsure whether it was the CEO's unilateral decision or whether it was done in consultation with the MEC of Health. Still, Dr. NP Mkabayi signed the letter of suspension. He said the suspension was lifted due to public outcry and pressure from the Premier of Gauteng. Prof. A Coovadia was to give him a written warning which was not done as Prof. A Coovadia felt was unnecessary. He said the HoD and MEC of Health spoke to him regarding the letter but felt the idea was not to improve service delivery but to address discipline issues.
- (x) Dr. T De Maayer said the letter had positive spin-offs as it unified nurses and doctors. He said, looking back, he was happy that he had written the letter. Still, there are always unintended consequences, as, after the publication, the Paediatric department received complaints regarding the care provided. A second borehole was dug, and the hospital has been exempted from load shedding.

- (xi) Dr. T De Maayer said the main message he wanted to deliver through his letter was to try and indicate that health quality is decreasing rapidly and that there was no response or action from health administrators.
- (xii) Following Dr. NP Mkabayi's absence from RMMCH, Dr. T De Maayer said things were better as everyone is comfortable working with the newly appointed acting CEO, Dr. A Manning. He indicated that Dr. NP Mkabayi was difficult to approach and refused to sign purchase orders, leading to a shortage of essential items.
- (xiii) Dr. T De Maayer explained that the unavailability of Laboratory and Blood Bank service for 24 hours at RMMCH posed a huge problem as critical results such as haemoglobin test results are often received late.
- (xiv) Asked if there was racism at RMMCH, Dr. T De Maayer responded that the tightness of staff at RMMCH attracted him to go back. He chose not to comment.
- (xv) Dr. T De Maayer indicated that doctors sometimes had to go to another hospital to borrow essentials like bone marrow aspirate needles and endotracheal tubes. He said that the reason for this was because they were not aware of the policy or processes to follow. Dr. T De Maayer said SCM is a major issue at RMMCH.
- (xvi) Dr. T De Maayer confirmed that the maternity theatre would be closed in some instances due to a patient awaiting an ICU bed, as the patient cannot be extubated.
- (xvii) Dr. T De Maayer said he would remain in the public service. He indicated that he is often invited to work in the private sector but felt it would take away from his full-time job. He said he chose not to go to the private sector and hopes never to go to the private sector. He confirmed that he would stay in South Africa.
- (xviii) Dr. T De Maayer said his wish is for RMMCH i) to be reclassified as a Tertiary Hospital to address budget issues as it provided a Regional Hospital budget irrespective of being a training, HE, ii) for nursing staff shortages to be addressed, and iii) infrastructure be given attention as the sewage system has collapsed. He said sewage is spilling between buildings, and the hospital has an atrocious smell. (Annexure H)

(g) Dr. Frew Gerald Benson

- (i) Dr. Frew Gerald Benson** (Dr. FG Benson): Senior Clinical Manager (SCM).
- (ii) Dr. FG Benson was interviewed on 12 August 2022. He indicated that he is a Senior Clinical Manager at RMMCH and is responsible for overseeing all the Heads of Departments. All the doctors report to the Head of the Department.
- (iii) Dr. FG Benson has an MBChB qualification from Stellenbosch University and several post-graduate diplomas, including a postgraduate Diploma in Health Service Manager from the University of Cape Town, a Diploma in Tropical Medicine and Hygiene, a Master of Science in Medicine from Witwatersrand University, and a Ph.D. in Public Health obtained in 2018.
- (v) Dr. FG Benson indicated that RMMCH has 8 Community Service doctors and shares Intern doctors with HJH as the two hospitals' service package is complimentary. HJH renders medicine and surgery services, and RMMCH renders paediatric and obstetric services. Dr. FG Benson said "In total there is a complement of round about 80 interns. HJH has 2/3 and RMMCH has a third of the interns, but they rotate through the two (2) health establishments."
- (vi) Dr. FG Benson previously acted as CEO of RMMCH from May 2018 to January 2021. During that period, he was also serving as the CEO of HJH. He said he never applied for the CEO position when advertised because the salary package was lower than what he is earning as an SCM.

Staff shortages versus patient load:

- (vii) Dr. FG Benson said the demand for beds at RMMCH had increased over the years, but the staff establishment and hospital infrastructure remained the same. Dr. FG Benson said "The problem in the whole of Gauteng is that we are still operating on the service plan of 1996."

He said several letters citing the challenges in the hospital were sent to GDoH, but they were never addressed.

- (viii) Dr. FG Benson said there are 1400 deliveries per month, and the staff allocated in the maternity ward is not adequate to deal with the workload. He said nurses are sourced from Nursing Agencies to deal with the workload. He indicated that outsourcing nurses from Nursing Agencies deplete the goods and services budget. He confirmed that overcrowding was the cause of hospital-born infections in the neonatal wards, as mentioned in Dr. T De Maayer's open letter, as RMMCH failed to adhere to the 1.5 metre space requirement between beds.

- (ix) Dr. FG Benson indicated that ideally, there should be three clinical teams for afterhours calls at RMMCH, but the O and G unit only has only two teams due to a shortage of doctors. The other problem is that RMMCH does not have a Head of Unit (HoU) for obstetrics. There is no post for HoU. In 2017 there was a work study commissioned by GDoH. The post was never established due to budgetary constraints.

He indicated that staff shortages impact elective surgical cases, with frequent cancellations of elective surgical C/S, leading to patients sitting on chairs waiting for operations. Dr. FG Benson highlighted that the problem with overcrowding has therefore been longstanding since 2015.

- (x) Dr. FG Benson said there is a high demand at RMMCH due to the services provided, and 40% of those patients are foreign nationals.

The CEO not being present at work:

- (xi) Dr. FG Benson said Dr. NP Mkabayi would always find a reason not to be at the hospital. He said the absence of the CEO meant that problems in the hospital would be directed to the immediate supervisors, which was unfair.
- (xii) Dr. FG Benson was asked if he knew of any other hospital CEO working from home. His response was he was unaware of any but knew of departmental circulars released during the Covid-19 pandemic that provided guidance regarding staff working from home.
- (xiii) Dr. FG Benson was asked if he was aware of the dates when the CEO would be on leave, and he responded that he would only become aware when appointed to act as CEO.

The CEO's leadership style:

- (xiv) Dr. FG Benson explained that there are communication issues with the CEO. The CEO never informs her immediate subordinates about her whereabouts. Dr. FG Benson said the CEO is a problematic person as her issues impact the functioning of the hospital. He said the CEO does not discuss important issues with her EXCO.

Staff morale:

- (xv) Dr. FG Benson said the morale of the staff at RMMCH, especially EXCO was not good. The CEO had also brought up the issue of racism in the hospital because she associated herself with black Africans to the exclusion of other races. He said the CEO caused divisions among EXCO members.

Blood Bank and Laboratory Service:

- (xvi) Dr. FG Benson indicated that NHLS and blood services are unavailable 24 hours. He indicated that even though there is a “Smart Fridge” to store emergency blood, the quantity of blood stored is not sufficient, as one complicated bleeding patient might deplete the stock. He re-iterated that any patient with bleeding required immediate intervention.

(h) Ms. Lesley Anthea Rose

(i) Ms. Lesley Anthea Rose (Ms. LA Rose): Nursing Service Manager (NSM)

- (ii) Ms. LA Rose was interviewed on 10 August 2022. She indicated that she was appointed as NSM on 01 May 2021. She is a qualified Professional Nurse (PN) with Advanced Midwifery and holds a BCur degree in Administration and Education.
- (iii) Ms. LA Rose said RMMCH is a regional hospital specialising in mothers and children under 12 years old. She said RMMCH provides tertiary services, although the hospital is not provided with a tertiary grant. She said nurses, medical specialists, and super specialists in neonatal, obstetrics, and gynaecology are trained at RMMCH through the University of the Witwatersrand (Wits). All the HoDs of Department are Professors from Wits.

Main challenges at RMMCH:

- (iv) In response to the main challenges at RMMCH, Ms. LA Rose outlined the following:
- RMMCH still utilizes the staff structure of 2005, despite conducting the second highest number of deliveries in the country (this equates to 80% of CHBAH deliveries with 25% of the staff complement as compared to CHBAH).
 - Hospital beds have been repurposed, but the staff complement remains unchanged. Nursing Agency nurses are utilised to deal with the shortages.
 - High shortage of ante-natal beds leading to patients sitting on plastic chairs.
 - Patients booked for elective Caesarean Sections (C/S) sometimes wait two weeks before their procedure because of the high number of emergency C/S cases.
 - Specialty nurses are appointed in regular posts as there are no specialty posts. This practice caused a lot of unhappiness which led to a high turnover of staff.
 - Unavailability of a district hospital within the region and MOUs to cater to low-risk cases.
 - Doctors admit patients irrespective of the unavailability of beds leading to ‘chair patients.’
 - Non-availability of Laboratory Services and Blood Bank services for 24 hours at RMMCH.

Patient overcrowding:

- (v) Ms. LA Rose confirmed that when the video footage was recorded by Mr A Sauls, on the evening of 31 March / 01 April 2022, when the patients were found sleeping on the floor, Ward 15 had no vacant beds. She said that 20 patients were sitting on chairs. She indicated that patients would usually be moved to the post-natal ward, but on that day, all wards in the maternity department were full to capacity and there were no available vacant beds. Ms. LA Rose said overcrowding and patients sitting on the chairs were a long-standing problem at RMMCH for years.
- (vi) Ms. LA Rose said a Quality Improvement Plan (QIP) regarding RMMCH’s challenges was developed and sent to the Gauteng Provincial Office; after several meetings with the province, RMMCH was considered the 11th facility under the Premier's Umbrella for refurbishment.

The RMMCH's Divert Policy:

- (vii) Ms. LA Rose explained that clinical management has a supervisor on call during the day and night. During the day, between 08h00 am and 15h00 pm, the staff assesses bed status to determine the pressure on the hospital. If there are theatre cases that exceed the hospital's capacity, the hospital will divert to avoid additional pressure; with beds full beyond capacity, the hospital will also divert. During the night, the hospital will divert if all beds are occupied. The person who does this is called the Zone Matron, but the night supervisor would ascertain that the wards are full. The doctor looking at theatre cases will call the night supervisor. First, the night supervisor would determine the status and call the supervisor on call to ask for diverting. If all hospitals are completely full, there would be no divert – RMMCH would *"have to deal with what is coming to the hospital"*. **On 31 March 2022, there was no written Divert Policy for RMMCH.**

The CEO not being present at work:

- (viii) Ms. LA Rose said the CEO was the only person within the EXCO working from home during the Covid-19 pandemic, and it caused a lot of disharmonies with other staff. She said there was no staff schedule developed for staff to rotate. She said the CEO was not accessible all the time, causing delays in procurement documents that needed to be signed.

Staff morale:

- (vix) Ms. LA Rose said relations amongst EXCO members were tense because the CEO believed that everyone had something against her as she was the first black CEO at RMMCH. She said the CEO's management style is questionable as she changes things unilaterally, without discussion with the EXCO.

(i) Ms Loretta Louw

- (i) Narrated by MS Loretta Louw (Ms. L Louw):** RMMCH Human Resources Manager.

- (ii) Ms L Louw was interviewed on 31 August 2022 and re-interviewed on 13 October 2022.

- (iii) Ms. L Louw shared that she has worked at RMMCH since 08 September 1986. She was appointed as an Assistant Director (AD) of Human Resources (HR) for the past 16 years. She indicated that she is the Human Resource Manager at an AD position because RMMCH does not have a director in its organogram. She said she had no HR tertiary qualifications as, at the time of her appointment, the requirements were matric and experience in HR, both of which she possessed.

- (iv) Ms. L Louw was asked if she had acquired qualifications or certifications to enable her to perform her function; she responded that she does not have any formal qualifications to date but has attended short courses provided by the GDoH regarding HR over the years. (She could not provide the types of courses attended and promised to check which ones she had).

- (v) Ms. L Louw said that staff shortage is the challenge experienced in the Human Resource Department (HRD). She said this is a stressful situation as the HRD cannot attend to everything that needs to be done, which necessitates her to keep track of what is still to be done to meet their targets. She indicated that HRD has 7 clerks, 2 supervisees, Labour Relations Officer, and Wellness Program Officer.

- (vi) She indicated that her team is not sufficient to deal with the task at hand and had requested extra posts but, to date, have not been granted.

- (vii) Ms. L Louw was asked what made her wake up in the morning and come to work, irrespective of the challenges, she shared that she loved her job. Ms. L Louw said there would be people coming to her office

for help and making a difference in another person's life and assisting them with their problems makes her happy. She said God blessed her with the wisdom to make a difference in people's lives. Ms. L Louw indicated that there was a time that she felt that joy was taken from her because of the type of CEO they had since the departure of Ms. Susan Jordaan (Ms. S Jordaan) in 2018. She indicated that Ms. S Jordaan had an open-door policy and provided the support needed.

- (viii) Ms. L Louw said presently, she feels like people don't care and their attitude is not good. She said one is constantly reminded that they are not at the same level as they are not clinicians or allied workers, irrespective of the fact that they all need each other to provide service.
- (ix) Ms. L Louw was asked if she had any knowledge of the legislature question asked by Mr. Jack Bloom, to which Dr. NE Mokgethi responded that Dr. NP Mkabayi spent 182 in the hospital. She responded that she did not know how the 182 days was reached as HR department had not done those calculations.
- (x) Ms. L Louw said Dr. NP Mkabayi requested her file from the HRD. At that time, she was on leave and was only made aware of the issue by Mr. Qasim Bowes (Mr. Q Bowes) around March to May when Dr. NP Mkabayi took her file. She indicated that it was not signed out as they had no controlling measures at the time, and Dr. NP Mkabayi did not explain why she needed her file. Mr. Bowes assumed she needed the file to restructure her salary. Ms. L Louw was asked to explain the types of employee files kept in the HRD. She explained that the file Dr. NP Mkabayi took was a Personal File containing all her personal information and a Leave Form file. Ms. L Louw said around June 2022, she approached Dr. NP Mkabayi to enquire about the file as it was not returned to HRD. Dr. NP Mkabayi told her that it was missing from her office. Ms. L Louw said that HRD reconstructed a new file for Dr. NP Mkabayi by accessing documents from the Doc-track system.
- (xi) Ms. L Louw said after the interviews with the Ombud investigators in August 2022, she arranged that the GDoH train her staff regarding the HR Policy and what should be implemented. She said SOPs are drafted, which are still awaiting sign off to ensure proper control in the HRD.
- (xii) Ms. L Louw said regarding the apparent missing personnel file of Dr. NP Mkabayi from her office, as reported, Mr. G Celliers did advise that a report should be written, and the matter be reported to the police. She said she was not aware if that was done.
- (xiii) Ms. L Louw was asked about Dr. NP Mkabayi's leave trend. She said Dr. NP Mkabayi, like any employee with less than 10 years in public service, qualified for 22 days. She indicated that Dr. NP Mkabayi would request leave from her supervisors at the provincial office, then the signed leave form would be sent to HRD by her Personal Assistant (PA). She indicated that the provincial office has no direct link with HRD regarding leave taken by Dr. NP Mkabayi. Ms. L Louw further explained that what will be in the HRD procession will be what has been submitted by the CEO's PA. She said leave forms do not always come with a Delegation of Authority Letter (DAL). Ms. L Louw indicated that previously the CEO issued the DAL, but since June 2022, it has been issued by the Central Office.
- (xiv) Ms. L Louw was asked about the documentation provided to the Ombud where DAL did not correspond with Dr. NP Mkabayi's leave form or DAL without leave forms, and she responded that what they provided to the Ombud was what they captured. What did not correlate was not provided to them by the CEO's office.
- (xv) Ms. L Louw was asked what her relationship with Dr. NP Mkabayi was like and she responded that they had a good relationship from the start. However, in time it was tarnished by Dr. NP Mkabayi, who reminded her that she did not have what she has in terms of her educational status. Ms. L Louw said even though she knew Dr. NP Mkabayi was human and had her faults, Ms. L Louw always did what was required of her and showed Dr. NP Mkabayi the respect she deserved as her senior.

- (xvi) Ms. L Louw was asked if she thinks patients are looked after in her own assessment and whether the hospital was delivering the quality care it was supposed to deliver. She indicated that in her observation, the hospital was doing well regarding patient care as RMMCH has good clinicians who love their patients, even though there might be challenges with the budget and shortage of types of equipment. She said while patient care is good, the level of hospital cleanliness has gone down over the 36 years she has worked at RMMCH. She said RMMCH used to be the cleanest hospital, but now the condition is not good. She said managers and staff are not doing what they are supposed to do to attain the level of cleanliness required.
- (xvii) She indicated that the population of RMMCH has grown over the years, and the hospital is seeing more patients with limited staff. She said the aging infrastructure was also not assisting as the hospital is nearing 80 years since it was built. Ms. L Louw highlighted the challenges of Dr. NP Mkabayi not signing documents on time as she would not understand what was written in the documents. Ms. L Louw said she thinks Dr. NP Mkabayi is overwhelmed. She stated that she knows that the Department of Health needs clinicians to head institutions, but sometimes it is a problem for someone with no administration background.
- (xviii) Ms. L Louw confirmed that the hospital was overcrowded but indicated that she was unaware of any patients sleeping on the floor. She said she was aware that there would be patients sitting on chairs but had never heard from anyone that they would sleep on the floor. She indicated that the video footage posted by News24 was an eye-opener. Ms. L Louw confirmed that when her daughter delivered at RMMCH, there were patients who sat on chairs but would not affirm whether they slept during the night as all beds were full but believed the ward managers would arrange for those patients.
- (xix) Ms. L Louw was asked if patients at RMMCH are treated with the dignity they deserve or taken for granted. She responded that it is a difficult question to respond to as she is not always in the wards, but from what she heard from gossip, patients are happy with the treatment they receive at RMMCH, even though cleanliness remains a sore point.
- (xx) Ms. L Louw said the foreign national issue at RMMCH is not new as there were challenges with foreign nationals even during Ms. S Jordaan's tenure as CEO.
- (xxi) Ms. L Louw was asked if there was an issue of racialised treatment at RMMCH. In responding, she said she had not experienced it, even though sometimes people may not be conversant with the Afrikaans and Sotho languages; usually, they will be called to order regarding using a language not officially used in the department, and to her, it had never made an issue or seen as racism.
- (xxii) Ms. L Louw said the blood bank that is not functional for 24 hours had been a challenge for many years. She indicated a request was sent to the GDoH to indicate the blood bank challenge but to no avail. Ms. L Louw said the non-availability of the blood bank services 24 hours at RMMCH compromised service delivery as a driver had to be sent to HJH if needed.
- (xxiii) Ms. L Louw said RMMCH did not have a Hospital Board as they shared the board with HJH when Dr. FG Benson was the acting CEO. She explained that a new Hospital Board was appointed for RMMCH in 2022, and the members were introduced to the EXCO members in September 2022.
- (xxiv) Ms. L Louw indicated that if she had the powers, she would deal with the issue of bad attitudes from staff. She said due to the economic crises, nursing is not attracting the right calibre of people with a passion for nursing. She wished health personnel could treat people with the respect they deserve. Ms. L Louw highlighted the infrastructure problem as a deterrent to quality service delivery and said the GDoH should provide a new build hospital as the premises where RMMCH is situated do not have space to increase space capacity. She said the Ombud should recommend to the GDoH that persons employed as CEOs should have knowledge of administration to enable them to understand all hospital spheres, not just clinical ones.

(j) Mr Theodorus Ernest Van Wyk

- (i) **Mr Theodorus Ernest Van Wyk** (Mr TE Van Wyk): Financial manager. Mr. TE Van Wyk was interviewed on 29 August 2022.
- (ii) Mr. TE Van Wyk has Grade 12 qualifications. He has no formal finance qualifications but has vast experience in the finance field. He was appointed in August 2007.
- (iii) Mr. TE Van Wyk said his core function is to oversee the hospital's finances. He said he sometimes assists with SCM as he understands the systems very well. He indicated that he has eight (8) staff within his unit dealing with all financial issues.
- (iv) Mr. TE Van Wyk said that sometimes service providers are paid late because the CEO would refuse to sign RSL01 documents that were **wrongly** completed. Mr. TE Van Wyk gave an example of service providers having Service Level Agreements (SLA) who were paid every month submitted to Dr. NP Mkabayi's office, and she declined to sign as the invoice was not attached.
- (v) Mr. TE Van Wyk said that due to the non-availability of funded posts, Nursing Agency nurses are procured through the goods and services budget. He said for the financial year 2022/2023, RMMCH utilises the staff they have; thus, the budget used for agency nurses had reduced by R11 million compared to 2020/2021.
- (vi) Mr. TE Van Wyk further explained that because a regional hospital budget is provided for RMMCH, it's not adequate to procure equipment such as a new CT scan machine.

The CEO's leadership style:

- (vii) Mr. TE Van Wyk said the leadership of the CEO was a problem as she expects the EXCO members to liaise only with her PA, not her, and she is never accessible. He said the CEO claimed to be a perfectionist, who called everyone incompetent. Mr. TE Van Wyk said he does not trust the CEO as she does not have the best interest of the patients at heart.
- (viii) Mr. TE Van Wyk said change was a priority on the CEO's agenda, despite the fact that there were no reasons provided for this. He said: *"they are working with what they have been working with for years. Why do they have to change everything."* He explained that people are demoralised at RMMCH, and some even want to leave the hospital.
- (ix) Mr. TE Van Wyk said the hospital is continually in crisis mode, as most end users fail to check their stock levels, and orders end up as emergencies. He said it was a long-standing problem. Mr. TE Van Wyk said: *"maybe they were spoiled as they had been doing things their way, and the former CEO and Dr. FG Benson never saw anything wrong as they signed documents without asking questions because there was a sense of trust."*

(k) Mr. Gustave Cilliers

- (i) **Mr. Gustave Cilliers** (Mr. G Cilliers): Facility Manager.
- (ii) Mr. G Cilliers was interviewed on 24 August 2022 at the RMMCH boardroom.

Mr. G Cilliers is the first Facility Manager to be appointed at RMMCH in 2000 to date. He has no Facility Management qualifications but attended introductory courses offered by the provincial department. Mr. G Cilliers said, he does rounds with a person from the Department of Infrastructure Development (DID) on a daily basis but was unable to provide evidence in that regard.

- (iii) Mr. G Cilliers explained that he has a handyman employed to deal with minor issues in the hospital while the DID performs work exceeding R500,000.

Infrastructure challenges:

- (iv) Mr. G Cilliers said that because the hospital was old, there were problems with sewage reticulation. He said that pipes under the building are collapsing, and the sewage does not flow adequately. The sewage back-up causes leakage into the RMMCH hospital courtyard. He said sewage trucks pump up the sewage every two weeks. Of the 354 toilets in the hospital, 40 toilets need attention as there is a lot of malicious damage to the bathroom. He also said that issues of sanitation are very critical as they affect patients. Mr. G Cilliers said leaking steam pumps lead to poor heating and steam unavailability in hospital departments. He said the pipe system needed replacement.

Water challenges:

- (v) The hospital currently has three (3) pipelines with running water. In 2022, the City of Johannesburg Water department agreed to lay an additional pipeline at RMMCH. The hospital also has ten (10) JoJo tanks of 10,000 litres each and a borehole donated by the Gift of the Givers which is running permanently. Since this was done, the water supply in the hospital has improved, although one of the main challenges is that the pressure is not high enough to pump water from the borehole to two tanks in the roof. The hospital is also in the process of getting an additional reservoir on site to supplement the water supply.

Back-up Generators:

- (vi) RMMCH has two (2) generators. The main challenge with the generator was poor synchronisation i.e., the generator would not switch on as soon as the electricity went off. This was seen on two occasions: once during the night for about 1 hour and 30 minutes to two hours; and once during the day for about 1 - 1.5 hours. He said the generators were fixed and tested every Monday for compliance. Copy of the generator tests provided. (**Annexure I**)

CEO's leadership style:

- (vii) When asked about the CEO's leadership style, he felt that the CEO had a valid point in returning incomplete documentation without signing to ensure everything was done correctly. He said: "*the CEO had one rule, do things correctly.*" He said the CEO has a lot of knowledge but manages from the side lines. In his opinion, the CEO was more interested in issues at the Provincial level than dealing with her primary responsibilities at the hospital.

Equity Issues:

- (viii) Mr. G Cilliers said equity at RMMCH remains a problem.

(I) Mr Tyrone Wessels

- (i) **Mr Tyrone Wessels** (Mr T Wessels): Administration Manager (AM). Mr. T Wessels was interviewed on 29 August 2022 at the RMMCH boardroom.
- (ii) He has worked at RMMCH for 35 years in different positions. In 2008 he was appointed as AM. Mr. T Wessels holds a National Diploma in Public Management through Unisa, completed in 2012. Presently he is studying towards an LLB degree through Unisa. Mr. T Wessels indicated that he is responsible for eight (8) departments, two (2) of which are directly his responsibility as they have no supervisors. He said that sometimes he becomes overwhelmed but takes each day as it comes.

- (iii) Mr. T Wessels said patients admitted at RMMCH hospital, according to the Department of Health Information System (DHIS), are of different ethnic groups, with 30% being foreign nationals.
Delayed procurement of supplies:
- (iv) Mr. T Wessels said the main challenges in SCM relate to unsigned RLS01 sent to the CEO's office. He stated that there would always be an issue with submissions, irrespective of the minor mistake; the CEO would not compromise. He said he believed in: "**COMPLY AND COMPLAIN LATER.**" When asked what that means, he explained that the CEO should sign irrespective of errors identified and complain later for service delivery. He acknowledged that sometimes SCM was to blame as they did not track submitted documents or correct them in time.
- (v) He asserted that sometimes challenges were caused by end users making requisitions late due to the end user's failure to monitor their stock levels or issues where doctors have preferred service providers regarding the type of item they need.
- (vi) When asked why RMMCH was not borrowing from other hospitals, as there is provision to do that in such instances. Mr. T Wessels could not provide a direct answer to the question. He also refuted the allegation stipulated in Dr. T De Maayer's open letter that doctors go to other hospitals to borrow resources. He said if that were true, a VA7 form would have been used for that purpose, and it was never brought to his attention. Mr. T Wessels said RMMCH has space challenges leading to insufficient storage space for stock supplies.
- (vii) Mr. T Wessels said the chairs utilised in Ward 15 were not meant to be used instead of hospital beds but were procured for patients in the waiting areas.

The CEO's leadership style:

- (viii) Mr. T Wessels said there were trust issues with the CEO, and the fact that she was rude did not make matters easy. He said the CEO was a vindictive person and not fit as a CEO as she is not a team player.
- (ix) When Mr. T Wessels was asked if he thought he was doing an excellent job as the AM, his response was "No". He explained that it was impossible to give his best as he is usually involved in crisis management within the departments he oversees.

(m) Dr. Amy Wise

- (i) **Dr. Amy Wise:** Acting HoD Obstetrics and Gynaecology (OandG). Dr. A Wise was interviewed on 29 August 2022 at the RMMCH boardroom.
- (ii) Dr. A Wise obtained her Bachelor of Medicine, Bachelor of Surgery Degree (MBBCH) from Wits in 2001. In 2010 she received her Fellowship of the College of Obstetricians and Gynaecologists (FCOG) through the College of Medicine. She sub-specialised in Maternal and Neonatal medicine and holds a Master of Science in Medicine qualification.
- (iii) Dr. A Wise was appointed as the AHoD OandG in April 2021 to date, with monthly renewals of the appointment. She explained that RMMCH had adopted this approach due to public service regulations that forbade one to serve in an acting position for more than a year.

Staff shortages versus patient load:

- (iv) Dr. A Wise indicated that the problem of overcrowding at RMMCH has been going on for over 5 years. Patients are placed on chairs and will get a bed depending on whether other patients are discharged. She indicated that in 2006, 10,000 deliveries were performed per month. Since then, the number of monthly deliveries has increased to 14,500, but the staff structure has remained the same. She confirmed that the

issue of patients lying on the floor and sitting on chairs is a reality, and shifting patients around was not a solution. While it might not be ideal, doctors are afraid to send patients home for fear that they will develop complications at home.

- (v) When asked what potential solutions might be, she said online booking of patients would avoid overcrowding, and upgrading Discoverers CHC into a district hospital would relieve RMMCH's workload.

The Quality of Service:

- (vi) Dr. A Wise said patients sitting on chairs are not fully assessed unless they have a complaint, but the doctor usually checks what is written in the bed letter to make a clinical decision.
- (vii) Dr. A Wise indicated that the time taken to perform operations as well as the time taken between operations, was too long. Dr. A Wise said the last case for elective C/S needed to be on the table before 14h00; otherwise, it would be cancelled. No explanation was given regarding this unusual practice.
- (viii) Dr. A Wise said the shortage of space at RMMCH affects the quality of care. The space issue affects everything, patients, storage, teaching rooms, etc.

Delays in procurement processes:

- (ix) Dr. A Wise highlighted that end users ordered stock late, leading to deviations. To her knowledge, there had not been shortages of essential supplies in the hospital.

The CEO's leadership style:

- (x) Dr. A Wise said her working relationship with the CEO was good when she arrived because she was happy that the CEO was a doctor, but she soon learned of her refusal to sign documentation. She described the CEO as a bully and rude person. She said the management of the CEO was very divisive.
- (xi) Dr. A Wise said the CEO was everywhere except at the hospital. She alluded to an incident on 14 June 2022, where the CEO posted in their WhatsApp group that she was going to be sick on 17 June 2022. Dr. A Wise said that was strange to plan to be sick unless the CEO had a planned surgical operation.
- (xii) Dr. A Wise said the CEO would be good in a communication portfolio as she likes talking and attending functions. In her opinion, Dr NP Mkabayi is not fit as a CEO as the job is stressful, and she said the system failed her.

The Staff morale:

- (xiii) Dr. A Wise said the staff morale was very low. She said she is at RMMCH because she loves her job and gets fulfilment.
- (xiv) She highlighted that she learned in a meeting when the CEO was talking to someone at PDoH over the phone and placed on the speaker that she was the recommended person for the HoD O&G position after undergoing interviews. Dr. NP Mkabayi brushed it off by saying the problem was her race.
- (xv) She said that from then onwards, she viewed the CEO in a different light as no one bothered to inform her personally.

(n) Dr. Nozuko Precious Mkabayi

(i) Dr. Nozuko Precious Mkabayi (Dr. NP Mkabayi): RMMCH CEO.

- (ii) Dr. NP Mkabayi was first interviewed on 12 August 2022. The interview could not be completed at the time due to time constraints. Dr. NP Mkabayi was booked off sick for September 2022. The Office of the Ombud arranged to interview her upon her return to work; she confirmed the date of 13 October 2022. However, on the appointed day, the investigators and the Ombud arrived at RMMCH to learn that Dr. NP Mkabayi was re-admitted to the hospital on 07 October 2022. There was no prior communication. Several attempts were made to allow Dr. NP Mkabayi to complete her interview. A second interview was conducted on 29 November 2022 at the Office of the Ombud.
- (iii) Dr. NP Mkabayi indicated that she was appointed CEO at RMMCH on 01 January 2021. However, she started working on 12 January 2021 because she was still employed in Cape Town and needed more time to do a proper handover.
- (iv) She is a qualified medical practitioner with an MBCH degree obtained in 1994 from the University of KwaZulu Natal (UKZN) medical school, a one-year internship in 1995 at Natalspruit in Thokoza, 6 months as a Paediatric Medical Officer in 1996 at King Edwards Hospital in Durban. In October 1996, she started a private practice in Soweto for 6 years; she worked at RMMCH in January 2002 for 6 months as Paediatric Medical Officer. In July 2002, she became a Registrar in the Paediatrics department. She spent 18 months in that Circuit and rotated for 6 months at RMMCH, 6 months at Chris Hani Baragwanath Academic Hospital (CHBAH), and 6 months at CMJAH. In January 2004, she worked as a Research Medical Officer at the perinatal HIV research unit (PHRU) at CHBAH, where she was part of HIV research in expectant mothers. From 2004 - 2005, she was appointed Director: Forensic Medical Services in the Eastern Cape Department of Health. Before her appointment at RMMCH, she worked in Emergency Medicine in Cape Town Private and Public Hospitals. She also has a Diploma in HIV Management from 2006 and certificates in APLS (2012) and ATLS (2014).
- (v) Dr. NP Mkabayi indicated she is a mental health advocate because she has lived with bipolar disorder for the past 28 years. She decided to 'come out' about 12 years ago because of the stigma associated with mental illness.
- (vi) Dr. NP Mkabayi indicated she had prior management experience in governance, having worked as a Director in the Eastern Cape Department of Health for 2 years and was a manager in various Non-Governmental Organisations (NGOs) (no additional details were provided).
- (vii) In 2019, Dr. NP Mkabayi said she worked for the ANOVA Health Institute, on a program funded by USAID. She resigned from ANOVA following deterioration in working relations after disciplinary action was taken against her which resulted in a written warning issued by ANOVA management.
- (viii) She said the incident that led to the disciplinary hearing was due to the management of ANOVA feeling she had gone beyond her call of duty when she tried to deal with a crisis at a clinic in Soweto. She explained that there was a meeting between the ANOVA staff and USAID when they heard noise outside. When she went to investigate, a doctor who barged into their meeting complained that ANOVA staff was doing as they pleased, and the clinic staff did not have consulting rooms. The ceiling in the consulting room of the clinic staff had fallen, and they had to consult patients in the passage.
- (ix) Dr. NP Mkabayi explained that she called the Chief Director of infrastructure in the province to explain the crisis, who then advised her to send a WhatsApp message to the MEC of health regarding the matter. She then sent a message to the MEC. This was seen as her overstepping her boundaries as she did not inform / consult ANOVA management. She was then disciplined for her actions. Dr. NP Mkabayi indicated that after the

disciplinary hearing, relations were strained, and she resigned as she was blamed for the strained relations between the Department of Health and USAID.

Leadership style:

- (x) Dr. NP Mkabayi described herself as a consultative leader, a stickler for rules, and a perfectionist, which made people view her as a hard leader and a bully.

The issue of not being present at work:

- (xi) Dr. NP Mkabayi said she was unaware of the conclusion that she was only in the hospital for 182 days. She said she worked from home as most EXCO members were sick due to Covid-19. Sometimes, she attended Microsoft TEAMS meetings from home due to the erratic WIFI at the hospital, causing her to miss some discussions. Dr. NP Mkabayi indicated that Dr. FG Benson also attended Microsoft TEAMS meetings from home due to the WIFI challenges.
- (xii) She indicated that most of the time, she used an Uber to come to work, and because her car was not in the parking bay, people assumed she was not on duty. She did not answer a question about being physically present in her office during those occasions.
- (xiii) She said the allegations that she is not at work were deliberate *“because how would Mr. J Bloom know that I am not in the hospital but working from home?”*

Leave Form Inconsistencies:

- (xiv) Dr. NP Mkabayi indicated that she qualified for 22 days of annual leave in a year and was aware that she never exceeded her 22 days for the 2021/2022 financial year.
- (xv) When asked why some of the dates in the Delegations of Authority (DoA) letters did not correspond with annual leave forms, she could not provide an answer and said she would revert to the investigators regarding the matter, but that never happened.
- (xvi) During the interviews on 29 November 2022, Dr. NP Mkabayi was again asked about the irregularities regarding leave taken from the 03 to 16 July 2021. The leave form and DoA were incompatible as there was no leave form from 03 to 08 July 2021. Dr. NP Mkabayi indicated that she does not have that information, despite having promised to submit the information to the investigators after her interview on 12 August 2022. Dr. NP Mkabayi said she requested her new PA, Mr. Zwane, to get the information from her former PA. Unfortunately, she was not provided with that information. She also requested the HR Manager to furnish her with the information, and still, she had not received that information. Dr. NP Mkabayi said she had not been to RHMMCH due to her ill health since 01 September 2022.
- (xvii) Ms. L Louw, during her interviews, explained that the HR department never received Dr. NP Mkabayi's leave form for 03 to 08 July 2021.

Delays in procurement processes:

- (xviii) Dr. NP Mkabayi said the problem with RMMCH EXCO members is that they have been in positions for a long time and are used to doing things their way. She said managers are resistant to change.
- (xix) Dr. NP Mkabayi explained that when she arrived at RMMCH, she observed that RLS01 documents were not compliant, affecting the turnaround time for the CEO's signature. She requested the HJH Supply Chain SOP, which she discussed in the EXCO meeting. She also instructed Mr. T Wessels and Mr. TE Van Wyk to go to

HJH to benchmark their good practices. She said the two managers never implemented the instruction and never provided reasons in that regard.

- (xx) Dr. NP Mkabayi said she provided support through SCM expertise from GDoH and CHBAH to workshop staff in the SCM Department, but her efforts were shunned, and no reasons were given for not following instructions. She said she avoided implementing consequence management, hoping managers would change, as she viewed that as a last resort.
- (xxi) Dr. NP Mkabayi said the expectation of some of the EXCO members was for her to sign incomplete documents that don't comply because invariably, documents are submitted for her signature at the last minute. Managers would say that the requests were urgent, depending on the type of documents to be signed. She explained that before signing, she had to assure herself that everything was correct, as she had a fiduciary responsibility. She said she always informed the manager involved if there were mistakes, but departments take a long time to correct documents and always blamed her for delays.

RMMCH Divert Policy

- (xxii) Dr. NP Mkabayi said when she started working at RMMCH, she was told about a divert policy during the handover even though she never saw the written policy. She explained that divert usually applies during the night. The clinicians will alert the zone matron about the status of the hospital, who then discuss it with the superintendent. The superintendent will determine if there is a need for a divert and then request the divert from the MMO on-call based at the Head Office, who will then grant the divert. She said the MMO is aware of all situations of hospitals in Gauteng.
- (xxiii) Dr. NP Mkabayi indicated she was unsure what happened on 01 April 2022. However, RMMCH is usually overburdened. The divert may have been granted earlier when the hospital was not so full.

The missing laptop from Dr. NP Mkabayi's office.

- (xxiv) Dr. NP Mkabayi reported the matter to Mr. G Cilliers, who oversees equipment. Mr. G Cilliers advised her to report the matter to the police station. Dr. NP Mkabayi said that because she was unsure if the laptop went missing from her office or home, she decided not to report the matter to the South African Police Services (SAPS). She indicated that hospital documents/files were also missing from her office, which were never found. Dr. NP Mkabayi said she was ill, and the issue slipped her mind; hence it was not reported to SAPS.

Security issues at RMMCH

- (xxv) Dr. NP Mkabayi said following the high jacking of an intern doctor within the hospital premises in the parking bay, an EXCO meeting was held the following day, where heads of Departments and heads of clinical departments were called and asked to write a security report with recommendations. The report was written and sent to the head office as requested by the Provincial Director of Security. She said the hospital recommended higher-grade security and more security at critical points. Dr. NP Mkabayi indicated that the security at RMMCH does not qualify to carry firearms.
- (xxvi) Dr. NP Mkabayi said she contacted the Station Commander at Sophia Town police station and requested a satellite police station by the RMMCH gate. Subsequently, the local police station sent police personnel who patrolled twice a day at the RMMCH, and they would sign on their register. She said the process was ongoing. The heads of departments were requested to inform their staff to report all security incidents and keep their belongings safe.

(xxvii) Dr. NP Mkabayi said the contract of the existing security had expired and they are on a month-to-month contract. RMMCH requested that they be changed, and the GDoH provincial office indicated that they were in the process of appointing a new security company.

(xxviii) Dr. Mkabayi said since she started working at RMMCH, the CCTV security cameras were not working.

Dr. NP Mkabayi's highlights from working at RMMCH:

(xxix) Dr. NP Mkabayi said some of her highlights at RMMCH is that she put systems in place. She indicated that when she arrived, RMMCH did not use the correct letterheads, and the staff could not draft formal memorandums according to the correct protocol and letters. She said there was no uniformity as everyone did their own thing. Dr. NP Mkabayi requested the communication unit at the head office to facilitate a workshop to train the staff at RMMCH on how to write and be professional.

(xxx) She said the matron's statistics were hand-written and requested some staff members to assist matrons in doing their statistics on the laptop using a spreadsheet.

(xxxi) Dr. NP Mkabayi said when patients from CMJAH were transferred to RMMCH after the CMJAH fire, they experienced water shortages. She facilitated putting a borehole donated by the Gift of the Givers. Though it was not an easy exercise, she opted to put a borehole even though she didn't have permission from the City of Johannesburg as the process of getting permission was taking long, which would have had an adverse effect on patients.

(xxxii) Dr. NP Mkabayi said before she came to RMMCH, the clinicians were not part of the EXCO meetings. She ensured that they attended EXCO meetings at least once a month to hear about their challenges.

(xxxiii) She indicated that she is good with stakeholder management; hence she facilitated visits by her supervisors from the head office, Parliamentary Portfolio Committee, and Department of Home Affairs. She organised a few donors who gifted the hospital.

(xxxiv) Dr. NP Mkabayi said she established the Quality Assurance (QA) office as there was no functional QA office when she started at RMMCH.

(xxxv) When asked what she would do differently, Dr. NP Mkabayi indicated that she should have sorted out her administration first. She said there was no pre-planning in place, and she had also been poor at disciplining staff as there was no consequence management.

Media reports that Dr. NP Mkabayi was declared unfit to practice:

(xxxvi) Dr. NP Mkabayi said, "*the information in the media was untrue as she was not declared unfit to practice as a doctor.*" She explained that she was twice referred to the HPCSA, and on both accounts, the HPCSA ruled that she was fit to practice. Dr. NP Mkabayi explained that there were incidents in Kwa Zulu Natal (KZN) and Western Cape respectively, and the HPCSA ruled in her favour. Furthermore, she explained that she had an appointment with an independent Psychiatrist to undergo an evaluation, which she had since postponed.

Dr. NP Mkabayi secondment to Gauteng Provincial Office:

(xxxvii) Dr. NP Mkabayi said while she had good relations with some of the EXCO members, her relationship with Dr. FG Benson was strained. She said her seniors decided that she work at the provincial office as they were still dealing with the issue of Dr. FG Benson. She indicated that she had been given a role at the provincial office but was told as soon as the issue with Dr. FG Benson was resolved, she would return to her post as the CEO of RMMCH.

(xxxviii) Dr. NP Mkabayi was asked if any transfer letter was given to her when she assumed duty at the provincial office. She responded that none was given as the position was an interim measure.

Remunerative work outside the Public Service (RWOPS)

(xxxix) Dr. NP Mkabayi was asked if she still works private work outside the public service. She responded that she has a limited private practice and sees patients. She is also invited to give talks sometimes, for which she is paid. She had received approval from the GDoH to do RWOPS.

(o) Ms. Louisah Basani Baloyi

(i) Narrated by Ms. Louisah Basani Baloyi (Ms LB Baloyi): Deputy Director General Corporate Services, Gauteng Department of Health.

(ii) Ms. LB Baloyi was interviewed on 29 November 2022. She indicated that she has a background in HR and specialises in Labour Relations and general HR and Business development. Her responsibility in the present position is to give strategic leadership in HRM, HRD, Communication and Marketing, Information and Communication Technology (ICT), Organisational Development, Secretariate and Legal Services.

(iii) Ms. LB Baloyi said she worked at the Gazankulu Development Corporation, North-West Development Corporation, DPSA, City Power Johannesburg, and the Ministry of Communications in the ICT sector, HoD Sports Arts and Culture in Limpopo, and at the Department of Communication as Chief of Staff and intermittently acted as Director General and at the Public Protector.

(iv) Ms. LB Baloyi indicated that HR policies apply to everyone employed in the department, irrespective of where they are stationed. She indicated that the CEOs request leave from their supervisors, who would be stationed at the provincial level, depending on the level of the hospital. When leave is approved, the executive would decide on who should be delegated to act depending on the type and length of the leave. In cases of a day or two, the CEO of the establishment may delegate authority, but if the leave is long (more than 2 days), the mandate to delegate lies with the executives at the provincial office.

(v) Ms. LB Baloyi shared that RMMCH is one of the HEs that usually did not adhere to policies and prescripts regarding the issue of delegation. Most of the time, the provincial office rescinded their (RMMCH's) decisions regarding the person acting in the absence of the CEO. She explained that *"RMMCH has people who do things that suit them at a particular time and disregard the set prescripts."* Ms. LB Baloyi said she is unaware of how long the problem has been going on, but she observed that there are strong personalities where everyone has a view, and the views are not aligned. *"There is contestation on who can lead and who has the best knowledge."* She said the environment is an anomaly where management and labour have the same opinion.

(vi) Ms. LB Baloyi was asked how the 182 days in the response by Dr. NE Mokgethi to Gauteng Legislature were calculated. Her answer was not direct but stated that the days were calculated during Covid - 19 when people worked from home and could not be accounted for at a particular time in the office. She explained that information was traced from the system and Dr. NP Mkabayi's supervisor, which gave an idea of how many days she worked. Ms. LB Baloyi said that because she only started working at GDoH on 01 March 2022, she is unaware of how the staff was rotated and whether there was a schedule formulated in line with Circular 1 of 2021. She had never seen a schedule to this effect. She explained that the issue of 182 days should be investigated in the context of when the question was asked at the legislature.

(vii) Ms. LB Baloyi said the capacity of the RMMCH HR department is that they have a good team, but they are in a bad environment where everybody views rank as an issue. She stated that clinicians view them as juniors. While RMMCH HR might not be adequate in all areas, the senior person understands basic HR issues. She explained that most of the HR staff in Gauteng HEs struggle; hence the province is reviewing the structure.

- (viii) Ms. LB Baloyi said the process of hiring Dr. NP Mkabayi was above board, and the competency assessment was adequate. She highlighted that one of the referees made statements that needed to be looked into, but these were not followed up prior to Dr. NP Mkabayi's appointment. She said she was unaware if the panel recorded the interviews, but that was not a pre-requisite as it depended on the panel's preferences. Ms. LB Baloyi was asked if the panel kept minutes during the interviews leading to Dr. NP Mkabayi's appointment. She said she was not certain as there was nothing in the file. She explained that the Auditor General does not request that information and thus it is based on hospital preferences. Ms. LB Baloyi said the interviews were led by a senior CEO who was at the level of DDG position. She highlighted that since her appointment, Dr. NP Mkabayi reported to two supervisors acting in the DDG: Hospital and Specialised Service positions. Ms. LB Baloyi agreed that while the appointment of Dr. NP Mkabayi may have been above board, it was not necessarily the best process followed. She indicated that the panellists made a summary after the interview, and nothing wrong was highlighted.
- (ix) On being asked whether she thought Dr. NP Mkabayi was fit to be the CEO of RMMCH, she responded that she is not a clinician and thus could not pronounce the issue. She said even if she were a panel member, she would still depend on clinical judgment.
- (x) Ms. LB Baloyi was asked if GDoH permitted in all instances that Dr. NP Mkabayi would be seen in the media. Her response depended on whether Dr. NP Mkabayi was on leave, as she cannot be judged without verifying facts. Ms. LB Baloyi explained that there had been instances where union members would complain, but none had ever brought evidence to indicate that Dr. NP Mkabayi was supposed to be on duty while seen at an event.
- (xi) Ms. LB Baloyi explained that public servants are allowed to do RWOPS as long as permission is granted and that she was unaware if Dr. NP Mkabayi has a private practice on the side. She said Dr. NP Mkabayi was one of the CEOs who refused permission for doctors working at RMMCH to do RWOPS; based on that, she did not think Dr. NP Mkabayi engaged in RWOPS. She promised to look into the issue and revert to the Ombud.
- (xii) Ms. LB Baloyi was asked if she knew Dr. Mkabayi did not disclose her condition on the Z83 form. She said the Z83 does not ask such questions as it is not specific regarding mental illness. Ms. LB Baloyi said she only became aware of Dr. NP Mkabayi's medical condition recently, irrespective of the information being in the public domain. She was asked how the vetting process was done without picking up this information. Her answer was she did not know and could not comment on why the panellists did not follow the referees' comments.
- (xiii) Ms. LB Baloyi was reminded that, when referring to ethics in medicine and the ethics code, the patient's rights must be considered first to ensure they are safe, as it is important before that of the medical practitioner. To this, she said the GDoH had looked at all aspects as a decision was taken to move Dr. NP Mkabayi to the provincial office, and Dr. NP Mkabayi was given a new role as they acceded to the fact that it was not safe for Dr. NP Mkabayi to return to RMMCH, in view of the patients and employees there. Ms. LB Baloyi said Dr. NP Mkabayi had informed them that she was undergoing a new treatment, and did not have Bipolar Mood Disorder, but Anxiety. Ms. LB Baloyi indicated that Dr. NP Mkabayi would be observed until she was declared fit to go back as a CEO. Ms. LB Baloyi said the environment at RMMCH is not supportive of Dr. NP Mkabayi but acts as a trigger, and a collective agreement was reached to move her. A determination is to be reached at a later stage. At the same time, the GDoH relies on the Public Service Act and Public Service Regulations which gives the MEC of Health powers to move people based on operational reasons.
- (xiv) Ms. LB Baloyi was asked if Dr. NP Mkabayi knew she was not returning to RMMCH. She answered that Dr. NP Mkabayi was aware as there was a meeting between the HoD, Dr. S Mankupane, and herself to discuss the issue, and a collective agreement was reached. Dr. NP Mkabayi was given a transfer letter indicating she would work at the provincial office. While Dr. NP Mkabayi agreed with the decision, Ms. LB Baloyi said they wouldn't be surprised if she changed her mind. Currently, she indicated that GDoH's plan is for Dr. A Manning to stabilise RMMCH as he has been given a plan until January 2023, which will be reviewed in

March 2023. When asked whether Dr. NP Mkabayi would return as CEO to RMMCH or any other health establishment, she indicated that this would not happen.

A list of questions was forwarded to Dr F Kgongwana to clarify some of the issues to the Ombud as he was the immediate supervisor of Dr. NP Mkabayi from 01 January 2021 to 30 June 2022 in his role as Acting DDG Hospital and Specialised Services: GDoH.

(P) Responses from Dr. F Kgongwana

Cited directly as written in the response dated 31 December 2022

Question 1.

In response to the Gauteng Provincial Legislature questions on 24 March 2022, the Gauteng Department of Health reported that Dr. NP Mkabayi spent 182 days at work during Covid 19 pandemic.

1.1 How was the 182 days calculated?

1.2 Who provided the response to the former MEC?

1.3 Please provide the documents used to calculate this number.

Response:

- 1. The 182 days were provided by the Office of The CEO at Rahima Moosa MCH in response to the questions from the Legislature. From day of commencement of duty to the day the question was posed by the MPL in the GPG Legislature (01/01/2021 to 07/03/2022). There was a trust relationship established and the information provided by Dr. Mkabayi was accepted as satisfactory. There was no further enquiry entertained.*
- 2. The responses were received from the CEO of the Facility (RMMCH) in question then collated by the Office of the Acting DGG: Hospital Services, submitted to the Office of the HoD for review and then forwarded to the Office of the MEC for further attention and submission to the Legislature. The Risk Office is at times consulted by the Office of the HOD to review the responses regarding the Legislature Questions as collated from the Facilities before submission to the Office of the MEC. We were satisfied with feedback from the CEO from Hospital Services.*
- 3. The Office of the CEO at Rahima Moosa MCH and the HR Component at Rahima Moosa MCH has access to the source documents used to come to the 182 days of physical presence of the CEO in the hospital. I believe that the CEO and HR Unit of the RMMCH should be in the position to submit the POE. It would be a serious tragedy if this figure was a thumb suck.*

Question 2.

During the interview with the Health Ombud, Dr. NP Mkabayi indicated that she was sometimes working from home especially when attending Microsoft TEAMS meetings. Was Dr. NP Mkabayi given permission to work from home? If so, please provide any documentary proof to that effect.

Response:

There is a trust relationship between the CEO and Hospital Services Office. The trust that the Hospital CEO's will do their best for service delivery at the Hospitals. Dr. Mkabayi was also embraced by this trust and goodwill, she was very responsive to all the requests made from the Hospital Services Office to the Office of the CEO. There was also a Provincial Circular that allowed/advised that employees can work from home and the expectation was that the CEO will continue to manage the delivery of healthcare services to the communities effectively at the Hospital even when they could be working from home at times. Thus no specific permission was engaged

with within the context of the trust relationship established with CEO Mkabayi. However, the working from home complaint was presented as a challenge in the Legislature question HL022 in March 2022.

Question 3.

What proof was Dr. NP Mkabayi supposed to provide as evidence that she was working from home?

Response:

The proof that Dr. Mkabayi was working from home would consist of the following:

- a) MS Teams Meeting recorded and agenda items (at times people conduct meetings on MS Teams and forget to record them). ICT should be able to assist locate those meetings.*
- b) Communication with EXCO and Clinicians/Nursing Managers during that period.*
- c) Attending weekly Meetings of the GDOH COVID-19 NERVE CENTRE on MS Teams.*
- d) Admin Documents reviewed, signed or approved by the CEO during those periods of working from home.*
- e) Documents sent to the Head Office from the Hospital signed by the CEO during that particular period for HQ attention.*
- f) Communication with colleagues/other CEO or Managers in the CMJAH or CHBAH Cluster during that period of working from home.*
- g) Communication with Officials from WITS on Academic related issues at RMMCH.*
- h) Telephone calls or WhatsApp messages concerning service delivery or other issues at the RMMCH.*
- i) The Commuted overtime call Roster during that particular period.*

Question 4.

Were other CEOs from other health establishments also working from home during the Covid 19 pandemic?

Response:

We did not keep records of who was working from home. The Circular provided a blanket safety net and guide that Officials are allowed to work from home. Service delivery had to continue and is a priority at all times. Thus my expectation is that the Officials working from home also included CEO's.

We also do not micro-manage the CEO's of the Hospitals because there is a semi-autonomous environment in existence in terms of the work done and accountability to manage the hospitals. That is also the reason why when we have parliamentary or legislature questions we rely on the CEO's and their Teams to respond accordingly. The Hospitals are the key primary source for answers to the various question/complaints posed by various stakeholders, because that is where service delivery happens/core business inclusive of the PHC platform.

Question 5.

Our records indicates that Dr. NP Mkabayi was on leave from 5 – 16 July 2021 but her leave was approved from 9 – 16 July 2021. As the former Acting DDG Clinical Services, do you have any proof of approved leave for Dr. NP Mkabayi for the period 5 - 8 July 2021?

Response:

Need to consult with the Office of Dr. Mankupane in Head Office.

Question 6.

Dr. NP Mkabayi was on leave from 4 – 7 September 2021, was this leave approved? If so, by whom?

Response:

Need to consult with the Office of Dr. Mankupane in Head Office.

Question 7.

7.1 How long did you supervise Dr Mkabayi?

7.2 Who else was responsible for supervising her?

7.3 Is there any reason why the approved leave forms were not submitted to the RMMCH HR directly from your office?

7.4 Do you supervise any other hospital CEOs? Does your office submit leave forms directly to the CEOs or to the HR division of the respective hospital?

Response:

7.1 *From 01/01/2021 until 30/06/2022 when my contract ended.*

7.2. *I am not aware of any other supervisor. According to my knowledge I was the only supervisor.*

7.3. *Documents received from CEO's are signed for on receipt in the Office for Hospital Services. After approval/non-approval/processing they are collected and signed for by the drivers from the Facilities and returned to the Office of the CEO's of the Facilities for further management.*

7.4. *CEO's of the 4 Academic Hospitals, 3 Tertiary Hospitals, RMMCH and the 5 Specialised Hospitals (Tara, Sizwe, Weskoppies, Sterkfontein and Cullinan Rehab) reported to our Office. Once the leave forms are signed at Head Office they return to the Office of the CEO of the Health Facilities and the Hospital drivers collect them. There is a book in the Office Hospital Services that records the movement of documents. The CEO's are responsible to submit the leave forms to their local HR Office."*

6. INVESTIGATION FINDINGS

The investigation established that:

6.1 Whether expectant mothers were sleeping on the hospital floor.

6.1.1 The allegation that expectant mothers slept on the hospital floor was substantiated and confirmed. Ward 15 is a 39 bedded ward admitting high-risk ante-natal patients presenting with gestational diabetes or hypertension, elective C/S, etc.

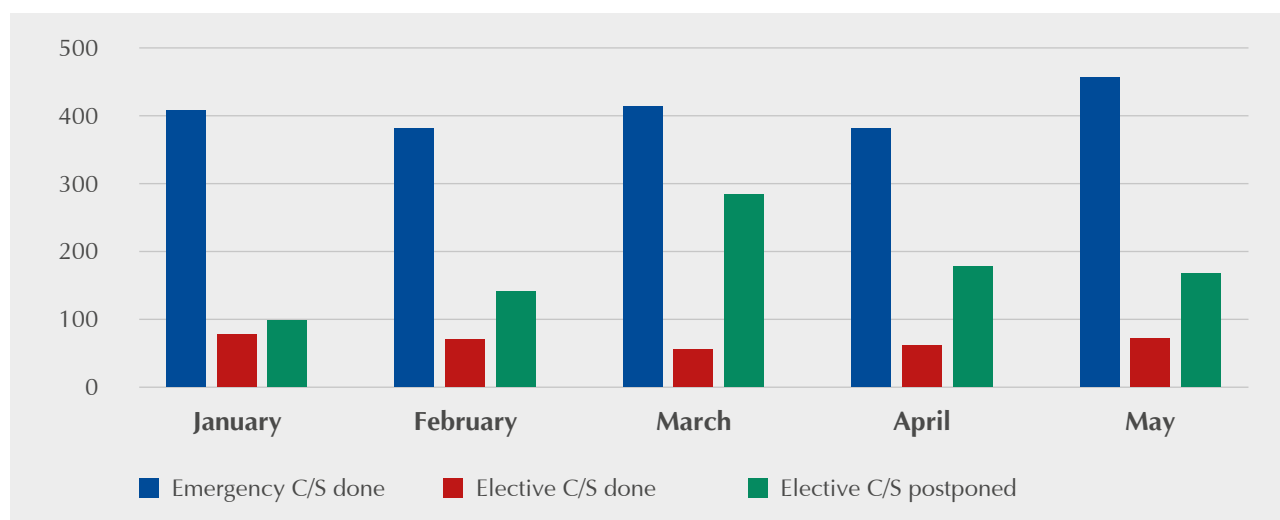
6.1.2 On the night of the incident, 31 March / 01 April 2022, the admission registers and midnight statistics report confirmed that there were 59 pregnant women admitted. Of these, 39 patients were accommodated in beds, and 20 sat on chairs.

6.1.3 According to the duty register, 2 Professional Nurses, 2 Enrolled Nurses (EN), and 1 Enrolled Nursing Assistant (ENA) were allocated to Ward 15. Therefore, Ms. D Mukwevho, the ward supervisor on 31 March 2022, requested an extra PN from Ms. PB Tserema, the Assistant Nursing Manager, as the ward was full.

Viral video footage published by News24 and other media houses depicted images of women sitting on plastic chairs and sleeping on the floor. In the video, a man's voice is heard saying: "Pregnant women, how can this be correct? Can someone tell me how this can be correct? Mothers on cold floors. Who is in charge now? I want to see someone in charge. Everyone is sitting."

- 6.1.4 Dr. FG Benson, senior clinical manager at RMMCH hospital, confirmed that he was aware of the video recorded on 01 April 2022, as it was brought to his attention by Ms. LA Rose. He further confirmed that patients would be sitting on chairs due to the unavailability of beds, and patients on chairs would end up sleeping on the floor due to fatigue.
- 6.1.5 Security guard #2 working at the ED on the 31 March 2022/01 April 2022, confirmed that a man who identified himself as the MMC of health in Gauteng took a video of patients in Ward 15 as she followed the man to Ward 15. She indicated that the man had refused to heed the advice given to seek permission from the night matron. She confirmed that patients were sitting on chairs while others were sleeping on the floor.
- 6.1.6 Ms. Mbulaheni Rhona Luphai, (Ms MR Luphai) Quality Assurance Manager (QAM) and former NSM and Dr. A Wise, confirmed that overcrowding at RMMCH is a long-standing problem which the GDoH has been aware of for several years. Ms. LA Rose and Dr. FG Benson corroborated the assertion, stating that letters were written to GDoH to alert them of the crisis.
- 6.1.7 Mr. M Khosa and Ms. D Mukwevho said it's impossible to provide quality care in an overcrowded ward, thus putting patients' lives at risk. They collaborated that during ward rounds doctors do not fully assess patients sitting on chairs unless they complain of something specific. They indicated that patients sitting on chairs end up with complications and would need emergency care.
- 6.1.8 Dr. Thomas Kleyenstuber (Head of Anaesthetics) indicated that overbooking elective C/S and cancellations of elective C/S to accommodate emergency C/S compounded the overcrowding in the wards. The statistics he provided for May - June 2022 indicated that 868 elective C/S were cancelled/postponed (Figure 1). Mr. M Khosa said the situation was dire as, in some instances, elective C/S patients had to wait up to two weeks for their operations. The unavailability of an adult Intensive Care Unit (ICU) at the RMMCH led to a theatre being blocked for 12 hours to nurse a critically ill patient needing ICU services while waiting for an ICU vacant bed at another hospital in the province.
- 6.1.9 During interviews, Ms. LA Rose explained how the RMMCH Divert Policy works. The investigation found no written Divert SOP at the time of the incident. The available procedure explaining when staff should divert patients was written on 20 June 2022, following lodgement of the complaint and Ombud intervention. (**Annexure J**)
- 6.1.10 On 04 January 2023, a copy of the Protocol for Ambulance Diversion of Maternity Units was provided to the Ombud by RMMCH when responding to the Provisional Report. (**Annexure DD**)

Figure 1: Emergency C/S, Elective C/S, and postponed Elective C/S statistics.



6.1.11 The number of C/S performed daily at RMMCH is indicated in Table 1 below. The low number of elective C/S done per day gives a clear picture of the reasons for a high backlog of elective C/S.

Table 1: C/S operations performed in July 2022.

Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total
Emergency	4	2	5	4	4	4	1	7	5	6	5	6	5	5	3	5	10	8	7	5	5	4	4	6	5	5	5	7	4	4	8	158
Elective	3	0	0	3	6	4	4	0	0	0	4	3	3	3	3	0	2	0	0	3	4	3	1	0	4	4	3	2	5	1	0	68
Number of cases done 4pm - 7am																																
Date	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	Total
Emergency	7	7	8	5	9	6	9	8	8	5	7	11	11	10	10	9	4	8	9	8	11	8	8	8	9	8	6	10	8	9	7	251
Elective	0	0	0	0	0	0	0	0	3	1	0	0	0	1	1	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	1	9

6.1.12 RMMCH and by implication, GDoH, has failed expectant mothers by not taking reasonable legislative and other means within its available resources to achieve the progressive realisation of the right to access health care services as required by Sections 27 (1) (a), 2, and 3 of the Constitution.

6.1.13 Regulation 5(1) of the prescribed Norms and Standards states that *“the health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition.”* From the evidence gathered, the Investigators determined that the patients sitting on chairs were not attended to in a manner that was consistent with the nature and severity of their health condition.

6.2 Whether the CEO was working full-time at RMMCH and whether she had only worked 182 days since her appointment.

6.2.1 Dr. NP Mkabayi's appointment letter indicated that she was appointed on 01 January 2021 but she only assumed duty on 12 January 2021. No evidence was provided to the investigators to indicate why Dr. NP Mkabayi started late, nor was the appointment letter revised in line with the date she actually started working at RMMCH.

6.2.2 Dr. NP Mkabayi was appointed on a five-year contract ending in December 2025. According to her letter of appointment, she qualifies for 22 days of annual leave (less than 10 years in public service) and 36 days of sick leave in a three-year cycle (non-accumulative). (**Annexure K**).

6.2.3 According to the calendar, the year 2021 comprised 365 days; 104 days were weekend days, 13 were public holidays, of which 2 fell on a Saturday and 2 fell on a Sunday, meaning that the following Monday was designated as a public holiday. Thus, the total of working days was 250 days. Even though the appointment contract of Dr. NP Mkabayi stipulated the appointment date as 01 January 2021, she assumed her position as CEO on 12 January 2021, reducing the number of working days in 2021 to 244 days.

6.2.4 On analysis of the CEO's available leave records from January - December 2021, a total of 43 days were taken as follows:

Annual Leave	Sick Leave	FRL/Special Leave	Total
28	10	5	43 days

6.2.5 Further analysis of Dr. NP Mkabayi's leave profile revealed that there were leave forms and delegation of authority letters that did not correspond. Dr. FG Benson's delegation of authority from 04 to 07 September 2021 had no leave form. Dr. NP Mkabayi took annual leave from 09 – 16 July 2021, but the DoA letter for Dr. FG Benson to act started from 05 to 16 July 2021. The annual leave application

received from Dr. F Kgongwana on 09 January 2023 was for the period 04 – 08 July 2022. There were no leave applications on the following dates: 11 June 2021, 10 September 2021, and 20 – 23 September 2021, but there was DoA documentation filed with HR.

Evidence provided by Dr. F Kgongwana to the Ombud did not respond to the above as the Route Form indicated that Dr Mkabayi only submitted leave forms for 09 -16 July 2021 and nothing for 05 – 08 July 2021 and 04 - 07 September 2021 there was no leave form submitted. The same applied for 11 June 2021, 10 September 2021, and 20 – 23 September 2021.

- 6.2.6 These irregularities could not be explained by Dr. NP Mkabayi during cross-examination. Ms. L Louw indicated that HR captured what they were given by the CEO's office, as Dr. NP Mkabayi's supervisor was at the provincial office. Leave granted was not directly communicated to the RMMCH HR department.
- 6.2.7 The 182 days worked was based on the response given by the office of the Gauteng MEC of Health, Dr. NE Mokgethi, responding to questions asked by Mr. Jack Bloom, a member of DA, at the legislature, dated 24 March 2022.
- 6.2.8 Dr. NE Mokgethi explained that the CEO was appointed during the second wave of the Covid-19 pandemic and most of the SMS members had permission to work from home because of the pandemic. Dr. NE Mokgethi indicated that the CEO had a work phone available 24 hours and an email address to ensure she was accessible 24/7 (onsite and offsite). She noted that the CEO diligently delivered on all responsibilities assigned to her, as cited in Annexure G.
- 6.2.9 Ms. LA Rose, during the interview, disputed what Dr. NE Mokgethi said regarding the availability of the CEO as she said she was not accessible at all times on her cell phone or on email.
- 6.2.10 Dr. FG Benson and Ms. LA Rose, heads of the medical and nursing departments respectively, indicated that no EXCO members worked from home during Covid-19 except for the CEO. The CEO, during cross-examination, did not dispute this assertion as she said she worked from home due to Microsoft TEAMS meetings as the WIFI at the hospital was unreliable. She further explained that there was a time when most of her managers were sick, and for that purpose, she worked from home based on Circular 1 of 2021, which provided that SMS managers could work from home.
- 6.2.11 Circular 1 of 2021: Ref number 20/01TEHWP was issued on 29 January 2021 and addressed to all Gauteng Provincial Government Employees. The title of the Circular was *"Circular to advise Gauteng Provincial Employees on Working Arrangements with Respect to Adjusted Level Three (3)."*
- 6.2.12 Clause 5.5 of the Circular provides that: *"Staff rotation and working from home based on operational requirements must be aligned to the attendance registers."* The Circular also provides in clause 5.6 that: *"All senior managers with office spaces must return to work to restore normalcy and staff rotation. However, senior members are allowed to be in the office at least three (3) days a week. SMS members with comorbid conditions must be assessed for the level of vulnerability by the Occupational Medical Practitioner at the Transversal Employee Health and Wellness Programme unit in the Office of the Premier"*. (**Annexure L**)
- 6.2.13 Dr. NP Mkabayi was eligible according to Circular 1 of 2021 referred to above, to work from home and confirmed having worked from home when attending Microsoft TEAMS meetings. However, Dr. NP Mkabayi was unable to provide proof that Dr. F Kgongwana granted her permission to work from home. She also was unable to provide evidence of the Microsoft TEAMS meetings she said she attended from home.

- 6.2.14 Ms. L Louw, Dr. NP Mkabayi and Ms. LB Baloyi were unable to provide a schedule. Considering calculations in points 6.2.3 and 6.3.4 and the response given by Dr. NE Mokgethi in point 6.2.5, the investigation found a disparity of **27** days.
- 6.2.15 The investigation also found irregularities concerning Dr. NP Mkabayi's leave forms, as cited in point 6.2.5 above.
- 6.2.16 The fundamental role of a CEO of a hospital is to ensure the provision of high-quality services within any facility under their purview. In the case of RMMCH, there have been complaints of declining quality of services over several years; conditions have worsened since her appointment as CEO.
- 6.2.17 Several members of the GDoH (within RMMCH, Gauteng province, National) and Parliament have raised concerns about Dr. NP Mkabayi's role as RMMCH CEO.
- 6.2.18 These include the following: Gauteng HoD, Dr. N Nolutshungu; member of Parliament, Hon. H Ismail; RMMCH OandG HoD, Dr. A Wise, and RMMCH Paediatrician, Dr. T De Maayer.
- 6.2.19 An additional question enquiring about "the latest information about how many days the CEO has been at work since she was appointed" was raised by Mr. Jack Bloom on 26 July 2022. In the response provided by Dr. NE Mokgethi to the legislature dated 08 August 2022, she indicated that Dr. NP Mkabayi 'had spent 346 days at RMMCH since she was appointed.' (**Annexure M**)
- 6.2.20 Sections 5.7 - 5.9 of the Determination and Directive on Leave of Absence in the Public Service document, published in August 2021 provides detailed guidance to both employees and supervisors regarding the application for-, and approval of- leave. Section 5.10 stipulates that "Failure by the employee to submit his/her application form within the stated periods, or failure by the supervisor/manager to properly manage it, must be viewed in a serious light and disciplinary steps against the employee and/or supervisor/manager should be taken." (**Annexure N**)
- 6.2.21 Between 24 March 2022 and 08 August 2022, the investigation found that there was a total of 93 working days, 140 weekend days and 6 public holidays.
- 6.2.22 Based on the answers provided in paragraphs (b) (ii) and (xi) in the Executive Summary above, if the CEO was at RMMCH every day, and did not take any annual or sick leave, she would have been at work for 275 days (182 + 93), not 346 days. Accordingly, the investigation found that 71 days were unaccounted for.
- 6.2.23 The investigation established that Dr. NP Mkabayi was the source of the response to the Gauteng Provincial legislature. Dr. F Kgongwana indicated that the calculations provided to GDoH were from Dr NP Mkabayi's office. Ms. L Louw, HR Manager at RMMCH, stated that she had no idea how the number of 182 days was reached as the HR department was not involved when responding to the questions from the Legislature.
- 6.2.24 Following on (v) and (xiii) above, the investigation further found that the GDoH failed to promote and implement relevant HR policies (e.g. the "work from home" policy based on Circular No. 1 of 2021) in a standardised and transparent manner. This led to so-called "trust agreements", such as those between Dr NP Mkabayi and Dr FG Benson, and Dr NP Mkabayi and Dr F Kgongwana where each party "trusted" that the other party was fulfilling their professional responsibilities. It has been demonstrated that this manner of working is not only fraught with pitfalls (once the trust relationship has broken down), but it is also open to abuse, as there is no accountability.

6.3 Whether the health and dignity of patients, and the well-being of healthcare workers is severely compromised.

- 6.3.1 Hon. H Ismail's allegations were based on an email sent to her on 08 February 2022 by Ms. S Bhikhoo, who accompanied Ms. N Ismail to RMMCH to deliver a baby. The email detailed that the toilets were filthy and disgusting, as there was blood everywhere. Ms. N Ismail indicated that she had to wipe and clean the bathroom before she could use it, and the pad bins were full and overflowing.
- 6.3.2 According to Mr. G Cilliers, there were 354 toilets at the RMMCH, and 40 were not working due to sewage backup pipes or vandalism.
- 6.3.3 There is overwhelming evidence that healthcare quality in South Africa has been compromised by various challenges that negatively impact healthcare quality. Improvement in quality care means fewer errors, reduced delays in care delivery, improvement in efficiency, increased market share, and lower cost. The decline in quality health care has caused the public to lose trust in the healthcare system in South Africa. (Maphumolo et al., 2019).
- 6.3.4 A memorandum of grievances dated 23 June 2021, signed by 55 RMMCH staff working in ward 16B, highlighted the following: overcrowded wards, shortage of supplies, shortage of staff, low staff/patient ratios, and an uncondusive working environment due to lack of heating systems, amongst other issues. **(Annexure O)**
- 6.3.5 Dr. A Wise indicated that examining pregnant women sitting on chairs was challenging. Patients would only be assessed if there was a complication. Ms. PB Tserema collaborated the assertion and added that clinical decisions were based on what is written in the patient file without physically examining the patient.
- 6.3.6 Repurposing of beds was done without taking into consideration the staffing complement. Mr. MK Ndlovu, the chairperson of the Democratic Nursing Organisation of South Africa (DENOSA), said the unilateral decision by management brought a lot of employee disharmony and unintended consequences.
- 6.3.7 Ms. LA Rose confirmed that nurse specialists remain in PN posts due to a lack of funded posts. Nurses are demoralised and demotivated. Ms. L Louw collaborated this assertion and explained that most nurses with the required skill sets resigned, leading to a high staff turnover. This resulted in RMMCH sourcing nurses from Nursing Agencies to address staff shortages.
- 6.3.8 In the 2021/2022 financial year, Patient Experience of Care (PEC) surveys were conducted on 250 patients (less than 1% of the total number of patients attended). The results of the survey cited the lack of cleanliness at RMMCH as one of the problems.
- 6.3.9 Three (3) nurses working in wards 5, 6, and 11, were interviewed. They all confirmed that the working conditions at RMMCH were not conducive as the wards were always overcrowded and affect their health. [The staff identity is withheld for fear of intimidation, but their identity is known to the investigators].
- 6.3.10 Ms. LA Rose explained that during load shedding, health personnel used their cell phone lights and manually ventilated intubated patients in the theatre as the generators took a long time to start after power cuts. This practice placed the patients' lives at risk.
- 6.3.11 The security at the hospital is not well equipped to deal with threats. Mr. TM Nkwanyana, the supervisor for the cleaning and support unit and the chairperson of the National Education, Health, and Allied Workers Union (NEHAWU), corroborated and shared that an intern doctor's car was highjacked in the parking lot inside the hospital premises.

- 6.3.12 The investigation found no SOP in ward 15 for monitoring CTGs for patients sitting on chairs.
- 6.3.13 Following the video footage, mattresses were donated to RMMCH to cater to patients sitting on chairs during the night. While this act of generosity was commendable, the investigation found that placing mattresses on the floor would deter the movement of health personnel providing care and would also be a source of cross-infection.
- 6.3.14 Regulation 8(1) of the Standards Regulations states that *“the health establishment must maintain an environment, which minimises the risk of disease outbreaks, the transmission of infection to users, health care personnel and visitors.”*
- 6.3.15 Most patient operations were postponed due to the need to accommodate emergency C/S cases, leading to a backlog and long waiting times (up to two weeks), according to Mr. M Khosa. He said these affected patients negatively, as some ended up with complications.
- 6.3.16 The challenges of overcrowding, staff shortages, and a dire lack of specialised nursing staff compromised the health and well-being of the healthcare workers. Significantly, these challenges affect patient safety, by placing patients' lives at risk.
- 6.3.17 During walkabouts at RMMCH by the investigation team, the bathrooms were filthy, and some showers were non-functional. Peeling paint was noted throughout the hospital. The surfaces of the window seals were full of dust. The hospital grounds were poorly kept, with rampant weeds and long grass. The investigation revealed crumbling infrastructure throughout the hospital. The sewage pipes were leaking with free-flowing sewage between buildings, and there was a pervasive foul-smelling environment. There were also leaking steam pipes leading to poor heating in the wards, which does not provide a conducive and safe environment for the provision of quality care for patients by healthcare workers.
- 6.3.18 Regulation 5(1) of the Norms and Standards states that *“the health establishment must ensure that users are attended to in a manner which is consistent with the nature and severity of their health condition.”* From the evidence gathered, the investigators determined that patients sitting on the chairs were not attended to in a manner that was consistent with the nature and severity of their health condition.
- 6.3.19 From the evidence gathered, the Investigators determined that patients sitting on the chairs were not attended to in a manner that was consistent with the nature and severity of their health condition.

7. ADDITIONAL FINDINGS

7.1 Human Resources

- 7.1.1 The investigation found several lapses in the pre-employment processes followed by the GDoH when filling the position of the CEO at RMMCH.
- 7.1.2 The post of RMMCH CEO was advertised in the Sunday Times with a closing date of 05 June 2020.
- 7.1.3 The requirements of the position, as quoted in the advertisement include: *‘a degree in a health-related field, registration with the relevant professional body, a post graduate degree in management will be an added advantage. Management experience in the health environment is required. A valid driver's license is an inherent requirement.’* (Annexure P)
- 7.1.4 According to the DPSA guidelines on Benchmark Job Description for the CEO of Hospitals Ref. 1/8/8/18 issued on 20 April 2004 regarding the appointment requirements of the CEO position for level 2 Regional Hospitals are: *“Formal 3 year or higher tertiary qualification in Management or a related*

Health/Medical Science qualification, and Strong business orientation with proven skills and abilities in Health Management, and Proven Management competencies with specific reference to the Health care environment". (Annexure Q)

- 7.1.5 Requirements noted in other advertised CEO positions were: A degree/advanced diploma in a health-related field, registration with relevant professional council; PLUS, A degree/diploma in health management OR a degree/advanced in a management field. PLUS At least 5 (five) years management experience in the health sector. Experience as a health service manager or significant experience in management in a health service environment. Unendorsed valid Code B driver's license (Code 08).
- 7.1.6 When compared with several other advertised CEO posts, the RMMCH requirements were noted to be significantly and woefully deficient for a position at this level. The requirements also appeared to be incomplete and non-specific, as if tampered with in some manner and not in line with DPSA guidelines.
- 7.1.7 The requirements for the advertised RMMCH CEO post (2020) therefore, permitted individuals without the necessary skills, knowledge, and abilities in Health as well as Management competencies in the healthcare environment, to apply and possibly be appointed to the CEO position.
- 7.1.8 Dr. NP Mkabayi's interview / HR package was provided to the Ombud by Ms. BL Basani. The investigation established that two important documents were missing in the package: there was no copy of Dr. NP Mkabayi's post-graduate HIV management diploma (which was noted to be an advantage for the RMMCH CEO job advertisement), and there was no copy of Dr. NP Mkabayi driver's license (this was a requirement for the RMMCH CEO job advertisement). Following a response to the Provisional report, Ms. BL Baloyi submitted a copy of Dr. NP Mkabayi's HIV management diploma to the Ombud. No driver's license has been submitted to date.
- 7.1.9 The Z83 form submitted by Dr. NP Mkabayi answered "No" to the question "Do you have a disability" because she did not consider herself to be disabled. During the interview with the former MEC, Dr. NE Mokgethi, she indicated that if there was any indication of a chronic illness, this would be noted on Dr. NP Mkabayi's Z83 form. However, during Dr. NP Mkabayi's interview, she confirmed that she did not indicate her chronic ill health on the Z83 form during the application process, and she also did not disclose her condition during the interview, as she does not view this as a disability.
- 7.1.10 A mental -, or any other disability, is present when a disorder causes significant functional impairment in the major spheres of life such as professional-, academic-, physical- or social performance. This can either be a temporary disability or a permanent disability. In the case of a psychiatric disorder, the disability may be episodic, but as it progresses, interepizootic performance may also decline if the condition becomes chronic in nature.
- 7.1.11 The pre-employment reference checks indicated that written references were provided by two (2) of three (3) referees. Both referees indicated that Dr. NP Mkabayi does not work well in stressful situations and either "*retreats into blocking out*" or "*breaks down due to illness.*" One reference indicated that she was 'not clinically competent and required to be referred to HPCSA for serious deficiencies.
- 7.1.12 Dr. NP Mkabayi's confidential Pre-employment Competency Assessment Report of 12 October 2020 indicated strengths and weaknesses.
- 7.1.13 GDoH did not follow the correct HR steps and processes in terms of investigating and following up on the issues raised by both referees, as well as clarifying the discrepancies between the two references. Although both referees were from the same institution – one indicated that there had been 'no disciplinary action taken against her at this institution', whereas the other referee indicated that Dr. NP Mkabayi had been 'reported to the Senior Management Team at the institution and HPCSA for repeated clinical incidences.'

- 7.1.14 The investigation found that appointing Dr. NP Mkabayi as RMMCH CEO was not in the best interests of the health services and the patients. The position of a CEO is a complex and very stressful one. At RMMCH the CEO is expected to oversee a large and diverse team in a highly stressful environment. Dr. NP Mkabayi confirmed this during the interview conducted on 29 November 2022, where she indicated that she *“felt alone as the CEO and did not receive much support from the Provincial Office.”*
- 7.1.15 Between 12 January 2021 – 31 December 2021, Dr. NP Mkabayi took 10 days of sick leave. There are three instances that the Ombud is aware of where she consulted with her psychiatrist i.e. 18 November 2021, 09 December 2021 and 20 January 2022 where a sick leave form was not submitted to HR.
- 7.1.16 Following the commencement of the Ombud’s investigation of the issues raised at RMMCH, Dr. NP Mkabayi has been absent from work on sick leave for a minimum of 43 days due to mental and other illnesses (24 June 2022 – 11 July 2022; 30 August 2022 – 30 September 2022 and 7 October 2022 – 18 October 2022). There were also instances during June and July 2022 when the Investigators were informed that Dr. NP Mkabayi was on sick leave, but she would appear at RMMCH later in the day, e.g., on 15 June 2022.
- 7.1.17 Dr. NP Mkabayi confirmed during her interview with the Ombud that she found the job of RMMCH CEO very stressful and overwhelming.
- 7.1.18 The investigation found that during stressful situations, Dr. NP Mkabayi’s condition appears to affect the way she works, as she appears to make mistakes and back away. Several instances of hospitalisation have occurred after she was confronted with stressful situations.
- 7.1.19 Dr. NP Mkabayi confirmed that there were two complaints to HPCSA about her in 2016, indicating that she was an ‘impaired practitioner.’
- 7.1.20 In 2017, an HPCSA investigation indicated that *“from the evidence received, the Committee could not find any evidence to declare her an impaired practitioner in terms of section 51 of the Health Professions Act of 1974.”* (**Annexure R**)
- 7.1.21 Although the HPCSA investigation did not find any evidence to declare her an impaired practitioner (clinically), there was no indication of her ability to oversee and manage large institutions and large teams of skilled personnel.
- 7.1.22 The investigation found that a distinction must be made between clinical and managerial competencies.
- 7.1.23 The HPCSA in December 2022 informed the Ombud that on 10 December 2020, Dr. NP Mkabayi sent an email reporting to the HPCSA that “she was recently admitted at a psychiatric unit in Cape Town for Bipolar Mood Disorder type 1 and that she had experienced a relapse.” The HPCSA forwarded this new information to a competent Health Committee for assessment. (**Annexure BB**)
- 7.1.24 The information received from the HPCSA on 12 December 2022 indicates that there is a new investigation against Dr. NP Mkabayi, to determine if she has a health impairment. The Health Committee of the HPCSA referred her to a specialist psychiatrist for evaluation but she failed to honour the appointment on two occasions.
- 7.1.25 On 07 December 2022, the Health Committee documented an intention to *“suspend Dr. NP Mkabayi from practicing the profession in South Africa on the basis of health impairment.”* (**Annexure S**)
- 7.1.26 On 03 September 2018, the “Bloemfontein Courant” ran an article in titled “Doctors argued to seek help to avoid unnecessary suicides.” The article outlined a meeting that was held at Gallery in Levasseur in Bloemfontein on 02 September 2018. During that meeting, Dr. NP Mkabayi said, *“she was forced*

to leave her profession of more than 20 years ago after she was declared unfit.” According to Dr. NP Mkabayi, she was diagnosed with Bipolar Mood Disorder in 1997. After discovering her condition, she said she was declared unfit to deal with patients. Even though she was highly qualified and had won a few awards within the profession, she ended up being underpaid and bullied at work. She said there were times when she was in denial and couldn’t take her treatment. “Finally, about a month ago, I voluntarily left my profession, and I am currently unemployed. Somehow, I managed to write a book about my journey, which hasn’t been published.”

(<https://www.bloemfonteincourant.co.za/doctors-argued-to-seek-help-to-avoid-unnecessary-suicides/>)

Dr. NP Mkabayi disputed the above report, as she indicated that she had been misquoted. However, she had not taken any measures to correct the contents of the article between 2018 – 2022.

- 7.1.27 Differences were noted in the narrations of Dr. NP Mkabayi and Ms. LB Baloyi. Regarding the issue of the secondment of Dr. NP Mkabayi to the GDoH in October 2022, Ms. LB Baloyi stated that a meeting was convened where the issue of secondment had been discussed with Dr. NP Mkabayi (who agreed with the secondment) and a letter was given to Dr. NP Mkabayi to that effect. However, according to Dr. NP Mkabayi’s assertion, a meeting was convened to inform her of her ‘temporary’ placement at the GDoH offices while the provincial managers “*were dealing with Dr. FG Benson, who was a problem.*” Dr. NP Mkabayi indicated that she disagreed with her secondment to the GDoH offices, as she was not the ‘problem’. Dr. NP Mkabayi indicated that she reluctantly agreed, as this was a temporary arrangement. Dr. NP Mkabayi also indicated that she had not received any letter regarding the secondment.

Regarding the issue of RWOPS, Dr. NP Mkabayi stated that approval was granted to undertake private work in addition to her RMMCH responsibilities. Dr. NP Mkabayi also sent the Ombud a copy of the approved RWOPS, effective from February 2022, whereas Ms. LB Baloyi stated that “*she did not think Dr. NP Mkabayi engaged in RWOPS.*” Ms. LB Baloyi also indicated that she had a list of doctors who had RWOPS approval ‘on her phone’ and would share the list with the Ombud. To date Ms. LB Baloyi has not shared this information with the Ombud, despite numerous reminders.

There were inconsistencies between Dr. NP Mkabayi and Ms. LB Baloyi’s versions. The differing versions in the narration were of concern to the Ombud, as the two versions cannot be true.

- 7.1.28 These differences highlight the gaps, transparency, and accountability within GDoH in terms of supervision and management of CEOs at the different hospitals. The discrepancies noted pertain to very serious HR matters, which do not seem to be managed in an honest and appropriate manner by GDoH provincial managers at the highest level.

7.2 Infrastructure

- 7.2.1 The hospital is dilapidated and is in desperate need of refurbishment. The paint on the outside walls is peeling off. Mr. G Cilliers said the issue is sewage reticulation as sewage pipes under the building collapsed, leading to pipe spillages and toilet blockages. During walkabouts leaking sewage pipes were observed next to the Nursing Board Room. (**Annexure T**)
- 7.2.2 Mr. G Cilliers corroborated the problems faced by RMMCH and the grievance by staff is a confirmation of the dire situation leading to no heating systems in the wards. The laminate on the walls and floor is peeling off and falling.
- 7.2.3 Dr. N Nolutshungu indicated that the hospital had been submitted to the National Department of Health as one of the three (3) and the 11 hospitals for OHS compliance and refurbishment in Gauteng following the Premier’s State of the Province address in 2022. The hospital was also identified as the 11th under the Premier’s Umbrella project to be upgraded in the province.

7.3 Blood Bank and Laboratory Services

- 7.3.1 The hospital's laboratory and blood services do not operate 24 hours a day. RMMCH specialized hospital provides obstetrics and gynaecology services for which blood products are crucial. The hospital currently relies on 3 units of blood stored in the emergency fridge. Dr. A Wise, acting HoD OandG, raised concerns that this practice was not sufficient or feasible.
- 7.3.2 If blood or blood products are urgently needed after the SANBS's regular working hours, an RMMCH driver collects blood from HJH's SANBS. The fact that the SANBS is only available until 16h00 was problematic for RMMCH because high-risk pregnant women and women with pregnancy complications constantly need lifesaving blood and blood products post-delivery without delay.
- 7.3.3 While HJH might be 10 minutes from RMMCH, one may not rule out logistical delays and human errors, even in a sound-functioning system, that might lead to unintended outcomes.

7.4 CT scan machine

- 7.4.1 The RMMCH has one CT scan machine. According to the records, the current CT scan was purchased in 2006, and the end production model was in 2014. The end-of-life service of the CT scan is documented as 31 December 2023, after which parts will be unavailable, and the service provider will not provide service maintenance.
- 7.4.2 A letter written by Dr. FG Benson dated 25 August 2020 indicates he requested the Provincial Bid Adjudication Committee (PBAC) to approve the request to buy a new CT scan. PBAC and Prof. M Lukhele recommendation was granted on 26 August 2020. The recommendation with amendments was that procurement follows the Public Finance Management (PFM) framework. The CT scan has not been procured as the Provincial Department does not have a CT scan contract in place (no evidence was provided in that regard). (**Annexure U**)
- 7.4.3 The CT scan had been problematic since February 2022, and Mr. T Wessels, during interviews, said the cost to fix the CT scan was estimated to be over R500,000. A service quote: **0755625**, provided by Phillips dated 22 June 2022, indicated that the repairs on the CT-scan would cost RMMCH R951,337.51 to repair. Dr. N Nolutshungu indicated that Dr. NP Mkabayi said RMMCH made arrangements to take patients to Nelson Mandela Children's Hospital and CMJAH. The cost incurred by RMMCH from February - June 2022 to maintain the CT scan out of the maintenance contract and fit the part sourced from CMJAH's old scanner was R714,730.36.
- 7.4.4 On 22 July 2022, Ms. Faatima Mahomed, Assistant Director of Radiography at RMMCH, wrote a memorandum to the PDoH to request to procure a new CT scan through the CMJAH budget. The request was supported by Dr. Arbee, Acting HoD Radiology, and Dr. NP Mkabayi. Another memorandum was written to request the use of the HJH budget on 12 October 2022, but there was no indication of the response from PDoH. The CT scan is presently functional but not performing all functions as expected.

7.5 Security challenges

NB: The names of the Security Officers are withheld for fear of victimisation but are known to the Ombud. They work for LL Security Company, providing services to RMMCH.

- 7.5.1 **Security Officer 1:** was stationed at Gate 3, the emergency gate, on the day of the incident. He was interviewed on 16 August 2022. He stated that a white BMW with tinted window glasses was hooting as it reached the gate, and the hazard lights were on. The driver told him they had brought a patient for delivery. He did not search the motor vehicle because he was afraid the patient might deliver in the car. He allowed the car in but later found that the information provided was false. He reported the incident

to his supervisor Mr. KD Tshabalala. The following morning, he completed an Occurrence Book (OB) and made a statement.

Security Officer 2: Stationed at the Emergency Department (ED) entrance, a female was interviewed on 23 August 2022. She stated that two male occupants got out of the car, and there was no patient. One man, now known as Mr. A Sauls, said he was going to Ward 15 and disregarded the Security Officer's advice to seek permission first from the matron in charge of the hospital, Ms. Tserema, but forced his way towards Ward 15. She then followed the two men.

Security Officer 3: stationed at Ward 15 (High-Risk Antenatal Ward), a female, was interviewed on 23 August 2022. She indicated that the two men forced their way into the ward, as she never had an opportunity to register them in her book. One man introduced himself as the Member of the Municipality Council (MMC) and started interviewing patients. The Security Officer said she was unaware that a video recording was done, but the man had a phone in his hand.

- 7.5.2 Dr. A Wise also indicated during her interview that the staff feels unsafe working at RMMCH. Dr. NP Mkabayi, during interviews, echoed the same sentiments and said there was an incident where an intern doctor was highjacked in the car park inside the hospital premises.
- 7.5.3 The security at RMMCH is poor. The observations made during the investigation were that there is no access control system to record motor vehicles entering and leaving the hospital. The CCTV system is not functional, compounding the problem.
- 7.5.4 Regulation 17(1) of the Norms and Standards Regulations provides that: "the health establishment must have a system to protect users, health care personnel and property from security threats and risks."

Sub-regulation (2) states that "*the health establishment must ensure that security staff is capacitated to deal with security incidents, threats, and risks.*" RMMCH and the GDoH breached Regulation 17(1) and (2) of the Norms and Standards Regulations, by failing to ensure that the security staff appointed at RMMCH is capacitated to deal with security incidents, threats and risks and to guarantee the safety of users, health care personnel and its' property.

7.6 Shortage of Nursing Staff

- 7.6.1 The investigation found that RMMCH made several requests to alert the GDoH about staff shortages in the maternity ward. Letters written by Ms. S Jordaan dated 19 July 2017 and 02 October 2017 indicate the nursing staff shortage and the nursing crisis at the hospital, respectively. Both provided evidence that nursing shortages at RMMCH are a long-standing issue. (**Annexure V**)
- 7.6.2 On 30 June 2021, Ms. LA Rose wrote a memorandum to Dr. NP Mkabayi requesting nursing overtime funding. According to communication from 2021 to 2022, there were requisitions for nursing posts made by RMMCH management to the GDoH.
- 7.6.3 RMMCH depends mostly on agency nurses to deal with nursing shortages. From 01 November 2021 - 31 March 2022, Ms. L Rose requested BAC approval to utilise Nursing Agencies on an ADHOC basis. The request was supported by Dr. NP Mkabayi and led to an EX POST FACTO Application, as the hospital Service Level Agreement (SLA) with Nursing Agencies had expired. (**Annexure W**)
- 7.6.4 The request to use the Nursing Agencies on an ad hoc basis for the 2021/2022 financial year amounted to R5,324,000.00. Of this, R2,343, 891.85 was earmarked for the Ex Post Facto payment to Nursemate Nurse Services (Vendor No: 1100155844). The request was approved on 10 February 2022, by Dr. S Zungu, former Gauteng HoD of Health, to ensure continued service delivery at RMMCH.

7.7 Flouting of SCM Processes

- 7.7.1 A global lack of knowledge of SCM processes was identified at all levels within RMMCH, confirmed by Dr. T De Maayer and Dr. N Mkabayi.
- 7.7.2 Allegations of end users failing to check minimum stock levels, leading to emergency orders to the SCM, were made. These were substantiated and confirmed - several challenges were identified in the process of ordering and procurement of goods.
- 7.7.3 Dr. NP Mkabayi stated that in some instances, RLS01 documents would be incorrectly completed when sent for her approval. If these documents were returned for corrections, the department involved would delay until she was on leave, and the designated person acting on her behalf would then approve the documents. The SCM termed this process "Comply and Complain later."
- 7.7.4 The delays on the end user's part to submit procurement requests in a timely manner and clinicians' preferences of types of equipment and stock led to a systematic reliance on SCM deviations.

7.8 The influx into Gauteng

- 7.8.1 Gauteng is the smallest province of South Africa's nine provinces but comprises the largest share of the South African population. It measures 18,176 square kilometers, and the population is 16.1 million, according to 2022 midyear estimates.

Gauteng remains the financial hub of South Africa, thus, there is a high influx of people into Gauteng seeking job opportunities. It also experiences a high influx of foreign nationals due to its porous borders.

- 7.8.2 Statistics of patients admitted at RMMCH in the past 3 financial years are indicated the following table.

Financial Year	Admissions	South Africans	Foreign Nationals
2019/202	18105	10828	8105
2020/2021	18018	10572	7446
2021/2022	17991	10600	7391

- 7.8.3 The table above indicates that over 40% of patients admitted at RMMCH in the past 3 years were foreign nationals. Foreign nationals are not considered in budget allocations thus putting a strain on human and capital resources allocated to RMMCH. **(Annexure X)**

The finding confirms Dr FG Benson's assertion regarding the estimated percentage of foreign nationals admitted.

7.9 Nosocomial Infections

- 7.9.1 The investigation found sporadic incidents of nosocomial infections in the neonatal unit. The neonatal unit has 35 approved beds. Instances have occurred where there was an increase in the number of admitted neonates compared to the number of beds available. According to the IPC manager, Sr. BL Williams, *"When a neonate comes, we cannot turn a neonate away. We only divert for neonates when we don't have enough equipment to accommodate them. In one instance, there were 55 neonatal patients admitted."*
- 7.9.2 Overcrowding, staff shortage, and poor hand hygiene were found to have been contributory to incidents of nosocomial infections. In 2017, there were incidents of Methicillin-Resistant Staphylococcus Aureus (MRSA), which were documented in Prof. A Coovadia and Prof. H Lombard's report dated 02 December 2016.

- 7.9.3 In September 2020, there was a 3-fold increase in the number of *Acinetobacter Baumannii* cases heralding the start of the Multidrug Resistant Organism (MDRO) outbreak in the neonatal wards at RMMCH. The monthly *Acinetobacter Baumannii* cases had increased to 9 from the monthly average of 3 cases, as documented in a report titled: “A hospital under distress.” dated 22 October 2021. (Annexure Y)

7.10 Infection Prevention and Control

- 7.10.1 Povidone-iodine is a broad-spectrum antiseptic for topical application for pre-and post-operative skin cleansing. It is the ideal choice for longer surgeries and is used widely within South Africa. To be effective, Povidone-Iodine and SteriPrep solutions must be used per the indications in their manufacturers’ user guide.
- 7.10.2 The investigation found that during August 2022, Povidone-Iodine and SteriPrep solutions were out of stock at RMMCH.
- 7.10.3 Sister T. Goduka, Operational Manager for the Theatre department, was informed that Dr. NP Mkabayi had given instructions that RMMCH should borrow Povidone-Iodine and SteriPrep solutions from other health establishments. The investigation found shortages of the Povidone-Iodine solution at the Gauteng Provincial depot. Ms. Belinda Lorraine (Ms. BL Williams) confirmed that there were shortages of Povidone-Iodine and SteriPrep solutions at that time.
- 7.10.4 During her interview with the investigation team of the Ombud on 04 October 2022, Sr. T Goduka said; “we mixed Steriscrub and water to clean the patients operation site as there was nothing.” She said she was made aware that the CEO said they must borrow Povidone-Iodine from other HE, but the quantities were little.

Sr. T Goduka, without permission from RMMCH management, said “we decided to use the mixture we mixed.”

Steriscrub liquid (used to wash hands) and Sterikleen, used as a hand sanitizer, are not indicated as solutions to be used to prepare patients’ skin before abdominal surgical procedures.

Sr. T Goduka said she did that to ensure that booked operations were not canceled during the temporary unavailability Povidone-Iodine and SteriPrep solutions, as it would exacerbate the theatre backlogs.

- 7.10.5 Sr. T Goduka said there were several reported post-operative C/S infections following the “self-made” concocted solution. Upon analysis, eleven patients who were operated on during this period developed sepsis and had to be taken back to the theatre for ‘relook’ operative procedures. Ms. BL Williams said all patients were successfully treated, and none died from the infections. Ms. BL Williams said statistics of the number of patients affected were not kept, and she could, therefore, not provide the number of patients who had ‘relook surgery.’ However, the investigation found that a total of eleven patients required ‘relook’ surgeries in August and September 2022, as compared to none in the preceding months. The investigation further found that consequence management measures were never taken against Sr. T Goduka.
- 7.10.6 Aside from the significant risks to patient safety due to sepsis and unnecessary surgical procedures posed by this inexplicable action, other issues, including unnecessary expenditure and increasing theatre backlogs, served to compound the already overstretched resources within RMMCH.
- 7.10.7 The Norms and Standards Regulations applicable to different categories of health establishments, regulation 8(1) states that “*the health establishment must maintain an environment, which minimizes the risk of disease outbreaks, the transmission of infection to users, health care personnel and visitors.*”

- 7.10.8 The investigation found that Sr. T Goduka breached regulation 8(1) by failing to ensure that a safe environment for a patient is maintained.
- 7.10.9 At the time of the Ombud investigation, the Povidone-Iodine solution had been restocked.
- 7.10.10 The investigation found that Sr. T Goduka did not have any prior theatre management experience. Furthermore, the theatre did not have any measures to manage stock levels of relevant commodities, including the Povidone-Iodine solution.

7.11 Racism

- 7.11.1 During interviews with hospital personnel, most interviewees cited racism as a problem at RMMCH. These sentiments were based on how the staff was treated, recruited, and appointed during the Covid-19 pandemic.
- 7.11.2 The investigation was unable to substantiate or confirm the allegations.

7.12 RMMCH Hospital Board

- 7.12.1 The National Health Act (NHA), 2003 (Act No. 61 of 2003). and other provincial health acts and regulations provide the legislative framework within which hospital governance and boards operate.
- 7.12.2 Section 41(6)(a)(i) – (iii) of the NHA stipulates that the relevant Member of the Executive Council (MEC) must appoint representative boards for each public hospital or each group of such public health establishments within the relevant province and prescribes the functions of such boards and procedures for meetings of each board. The section gives the MEC the powers to appoint a representative hospital board for each central hospital or group of central hospitals.
- 7.12.3 The investigation found that RMMCH had been without a functional hospital board for more than 3 years. Minutes of Hospital Board meetings were not available. RMMCH shared the Hospital Board with HJH, appointed on 01 April 2019. During the interview, Ms. LA Rose indicated that most board members passed away. Dr. NE Mokgethi questioned the functionality of the Hospital Board. Dr. NP Mkabayi confirmed that there were no minutes to indicate that the Hospital Board had meetings.
- 7.12.4 Dr. FG Benson indicated that a new hospital board for RMMCH was appointed on 12 July 2022, and Dr. NE Mokgethi confirmed this. This was confirmed by Ms. L Louw who said the Hospital Board members were officially welcomed and introduced to the EXCO members on 12 September 2022.
- 7.12.5 The RMMCH Hospital Board is expected to play an advisory role and give technical support to RMMCH management.

7.13 Nonavailability of an adult ICU at RMMCH

- 7.13.1 The investigation found no ICU to cater to adult patients at RMMCH. This compounded problems as patients needing ICU services had to be catered for in the theatre leading to the cancellation of scheduled operations. Dr. T Kleyenstuber indicated that this could take up to 12 hours, depending on the availability of ICU beds in the province.
- 7.13.2 A detailed report written by Prof. A Coovadia and Prof. H Lombaard dated 02 December 2016 and updated in 2017 titled: **“An unsafe hospital”** confirmed challenges at RMMCH.
- 7.13.3 The issues and recommendations raised by Prof. A Coovadia and Prof. H Lombard in the report remain pertinent to date and are consistent with the findings of the Ombud investigation.

[Cited directly from the report, dated 02 December 2016]

“The report relates to the challenges faced by RMMCH over a prolonged period of time and was necessitated by the occurrence of an outbreak of a hospital acquired infection in the neonatal nursery that is directly related to the capacity issues at the institution.

The investigation focused on the following challenges:

- (a) Current MRSA outbreak in the neonatal nursery*
- (b) Capacity in the neonatal division of the Department of Paediatrics and Child Health*
- (c) Required capacity for the neonatal unit*
- (d) Increasing trend of utilization of neonatal services at RMMCH*
- (e) Statistics of the Dept of O and G*
- (f) Challenges in Obstetrics*
- (g) Risk Assessment – Current and future risk*
- (h) Proposed solution and Remedial Actions*

The report recommended the following immediate, medium-term, and long-term resolutions for implementation:

A. Immediate

- a. Multidisciplinary team meeting to be convened urgently involving the two medical departments with medical and nursing staff and senior management to look at the overall problem and consider immediate steps to address the crisis.*
- b. Review of admission policy to RMMCH maternity.*
- c. Review of admission policy to 16 complex – with stricter criteria for admission, possible lowering of discharge criteria.*
- d. Review what neonatal cases can be managed in ward 16C (KMC).*
- e. Review what neonatal cases can be managed in postnatal wards.*
- f. Review of indications, frequency, and instructions on procedures for neonatal.*
- g. Review of infection control procedures and staff adherence to these including use of aprons.*
- h. Opening up of ward or part of a ward to permit cohorting of hospital acquired infections such as MRSA babies together.*
- i. Alert the provincial Head Office of the current crisis and request assistance with remedial action.*
- j. Transfer cases requiring only phototherapy to ward 1.*

B. Medium Term

- a. Establishments of another ward for neonates.*
- b. Doubling the size of the NICU and High Care facility to ensure that this matches the need for the institution (note 12 000 deliveries per annum which is about 50% of what CHBAH carries out yet we have less than 20% of the facilities of CHBAH to manage this load).*
- c. Review of what role MOUs in the catchment area of RMMCH are doing and which cases need to be referred.*
- d. Review of the role of discoverer's CHC and its referral pattern.*
- e. Review of medical and nursing staff for financial year 2017/2018.*
- f. Review of critical equipment required for financial year 2017/2018 that will make a specific difference to maternal and neonatal outcomes.*
- g. Establish the 24-hour laboratory and blood bank- has been on the cards for the last 2-3 years now.*
- h. Establish an adult ICU as soon as possible as a top priority.*
- i. Confirmation as Tertiary Status to permit increased funding.*
- j. Establish of a forum of maternity and paediatric service providers in our region to meet on a regular basis (at least quarterly). This would involve RMMCH and the regional and district hospitals in our area such as Leratong, Dr Yusuf Dadoo, Carletonville, and Discoveries CHC.*

C. Long Term.

- a. *A dedicated MOU (Midwives Obstetrics Unit) even if that is then with in the hospital.*
- b. *Proper triage of all patients presenting to hospital by the Emergency working with the O and G Department, The ED needs an Emergency Medicine specialist to run this department.*
- c. *A discharge lounge."*

- 7.13.4 Despite raising valid concerns and realistic solutions to address the challenges of overcrowding at the RMMCH, there is no evidence to indicate that the recommendations of this report were considered or implemented. (**Annexure Z**)

7.14 Dr. NP Mkabayi's transfer to GDoH offices

- 7.14.1 Dr. NP Mkabayi stated that a decision was taken by her seniors to temporarily place her at the provincial office as they were dealing with the issue of Dr. FG Benson.

On 29 November 2022, Ms. LB Baloyi indicated that Dr. NP Mkabayi would be observed until she was declared fit to return as a CEO. Ms. LB Baloyi said the environment at RMMCH is not supportive of Dr. NP Mkabayi but acts as a trigger, and a collective agreement was reached to move her. A determination was to be reached at a later stage.

- 7.14.2 She indicated that she had been given a role at the provincial office but was told as soon as the issue with Dr. FG Benson was resolved, she would return to her post as the CEO of RMMCH.

Ms. LB Baloyi said Dr. NP Mkabayi was aware that she is not returning to RMMCH as there was a meeting between the HoD, Dr. S Mankupane, and herself to discuss the issue, and a collective agreement was reached. She said Dr. NP Mkabayi agreed with the decision, although they wouldn't be surprised if she changed her mind. She said Dr. NP Mkabayi would not return to RMMCH or any other HE as CEO.

- 7.14.3 Dr. NP Mkabayi stated that no transfer letter was given to her at the time of her interview on 29 November 2022.

During her interviews on 29 November 2022, Ms. LB Baloyi said Dr. NP Mkabayi was given a transfer letter indicating she would work at the provincial office.

- 7.14.4 On 06 January 2023, the Ombud received a transfer letter of Dr. NP Mkabayi to the post of Director in Health Programmes Chief Directorate at the GDoH offices signed by Ms. N Nkomo-Ralehoko: MEC for Health in Gauteng on 14 November 2022. The letter states that Dr. NP Mkabayi requested the transfer to the GDoH offices. (**Annexure DD**)

Both Dr. NP Mkabayi and Ms. LB Baloyi never mentioned the existence of the letter during their interviews with the Ombud.

RESPONSES TO THE PROVISIONAL REPORT

Following the completion of the investigation, a provisional report was sent by the Ombud to seven individuals (Ms. H Ismail, Dr. N Nolutshungu, Dr. NE Mokgethi, Dr. A Manning, Dr. NP Mkabayi, Sr. T Goduka, and Ms. LB Baloyi) on 21 December 2022, with a request to submit comments. All comments were due for submission by 06 January 2023.

On 06 January 2023, all respondents submitted their comments except Dr. NP Mkabayi. She requested – and was granted - two extensions to the timeline (13 January 2023 and 20 January 2023). Dr NP Mkabayi submitted her comments on 20 January 2023.

The following emerged:

1. The Complainant, Hon. H Ismail, appreciated the preliminary report and stated that she was awaiting the final report.
2. The GDOH Head of the Department, Ms. N Nolutshungu, acknowledged the in-depth investigative work done by the Ombud. She highlighted dates and personnel designations that required amendment – all cited issues were attended to in the report.
3. The former MEC of Gauteng Province, Ms. NE Mokgethi, welcomed the report and assured the Ombud that the newly appointed RMMCH Hospital Board would be supported by the office of the MEC as recommended. Ms. NE Mokgethi further recommended that the Ombud allow Dr. F Kgongwana to respond to the issue of the RMMCH CEO working for 182 days, as he was the immediate supervisor of Dr. NP Mkabayi at the time.

The Ombud heeded the request, and a set of questions were sent to Dr. F Kgongwana on 26 December 2022. The questions, along with Dr. F Kgongwana's responses are included in the interview section of the final report.

Dr. F Kgongwana also submitted Dr. Mkabayi's Leave Forms and Route Forms for July 2021 and September 2021 to indicate which leave was approved for those months.

4. The Acting CEO of RMMCH, Dr. FG Benson, sent a response on behalf of the RMMCH management. He highlighted spelling errors regarding people's surnames and further commented on statements in the report which were not captured well. All spelling errors were corrected and comments were checked against the available evidence.

Dr. FG Benson also submitted a Protocol for Ambulance Diversion of Maternity Units at three Johannesburg Academic Hospitals in Johannesburg District, adopted on 13 September 2013.

5. Sr. T Goduka acknowledged the report and commented on the use of Steriscrub and Sterikleen utilised in the theatres when Povidone-iodine was out of stock. She admitted that she could have given the investigators the impression that Povidone-iodine and Steriscrub were mixed as a solution to prepare the patient's operation site, but this was a wrong impression.

She acknowledged that she was advised to borrow stock from other HEs, but ended up mixing Steriscrub and water to make a 'self-made' solution without permission from the RMMCH management.

Sr. T Goduka highlighted the number of relooks done during the period but could not say how many were due to the solution she made.

6. Ms. LB Baloyi's comments were received on 06 January 2023. She highlighted that Dr. NP Mkabayi was not granted permission for RWORPS for the financial year 2022/2023 as it was not reflected in the persal system.

Ms. LB Baloyi stated that the agreement with Dr. Mkabayi was a permanent transfer, not **a secondment or temporary placement**. She indicated that it was untrue that Dr. Mkabayi reluctantly accepted the transfer under protest in a meeting held on 04 November 2022. According to Ms LB Baloyi, Dr NP Mkabayi appreciated the decision citing that it would allow her to continue with her studies and focus on her health, as she had been diagnosed with Anxiety Disorder and not Bipolar Disorder. In her response, Ms. LB Baloyi explained that if the transfer was temporary, it would have been approved by the HoD and not the MEC.

Ms. LB Baloyi highlighted some errors made during transcription of her narrative and all cited issues were corrected in the report.

Ms. LB Baloyi further submitted Dr. NP Mkabayi's letter of transfer, a copy of Dr. NP Mkabayi's national Identity Document, and a Diploma in HIV Management certificate. There was no driver's licence submitted.

7. On 03 January 2023, Dr. NP Mkabayi requested an extension to submit her comments as she would not meet the submission target date of 06 January 2023. The Ombud granted the extension to 13 January 2023 (close of business). On 13 January 2023, Dr. NP Mkabayi called the Ombud to request a further extension until 16 January 2023. On the day of submission, she requested a further extension which the Ombud granted. On 16 January 2023, the Ombud emailed a letter to Dr. NP Mkabayi to inform her that the extension is granted until the close of business on 20 January 2023 and that no further extension will be granted. Dr NP Mkabayi adhered to the final extension date.

Summary of responses

Following the provisional report, responses were received from a total of seven (7) respondents. The responses helped balance the findings of the investigation, confirm the investigation findings and strengthen the report.

1. Dr. F Kgongwana's responses placed the onus of proof on Dr. NP Mkabayi to explain to the Ombud regarding her working from home. The investigation noted concern as some of his responses were generic and not specific.
2. Dr. F Kgongwana indicated that the response to the Legislature was generated from Dr. NP Mkabayi's office as the primary source and sent to the GDoH provincial office.
3. What Ms. LB Baloyi said in her response regarding the transfer of Dr. NP Mkabayi raised more questions. She highlighted, *"It is not true that Dr. Mkabayi reluctantly accepted the transfer under protest in a meeting held on 04 November 2022."* This statement is not written in the report.
4. According to Dr. NP Mkabayi's transfer letter signed by the MEC of Health on 14 November 2022, Dr. NP Mkabayi requested the transfer. When interviewed on 29 November 2022, Dr NP Mkabayi gave no indication that she requested a transfer – in fact she indicated that she was eager to return to RMMCH as CEO.
5. When interviewed on 29 November 2022, Ms. LB Baloyi never mentioned the letter's existence and, in her comments, did not explain on which date the letter was given to Dr. NP Mkabayi. There is also no proof provided of the date on which Dr. NP Mkabayi signed for receipt of the letter.
6. While the Ombud welcomed the submission of Dr. NP Mkabayi's Diploma in HIV Management copy, it should be noted that this was a pre-requirement for the RMMCH CEO's position, which was not part of the interview package that was provided originally by Ms LB Baloyi.

7. Dr. FG Benson's response on behalf of RMMCH management affirmed that Sr. T Goduka was not granted permission by RMMCH management to make a 'self-made' solution, and he clarified what solutions were utilised.
8. Hospitals have a list of prescribed solutions to prepare the skin in theatre that have been accredited as safe. Sr. T Goduka mixed Steriscrub with water, thereby diluting the Steriscrub. The quantities of the resultant solution could not be ascertained, nor was the solution tested and accredited for skin preparation or wound cleaning purposes. Steriscrub is indicated for scrubbing hands in theatre; after that, sterile gloves are worn to ensure sterility. Sterikleen is indicated to disinfect hands, using this solution to prepare the operation site is professionally and technically wrong as it is not indicated for that purpose.
9. When patients present at the hospital, they do that because they are assured of safe care because all resources used undergo rigorous scientific testing and scrutiny.
10. Dr NP Makbayi's response confirmed that she did not declare her chronic mental health condition on the Z83 form in the application for the post of RMMCH CEO. Bipolar mood disorder is a chronic mental health condition that is manageable with medication and psychotherapy.
11. Dr NP Makbayi also indicated that *"the HPCSA only agreed in 2022 which psychiatrist I could consult to evaluate me, although the enquiry started in 2021. The first time I was unable to honor the appointment due to a work commitment that day. The second time was during my recent admission to Tara hospital. I informed the HPCSA on both occasions. I was still awaiting to be granted another date when I was interviewed by your office."*

In the absence of any documentary evidence from either Dr NP Makbayi or the HPCSA, it is difficult to believe that the HPCSA was informed of the reasons she was unable to attend the two specialist appointments.

12. Dr NP Makbayi further states that *"I am willing and ready to be assessed by any HPCSA psychiatrist or any other psychiatrist that the OHSC may deem necessary. I am willing to present myself immediately for the assessment. I am willing to be assessed on a regular basis if that is required."*
13. Regarding the issue of working remotely during the COVID-19 pandemic, Dr NP Makbayi states *"We agreed with Dr Benson that we would take turns to work remotely especially on days when there were virtual meetings as the network at the hospital was very poor."* However, Dr. NP Makbayi and Dr. FG Benson did not mention this in their interviews. Her response regarding being available during this period on her cellphone and email was disputed by Ms LA Rose, during the interviews. Dr NP Makbayi was further unable to provide any evidence of the online MS TEAMS meetings that she attended during this time.
14. Regarding the leave discrepancies, Dr NP Makbayi confirmed that *"the leave taken does not always correspond to the leave forms and the delegations of authority."* And took responsibility for that discrepancy. She further indicated *"I did not take any leave that was not approved by my supervisor. Each time I requested leave I always requested the leave credits and took leave accordingly without realising that there was leave that had not been captured by HR."*
15. According to Dr. F Kgongwana, each employee has the responsibility to submit signed leave forms to their supervisors for approval and signature, after which, this should be submitted to the HR department for capturing. It is evident that Dr. NP Makbayi did not submit requests for the leave that was allegedly granted as there was no evidence on the Route Form provided by the provincial office (Dr F Kgongwana) that the forms were sent to GDoH for approval.
16. Dr NP Makbayi's statement regarding the transfer to Gauteng Provincial office is contradictory to statements made during her interview with the Ombud. She indicates *"I had a meeting with HoD, Dr Nolutshungu, DDG Ms Baloyi and Acting DDG Dr Mankupane and was informed of being moved to the head office of"*

GDOH on 11 November 2022. In that meeting it was not made clear that the move was a permanent move. It was indicated that the situation at the hospital would be reviewed in due course. It was only after I received the transfer letter much later that I realised that the transfer was permanent."

17. This submission contradicts the submission by Ms BL Baloyi. According to Ms Baloyi, the meeting to discuss Dr Mkabayi's move to Central Office was held on 04 November 2022, whereas Dr Mkabayi says it was held on 11 November 2022. It is difficult to accept either version without minutes of the meeting. The submission also raises questions about whether she requested the transfer – as is cited in the transfer letter – or whether the decision was made by her supervisors.
18. However, she indicates that "I have accepted the transfer to central office as it is a more stable environment." This contradicts her submission during her interview with the Ombud on 29 November 2022 where she indicated that she was not content with the decision to transfer her to Central Office, because she did not think she was the problem.

8. CONCLUSIONS

The investigation reached the following conclusions:

- 8.1 RMMCH, as a specialised hospital, is inadequately resourced and thus not fit for purpose. The infrastructure is collapsing, the hospital is understaffed, and there is an over-reliance on Nursing Agencies to address staff shortages. Skilled nursing staff resignations due to misalignment of funded posts and available skill sets have led to a high turnover of staff.
- 8.2 Overbooking elective C/S and cancellation of cases to accommodate emergency C/S leads to overcrowding. Acceptance of the diversion of patients from surrounding hospitals without considering the availability of vacant beds is a challenge. The influx of patients to RMMCH without being referred from primary-level services compounds the issue of overcrowding.
- 8.3 Not only is it unrealistic to expect a pregnant woman to sit on a chair the whole night, but it is also inhumane. Allowing pregnant mothers to sleep on a cold floor while admitted to a hospital violates their dignity and predisposes the patients to significant risks and infections.
- 8.4 There were serious human resource concerns and lapses noted in the pre-appointment period with regards to the appointment of Dr. NP Mkabayi as RMMCH CEO.
- 8.5 Irregularities were found between the leave approved and DoA documentation, with 24 days unaccounted for Dr. NP Mkabayi was found to have spent less than 182 days at the hospital.
- 8.6 Procurement procedures were non-compliant as documents sometimes did not meet the required criteria. The "*sign and complain later*" (Mr T Wessels) philosophy indicates that SCM staff do not take procurement processes seriously. Late submissions by end users and doctors' supply preferences worsen the problem. Overall, the system is dysfunctional and open to corruption. The security at RMMCH is abysmal. There are no proper access controls at the gates. The CCTV is not functional, and the security staff lacks resources. According to TN, there were only three two-way radios for 31 security staff working during the night shift. The report of a staff car highjacked within the hospital premises is alarming.
- 8.7 RMMCH does not have an adult ICU. Patients requiring ICU services are accommodated in an operating theatre until an ICU bed is available to transfer the patient. This practice impacts elective surgical lists.
- 8.8 The Laboratory Services and Blood Bank were not available for 24 hours. While HJH, which had a 24-hour service, was 10 minutes away, it remains a risk for a hospital dealing with obstetrics and gynaecology

patients. Although there is a fridge where blood is stored at RMMCH, the obstetrician indicated that this is inadequate and operation lists are delayed awaiting blood in some instances.

- 8.9 A detailed report compiled by Prof. A Coovadia and Prof. H Lombaard in 2017 titled “An Unsafe Hospital” confirmed challenges at RMMCH. The report recommended that the GDoH revisit the decision to downgrade Discoverers district hospital into a Community Health Centre (CHC).
- 8.10 The recommendation was that Discoverers CHC is reclassified as a district hospital to alleviate RMMCH's burden of patients and avoid overcrowding. Further recommendations included establishing an MOU within the hospital, where Normal Vaginal Deliveries (NVDs) would be handled and establishing a discharge lounge to accommodate discharged patients awaiting relatives.
- 8.11 Despite raising valid concerns and realistic solutions to address the challenges of overcrowding at the RMMCH, there is no evidence to indicate that the recommendations were either considered or implemented.
- 8.12 Two individuals – Dr T De Maayer and Mr A Sauls – were found to have made a significant contribution in their respective roles towards advocacy for patient safety and the provision of quality health services. Their actions on various platforms, and the subsequent public outcry, have highlighted the importance for all healthcare institutions to uphold and apply the principle of good governance particularly within the context of patient care.
- 8.13 During the investigation, it was clear that the relationships among EXCO members were not good. There was a lack of trust. EXCO members were unhappy with the unavailability of the CEO, as well as the assertion that she was ‘working from home’, which caused a lot of conflict.
- 8.14 Within RMMCH, senior managers, including Dr FG Benson, were found to exhibit a significant lack of discipline and manipulative behaviours. In the main, this was done through exerting inappropriate influence on subordinates, promoting a culture of non-compliance and lack of accountability.
- 8.15 All staff interviewed indicated that RMMCH staff morale was low. A grievance signed by 55 staff members served as an indication of how unhappy the staff was with RMMCH management.
- 8.16 Infection Prevention and Control protocols were breached by using a solution not recommended to clean the skin before operations leading to wound infections. There were eleven patients who were operated on who had to go back to the theatre for relook surgeries. This meant length of hospital stay for eleven patients was prolonged, and there was fruitless expenditure.
- 8.17 RMMCH HRD did not have proper control systems to protect hospital personnel's confidential information. The CEO requested and was given her file, which was later reported missing from her office. The incident was never reported to the South African Police Services (SAPS).
- 8.18 The CEO reported that her HR file was missing from her office when asked for the file by an OHO investigator, but she did not report the incident to the RMMCH HR or to SAPS prior to this.
- 8.19 Overall, the Gauteng Provincial Health Department is in a mess. This has been going on for some time - at least seven years. The criteria used by GDoH to select Hospital CEOs is far below the required standard for this position. The monitoring and evaluation systems are weak, and the CEO appointment systems are weak to non-existent.
- 8.20 The contradictory statements made by senior managers at the highest level in the province regarding the transfer of Dr. NP Mkabayi to the GDoH indicate a lack of transparency, accountability and poor communication within the province. A lack of common understanding may lead to unnecessary expectations and dissatisfaction, leading to employee unproductiveness.

8.21 This is a finding that the Ombud has made informed by investigating the Life Esidimeni tragedy in Gauteng in 2016, the Tembisa Provincial Tertiary Hospital COVID-19 death in 2021, and the current RMMCH complaint. It is important that the Health MEC and Premier prioritise the quality of health services within the province. As the economic hub of the republic, a quality health system and a healthy citizenry are an absolute necessity. The NHI's success depends on a quality health system, and the Gauteng Province should lead by example.

9. RECOMMENDATIONS

Given the complexity of the findings uncovered by the investigation, recommendations are made at several levels:

Gauteng Department of Health

9.1 Appointment of RMMCH CEO

- 9.1.1 The HoD should ensure that a suitable permanent CEO for RMMCH is identified and appointed as a matter of priority within three (3) months.
- 9.1.2 The advertisement for the CEO position should be in line with standardised requirements for CEOs of regional and tertiary level hospitals to ensure any potential candidates meet all the relevant criteria and are 'fit for purpose'.
- 9.1.3 The following recommendations are made with regards to the advertisement for the CEO position above:

REQUIREMENTS: Matric Certificate (Grade 12), A degree/advanced diploma in a health-related field, registration with relevant professional council; **PLUS** • A degree/diploma in health management **OR** degree/advanced in a management field. **PLUS** • At least 5 (five) years management experience in the health sector. • Experience as a health service manager or significant experience in management in a health service environment. Unendorsed valid Code B driver's licence (Code 08).

KNOWLEDGE, SKILLS, TRAINING AND COMPETENCE REQUIRED: **Knowledge** of relevant legislation such as the National Health Act (NHA), Public Finance Management Act (PFMA), Public Service Act and related regulations and policies. **Core Competencies:** Strategic capacity and leadership, Programme and Project Management, Financial management, Management of people and empowerment. **Progress Competencies:** Service delivery innovation, knowledge management, Problem solving and analysis, Communication, Client orientation and customer focus.

KEY PERFORMANCE AREAS: • To plan, direct, co-ordinate and manage the delivery of clinical and administrative support services in an effective and efficient manner, working with the key executive management team at the hospital and within the legal and regulatory framework, and government requirements, To represent the hospital authoritatively at provincial and public forums, To provide strategic leadership to improve operational efficiency within the health establishment to improve health outcomes.

Strategic Planning: Prepare a strategic plan for the Hospital to ensure that it is in line with the 10-point plan, national, provincial, regional and district plans as well as the Department's strategies goals and Objectives.

Financial Management: Ensure that adequate policies, systems and procedures are in place to enable prudent management of financial resources, financial planning, resource mobilisation, including monitoring and evaluation; Ensure appropriate asset management and accountability of all assets of the institution; Identify strategic and operation risks and ensure that strategies are in place to address these, as well as monitor the progress; Maximise revenue through collection of all income due to the hospital.

Facility Management: Ensure business support and systems to promote optimal management of the institution as well as optimal service delivery, ensure that systems and procedures are in place to ensure planning and timeous maintenance of facilities and equipment.

Human Resource Management: Implement and maintain human resource management policies and guidelines, systems and procedures that will ensure effective and efficient utilisation of human resources; Promote a safe and healthy working environment through compliance with the Occupational Health and Safety Act, including occupational health and safety committees; Ensure continuous development and training of personnel and implement monitoring and evaluation of performance.

Procurement and Management of Equipment and Supplies: Implement a procurement and provisioning system that is fair, transparent, competitive and cost effective in terms of provincial delegated authority in line with PFMA, and Supply Chain Management prescripts; Ensure that goods and services are procured in a cost effective and timely manner; Ensure sound contract management for all contracted services.

Clinical and Corporate Governance: Oversee clinical governance to ensure high standards of patient care, establish community networks and report to the Hospital Board and other relevant oversight committee/bodies; Ensure the establishment of the relevant governance structures linked to clinical and non- clinical functions and responsibilities; Manage all the institutions risks and implement strategies to ensure optimal achievement of health outcomes.

- 9.1.4 Only candidates with relevant and proven expertise and experience should be short-listed, with detailed records indicating the reasons for short-listing or rejecting each candidate.
- 9.1.5 An experienced CEO knowledgeable in management of regional level hospitals should be appointed. It would be critical that the new CEO is viewed as a leader who would have the ability to unite the health workforce with RMMCH.
- 9.1.6 To ensure success, the GDoH should provide ongoing regular support to the new RMMCH CEO, which should be documented on a monthly basis.

9.2 Transfer of Dr NP Mkabayi to the GDoH

- 9.2.1 The Ombud supports the GDoH decision to transfer Dr. NP Mkabayi from RMMCH on a permanent basis.
- 9.2.2 The Gauteng MEC for Health should offer professional and psychological support and assistance to Dr. NP Mkabayi in her new position at the GDoH.
- 9.2.3 GDoH should not only provide supervision and support but also ensure that Dr. NP Mkabayi undertakes training to remediate the gaps that were identified in her competency assessment and the Ombud's findings.
- 9.2.4 The Ombud further supports the HPCSA process of an independent psychiatric evaluation and strict monitoring for Dr. NP Mkabayi. This should be accelerated in line with Dr. NP Mkabayi's own suggestions that she provided to the Ombud.
- 9.2.5 Dr. NP Mkabayi should provide written commitments to the HPCSA process and Programme and provide regular updates to the HPCSA and GDoH.
- 9.2.6 It is recommended that these activities (stabilisation, the support/training and transfer of Dr NP Mkabayi) are undertaken for the remainder of Dr NP Mkabayi's contract period with GDoH coupled with regular assessment and monitoring by GDoH and the HPCSA.

- 9.2.7 Towards the end of her contract GDoH and HPCSA must make a final assessment and advice Dr NP Mkabayi on her future.

9.3 Review Provincial HR processes for the appointment of Hospital CEOs

- 9.3.1 The Gauteng HoD for Health and DDG: Corporate Services must urgently review the Provincial HR processes for the appointment of CEOs and other senior staff within six (6) months. The review should evaluate the provincial HR processes with regard to the advertised requirements and competencies required for the position, pre-employment reference checks and vetting for senior positions, especially those of Hospital Chief Executive Officers.
- 9.3.2 During the period of the investigation, it was noted that at least 2 Tertiary Hospital CEOs in Gauteng were suspended for maladministration and misappropriation of funds (Tembisa Hospital, Kalafong Hospital), raising questions about the calibre of individuals hired for these positions, as well as the HR processes followed.

9.4 Prioritisation of RMMCH for Infrastructure Refurbishment

- 9.4.1 The Premier should ensure that RMMCH is one of the first hospitals to be refurbished, within six (6) months.
- 9.4.2 Consideration should be given based on the collapsing sewage system, leaking steam pipes, dilapidated buildings, and unkempt surrounding areas within the hospital perimeter.
- 9.4.3 This will contribute to the improvement in the provision of quality health services and ensure that RMMCH complies with Regulation 8 (1) of the Norms and Standards regulations.

9.5 Gazetting of RMMCH as a Tertiary Hospital

- 9.5.1 GDoH should prioritise and fast-track the gazetting of RMMCH as a Tertiary hospital which would ensure that RMMCH receives a tertiary grant, within eight (8) months.
- 9.5.2 This classification is critical for RMMCH as it provides specialist services to women and children, functions as the only Mother and Child hospital in Johannesburg and is utilized as a part of the University of Witwatersrand for the training of health workers, including nurses, medical doctors, specialists, super specialists, and allied health workers.
- 9.5.3 The grant will also enable the hospital to procure commodities, equipment, and supplies according to its mandate.
- 9.5.4 In the interim (within two (2) months) GDoH should apply short-term interventions including the application of PFMA section 16A to ensure allocation of additional funds for RMMCH.

9.6 Address leadership and Governance issues

- 9.6.1 The Gauteng MEC of Health must urgently appoint an independent forensic and audit firm within two (2) months to:
- 9.6.2 Conduct a competency, 'fit for purpose' assessment of the leadership and management staff at RMMCH.
- 9.6.3 Assess the need to upskill all RMMCH managers / EXCO members to ensure they are able to perform their functions in line with the expectations of RMMCH service delivery.

9.6.4 Review corporate governance at the hospital in line with appropriate and applicable King IV corporate governance principles to promote and improve a culture of good corporate governance. Several witnesses indicated that within RMMCH a culture of not following proper processes and protocols existed, which was further propagated by the lack of repercussions for perpetrators.

9.6.5 Investigate HR practices pertaining to Dr. NP Mkabayi, with particular focus on her appointment, supervision, leave management and related irregularities, and resolution of complaints.

9.6.6 This will ensure that RMMCH complies with Regulation 18 of the Norms and Standards regulations.

9.7 Implement Recommendations made in the 2017 report “An Unsafe Hospital” by Prof. A Coovadia and Prof. H Lombaard.

9.7.1 The issues and recommendations raised by Prof. A Coovadia and Prof. H Lombard in the report remain pertinent to date and are consistent with the findings of the Ombud investigation.

9.7.2 The MEC and HoD for Health should revisit the 2017 RMMCH report with a view to implementing the recommendations, as a matter of urgency.

9.7.3 A comprehensive implementation plan is to be submitted to Ombud *within six (6) months* including detailed realistic strategies, time frames, and names, designations and contact details of persons responsible for implementation.

9.8 Strengthen Gauteng HoD oversight of hospitals

9.8.1 The HoD's office should be sufficiently strengthened to conduct comprehensive oversight of hospitals in Gauteng. A detailed implementation plan is to be shared with the Ombud *within one (1) month*.

9.9 Reclassification of Discoverers CHC

9.9.1 The recommendation is consistent with recommendations made in the 2017 report by Prof. Coovadia and Prof. Lombaard.

9.9.2 GDoH is to prioritise the reclassification of Discoverers CHC to a district hospital *within six (6) months*, to alleviate the patient load within the region.

9.9.3 This will ensure compliance with Regulations 5 (1) and 8 (1) of the Norms and Standards regulations.

9.10 Review RMMCH staff establishment

9.10.1 The GDoH should prioritise the review of the RMMCH staff establishment and appoint staff in line with their skill sets in all departments to ensure compliance with Regulation 19 (2) (a) of the Norms and Standards Regulations.

9.10.2 A review of the utilisation of nurses from Nursing Agencies is also recommended to reduce the strain on the goods and services budget.

9.10.3 A report detailing progress in this regard should be sent to the Ombud *within six (6) months*.

9.11 Availability of 24-hour Laboratory and Blood Bank Services

9.11.1 The GDoH should ensure that RMMCH, a specialist hospital, has Laboratory Services and Blood Bank Services available 24 hours a day, *within two (2) months*.

- 9.11.2 In the interim, within one (1) month, a larger “Smart Fridge” should be procured to ensure the storage of adequate quantities of emergency blood at RMMCH.

9.12 Construction of additional maternity capacity

- 9.12.1 The GDoH should provide additional maternity capacity within the district, including but not limited to the construction / refurbishment / repurposing of buildings suitable for a Maternity Obstetric Unit (MOU) to cater for the delivery of low-risk maternity cases within the region, within twelve (12) months. This will further alleviate the overcrowding experienced at RMMCH.
- 9.12.2 The staff allocated to the MOUs should include Advanced Midwives to ensure support.

9.13 Establishment of an adult ICU at RMMCH

- 9.13.1 The GDoH is to fast-track the establishment of a fully functional adult ICU at RMMCH within six (6) months.
- 9.13.2 The ICU will ensure that patients are treated in a manner consistent with the nature and severity of their health condition as provided for in Regulation 5 (1) of the Norms and Standards Regulations; and allow scheduled surgical procedures within the theatres to continue in an uninterrupted manner.

9.14 Monitoring of RMMCH Hospital Board

- 9.14.1 The Gauteng MEC of Health is to diligently monitor that the appointed Hospital Board is adequately trained and able to discharge their functions to ensure compliance with Regulation 18 of the Norms and Standards Regulations. 12.2 This should be implemented with immediate effect.

RMMCH Acting CEO

9.15 Development of HR capacity

- 9.15.1 The Acting CEO of RMMCH must ensure that the Hospital has a system in place to manage healthcare personnel in line with relevant legislation, policies, and guidelines, within one (1) month.
- 9.15.2 A suitable HR plan that meets the needs of the health establishment in line with Regulation 19(1) and (2) (a) of the Norms and Standards Regulations must be developed and implemented, within one (1) month.
- 9.15.3 The HR department should be upskilled and capacitated to carry out the mandate of RMMCH, within three (3) months.

9.16 Discharge Lounge

- 9.16.1 The Acting CEO of RMMCH should identify a suitable area to create a Discharge Lounge, within one (1) month. This will cater for discharged patients who are waiting to return to their homes.
- 9.16.2 The Discharge Lounge should be allocated dedicated staff to ensure that patients are monitored until they leave the hospital premises.

9.17 Security System upgrades

- 9.17.1 The Acting CEO of RMMCH and HoD must, within one (1) month, submit to the Ombud a security plan to protect users, health care personnel, and hospital property from security threats and risks and ensure that security staff is capacitated to deal with security incidents, threats, and risks.

- 9.17.2 A clear plan is to be developed *within one (1) month* regarding the safety of healthcare staff over 24 hours, both within the hospital premises as well as within the immediate areas of the hospital periphery, to ensure RMMCH complies with Regulation 17 (1) and (2) of the Norms and Standards Regulations.

9.18 Disciplinary Inquiry

- 9.18.1 The Gauteng Department of Health and RMMCH should institute a disciplinary inquiry *within one (1) month* following prevailing policy and compatible with the Labour Relations Act, 66 of 1995, against the following personnel:

- 9.18.1.1 **Sr T Goduka** for using an unauthorised self-concocted solution in the maternity operating theatres during August and September 2022. By doing so, she put the lives of patients at risk and the reputation of GDoH at stake.

Her actions led to several adverse events (post-operative wound sepsis), which necessitated eleven 'relook' surgeries in theatre in August and September 2022.

- 9.18.1.2 **Dr. NP Mkabayi** for her failure to ensure that the RMMCH has functional systems in place:

- Failure to ensure adequate HR controls were in place, to restrict access to and loss of RMMCH personnel information.
- Flouting standard HR practices by requesting her own HR personnel file, not signing for it, storing it in her office - from where it subsequently went missing - and not reporting the loss to the HR department or the South African Police Service (SAPS).
- Failure to manage leave as stipulated in her contract with GDoH and in accordance with sections 5.7 - 5.9 of the "**Determination on Leave of Absence in the Public Service**" document.

The recommendations made in this report are meant to encourage compliance with the prescribed Norms and Standards and ensure health professionals are consistent with the ethics and codes of good practice. All implemented recommendations are to be communicated to the CEO of the Office of Health Standards Compliance in accordance with Procedural Regulation 48.

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LIST OF ANNEXURES

Annexure A	Honourable Haseena Ismail's letter of complaint.
Annexure B	Notice of complaint.
Annexure C	Notice of reminder to request documents.
Annexure D	The Notice of Investigation.
Annexure E	Affidavit regarding the unreturned HR file taken by Dr. NP Mkabayi's from RMMCH HR Department.
Annexure F	List of Interviewees
Annexure G	Dr. NE Mokgethi's response to the Gauteng Legislature dated 24 March 2022.
Annexure H	Dr. Tim De Maayer's open letter to the media.
Annexure I	Copy of the Generator tests register.
Annexure J	The RMMCH Divert Procedure (signed 22 June 2022).
Annexure K	Dr. NP Mkabayi's letter of appointment.
Annexure L	Circular 1 of 2021: Circular to advise on working arrangements with respect to adjusted level three (3).
Annexure M	The response of Dr NE Mokgethi to the legislature dated 08 August 2022.
Annexure N	Leave determination in the public service
Annexure O	Memorandum of grievances (dated 23 June 2021), signed by 55 staff members in Ward 16B.
Annexure P	Sunday Times advertisement for RMMCH CEO position (June 2020)
Annexure Q	DPSA Guideline on Benchmark Job Description for CEO of Hospitals (20 April 2004)
Annexure R	Letter from HPCSA stating that Dr. NE Mkabayi was not found to be impaired dated 2017.
Annexure S	Letter from HPCSA confirming that the Health Committee is intending to declare Dr NP Mkabayi impaired (12 December 2022)
Annexure T	Pictures taken portraying leaking sewage at RMMCH.
Annexure U	Letter written by Dr. FG Benson requesting permission to procure a new CT scan. Permission granted by Prof. Lukhele.
Annexure V	Letters written by Ms. Jordaan to the GDoH regarding staff crises at RMMCH.
Annexure W	RMMCH Ex-Post Facto application to pay Nursing Agencies.

Annexure X	RMMCH admission statistics for 2019/202, 2020/2021 and 2021/2022 financial years
Annexure Y	RMMCH Report titled: A hospital in distress (dated 22 October 2021)
Annexure Z	Prof. A Coovadia and Prof. H Lombard's Report titled: An Unsafe Hospital (dated 02 December 2016)
Annexure AA	Calculation of Dr. NP Mkabayi leave, 2021 (Ms L Louw)
Annexure BB	Email from Dr. NP Mkabayi to HPCSA reporting her admission to psychiatric unit in Cape Town for bipolar disorder type 1 (10 December 2020)
Annexure CC	Protocol for Ambulance Diversion of Maternity Units (dated 13 September 2013)
Annexure DD	Dr. NP Mkabayi's transfer letter to the post of Director in the Health Programmes Chief Directorate in Central Office (dated 14 November 2022)

Notes

Notes

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