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ELEVENTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE CONSIDERATION OF  
THE BIOMEDICAL ENGINEERS BILL, 2015

DIRECTORATE OF COMMITTEE SERVICES  
CLERK'S CHAMBER  
PARLIAMENT BUILDINGS  
NAIROBI

FEBRUARY, 2016

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## 1.0 PREFACE

It is my pleasant duty and pleasure, on behalf of the Committee on Health to present to the House the Report of the Committee on the Biomedical Engineers Bill, 2015 pursuant to Standing Order 127. The Biomedical Engineers Bill, 2015 seeks to make provision for training, registration and licensing of the biomedical engineering professionals; to provide for the regulation of the standards and practice of the profession, to provide for the establishment, powers and functions of the Biomedical Engineering Board of Kenya.

The specific objects which the Bill seeks to achieve include the following:-

- i) To provide for the establishment of the Biomedical Engineers Board of Kenya.
- ii) To provide for the training and registration of biomedical engineers.
- iii) To provide for private practice.
- iv) To provide for the discipline.
- v) Financial provisions relating to the Biomedical Engineers Board of Kenya.

### 1.1 Committee Mandate

The Committee on Health is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to, inter alia:-

- i. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii. study the programme and policy objectives of Ministries and Departments and the effectiveness of the implementation;
- iii. study and review all legislation referred to it;**
- iv. study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- v. investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to it by the House;
- vi. vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments) ; and
- vii. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

### 1.2 Committee Membership

The Committee comprises the following Members:-

1. The Hon. Dr. Rachael Nyamai, M.P. - Chairperson
2. The Hon. Dr. Robert Pukose, MP - Vice Chairperson
3. The Hon. Alfred Agoi, M.P.
4. The Hon. Christopher Nakuleu, M.P.
5. The Hon. David Karithi, M.P.
6. The Hon. Dr. Dahir Duale Mohamed, M.P.
7. The Hon. Dr. David Eseli, M.P.
8. The Hon. Dr. Enoch W. Kibunguchy, M.P.
9. The Hon. Dr. James Murgor, M.P.
10. The Hon. Dr. James Nyikal, M.P.
11. The Hon. Dr. James O. Gesami, M.P.
12. The Hon. Dr. Naomi Shaban, M.P.
13. The Hon. Dr. Patrick Musimba, M.P.
14. The Hon. Dr. Stephen Wachira, M.P.
15. The Hon. Dr. Susan Musyoka, M.P.
16. The Hon. Eng. Stephen Mule, M.P.
17. The Hon. Fred Outa, M.P.
18. The Hon. Hassan Aden Osman, M.P.
19. The Hon. James Gakuya, M.P.
20. The Hon. John Nyaga Muchiri, M.P., HSC
21. The Hon. Joseph O. Magwanga, M.P.
22. The Hon. Kamande Mwangi, M.P.
23. The Hon. Leonard Sang, M.P.
24. The Hon. Masoud Mwachima, M.P.
25. The Hon. Michael Onyura, M.P.
26. The Hon. Mwinga Gunga, M.P.
27. The Hon. Paul Koinange, MP
28. The Hon. Raphael Milkau Otaalo, M.P.
29. The Hon. Zipporah Jesang Kering, M.P.

### 1.3 **Consideration of the Biomedical Engineers Bill, 2015**

On 29<sup>th</sup> July 2015, the Biomedical Engineers Bill, 2015 was read a First Time and thereafter committed to the Departmental Committee on Health for consideration pursuant to Standing Order No. 127. The Committee held two sittings to consider the Bill.

### 1.4 **Public Memoranda /Views**

On 18<sup>th</sup> August, 2015, the Committee placed advertisements on the Local Dailies calling for views from the general public on the Bill pursuant to Article 118 of the Constitution. The Committee received submissions from the Association of Medical Engineers of Kenya (AMEK), Engineers Board of Kenya and the Ministry of Health. Further, the Committee held a Sitting with the Association of Medical Engineers of

Kenya and the Kenya Health Professional Association on 22<sup>nd</sup> October, 2015 to deliberate on the Bill.

### 1.5 **Committee Observations and Recommendations**

The Committee observed that the number of Biomedical Engineers in Kenya is about 200 and therefore sustaining a Board would be too expensive and may lead to raising the costs of service delivery which will directly affect the patients.

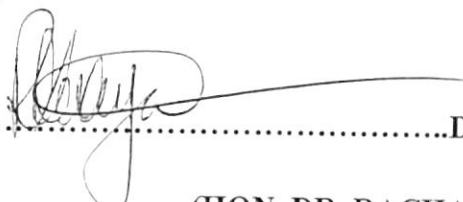
The Committee also noted that there is need for the Bill to be aligned with the Health Bill, 2015 which will be an overarching law especially on issues of health products and technologies regulation.

The Committee will therefore be proposing various amendments to the Bill during the Committee Stage in the House to address areas of concern.

### 1.6 **Acknowledgement**

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. Further, I wish to express my appreciation to the Committee for the immense contributions towards the preparation and production of the report.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Health, to table its report in the House on the consideration of the Biomedical Engineers Bill, 2015 for consideration pursuant to Standing Order 127 (4).

Signed..........Date.....17/02/2016.....

(HON. DR. RACHAEL NYAMAI, MP)

CHAIRPERSON,  
DEPARTMENTAL COMMITTEE ON HEALTH

## **2.0 BACKGROUND**

1. The objective and purpose of the Bill is to provide for the training, registration and licensing of the Biomedical Engineers. The Bill further seeks to regulate the practice of Biomedical Engineers and to provide for the establishment powers and functions of the Biomedical Engineers Board of Kenya.
2. The Bill clearly defines the Biomedical Engineer Board with its powers, functions and composition.
3. The Bill does not concern County Governments.

## **2.1 Situational Review**

Biomedical Engineering (BME) is a discipline that advances knowledge in engineering, biology and medicine and improves human health through cross-disciplinary activities that integrate the engineering sciences with the biomedical science and clinical practice. The profession has only recently been emerging as its own discipline rather than a cross-disciplinary hybrid specialization of other disciplines.

In Kenya, Biomedical Engineering practitioners are involved with the design, manufacture, installation and maintenance of medical equipment. In the late 1970s, frequent breakdown of hospital equipment and systems had posed a great challenge to the Ministry of Health in offering health care services. This led to the Government establishing an artisan training school at Loitokitok District Hospital in 1978.

The training was upgraded to train technicians in 1987 because of dynamism in the technology field. Currently, Kenya Medical Training College (KMTC) offers medical engineering training at higher diploma, diploma and certificate levels in five campuses namely; Nairobi, Eldoret, Meru, Loitokitok and Kilifi. Additionally, the Mombasa Polytechnic (now Technical University of Mombasa) introduced a diploma course in Medical Engineering in 1986.

Degree course in Biomedical Engineering is offered in few universities with Egerton University introducing a Bachelor in Technology program in Industrial Technology (Biomedical Engineering Option) in 2003. Kenyatta University also started a Bachelor of science Degree Program in Biomedical Engineering in 2013.

Initially, all graduates of Medical Engineering were regularly deployed to work in Hospital Maintenance Units (HMU's) in public hospitals all over the country until 1995 due to change in government policy. The number of Medical Engineering personnel being absorbed into public service has drastically reduced, with graduates seeking employment in private hospitals, medical equipment supplies companies etc.

Currently there is no legislation or Board that regulates the practice of Biomedical Engineering. Practitioners in this field neither fall under the Engineers Board nor the Kenya Medical Practitioners and Dentists Board.

The Association of Medical Engineers in Kenya (AMEK) is the professional society for Medical Engineers and was registered in 1998. It seeks to enhance and promote the knowledge and practice of medical engineering in the country.

## 2.2 **The Biomedical Engineers Bill, 2015**

The Bill generally seeks to provide for the regulation of the biomedical engineering profession. It provides for the following:-

- Establishment of the Biomedical Engineers Board of Kenya;
- Financial provisions of the Biomedical Engineers Board of Kenya;
- Provisions for the training and registration of biomedical engineers;
- Provisions for the discipline of biomedical engineers;
- Provisions for regulation of biomedical engineers in private practice; and
- Provisions on delegated powers.

The Bill seeks to regulate the profession by putting provisions similar to those in the Engineers Registration Act, the Medical Practitioners and Dentists Act and the Draft Pharmacy Practitioners Bill.

With the improvement of health care in the country coupled with scientific and technological advances, demand for the services of medical engineers can only increase. Additionally, the Medical Equipment Supplies (MES) project that provides high-tech medical equipment in all counties will also lead to increased demand for the services of these professionals in public hospitals. The Bill is in line with Article 46 of the Constitution as it seeks to regulate the profession hence ensuring the protection of the health of the consumers.

## 2.3 **Comparative Analysis**

Biomedical engineering effectively evolved as a distinct profession in the late 1950s, when biomedical engineering professional societies came together to address issues affecting them as professionals. This culminated in the formation of the International Federation for Medical and Biological Engineering (IFMBE) in 1959 in France.

The World Health Organisation (WHO) is currently in the process of applying for recognition of Biomedical Engineering as a discipline in the International Standard Classifications of Occupations by the International Labour Organisation to be published in 2018.

Worldwide, there is no consistency in how this profession is classified with different countries using different titles such as medical engineering, clinical engineering and biomedical engineering.

Engineering licensure in the US is largely optional, and is not specified by discipline. Each state has certain (fairly similar) requirements for becoming licensed as a registered Professional Engineer, but in practice such a license is not required to practice in the majority of situations (due to an exception known as the private

industry exemption, which effectively applies to the vast majority of American engineers).

In Nigeria, unlike many countries in Africa, Biomedical Engineering is very visible and recognized amongst professionals. However, it is yet to get the full backing of government to certify it as a distinct profession. Practicing biomedical engineers in Nigeria are however certified by the Council of Regulation of Engineering in Nigeria (COREN) to practice as general engineers. There are few training institutions and most of the technical personnel are foreign-trained.

In Australia, Biomedical Engineering Australia is regulated but registration is typically only recommended and not a requirement.

### 3.0 CLAUSE BY CLAUSE SUMMARY OF THE BILL

The following section provides clause by clause analysis;

CLAUSE	GENERAL PROVISIONS
1: long title	Outlines the general purposes of the an Act of Parliament to make provision for the training, registration and licensing of biomedical engineering professionals, to provide for the regulation of the standards and practice of the profession, to provide for the establishment, powers and functions of the Biomedical Engineering Board of Kenya and for connected purposes
Clause 2: Interpretation	Defines or provides for the definition of terms such as: “biomedical engineer”, “biomedical engineering”, “biomedical engineering professional” etc
Clause 3: Establishment of the Biomedical Engineers Board of Kenya.	Establishes the Biomedical Engineers Board of Kenya as a corporate body with perpetual succession.
Clause 4: Membership of the Board	<p>The Board shall comprise of —</p> <p>(a) a chairperson appointed by the Cabinet Secretary in consultation with the Association;</p> <p>(b) the Registrar of the Board or a representative who shall be an ex-officio;</p>



CLAUSE	GENERAL PROVISIONS
	<ul style="list-style-type: none"> <li>(c) the Chief Medical Engineer in the ministry responsible for health in the national government or a representative;</li> <li>(d) the Director, Kenya Medical Training College or a representative;</li> <li>(e) a representative of the institutions in Kenya which award qualifications regulated under this Act, nominated by the institutions;</li> <li>(f) a biological engineering professional employed in the public service in the national government appointed by the Cabinet Secretary in consultation with the Association;</li> <li>(g) a biological engineering professional employed in the public service in a county government appointed by the Cabinet Secretary in consultation with the Association;</li> <li>(h) the chairperson of the Association or a representative; and</li> <li>(i) Two biomedical engineering professionals nominated by the Association who shall include at least one biomedical engineer, one biomedical technologist/biomedical technician, and at least one of whom shall be working in the private sector.</li> <li>(j) A representative of the Engineers Board of Kenya.</li> </ul>
<p>Clause 5: Conduct of business and affairs of the Board.</p>	<p>Provides that the conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule to the Act.</p>
<p>Clause 6: Functions of the Board.</p>	<p>The Board has the following functions, to —</p> <ul style="list-style-type: none"> <li>(a) receive, consider, make decisions on applications for registration and register approved applications;</li> </ul>

CLAUSE	GENERAL PROVISIONS
	<ul style="list-style-type: none"> <li>(b) keep and maintain the register;</li> <li>(c) publish the names of registered and licensed persons under this Act;</li> <li>(d) issue licenses to qualified persons under the provisions of this Act;</li> <li>(e) publish and disseminate materials relating to its work and activities;</li> <li>(f) carry out inquiries on matters pertaining to registration of biomedical engineering professionals and practice of biomedical engineering;</li> <li>(g) enter and inspect health institutions and other facilities offering biomedical services for the purpose of verifying that— <ul style="list-style-type: none"> <li>(i) biomedical engineering services and works are undertaken by registered persons under this Act;</li> <li>(ii) standards and professional ethics and relevant health and safety aspects are observed;</li> </ul> </li> <li>(h) assess, approve or reject biomedical engineering qualifications of foreign persons intending to offer biomedical engineering services or works;</li> <li>(i) evaluate foreign biomedical engineering programs both for recognition by the Board;</li> <li>(j) approve and accredit biomedical engineering programs in public and private universities and other tertiary level educational institutions for the purposes of registration under this Act;</li> <li>(k) approve institutions other than those established or accredited under the Universities Act, the Technical and</li> </ul>

CLAUSE	GENERAL PROVISIONS
	<p>Vocational Education and Training Act and any other written law for the training of biomedical engineers;</p> <p>(l) set standards for biomedical engineering professionals in management, marketing, ethics, environmental issues, safety, legal matters or any other relevant field;</p> <p>(m) evaluate, assess, approve and regulate the usage and application of such medical devices, tools, equipment and appliances necessary in biomedical engineering practice as the Board may from time to time determine;</p> <p>(n) in consultation with approved institutions, prepare detailed curriculum for registration of biomedical engineering professionals;</p> <p>(o) prescribe the courses of instruction for biomedical engineering and conduct professional examinations for the purposes of registration;</p> <p>(p) advise the governments on policy matters relating to biomedical engineering and technology;</p> <p>(q) establish, approve, accredit and coordinate programs for continuing professional educational programs;</p> <p>(r) oversee continuing professional training and development and facilitate internship of biomedical engineers, technologists and technicians;</p> <p>(s) collaborate with biomedical engineering training institutions, professional associations, organizations and other relevant bodies in matters relating to training and professional development of biomedical engineers;</p>

CLAUSE	GENERAL PROVISIONS
	<ul style="list-style-type: none"> <li>(t) license and regulate biomedical engineering practice;</li> <li>(u) maintain a register and records of all biomedical engineers, technologists and technicians registered under this Act and cause to be published in the Gazette every calendar year the names of all registered biomedical engineering professionals;</li> <li>(v) develop, maintain, enforce and regulate the conduct and ethics of the biomedical engineering profession in general and hear and determine disputes relating to professional conduct or ethics of biomedical engineering professionals;</li> <li>(w) the regulation of professional biomedical services, setting of standards, development and general practice and employment of biomedical engineering professionals in Kenya;</li> <li>(x) consider other matters pertaining to biomedical engineering including advertisement, prescribing and approving all badges, insignias or uniforms to be worn by biomedical engineering professionals while on duty, in consultation with the Cabinet Secretary; and</li> <li>(y) carry out such other functions related to the implementation of this Act.</li> </ul>
<p>Clause 7: Powers of the Board.</p>	<p>The Board has the following powers, to —</p> <ul style="list-style-type: none"> <li>(a) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board is established;</li> <li>(b) determine the provisions to be made</li> </ul>

CLAUSE	GENERAL PROVISIONS
	<p>for capital and recurrent expenditure and for the reserves of the Board;</p> <p>(c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;</p> <p>(d) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established;</p> <p>(e) open a banking account or banking accounts for the funds of the Board; and</p> <p>(f) invest any funds of the Board not immediately required for its purposes as provided under section 37.</p>
Clause 8: Delegation by the Board.	Provides that the Board has the powers to delegate to any member, officer, employee or an agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under the Act.
Clause 9: Appointment of the Registrar.	<p>Provides</p> <ol style="list-style-type: none"> <li>1. that the registrar shall be appointed by through a competitive process,</li> <li>2. the qualifications of a person to be appointed as registrar of the Board who <ol style="list-style-type: none"> <li>(a) is a registered biomedical engineer under this Act;</li> <li>(b) has at least a higher diploma in biomedical engineering from a recognized institution;</li> <li>(c) has at least ten years proven experience in the biomedical engineering field;</li> </ol> </li> </ol>

CLAUSE	GENERAL PROVISIONS
	<ul style="list-style-type: none"> <li>(d) has knowledge and experience in policy formulation, management and procedures of the Government;</li> <li>(e) is knowledgeable in, or has actively contributed to the promotion of biomedical engineering development agenda; and</li> <li>(f) meets the requirements of chapter six of the Constitution.</li> </ul>
<p>Clause 9: Functions of the Registrar</p>	<p>Provides for the functions of the Registrar as to—</p> <ul style="list-style-type: none"> <li>(a) maintain the Register of persons registered in accordance with this Act;</li> <li>(b) sign, issue, renew and cancel certificates of registration and licences as may be directed by the Board;</li> <li>(c) keep all documents and records including records of all assets of the Board;</li> <li>(d) prepare all documents due for gazettelement as directed by the Board;</li> <li>(e) take and keep minutes of the Board meetings;</li> <li>(f) enforce decisions of the Board;</li> <li>(g) keep the seal of the Board in such custody as the Board may direct;</li> <li>(h) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties;</li> <li>(i) ensure the maintenance of efficiency and discipline by all staff of the</li> </ul>

CLAUSE	GENERAL PROVISIONS
	<p>Board;</p> <p>(j) manage the budget of the Board to ensure that its funds are properly expended and accounted for; and</p> <p>(k) exercise and perform any other functions which the Board may determine from time to time</p>
Clause 11: Staff of the Board.	Provides that the board may appoint such other officers and other staff or hire such experts as may be necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine in consultation with the Salaries and Remuneration Commission.
Clause 12: Limitation of liability.	Provides that the board is vicariously liable for actions of its members undertaken during official duty and liable to compensate any officer who gets injured during the course of official duty.
Clause 13: Approved training institutions.	Contains provisions regulating the qualification and conduct of an approved institution and penal sanctions for violating the latter.
Clause 14: Persons eligible to be registered.	<p>Provides for a person to be eligible for registration by the registered by the Board as a biomedical engineer, technologist or technician , he or she-</p> <ol style="list-style-type: none"> <li>1. must be a registered member of the Association of biomedical engineers,</li> <li>2. be recommended by the Association</li> <li>3. possess the appropriate academic qualifications</li> </ol>
Clause 15: Application for registration.	Contains provisions regulating an application for registration by a bio medical profession.
16: Qualification as a Consulting Biomedical engineering professional	<p>Provides that a person shall be eligible for registration as a consulting biomedical engineer or technologist if that person</p> <p>(a) has practiced in a specialized biomedical engineering field as a registered biomedical</p>

CLAUSE	GENERAL PROVISIONS
	<p>engineer or technologist for a period, not less than five years, or as shall from time to time be determined by the Board; and</p> <p>(b) has achieved a standard of competence to enable him to practice as a consulting biomedical engineer or technologist in that particular specialization as the Board may prescribe</p>
<p>Clause 17: Registers.</p>	<p>Provides that the Registrar shall maintain and update separate registers of names of —</p> <p>(a) biomedical engineers, including biomedical engineers who are specialists in medical devices implants, medical imaging, bionics, neural engineering, genetic engineering, tissue engineering and clinical engineering;</p> <p>(b) biomedical technologists, including biomedical technologists who are specialists in medical devices, cardiovascular technologists, neural technologists, cancer technologists; and</p> <p>(c) biomedical technicians</p>
<p>Clause 18: Certificates.</p>	<p>Contains provisions for</p> <ol style="list-style-type: none"> <li>1. ascertaining a genuineness of certificate,</li> <li>2. issue and surrender of a certificate.</li> </ol>
<p>Clause 19: Appeals.</p>	<p>Provides that where a person is aggrieved by a decision of the Board on any matter under this Act he or she may appeal to the Cabinet Secretary within sixty days of being notified of the decision.</p>
<p>Clause 20: Removal of names from the register.</p>	<p>Provides that the Registrar shall remove from the register—</p> <p>(a) the names of all deceased persons;</p> <p>(b) the names of all persons removed</p>



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	<p>from the register under section 24(4) and section 31(1)(e); or</p> <p>(c) any entries fraudulently or erroneously made.</p> <p>Provisions regulating the conditions and procedure of surrender of registration certificate.</p>
<p>Clause 21: Qualification for private practice.</p>	<p>Contains provisions relating to private practice as a biomedical engineering professional.</p>
<p>Clause 22: Board to issue practicing certificates and annual licenses.</p>	<p>Provides that the board may shall issue rules made this Act, a practicing certificate and an annual license to a biomedical engineer or technologist authorizing the biomedical engineer or technologist named to engage in private practice.</p>
<p>Clause 23: Application for practicing certificate.</p>	<p>Constrains provisions outlining the procedure for applying for a certificate to practice as biomedical engineer.</p>
<p>Clause 24: Validity of practicing certificate.</p>	<p>Contains provisions regulating period of expiry of validity of a practicing certificate.</p>
<p>Clause 25: Renewal, cancellation and suspension of practicing certificate.</p>	<p>Contains provisions that</p> <ol style="list-style-type: none"> <li>1. make it a duty to renew a practicing certificate,</li> <li>2. provides for penal offence a person fails to renew a practicing certificate.</li> <li>3. Provide for circumstances that the Board may deny registration and</li> <li>4. Grant an applicant the right to appeal to the cabinet secretary where their application is denied.</li> </ol>
<p>Clause 26: Application for annual license.</p>	<p>Provides that A person registered under the Act who wishes to engage in private practice may apply for an annual license in the prescribed form and pay the</p>

CLAUSE	GENERAL PROVISIONS
	prescribed fee.
Clause 27: Disciplinary Committee.	<p>Establishes a Disciplinary Committee of the Board comprised of—</p> <ul style="list-style-type: none"> <li>(a) the Secretary General of the Association who shall be the chairperson of the Committee;</li> <li>(b) one biomedical engineering professional in the public service of the national government nominated by the Cabinet Secretary who shall not be a member of the Board;</li> <li>(c) one biomedical engineering professional in the public service of a county government nominated by the Cabinet Secretary who shall not be a member of the Board;</li> <li>(d) two biomedical engineering professionals, at least one of whom shall be from private practice nominated by the Association, who shall not be members of the Board; and</li> <li>(e) the Registrar who shall be the secretary to the Committee and who shall be responsible for taking records of the proceedings but shall not have a right to vote on any matter.</li> <li>(f) sets the quorum of the Committee at three members</li> </ul>
Clause 28: Reference of matters to Committee.	<p>Provides that the Board may refer a matter to the Disciplinary Committee if it has reason to believe that a person registered under this Act, either before or after he was registered—</p> <ul style="list-style-type: none"> <li>(a) committed any acts of negligence or professional misconduct in respect of</li> </ul>

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	<p>the profession; or</p> <p>(b) committed any acts of impropriety or misconduct in respect of the profession.</p>
Inquiry by the disciplinary Committee	Empowers the Committee to inquire into any matter referred to it by the Board.
Clause 30: Procedure of the Committee.	Provides for adherence to the rules of a natural justice and the power to create detailed provisions under regulations.
Clause 31: Disciplinary measures.	<p>Provides that be the board may —</p> <ul style="list-style-type: none"> <li>(a) impose a fine which the Board deems appropriate in the circumstances;</li> <li>(b) issue the biomedical engineering professional with a letter of admonishment;</li> <li>(c) suspend the registration certificate of the biomedical engineering professional for a specified period not less than three months but not exceeding twelve months;</li> <li>(d) withdraw or cancel the practicing certificate of the biomedical engineering professional for a period not less than twelve months but not exceeding three years; or</li> <li>(e) remove the name of the biomedical engineering professional from the register.</li> </ul>
Clause 32: Lifting of suspension.	Provides that where a biomedical engineering professional who has been suspended from practicing, successfully appeals to the Board, the Board shall, upon the receipt of the prescribed fee, lift the suspension and

CLAUSE	GENERAL PROVISIONS
	restore to the biomedical engineering professional, his or her registration and practicing certificates and annual license if in private practice.
Clause 33: Restoration of name in register.	<p>Provides that where a biomedical engineering professional who has been suspended from practicing, successfully appeals to the Board, the Board shall, upon the receipt of the prescribed fee, lift the suspension and restore to the biomedical engineering professional, his or her registration and practicing certificates and annual license if in private practice.</p> <p>Provides that where a biomedical engineering professional whose name has been removed from the register and successfully appeals to the Board, the Board shall, restore to the biomedical engineering professional, his or her registration and practicing certificates and annual license if in private practice.</p>
Clause 34: Funds of the Board.	<p>Provides that the funds of the Board shall comprise of—</p> <ol style="list-style-type: none"> <li>1) funds appropriated by Parliament</li> <li>2) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act; and</li> <li>3) all monies from any other source provided for or donated or lent to the Board</li> </ol>
Clause 35: Financial year.	Provides that the financial year of the Board shall be the period of twelve months ending on the thirtieth of June in every year.
Clause 36: Annual estimates.	Provides that the Board must, issue estimates of revenue and expenditure of the Board for that financial year three months before the commencement of each financial year

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Clause 37: Investment of funds	Provides that the Board may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance invest any of the funds of the Board in securities in which, for the time being, trustees may by law invest funds or in any other securities which the Treasury may, from time to time, approve for that purpose.
Clause 38: Accounts and audit	Provides that the Board shall keep proper books and records of accounts of the income, expenditure, assets and liabilities which shall be audited and reported upon in accordance with the provisions of the Public Audit Act.
Clause 39: Annual report	Provides that the Board must, at the end of each financial year, prepare and submit to the Cabinet Secretary responsible for matters related to finance a report of the operations of the Board for the immediate preceding year and the Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the National Assembly next sits after receipt of the report.
Clause 40: Inspection.	Contains provisions that empower the Board to appoint biomedical engineering inspectors and regulates the inspectors conduct.
Clause 41: Offences by partnerships or bodies corporate.	Provides for conditions that would make a partnership or body corporate liable for an offence.
Clause 42: Offences and penalties relating to registration.	Contains general provisions to offences relating to registration and penalties under the Act.
Clause 43: General penalty	Provides that a person convicted of an offence under this Act for which no penalty is provided shall, upon conviction, be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three months, or both.
Clause 44: Regulations.	Provides that the Cabinet Secretary may in consultation with Board make regulations for the better carrying out of the provisions of this Act and specifies eight areas

CLAUSE	GENERAL PROVISIONS
	that must be catered for the resultant regulations.
First Schedule	Contains detailed provisions on the conduct of the business of the board,

#### 4.0 PUBLIC PARTICIPATION

Pursuant to provisions of Standing Order 127 (3) the Committee invited views and recommendations from the public and key stakeholders on the Biomedical Engineers Bill, 2015. To this end the Committee received comments from the Association of Medical Engineers of Kenya (AMEK), Ministry of Health and the Kenya Health Professionals Association.

#### 4.1 The Association of Medical Engineers of Kenya (AMEK)

AMEK in its submission indicated the following:-

- i. After a wide consultation with the stakeholders both internally and externally and involving other healthcare providers, they were in consensus that the Bill had captured the correct understanding of the members and therefore wished to support the drafters version as it carried all pertinent issues except the following two items:-
  - They opposed the Ministry of Health’s proposal to change the name of the Bill to Biomedical Engineering Practitioners Bill, 2015 since even the Ministry’s proposed Scheme of Service defines as such.
  - There is need to include KMTC in the list of board members since the institution is the main training institution of medical engineers and other health related courses and importantly it offers advisory role to the Ministry of Health in terms of health related training.
- ii. There is need to regulate both the medical equipment and the professionals since the provision of health care service requires the right medical equipment which are optimally working.
- iii. The lack of properly maintained equipment would result to serious adverse effects to both the patients and the users, consequently impacting negatively to the biomedical engineers in the facilities. There is therefore a need to have the Bill enacted to avoid grave incidences from happening in hospitals.
- iv. Biomedical engineers are distinct from other Engineering professionals in that in their training their component include Biology (human Anatomy and physiology) waste Management and Hygiene in addition to the Mathematics, Physics and Chemistry (MPC) and therefore this alone is a clear demarcation from the rest of engineers. Another important parameter to note is that Biomedical engineers specifically deal with the life of

patients because before the doctor treats the patient he/she has to be assured that the equipment is optimally working well by the biomedical engineer.

- v. Biomedical engineering has 3 entry points; Biomedical Engineers hold a Higher Diploma or Degree in Medical Engineering; Biomedical Engineering Technologists hold Diploma in Medical Engineering and Biomedical Engineering Technicians hold Certificate in Medical Engineering.

#### 4.2 Comments from the Engineers Board of Kenya

The Engineers Board of Kenya submitted as follows, that:-

- i. The Engineers Board of Kenya is a statutory body established under Section 3(1) of the Engineers Act, 2011 and is responsible for the registration of engineers and Engineering firms, regulation of professional services, setting of standards, development and general practice of engineering.
- ii. One of the functions of the Board under Section 7(1)(v) of the Engineering Act is to determine and define disciplines of engineering recognized under this Act. However, the Board noted that the Biomedical Engineers Bill, 2015 seeks to provide for a separate registration and regulation mechanism for Biomedical engineers under Biomedical Engineers Act and the Biomedical Engineering Board.
- iii. Biomedical Engineering is a relatively new discipline in engineering, even in developed world. New disciplines continue to emerge from the main disciplines of engineering to serve specific sectors as knowledge expands.
- iv. Biomedical Engineering is basically a sub-discipline of Mechanical Engineering that seeks to close the gap between engineering and medicine having only recently emerged as an area of its own study. It requires considerable knowledge of both engineering and biology.
- v. Biomedical Engineers are mainly taught within engineering colleges. For example, Kenyatta University has proposed to start a program of Biomedical Engineering. The program is structured with components of a convention program for engineering;
  - Basic Mathematics
  - Basic Sciences
  - Engineering Sciences
  - Engineering Design
  - Complementary Studies
- vi. In the USA, the Accreditation Board of Engineering and Technology (ABET) accredits the Biomedical Engineering programs. The same is applicable in Australia and Canada.
- vii. Licensure and certification leads to qualified persons being regarded as Professional Engineers. In the USA, Biomedical Engineers are licensed alongside other engineering professionals as professional engineers. In the UK, Biomedical

Engineers can gain the status of Chartered Engineers through the Institution of Mechanical Engineers. As such, Biomedical Engineering is an engineering discipline and should be regulated alongside other engineering disciplines as practiced in engineering.

- viii. The Engineers Board of Kenya therefore recommends that;
- a) The Biomedical Engineering should be regulated under the Engineers Act, 2011 as it is evident that it is a discipline of Engineering.
  - b) Separate regulatory framework for one of the sub-disciplines in engineering would lead to segmentation of the profession and there would be no rationale for not having separate regulators for other sub-disciplines as well.
  - c) The Bill should be withdrawn as there is no need for a new regulator in the engineering profession.

#### **4.3 Comments from the Ministry of Health**

The Ministry of Health presented its submissions on the bill as follows:-

1. The title of the Bill be changed to read as 'The Biomedical Engineering Practitioners Bill, 2015. This will ensure that the three cadre of staff (degree, diploma and certificate holders) trained to perform biomedical engineering activities will be included for regulation under this Bill. Degree holders can be termed as engineers while certificate holders are not.
2. In Clause 4 of the Bill, the Director of Medical Services of his representative should be included in the Board as the office provides oversight over all the Boards. Further, the faith based organizations representative should also be included as they are a major stakeholders in the health sector.
3. The Chairperson of the board should be a registered biomedical engineer with a relevant master's degree. This will ensure that the holder will have a wide- and higher level knowledge base to guide the Board, since it will deliberate on the practice and training standards of all levels of biomedical engineering, namely; degree, higher diploma, diploma and certificate level.
4. Clause 6 (i) to be amended to read 'interrogate local and foreign biomedical engineering programs for purposes of determining recognition and registration of graduates by the Board". This is in the view of the fact that the local Boards can only evaluate foreign programs to determine whether graduates are adequately qualified for registration.
5. The Bill should be aligned with the Health Bill, 2015 especially by deleting Clause 6(1) (l) as the policy of the Ministry of Health is to have the regulation of all health products and technologies (including medical devices, tools and appliances) done by a single regulatory body and not by individual boards.
6. In Clause 6(1)(t), the Board should regulate practice and training of respective members by setting standards only. The Board however cannot regulate employment of biomedical engineers or technologists.



7. In Clause 7 under the powers of the Board, the Board can only enter into association with other bodies within and outside Kenya with the approval of the Minister, who is the overall officer responsible for health.
8. Clause 8 be deleted as this clause is subject to abuse once the Bill is enacted. Secondly, it does not give provision for the delegated powers to be kept in check by or safe guard the Board. Thirdly delegation of Board's powers has already been given to the Registrar in Clause 10. Hence its presence is likely to bring conflict. Fourth, it's open ended and does not limit the extent to which delegation will occur.
9. Clause 14(1)(a) be amended by changing the period of traineeship/internship as follows using the wording ' after obtaining the degree, diploma or certificate the person has applied to the Association for registration and has engaged in internship as follows;
  - i) For degree holders, and higher diploma, for a period of not less than 9 months under a registered biomedical engineer
  - ii) For Ordinary Diploma holder, for a period of not less than 6 months under a registered biomedical engineer,
  - iii) For Certificate holder, for a period not less than 3 months under a register biomedical engineering technologist

Period of Internship/traineeship should differ in length because the lower level training is hands-on. Secondly there are very few biomedical engineers in the country to supervise interns.

## 5.0 COMMITTEE OBSERVATIONS

Having considered the Bill and the submissions by the stakeholders, the Committee made the following observations, that:-

- i. The Biomedical Engineers in Kenya are very few and thereby the proposal to establish a Board would be too costly for the members. Subsequently, the cost of running the Board could be passed over to the consumers (patients).
- ii. The number of the biomedical engineers as indicated by the Association was way below the figure of 900 that was presented by AMEK as it included the technicians. There is therefore need to ensure that proper qualifications are attained by the biomedical engineers before being admitted to the association.
- iii. There is need to align the Bill with the Health Bill, 2015 and as such, the Biomedical Engineers Board should be changed to the Biomedical Engineers Council of Kenya to be over sighted by the Kenya Health Professions Oversight Authority to be created with the enactment of the Mother Act, the Health Bill, 2015.
- iv. There is need to delete clause 6 (e) as issuing of licenses is the preserve of the Director of Medical Services’;
- v. Clause 13(c) be amended to deny the proposed Board the power to license a training Institution independent of existing legislation in the education sector;

## 6.0 COMMITTEE RECOMMENDATIONS

The Committee having considered the Bill and the submissions from the stakeholders will be presenting amendments to the Bill in the following Clauses; 1, Part II, 4, 6, 7, 13 and 14, as per the following proposals;

### CLAUSE 1

That Clause 1 be amended by changing the title of the Bill to ‘the Biomedical Engineers Practitioners Bill, 2015’.

#### *Justification*

*This will ensure that the three cadre of staff (degree, diploma and certificate holders) trained to perform biomedical engineering activities will be included for regulation under this Bill. Degree holders can be termed as engineers while certificate holders are not.*

### PART II

That Part II of the Bill be changed to the Biomedical Engineers Council of Kenya.

#### **Justification**

*This is to ensure that the Bill will be aligned with the Health Bill, 2015.*

#### CLAUSE 4

That Clause 4 be amended

- (i) In sub-clause (1) by including the Director of Medical Services or his representative in the board.

##### *Justification*

*The Director of Medical Services or his representative should be included in the Board as the office provides oversight over all the Boards.*

- (ii) In deleting sub-clause (3)(b) and replacing it with the following new sub-clause 'be a registered biomedical engineer with a relevant master's degree'.

##### *Justification*

*This will ensure that the holder of the office of the chairperson will have a wide- and higher level knowledge base to guide the Board, since it will deliberate on the practice and training standards of all levels of biomedical engineering, namely; degree, higher diploma, diploma and certificate level.*

#### CLAUSE 6

That Clause 6 be amended as follows:-

- (i) Deleting Sub-clause (1)(a).

##### *Justification*

*This is to align the Bill with the Health Bill, 2015 which provides for the regulation of all health products and technologies (including medical devices, tools and appliances) done by a single regulatory body and not by individual boards.*

- (ii) Deleting Sub-clause (1)(e).

##### *Justification*

*The function of issuing licenses to qualified persons is a preserve of the Director of Medical Services.*

- (iii) Deleting Sub-clause (1)(i) and substituted therefor with the following 'interrogate local and foreign biomedical engineering programs for purposes of determining recognition and registration of graduates by the Board'

##### *Justification*

*This is in the view of the fact that the local Boards can only evaluate foreign programs to determine whether graduates are adequately qualified for registration.*

#### CLAUSE 7

That Clause 7 be amended in sub-clause (d) by inserting the following words '*with the approval of the Cabinet Secretary*' after the word '*appropriate*'.

***Justifications***

*The Board can only enter into association with other bodies within and outside Kenya the board with the approval of the Minister, who is the overall officer responsible for health.*

**CLAUSE 13**

That Clause 13(3) be deleted.

***Justification***

*Board should not have powers to license a training Institution independent of existing legislation in the education sector.*

**CLAUSE 14**

That Clause 14(1)(a) be deleted and substituted therefor with the following words;

*'After obtaining the degree, diploma or certificate the person has applied to the Association for registration and has engaged in internship as follows;*

- i) For degree holders, and higher diploma, for a period of not less than 9 months under a registered biomedical engineer*
- ii) For Ordinary Diploma holder, for a period of not less than 6 months under a registered biomedical engineer,*
- iii) For Certificate holder, for a period not less than 3 months under a register biomedical engineering technologist*

***Justification***

*The period of Internship/traineeship should differ in length because the lower level training is hands-on. Secondly there are very few biomedical engineers in the country to supervise interns.*

**ANNEXTURE**

**MINUTES**

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**MINUTES OF THE 82<sup>ND</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN 2<sup>ND</sup> FLOOR CONTINENTAL HOUSE, ON THURSDAY 22<sup>ND</sup> OCTOBER, 2015, AT 10.30 AM.**

**PRESENT**

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson).
3. The Hon. Dr. Enoch Kibunguchy, M.P.
4. The Hon. Stephen M. Mule, M.P.
5. The Hon. Mwinga Gunga, M.P.
6. The Hon. David Karithi, M.P.
7. The Hon. Dr. James O. Gesami, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Dr. Stephen Wachira, M.P.
10. The Hon. Dr. Eseli Simiyu, M.P.
11. The Hon. Kamande Mwangi, M.P.
12. The Hon. Dr. James Nyikal, M.P.
13. The Hon. James Gakuya, M.P.
14. The Hon. Fred Outa, M.P.
15. The Hon. Hassan Aden Osman, M.P.
16. The Hon. Michael Onyura, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Dr. Patrick Musimba, M.P.
2. The Hon. Mwahima Masoud, M.P.
3. The Hon. Paul Koinange, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. Christopher Nakuleu, M.P.
6. The Hon. Zipporah Kering, M.P.
7. The Hon. Leonard Sang, M.P.
8. The Hon. John Nyaga Muchiri, M.P., HSC
9. The Hon. Dr. Dahir D. Mohamed, M.P.
10. The Hon. Dr. James Murgor, M.P.
11. The Hon. Dr. Susan Musyoka, M.P.
12. The Hon. Dr. Naomi Shaban, M.P.
13. The Hon. Joseph O. Magwanga, M.P.

## IN ATTENDANCE

### National Assembly Secretariat

1. Esther Nginyo - Third Clerk Assistant
2. Hassan A. Arale - Third Clerk Assistant.
3. Dennis Mogare - Third Clerk Assistant.
4. Sidney Lugaga - Legal Counsel
5. Collins Mahamba - Audio Recorder.
6. Noelle Chelagat - Media Relations Officer

### Association of Medical Engineers of Kenya-AMEK

1. Peter Matoke - Chairman
2. Patrick S. Chepkonga - V.Chairman
3. Symon K.Mbakah - Secretary General.
4. Anna Rose. W. Gitau - AMEK Women Rep
5. Fredrick K. Kamau - Member
6. Adie Robert - Member
7. Beth Njaramba - Member
8. Mrs. Wangui Nyauma - KENGONET/AMEK

### Ministry of Health Officials;

1. Dr. Onyancha Pacifica - MOH-DHSQAR
2. Ms. Josphine Mutinda - MOH-DHSQAR
3. Eng. Martin Owino - MOH-Eng

### MIN.NO. DCH 353/2015: PRELIMINARIES.

The Vice-Chairperson called the meeting to order at 10.30 am thereafter said a word of prayer. He then welcomed all present to the meeting followed by round of introduction. The Vice-Chairperson requested the officers from the Ministry of Health to withdraw from the meeting as they had not been given authority by the Principal Secretary to represent her and therefore they could not responsibility of any resolutions arising from the meeting.

**MIN.NO. DCH 354/2015: PRESENTATION BY SYMON K. MBAKAH SECRETARY GENERAL ASSOCIATION OF MEDICAL ENGINEERS OF KENYA ON BIOMEDICAL ENGINEERS BILL,2015.**

Mr. Symon K. Mbakah the secretary general on behalf of the Association appeared before the Committee to brief it on their submissions on the Biomedical Engineers Bill, 2015. He informed the Committee that:-

- i. After a wide consultation with the stakeholders both internally and externally and involving other healthcare providers, they were in consensus that the Bill had captured the correct understanding of the members and therefore wished to withdraw the Memorandum so as to support the Drafters version as it carried all pertinent issues earlier envisioned except two items in the memorandum which they seek to explain as follows:
  - They opposed the Ministry of Health's proposal to change the name of the Bill to Biomedical Engineering Practitioners Bill, 2015 since even the Ministry's proposed Scheme of Service defines us thus.
  - There is need to include KMTTC in the list of board members since the institution is the main training institution of medical engineering and other health related courses and importantly it offers advisory role to the ministry of health in terms of Health related courses training.
- ii. The lack of properly maintained equipment would result to serious adverse effects to both the patients and the users consequently impacting negatively to the biomedical engineers in the facilities. There is therefore a need to have the bill enacted to avoid grave circumstances from happening in our hospitals.
- iii. Biomedical engineer are distinct from other Engineering professionals in that in their training their component include Biology (human Anatomy and physiology) waste Management and Hygiene in addition to the Mathematics, Physics and Chemistry (MPC) and therefore this alone is a clear demarcation from the rest of engineers.
- iv. Another important parameter to note is that Biomedical engineers specifically deal with the life of Patients because before the doctor treats the patient he/she has to be assured that the equipment is optimally working well from the biomedical engineer. In addition good treatment emanates from reliable and valid results from the investigations. This can only be guaranteed by having the medical equipment well calibrated and in optimal working state.



- v. Biomedical engineering has three entry points that is also clearly defined in the bill; Biomedical engineer hold a higher diploma or Degree in Medical Engineering; Biomedical engineering technologist hold Diploma in Medical Engineering and Biomedical Engineering technician hold a Certificate in medical engineering.
- vi. There is need to regulate both the medical equipment and the professionals since the provision of health care service requires the right medical equipment which are optimally working. Several live examples to support why the urgency to have this regulation:
  - a. There is a Linear Accelerator; a new model of the cancer treatment machine that seeks to replace the obsolete Cobalt 60 has been lying in KNH for the last 1 ½ years and is not yet installed. This is because the building structure was done by Civil engineers who have little knowledge on how such bunkers are designed and constructed.
  - b. Infant Incubators basically monitors three parameters which include Humidity, Oxygen and Heat in the infant's canopy. However if these are not correctly managed will result death for our precious little ones, by "baking" them, such a case happened in Gulu- Uganda which we wouldn't like it to happen here.
  - c. A case where in Moi Teaching and Referral Hospital (MTRH) a pregnancy kit tested positive on six males tested, an indication that the Laboratory test results may be unreliable if the Lab equipment do not follow a strict schedule of maintenance and calibration, which is now widespread in the many Laboratories across the country.
  - d. If the cold chain that stores Vaccines is not well maintained, it can impact on the destruction of their potency and therefore can result to serious disastrous results, most probably that may have been the cause of the many deaths of children after Vaccination.
  - e. There is an Unaesthetic machine that collapsed a patient in Embu, despite the biomedical engineer having raised alarm for service due. And there are many other such sad and avoidable incidences in our health care facilities.

**COMMITTEE CONCERNS.**

After deliberations the committee members were concerned that,

- i. The Biomedical Engineers in Kenya are very few and thereby the proposal to establish a Board would be too costly for the members. Subsequently, the cost of running the Board could be passed over to the consumers (patients).
- ii. The number of the biomedical engineers as indicated by the association was way below the figure of 900 that was presented by AMEK as it included the technicians. There was therefore need to ensure that proper qualifications are attained by the biomedical engineers was attained before being admitted to the association. Therefore, Part II of the Bill be deleted as there is only two hundred biomedical engineers and biomedical technicians, the bulk being biomedical technicians with higher diplomas

**MIN.NO DCH 355/2015: ANY OTHER BUSINESS.**

The following arose from this agenda item;

- 1. The Committee resolved that, there was need to visit Kangundo District Hospital on the death of four infants in order to inspect quality of health care delivery on Thursday, 29<sup>th</sup> October, 2015. The Secretariat was requested to write and invite the Pharmacy and Poisons Board, Kenya Medical Practitioners and Dentist Board and Nursing Council of Kenya to the Hospital joint visit.

**MIN.NO. DCH 356/2015: ADJOURNMENT**

There being no other business the meeting was adjourned at 12.30 Pm.

SIGNED.....

HON (DR.) STEPHEN WACHIRA, M.P.

FOR: CHAIRPERSON

DATE:..... 1<sup>st</sup> December, 2015 .....

MINUTES OF THE 4<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 11<sup>TH</sup> FEBRUARY, 2016 IN THE COMMITTEE ROOM ON 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

**PRESENT**

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Christopher Nakuleu, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Dr. Dahir D. Mohamed, M.P.
6. The Hon. Dr. Eseli Simiyu, M.P.
7. The Hon. Dr. Enoch Kibunguchy, M.P.
8. The Hon. Dr. James Murgor, M.P.
9. The Hon. Dr. James O. Gesami, M.P.
10. The Hon. Dr. Naomi Shaban, M.P.
11. The Hon. Hassan Aden Osman, M.P.
12. The Hon. James Gakuya, M.P.
13. The Hon. Joseph O. Magwanga, M.P.
14. The Hon. Kamande Mwangi, M.P.
15. The Hon. Michael Onyura, M.P.
16. The Hon. Mwinga Gunga, M.P.
17. The Hon. Raphael Milkau Otaalo, M.P.
18. The Hon. Stephen M. Mule, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Dr. James Nyikal, M.P.
2. The Hon. Paul Koinange, M.P.
3. The Hon. Dr. Stephen Wachira, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. Dr. Susan Musyoka, M.P.
6. The Hon. Alfred Outa, M.P.
7. The Hon. Mwahima Masoud, M.P.
8. The Hon. Zipporah Jesang, M.P.
9. The Hon. John Nyaga Muchiri, M.P.
10. The Hon. Leonard Sang, M.P.
11. The Hon. Dr. Patrick Musimba, M.P.

**IN ATTENDANCE**

1. Mr. Elijah King'ori Githima - Petitioner

**NATIONAL ASSEMBLY SECRETARIAT**

1. Mr. Dennis Mogare - Third Clerk Assistant.
2. Ms. Ruth Mwiwaki - Third Clerk Assistant.

3. Mr. Kariuki Moses - Serjeant At Arms

**MIN.NO. DCH 15/2016: PRELIMINARIES.**

The Chairperson called the meeting to order at 10.30 am and a word of prayer was said by Hon. Christopher Nakuleu, M.P. The Chairperson thereafter invited the Members present, and the petitioner to introduce them.

**MIN.NO.DCH 16/2016: AGENDA ADOPTION.**

The agenda of the meeting was adopted after being proposed by the Hon. Mwinga Ngunga, M.P. and seconded by the Hon. James Gakuya, M.P.

**MIN.NO.DCH 17/2016: SUBMISSIONS FROM THE PETITIONER IN THE PETITION ON THE DEPLORABLE STATE OF MENTAL HEALTH FACILITIES IN KENYA**

Mr. Elijah Kingori Githima informed the Committee that:-

1. He was 28years old and was a former student of Moi University. He had dropped out of Moi University during his second year after he went through some difficulties and fell ill. He was later diagnosed as bipolar at the Nyeri Provincial General Hospital after a failed suicide attempt but could not afford the medication;
2. There was only one major mental health Hospital In Kenya, the Mathare Mental Hospital and that wards designed for mental health patients in the general hospitals across the country are understaffed, underfunded and in a bad physical condition;
3. Individuals who have mental health problems are suicidal but are often charged for attempted suicide rather than being offered the medical assistance they need. Charging a mentally ill and suicidal individual person for attempted suicide is therefore akin to making mental illness a criminal offence and only increases the stigma and hopelessness felt by the individual;
4. There was need to decriminalize suicide especially when it emanates from mental illness as was the case in the UK, India among other countries that had decriminalized the same.
5. There were increased cases of suicide in the country and there was need to look at suicide as an illness in order to be able to help the victims.
6. The Mental Health Bill that was passed by the National Assembly in 2014 was a progressive document but it was yet to be operationalized.

He thereafter prayed that the Committee recommends,

- a) The establishment of mental healthcare facilities in the country to have at least one per County;
- b) Adequate budgetary allocations for the running of the existing facilities;
- c) That the government through the Ministry of Health recognizes the World Mental Healthcare day celebrated on 10<sup>th</sup> October every year and on this day sensitizes people on mental health illnesses. This would create awareness and help reduce the stigma suffered by the patients.

**Committee Observations:**

The Committee observed that:

1. Mental Health facilities in the country were not properly funded;
2. There is a lot stigmatization of mental Health Patients in the country based on a lack of understanding of the illness by the general public;
3. The Petitioner had dropped out of College due to mental illness and with proper support he can lead a normal productive life.
4. The judiciary always attempted to establish the mental health status of accused persons before putting them on trial. This was an adequate safeguard against punishing persons for actions committed when mentally ill.
5. There was need to fund and encourage training of more consultant psychiatrists.
6. The public health system in Kenya had failed to adequately care for mental health patients.
7. There was need to engage the Ministry of Health to come up with a strategy/policy to tackle the matter of mental healthcare i.e. funding, facilities, and training of specialists.

**Committee Resolutions:**

The Committee resolved:

1. That the issue of Funding for mental Hospitals and in particular the Mathare National Teaching and Referral Hospital and Gilgil Hospital be raised for discussion during the retreat with the Ministry scheduled for Wednesday 17<sup>th</sup> to Saturday 20<sup>th</sup> February 2016.
2. That the Ministry of Health to appear before the Committee after the Committees scheduled visit to the Mathare National Teaching and referral hospital on 23<sup>rd</sup> February 2016 to give information on the quality of care and the status of Mental Health facilities in the country.
3. The Ministry of Health should second an officer responsible for mental health matters to accompany the committee during its planned visit to Mathari Mental Hospital on 23<sup>rd</sup> February, 2016.

**MIN.NO.DCH 18/2016: CONSIDERATION AND ADOPTION OF REPORTS**

The Committee considered the following reports:

**A. REPORT ON THE BIOMEDICAL ENGINEERS BILL 2015**

The report was adopted after being proposed by the Hon. Raphael Otaalo, M.P and Seconded by the Hon.Dahir Mohammed with the amendment that:

1. The word Board be replaced with "Council"
2. The Membership of the Council to include a representative from the Engineers' Board of Kenya.
3. The representation of the biomedical engineering professionals be reduced from three to two.

**B. REPORT ON PRE-PUBLICATION SCRUTINY COMMENTS ON THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) BILL, 2015.**

The Committee Considered and adopted the report after being proposed by the Hon. Stephen M. Mule, M.P. and seconded by Hon. Hassan Aden Osman, M.P.

**C. REPORT PRE-PUBLICATION SCRUTINY COMMENTS ON THE OCCUPATIONAL THERAPIST (TRAINING, REGISTRATION AND LICENSING) BILL, 2015.**

The Committee Considered and adopted the report after being proposed by the Hon. Kamande Mwangi, M.P. and seconded by Hon. Stephen M. Mule, M.P. as follows:

**D. REPORT ON THE CONSIDERATION OF THE PETITION BY KENYA NATIONAL UNION OF NURSES ON THE HEALTH BILL, 2015**

The Committee Considered and adopted the report after being proposed by the Hon. Dr. Naomi Shaban, M.P. and seconded by Hon. Raphael M. Otaalo, M.P.

**MIN. NO. DCH 19/2016**

**ANY OTHER BUSINESS**

**1. Universal Healthcare Sub- Committee**

The Hon. Stephen M. Mule informed the Committee that the subcommittee on Universal Health care was ready to present its report to the committee.

The Committee Resolved that the matters be slotted as a Committee agenda and a meeting be scheduled and that the Ministry, the USAID and the Consultant, Mr. Muchiri be invited to appear before the Committee during the said meeting.

**2. Access to Kenyatta National Hospital (KNH) Private Wing**

The Hon. Dr. Naomi Shaban informed the Committee that the new Civil Servants medical Scheme provides for access to the KNH private wing for all Civil Servants.

However, due to a memorandum entered into between the Chief Executive Officers of KNH and the National Hospital Insurance fund, Civil Servants below Job Group M are being denied access to the KNH private wing.

Members also raised concerns over the high cost of treatment at the KNH private wing, which is higher than private hospitals.

The Committee resolved that the Cabinet Secretary Public Service Commission, Cabinet Secretary Health, and the Chief Executive Officers, KHN and NHIF be invited to appear before the Committee to discuss the provision of services to civil servants at KHN, the memorandum between KNH and NHIF, and the cost of treatment at the KHN Private Wing.

**MIN. NO. DCH 20/2016**

**ADJOURNMENT**

There being no other business the meeting was adjourned at 12.54 pm.

SIGNED.....

HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

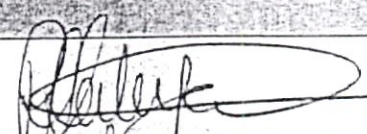
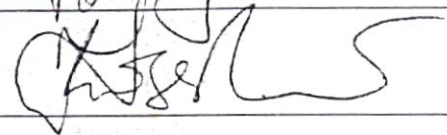
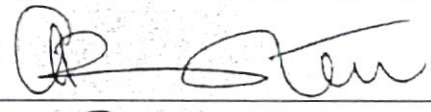
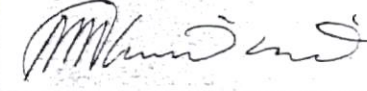
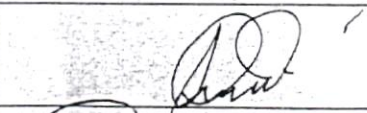

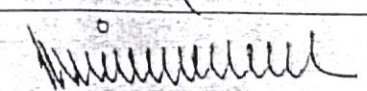

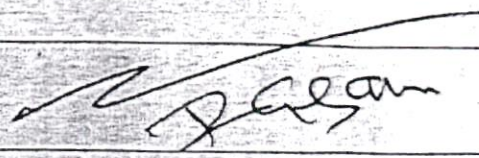
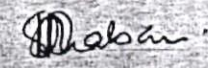
DATE:.....

## ATTENDANCE REGISTER


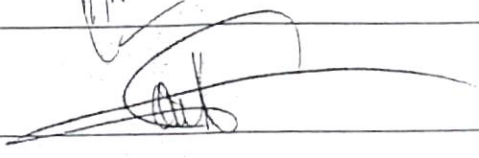
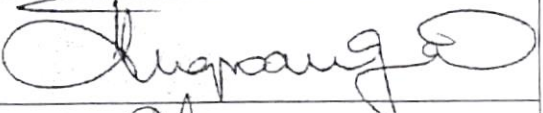
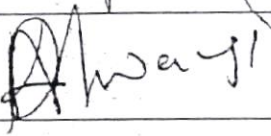
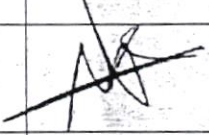


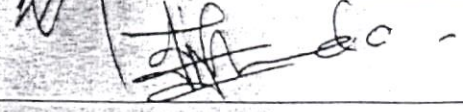
DATE: 11<sup>th</sup> Feb, 2016 Venue: 2<sup>nd</sup> Floor, Continental Hse.

### AGENDA:

1. CONSIDERATION AND ADOPTION OF THE FOLLOWING COMMITTEE REPORTS: REPORT ON THE CONSIDERATION OF THE BIOMEDICAL ENGINEERS BILL, 2015; PRE-PUBLICATION SCRUTINY COMMENTS ON THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) BILL, 2015; PRE-PUBLICATION SCRUTINY COMMENTS ON THE OCCUPATIONAL THERAPIST (TRAINING, REGISTRATION AND LICENSING) BILL, 2015; REPORT ON THE CONSIDERATION OF THE PETITION BY KENYA NATIONAL UNION OF NURSES ON THE HEALTH BILL, 2015
2. MEETING WITH MRELIJAH KINGORI GATHIMA ON THE PETITION ON THE DEPLORABLE STATE OF MENTAL HEALTH FACILITIES.

	HON. MEMBER	SIGNATURE
1.	The Hon. Dr. Rachel Nyamai, M.P. Chairperson	
2.	The Hon. Dr. Robert Pukose, M.P. Vice Chairperson	
3.	The Hon. Alfred Agoi, M.P.	
4.	The Hon. Christopher Nakuleu M.P.	
5.	The Hon. David Karithi, M.P.	
6.	The Hon. Dr. Dahir D. Mohamed, M.P.	
7.	The Hon. Dr. David Eseli, M.P.	
8.	The Hon. Dr. Enoch Kibunguchy, M.P.	
9.	The Hon. Dr. James Murgor, M.P.	
10.	The Hon. Dr. James Nyikal, M.P.	
11.	The Hon. Dr. James O. Gesami, M.P.	
12.	The Hon. Dr. Naomi Shaban, M.P.	



13.	The Hon. Dr. Patrick Musimba, MP	
14.	The Hon. Dr. Stephen Wachira, M.P.	
15.	The Hon. Dr. Susan Musyoka, M.P.	
16.	The Hon. Fred Outa, M.P.	
17.	The Hon. Hassan Aden Osman, M.P.	
18.	The Hon. James Gakuya, M.P.	
19.	The Hon. John Nyaga Muchiri, M.P.	
20.	The Hon. Joseph O. Magwanga, M.P.	
21.	The Hon. Kamande Mwangi, M.P.	
22.	The Hon. Leonard Sang, M.P.	
23.	The Hon. Michael Onyura, M.P.	
24.	The Hon. Mwahima Masoud, M.P.	
25.	The Hon. Mwinga Gunga, M.P.	
26.	The Hon. Paul Koinange, M.P.	
27.	The Hon. Raphael Milkau Otaalo, M.P.	
28.	The Hon. Stephen M. Mule, MP	
29.	The Hon. Zipporah Jesang, M.P.	