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ELEVENTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE CONSIDERATION OF THE PETITION BY MR. SOLOMON MURIUNGI MBURUNG'A REGARDING AMENDMENT OF THE CANCER PREVENTION AND CONTROL ACT, 2012

CLERK'S CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER, 2015

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DEFINITION OF TERMS

KNH	Kenyatta National Hospital
HIV	Human Immuno Deficiency Virus
AIDS	Acquired Immune Deficiency Syndrome.
MTRH	Moi Teaching and Referral Hospital
BADEA	Arab Bank of Economic Development in Africa
NHIF	National Hospital Insurance Fund
MES	Managed Equipment Service

1.0 PREFACE

I wish to table the Report of the Departmental Committee on Health on its consideration of the Petition on the Amendment of the Cancer Prevention and Control Act, 2012 pursuant to Standing Order 227(2).

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.

The Committee is also mandated under Standing Order 227 to consider petitions referred to it.

1.2 Committee Membership

The Committee Comprises of the following members:

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. David Karithi, M.P.
4. The Hon. Dr. James Murgor, M.P.
5. The Hon. Dr. James Nyikal, M.P.
6. The Hon. Dr. James O. Gesami, M.P.
7. The Hon. Dr. Naomi Shaban, M.P.
8. The Hon. Dr. Stephen Wachira, M.P.
9. The Hon. Dr. Susan Musyoka, M.P.
10. The Hon. Hassan Aden Osman, M.P.
11. The Hon. James Gakuya, M.P.
12. The Hon. John Nyaga Muchiri, M.P.
13. The Hon. Michael Onyura, M.P.
14. The Hon. Paul Koinange, M.P.

15. The Hon. Stephen M. Mule, M.P.
16. The Hon. Zipporah Jesang, M.P.
17. The Hon. Alfred Agoi, M.P.
18. The Hon. Christopher Nakuleu, M.P.
19. The Hon. Dr. Dahir D. Mohamed, M.P.
20. The Hon. Dr. Eseli Simiyu, M.P.
21. The Hon. Dr. Enoch Kibunguchy, M.P.
22. The Hon. Dr. Patrick Musimba, M.P.
23. The Hon. Alfred Outa, M.P.
24. The Hon. Joseph O. Magwanga, M.P.
25. The Hon. Kamande Mwangi, M.P.
26. The Hon. Leonard Sang, M.P.
27. The Hon. Mwahima Masoud, M.P.
28. The Hon. Mwinga Gunga, M.P.
29. The Hon. Raphael Milkau Otaalo, M.P.

1.3 Consideration of the Petition on the Amendment of the Cancer Prevention and Control Act, 2012

The Petition on the Amendment of the Cancer Prevention and Control Act, 2012 was presented to the House by the Speaker, Hon. Justin B. Muturi, MP, EGH on 30th July, 2015 and stood committed to the Departmental Committee on Health for consideration and reporting to the House pursuant Standing Order 227.

The petitioner requests the National Assembly to amend the law based on the following proposals;

i. Provide for free cancer diagnosis and treatment to patients;
ii. Provide for free prosthesis or artificial breast to all women who undergo mastectomy;
iii. Categorize cancer patients and survivors as persons with disabilities so that they can be exempted from income tax as provided for by the Persons with Disabilities Act, 2003;
iv. Outlaw all forms of discrimination and stigmatization of cancer patients in public and media; and
v. Introduce cancer education in the curricula for secondary schools and tertiary institutions as a way of increasing awareness on the killer disease.

The Committee held three sittings with the petitioner, individuals who have survived from cancer, and officials from the Ministry of Health.

1.4 Observations and Recommendations

The Committee observed that the Cancer Prevention and Control Act, 2012 contains provisions that make it unlawful to discriminate against individuals with cancer and on the creation of awareness on cancer.

Therefore the committee notes that the petitioner's prayer on discrimination and awareness is already catered for in the Act.

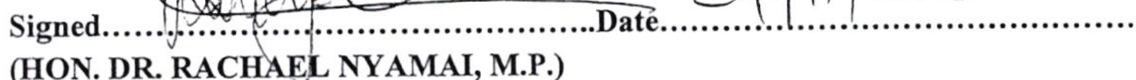
Furthermore, the Committee observed that exempting cancer survivors from paying tax as is the case with people living with disabilities this will not be sustainable since it would set a precedent for other patients with chronic illnesses to make similar claims, leading to potential loss of revenue for the government..

In addition, it was noted that in order to accommodate the petitioners request to provide free treatment and prosthesis for survivors of cancer, the Ministry of Health should fast tract the process of rolling out of the Universal Health Coverage to cover people with terminal illnesses.

1.5 Acknowledgement

The Committee is grateful 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. I also wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this Report.

It is therefore my pleasure and privilege, on behalf of the Departmental Committee on Health, to table its Report in the House on the Consideration of the Petition on the Amendment of Cancer Prevention and Control Act, 2012 pursuant to Standing Order 227 (2).



Signed..Date 24/11/2015
(HON. DR. RACHAEL NYAMAI, M.P.)

CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH

2.0 BACKGROUND

2.1 About Cancer

According to the World Health Organization (WHO), Cancer is a group of diseases involving abnormal cell growth with the potential to invade or spread to other parts of the body[1]. Possible signs and symptoms of cancer include; a lump, abnormal bleeding, a prolonged cough, unexplained weight loss and change in bowel movement among others. While these symptoms may indicate cancer, it is important to note that they may occur due to other issues.

There are risk factors to cancer which include among others; use of tobacco, obesity, poor diet, lack of physical activity, consumption of alcohol, exposure to ionizing , radiation and environmental pollutants, infections such as hepatitis B, hepatitis C and human papilloma virus (HPV). Many cancers can be prevented by maintaining a healthy life style and getting vaccinations against certain infections.

2.2 Situational Analysis

According to the Ministry of Health National Cancer Strategy 2011-2016, Cancer is the 3rd highest cause of morbidity in Kenya of 7% of deaths per year, after infectious diseases and cardiovascular diseases. An estimated 28,000 new cases of Cancer are reported each year in Kenya with more than ,22,000 deaths per year.

About 60% of Kenyans affected by Cancer are younger than 70 years old, with leading Cancers reported as follows according to Kenya Network of Cancer Organizations:

- Women: Breast (34 per 100,000),
- Cervical (25 per 100,000)
- Men: Prostate (17 per 100,000),
- Esophageal (9 per 100,000)

About 70-80% of cancer cases are diagnosed in late stages due to lack of awareness; —Inadequate diagnostic facilities; —Lack of treatment facilities; High cost of treatment and High poverty Index.

In terms of treatment of cancer, Kenya faces challenges as there are only 4 radiation centres (all based in Nairobi – KNH, MP Shah, Nairobi Hospital and Aga Khan). In the public sector, the human capacity for cancer treatment is as follows;

- 4 radiation oncologists
- 6 medical oncologists
- 4 pediatric oncologists
- 5 radiation therapy technologists
- 3 oncology nurses
- 2 medical physicists

In terms of legislative framework, the Cancer Prevention and Control Act, 2012 was enacted to provide for prevention, treatment and control of cancer. The Act establishes the National

[1] WHO

Cancer Institute of Kenya with the mandate of among others to advise the Cabinet Secretary on matters relating to treatment and care of persons with cancer and to advice on the relative priorities to be given to the implementation of specific measures.

The Act also establishes a cancer registry where the national cancer register is kept. In addition, it provides for prohibition for discriminatory practices against cancer patients in work places, schools, health institutions, and on exclusion from credit and insurance services. The Act further provides for education and information, encouraging the national government in collaboration with the institute to promote public awareness about the causes, consequences, means of prevention, treatment and control of cancer through a comprehensive nation-wide education and information campaign.

2.3 Petition on Cancer Prevention and Control Act, 2012.

The Petition by Mr. Solomon Muriungi Mburunga was presented to Parliament by the Hon. Speaker on 30th July, 2015 and thereafter committed to the Committee for consideration and reporting to the House pursuant to Standing Order 227.

The Petitioner's prayer to Parliament is as follows;

1. Amend Cancer Act No. 15 of 2012, section 3 (b), 3 (e) promote access to quality and affordable diagnostic and treatment services for persons with cancer to include free provision of cancer diagnosis and treatment.
2. Provide free of charge prosthesis (artificial breasts) to women who have undergone mastectomy.
3. Exempt all cancer patients and survivors from paying income taxes just like people living with disability in Kenya who do not pay taxes on their income (under Section 12(3) of the Persons with Disability Act, 2003).
4. Amend to enhance Cancer Act of 2012, Section 3(b)(ii) 'outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behaviour and events to cancer in public meetings, print and electronic and social media.
5. Introduce cancer in secondary school and tertiary institution curriculum in order to increase awareness on causes, consequences, and means of prevention and control of cancer to a majority of Kenyans.

3.0 MEETING WITH STAKEHOLDERS

In the process of its deliberations on the petition, the Committee held meetings with the Petitioner, Mr. Solomon Muriungi Mburunga and the Ministry of Health to address the issues raised by the Petitioner. The Committee also received views from the Hon. Gladys Wanga, MP on the subject matter as an interested stakeholder.

3.1 Submission by Mr. Solomon Muriungi Mburunga.

The Committee held a meeting with the Petitioner on Tuesday, 6th October, 2015. In his submission, he informed the Committee that;

1. The motivation for coming up with the petition was necessitated by the experience he underwent after his wife was diagnosed and consequently subjected to a treatment regime for breast cancer in the year 2014. The wife had hitherto been misdiagnosed for a whole year thereby worsening her condition.
2. The cost of treatment for cancer in the country is exorbitant as he had to deposit Ksh 4.5 million to just commence the treatment regime and spent over Kshs. 7 million for his wife's treatment. With the cancer affecting many currently Kenyans, a vast majority conduct harambees and travel to India to seek for treatment which cost Kenyans about Kshs. 40 billion as medical tourism to India and other countries.
3. As the National Government is in the process of providing cancer diagnostic equipment to every county, currently Kenyatta National Hospital is the only public hospital with single operating radiation equipment which is over-stretched with patients having to wait for over six months to get treatment. The private hospitals such as Nairobi Hospital, Aga Khan Hospital and MP Shah are way beyond many patients' means in terms of cost with a single radiation session costing Kshs. 9,000 in private hospitals with an average of 25 sessions required to treat a patient.
4. The cost of breast prosthesis is about Kshs. 20,000 which is also way beyond the means of majority of Kenyan breast Cancer survivors.
5. Most of the survivors spend bigger proportions of their incomes fighting the disease. However, the people living with disability are exempted from paying taxes due to their status which may not warrant them to undergo frequent testing like the cancer survivors.
6. The use of the terminology 'cancer' equating it to all the negative activities by the media and in political platforms is discriminatory against the cancer survivors as it causes them emotional and psychological torture and therefore it should be outlawed.
7. There is need to operationalize the Cancer Prevention and Control Act 2012 section 3(a) by the Ministry of Health in promoting public awareness about the causes, consequences, means of prevention and control by introducing cancer awareness in the primary, secondary schools and tertiary institutions curriculum to demystify it.
8. After the foregoing experiences, he started reviewing the legislation in place in Kenya with regard to cancer. It is then that he came across the Cancer Prevention and Control Act, 2012, whose amendment he was petitioning for.
9. His aim was to have provisions in the said act that would make life easier for not only cancer patients but their families as well.
10. With respect to his prayers, he requested the National Assembly to amend the Cancer Prevention and Control Act, 2012 and make provisions for the following:

a) Prayer 1:

Provision of free cancer diagnosis and treatment to patients

- This was to avoid locking out those who may not afford the service which was well beyond the reach of many ordinary Kenyans.

- It would also compel government to set up regional cancer centers to increase probability of accurate diagnosis and treatment of cancer.

b) Prayer 2:

Provision of free prosthesis or artificial breast to all women who undergo mastectomy

- The artificial breast was central to regaining the dignity and self-esteem of women survivors of breast cancer. Although it cost about Ksh 25,000 on average, most women would not afford such and end up using pieces of cloth which can embarrass them in some settings when they don't stay in their position.

c) Prayer 3:

To exempt all cancer patients and survivors from paying income taxes just like people with disability in Kenya (Under Section 12 (3) of the Persons with Disability Act, 2003).

- This was because patients and those who survive require to constantly monitor their health through numerous tests. They would therefore require the tax exemption to enable them attend to such.
- They would also require special diet to contain any infections they may be susceptible to due to depressed immune system emanating from the treatment regimes.

d) Prayer 4:

Amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behavior and events to cancer in public meeting, print and electronic media and social media.

- There was a constant comparison of cancer to negative things like corruption, tribalism etc. These impacted negatively on patients and survivors through causing them unnecessary trauma.
- There is need to outlaw public pronouncements by leaders at all levels who used cancer to depict the worst in society and hence save those affected from psychological torture.

e) Prayer 5

To operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

- He noted that few people, mostly medics, know about cancer. He urged that there was need for extensive public awareness as it is for HIV/ AIDS and malaria.

- Medics also need to be sensitized through review of their respective training curricula.

3.2 Submission by the Ministry of Health

The Committee held a meeting with the Cabinet Secretary, Ministry of Health Mr. James Macharia on 23rd October, 2015 to address the issues raised by the petitioner. In his submission, the Cabinet Secretary indicated that;

i. The Ministry does not support amendment of the Cancer Act2012 to provide for free cancer diagnosis and treatment because it is not a sustainable option. However, the Ministry is advocating for adoption of a Universal Health Coverage (UHC) scheme which will cover costs of cancer diagnosis and treatment. This will make cancer diagnosis and management more affordable and accessible. The Ministry is in the meantime implementing the following measures to address gaps in cancer diagnosis and management;
   a) Outreach oncology services by KNH/MTRH;
   b) Construction of Cancer centre at Kisii Level 5 Hospital. A loan agreement has already been signed with BADEA for construction of the Centre;
   c) Equipping health facilities in all counties with diagnostic equipment through the Managed Equipment Service (MES) Project. Some of the equipment being supplied will aid in screening, diagnosis and management of cancer cases;
   d) Plans are underway to expand comprehensive cancer services by establishing cancer centres at Nyeri, Mombasa and Kisumu, as well as upgrading the existing centres at KNH and MTRH.

ii. The Ministry is focussing its priority on prevention, early detection and treatment of cancer cases. Provision of prostheses for patients who have undergone mastectomy is part of a comprehensive tertiary prevention and palliative care that will be incorporated in the Universal Health Coverage to ensure quality lives for patients after undergoing treatment.

iii. Cancer is one of the chronic conditions affecting Kenyans. Exempting cancer patients from payment of income tax may not be justifiable as it will set a precedent for similar demands from other people with chronic ailments such as diabetes, hypertension, and chronic kidney failure. It may also end up stigmatizing and disempowering persons suffering from cancer. However, the government subsidizes cancer treatment in public hospitals using tax revenue.

iv. On the use of the word 'cancer' for negative connotation, the term 'cancer' is universally used to describe negative practices that harm public good. This does not stigmatize cancer patients or survivors. On the contrary, the society empathizes with persons suffering from cancer and treats them with compassion.

v. In terms of the cancer awareness, the Ministry of Health Cancer Strategy 2012-16 advocates for enhancing cancer awareness in all segments of society. People in secondary and tertiary institutions are among those targeted for cancer awareness creation.

3.3 Views from Hon. Gladys Wanga, MP as an interested stakeholder

Hon. Gladys Wanga, MP submitted her opinion to the Committee on the petition as an interested stakeholder as follows;

i. ***Provision of free cancer diagnosis and treatment of patients***

It is undoubtedly true that cancer disease is extremely expensive at all stages (diagnosis, treatment and management). Similarly, it is undisputable that a good number of those already suffering or will be diagnosed with this dreaded disease are extremely poor or come from poor families who cannot afford any decent treatment or routine follow-ups. Many of them are in great financial distress which has a trickledown effect to the members of their households. It is in this regard that we propose that there should be a health coverage for cancer patients through a universal health cover National Hospital Insurance Fund (NHIF). This in turn calls for relevant amendments to NHIF Act.

ii. ***Provision of free prosthesis or artificial breasts to all who undergo mastectomy***

Given the challenges that are currently facing cancer treatment and the tireless efforts to reduce its burden on the victims and the affected, free prosthesis can be put as a future consideration.

iii. ***Categorization of cancer patients and survivors as persons with disabilities with a view to exempting them from paying income tax in line with the Disability Act 2003.***

This should be subject to discussion in an open forum with different stakeholders.

iv. ***Outlawing all forms of discrimination and stigmatization of cancer patients in public and media.***

This is comprehensively addressed in the **Cancer Prevention and Control Act , 2012** in section 3 (2) and in part IV sections 23-28.

v. ***Introducing cancer education in the curricula of secondary schools and tertiary institutions as a way of increasing awareness on this killer disease.***

This is also comprehensively addressed in the Cancer Prevention and Control Act, 2012 in section 30 (1) and (2).

4.0 COMMITTEE'S OBSERVATIONS

The Committee made the following observations on the prayers in the petition;

i. **Provision of free cancer diagnosis and treatment to patients and Provision of free prosthesis or artificial breast to all women who undergo mastectomy.**

The Cancer Act 2015 provides for the access to quality and affordable diagnostic and treatment services for persons with cancer. However, in amending the Cancer Prevention and Control Act, 2012 to provide for Clauses that will allow for free provision of cancer treatment and free prosthesis (artificial breasts) to women who have undergone mastectomy, there is need to clearly define how to actualize the provision. In the long term though, addressing the Universal Health Insurance Plans with explicit provisions on how to address Non-communicable diseases (from prevention to treatment) would be more relevant and practical.

ii. **To exempt all cancer patients and survivors from paying income taxes just like people with disability in Kenya (Under Section 12 (3) of the Persons with Disability Act, 2003).**

Article 210 of the Constitution provides that tax waivers are only allowed through legislation. Section 12 (3) of the Persons with Disability Act 2003 provides that an employee with a disability shall be entitled to exemption from tax on all income accruing from his employment. Further Clause 2 on interpretation defines disability" as a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on social, economic or environmental participation. From the foregoing definition it is not explicit that cancer survivors and patients are clearly included and therefore the provision on waiver from tax on income may not apply.

iii. **Amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behaviour and events to cancer in public meeting, print and electronic media and social media.**

While Section 3(b) (ii) outlaws any kind of discrimination in all forms and subtleties, the petitioner seeks to amend the sub clause to 'include negative comparison and association of issues, things, behavior and events to cancer in public meetings, print and electronic media'. It is important to note that the Act in Part IV (Clause 23(1) (2) provides for the discriminatory provisions including but not limited to employment, promotions, recruitment,

terms of service, provision of facilities, among others. Although this prayer is valid, operationalization will pose a challenge due to the following reasons;

a. The Act already outlaws discrimination of any kind for persons with Cancer or cancer survivors

b. The Act if amended may not have jurisdiction and control over what is posted on electronic media some print media that find their way in the country.

c. This to some extent is over-legislating, similar to legislating over ones conscience, this can be difficult to implement.

iv. To operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

The Cancer Prevention and Control Act 2012, Part V provides for Education and information. Clause 29 provides for information, education and communication by National Government including the objects of the Act of 'promoting public awareness about causes, consequences, and means of prevention, treatment and control of cancer through a comprehensive nationwide education and information campaign. Clause 30 provides for the cancer prevention and control to form part of education syllabus. It is indeed true to say that provisions for public awareness are clearly articulated in the Act and therefore what remains is its implementation.

5.0 COMMITTEE RECOMMENDATIONS

The Committee having considered the petition and the submissions from the stakeholders recommends the following;

i. **Provision for free cancer diagnosis and treatment to patients;**

The Ministry of Health should fast track the provision of the Universal Health Coverage Scheme with the National Hospital Insurance Fund which will cover for the costs of cancer diagnosis and treatment. The Ministry should also fast track the implementation of the Managed Equipment Service program intended to equip 2 hospitals per county to bring service delivery to patients to decongest KNH which is the only public hospital offering cancer treatment.

ii. **Provision of free prosthesis or artificial breast to all women who undergo mastectomy;**

While rolling out the universal health coverage, the Ministry should ensure that provision of free prostheses is part of comprehensive tertiary preventive and palliative care to be incorporated in the universal health coverage.

iii. **Categorization of cancer patients and survivors as persons with disabilities with a view to exempting them from paying income tax as is the case with Person with Disabilities Act, 2003;**

On the exemption of the cancer patients from paying taxes just like people living with disability, it may not be justifiable as this will set a precedent to other patients who are terminally ill, however, with the implementation of the universal health coverage scheme, patients will be relieved the heavy burden of spending to manage the disease. Further, with equipping the hospital with proper equipment will reduce the burden for patients who travel out of the country to seek for medical assistance. The government should therefore fast track the implementation of the Managed Equipment Service project.

iv. **Outlawing all forms of discrimination and stigmatization of cancer patients in public and media;**

The Act in Part IV prohibits any form of discrimination against cancer patients. However, limiting the use of the term cancer for negative connotation may pose a challenge especially in the electronic and social media. Therefore, this prayer may not be viable.

v. **Introducing cancer education in the curricula for secondary schools and tertiary institutions as a way of increasing awareness on the disease.**

The Act in Part V provides for education and information where the national government in collaboration with the National Cancer Institute should promote public awareness on cancer. The Ministry however needs to aggressively raise awareness as it operationalizes its Cancer Strategy 2012-2016.

APPENDICES

1. **MINUTES**
2. **PETITION**
3. **CANCER PREVENTION & CONTROL ACT, 2012**

3. Mr. Hassan A. Arale - Third Clerk Assistant.
4. Mr. Sidney Lugaga - Legal Counsel
5. Ms. Marale Sande - Senior Researcher

MIN.NO. DCH 393/2015: PRELIMINARIES

The Chairperson called the meeting to order at 10:26 am and a prayer was said by Hon. Fred Outa, M.P. Then there was a self-introduction of all those present in the meeting.

MIN.NO. DCH 394/2015: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted as follows after being proposed and seconded by Hon. James Gakuya, M.P. and Hon. Mwinga Gunga, M.P. respectively:

1) Meeting with Mr. Dennis Githinji and KMLTTB Regarding Registration and Regulation of the Practice of Degree Holders in Medical Laboratory Science and Technology.
2) Adoption of the following reports:
   a) Report on the Consideration of the Petition by Mr. Solomon Muriungi Mburung'a Regarding Amendment of the Cancer Prevention and Control Act, 2012.
   b) Report on the Consideration of the Biomedical Engineers Bill, 2015.
   c) Pre-Publication Scrutiny Comments on the Clinical Officers (Training, Registration and Licensing) Bill, 2015.
   d) Pre-Publication Scrutiny Comments on the Occupational Therapist (Training, Registration and Licensing) Bill, 2015.

MIN.NO. DCH 395/2015: CONFIRMATION OF MINUTES

Confirmation of the minutes of previous meetings was deferred to the next meeting.

MIN.NO.DCH 396/2015: MEETING WITH MR. DENNIS GITHINJI AND KMLTTB REGARDING REGISTRATION AND REGULATION OF THE PRACTICE OF DEGREE HOLDERS IN MEDICAL LABORATORY SCIENCE AND TECHNOLOGY.

The Chairperson briefed the Committee that the said petition was presented to the National Assembly on 26th August, 2015 and subsequently submitted to the Committee on Health on 28th August, 2015 for consideration. She further stated that the petitioner, Mr. Dennis Githinji, was invited via a letter to appear before the Committee and brief it on the said petition. She therefore invited the petitioner to make his presentation.

Presentation by the Petitioner

In his presentation, the petitioner informed the Committee THAT:

1. During drafting of the KMLTTB ACT, 1999, Kenya was training only certificate and diploma holders in Medical Laboratory Technology. No Kenyan University had started training degree holders in Medical Laboratory Science and Technology. Hence, the KMLTTB Board formed by the KMLTTB ACT, 1999 was formed in major consideration of certificate and diploma holders in medical laboratory technology.
2. Due to national and global demands for experts in medical laboratory diagnosis and research, Kenyan universities have started offering degree courses in the field of laboratory medicine.
3. Medical Laboratory Science and Technology is a major degree course in the universities with most of students pursuing it having performed excellently in Kenya Certificate of Secondary Education. However, the degree holders face difficulties in a bid to exercise their professional mandate and progress with the existing board (KMLTTB).
4. In KMLTTB Act, 1999 the institutions recognized for training medical laboratory professionals are KMTCs and its equivalent yet universities are not equivalent to KMTC.
5. According to the Act, Medical laboratory technologist means a person holding a diploma, higher diploma or degree in medical laboratory technology issued by the Kenya Medical College or other similar institution approved by the Board. Abilities and responsibilities of degree holders are not equivalent to those of diploma and higher diploma holders, and therefore deserve a distinct designation.
6. In composition of KMLTTB, the platform through which degree holders can have a representative in the board is through the provision that requires three registered laboratory technologists, two of whom shall be in private practice, elected by the Association to be part of the board. Medical laboratory technologist refers to a diploma, higher diploma and degree holder in medical laboratory science and technology. Due to the high number of diploma and higher diploma holders in the association compared to degree holders, it is difficult for a degree holder to be voted in.
7. Administration and regulation of licensing examinations for medical laboratory professionals was not clearly stipulated in the Act.
8. Internship for medical laboratory graduates is necessary. KMLTTB, according to its log books for degree students, requires them to undertake a 1 year internship after graduation. However, it does not allocate internship slots to the graduates.
9. The KMLTTB Act, 1999 does not clearly define the abilities, responsibilities and designations of degree holders in medical laboratory science and technology. However, the Ministry of Devolution has defined the scheme of service for medical laboratory personnel with degree holders being categorized as medical laboratory officers.
10. The matters in the petition were not pending in a court of law or any other constitutional or legal body.

Presentation by the Parliamentary Research Services

Ms. Sande Marale, in her presentation, informed the Committee THAT:

1. The policy and legislative issues with regard to the petition include that the Medical Laboratory Technicians and Technologists Act, Cap 253A is the law that governs the training, registration and licensing of medical laboratory technicians and technologists, including providing for the establishment of a regulatory body, the Kenya Medical Laboratory Technicians and Technologists Board, (KMLTTB).
2. The way forward in the context could be:
   a) There already exist a statutory body to regulate the laboratory technicians and technologists, (Certificate, diploma and degree holders in the Medical laboratory technology). However, there seems to be rapid growth in numbers of the degree holder laboratory technologists (following expansion of degree courses in Medical laboratory technology in various universities. Therefore, in collaboration with the various stakeholders, the Committee may consider amending the Medical Laboratory Technicians and Technologists Act, Cap 253A to ensure adequate representation of Technologists (both diploma and Degree holders) and Technicians at the Board level.
   b) As regards the Management of Health Professions in General; there is need to develop clear principles and operational considerations for future regulation of health professionals within the National Health systems.

Members' Observations

1. There is need to review the KMLTTB Act, 1999 to ensure it recognizes and caters for the interests of degree holders in the laboratory medicine profession.
2. On the designation of degree holders to distinguish them from other cadres in the profession, the public service commission and the Ministry of Health should agree on the designation of the degree holders.
3. There was also need to review the law to provide for the administration of pre-registration examinations for all the levels in this cadre including the degree holders.
4. On the internship of degree holders in the field, there was need to ensure that training institutions make the final year practical to avoid the need of post qualification internship.

5. The Association of Kenya Medical Laboratory Scientists ought to provide its membership broken down in terms of the qualifications held by its membership.

Resolution

The current Medical Laboratory Technicians and Technologists Act, Cap 253A was enacted when diploma holders were the majority in the profession hence the tendency of provisions in the act to be skewed in their favor. The Committee resolved therefore to work on modalities of amending the act in conjunction with relevant stakeholders.

MIN.NO.DCH 397/2015:BRIEF FROM THE PARLIAMENTARY RESEARCH SERVICES ON THE PETITION BY MR. PETER OROWE NYAMBOK ON THE ALLEGED MISMANAGEMENT AND MISAPPROPRIATION OF FUNDS AT THE KENYA MEDICAL RESEARCH INSTITUTE (KEMRI).

Ms. Sande Marale, in her presentation, summarized the issues in the document presented by Dr. Kizito Lubano, Former Head of Planning, Monitoring and Evaluation Department, KEMRI and then informed the Committee that key issues to base the interrogation of KEMRI on include:

Financial Mismanagement

i. Request to avail to the Committee the Special Audit report of July 2015 by the Auditor General

ii. Communication between KEMRI and the Ministry of Health show financial irregularities noted in the Special Audit Report and as summarized in Table 1. How is KEMR addressing these?

iii. The Relationship between KEMRI and RCTG- FACES (the Programme) and KEMRI and RCTG – FACES (NGO) - Evidence show indicate conflict of interest. Has KEMRI been collaborating with an NGO *(RCTG- FACES was registered in 2011)* whose officials are KEMRI Staff. What terms has KEMRI been collaborating with RCTG- FACES and what are the reasons behind the proposed MoU which clearly has provisions that are likely to place the Institute at a disadvantage?

iv. The proposed MoU between KEMRI and RCTG FACES came to the role in early, January 2014. Why was KEMRI (Board of Management) taking too long to dispense it?

v. To substantiate the Check- Off loans Facility with Family Bank allegedly to be used for Mortgage for Staff? KEMRI to submit contractual agreement with

Family Bank and the latest updated beneficiary list of the mortgage facility *(Claims were also that conditions for mortgage entitlement were too punitive?*

vi. Update on the Institute of Tropical Medicine and Infectious Disease (TROMID) program.

Human Resources Issues

i. Is the financial Mismanagement at KEMRI a symptom of lack of capacity within the financial, procurement and human resource departments owing to unaddressed Human resource malpractices?

ii. Existence of the revised finance and HR manuals

iii. Unfair termination of employment for CDC staff and selective termination of scientists' contracts following the current financial challenges. KEMRI to provide a copy of the contract with employees.

Members' Observations

1. The use of salary demanded by top interviewees as an excuse to leave out top candidates was not backed by any documentary evidence hence it stands out as mere allegations.
2. There was an acute human resource mismanagement problem at KEMRI as evidenced by the large number of cases in court on human resource matters due largely to recruitment of an incompetent Deputy Director. This had occasioned KEMRI losing out in terms of the huge payouts after losing on such cases.
3. The arrangement with Family Bank, a bank which had been mentioned in other malpractices in dealings with other government departments, was suspect as it wasn't clear how the bank stood to benefit from the arrangement put in place for mortgages for select KEMRI employees.
4. There was need to invite the listed RCTP- FACES NGO officials to appear before the Committee to shed light on the relationship between the NGO and KEMRI.

Resolution

The Committee noted that the KEMRI petition matter was complex and resolved that the Chairperson ought to request for extension of timelines for consideration of the petition for up to three (3) months to enable it get to the root of the matter and come up with a comprehensive report.

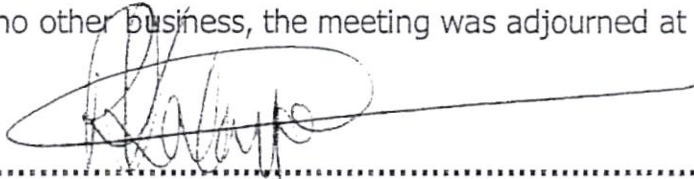
MIN.NO. DCH 398/2015:CONSIDERATION AND ADOPTION OF A REPORT ON THE PETITION BY MR. SOLOMON MURIUNGI MBURUNG'A REGARDING AMENDMENT OF THE CANCER PREVENTION AND CONTROL ACT, 2012.

The Committee considered and adopted the report on the Petition by Mr. Solomon Muriungi Mburung'a Regarding Amendment of the Cancer Prevention and Control Act,

2012 after being proposed and seconded by Hon. Michael Onyura, M.P. and Hon. John Nyaga Muchiri, M.P. respectively.

MIN.NO. DCH 399/2015: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.55 pm.



SIGNED: ....

HON. (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE: .....10/12/2015**.....**

MINUTES OF THE 83RD SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD AT THE BOMA HOTEL, NAIROBI ON FRIDAY, 23RD OCTOBER, 2015, AT 9:00 AM

PRESENT

1. **The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)**
2. **The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson.)**
3. The Hon. David Karithi, M.P.
4. The Hon. Dr. James O. Gesami, M.P.
5. The Hon. Raphael Milkau Otaalo, M.P
6. The Hon. Joseph O. Magwanga, M.P.
7. The Hon. Dr. Stephen Wachira, M.P.
8. The Hon. Dr. Susan Musyoka, M.P.
9. The Hon. Dr. Naomi Shaban, M.P.
10. The Hon. Kamande Mwangi, M.P.
11. The Hon. Dr. James Nyikal, M.P.
12. The Hon. James Gakuya, M.P.
13. The Hon. John Nyaga Muchiri, M.P.
14. The Hon. Stephen M. Mule, M.P.
15. The Hon. Hassan Aden Osman, M.P.
16. The Hon. Paul Koinange, M.P.
17. The Hon. Alfred Agoi, M.P.
18. The Hon. Fred Outa, M.P.
19. 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. Christopher Nakuleu, M.P.
4. The Hon. Zipporah Jessing, M.P.
5. The Hon. Leonard Sang, M.P.
6. The Hon. Mwinga Gunga, M.P.
7. The Hon. Dr. Enoch Kibunguchy, M.P.
8. The Hon. Dr. Dahir D. Mohamed, M.P
9. The Hon. Dr. James Murgor, M.P.
10. The Hon. Dr. Eseli Simiyu, M.P.

IN ATTENDANCE

National Assembly Secretariat

1. **Ms. Esther Nginyo - Third Clerk Assistant (Lead Clerk)**
2. Mr. Hassan A. Arale - Third Clerk Assistant.
3. Mr. Dennis Mogare - Third Clerk Assistant.
4. Ms. Sande Marale - Researcher
5. Mr. Sidney Lugaga - Legal Counsel
6. Ms. Farida Ngasura - Audio Recorder.
7. Ms. Noelle Chelagat - Media Relations Officer

8. Ms. Beatrce Auma - Secretary
9. Mr. Stephen Omunzi - Office Assistant

Ministry of Health

1. Mr. James Macharia - Cabinet Secretary, MOH
2. Dr. Khadija Kassachon - Principal Secretary, MOH
3. Dr. Kibicho Joseph - MOH
4. Ms. Moranga Moreena - MOH
5. Mr. Edward Munene - MOH

National Hospital Insurance Fund

1. Mr. S. Ole Kirgoty - C.E.O, N.H.I.F
2. Mr. Geoffrey Mwangi - Director Finance and Investment
3. Mr. Ambrose Lugito - Director Operations and Quality Assurance
4. Ms. Lucy Rono - Corporate Secretary.
5. Mr. Dan Ambina - Transport
6. Mr. Joseph Savioyo - Security
7. Mr. James Njoroge - Legal Officer
8. Mr. Evantus Maina - Operation

Petitioner's Team

1. Mr. Solomon M. Mburunga - Petitioner-amendment of the Cancer Control and Prevention Act, 2012.
2. Ms. Rose Wanjiru - Breast Cancer Association- Survivor.
3. Mr. Innocent Ruria - Cancer Survivor

MIN.NO. DCH 357/2015: PRELIMINARIES

The Chairperson called the meeting to order at 9:26 am and a prayer was said by Hon. Alfred Agoi, M.P. Thereafter, all those present made a self-introduction after which the Chairperson informed members that the meeting's agenda was meeting with the Cabinet Secretary, Ministry of Health on various issues pending before the Committee.

MIN.NO. DCH 358/2015: CONFIRMATION OF MINUTES

Confirmation of the minutes of previous meetings was deferred to the next meeting.

MIN.NO. DCH 359/2015: MEEING WITH THE CABINET SECRETARY, MINISTRY OF HEALTH

The Chairperson stated that the Cabinet Secretary had been invited to respond to the following issues of concern to the Committee:

a) Petition on the amendment of the Cancer Prevention and Control Act, 2012.
b) Reduction of the NHIF rates from Ksh 500 to Ksh 300 for voluntary contributors.

c) Progress made in implementation of the Managed Equipment Service (MES) project.
d) Progress made in implementation of the slum upgrading project.
e) The progress and strategy of the beyond zero campaign.
f) The capacity of the Intensive Care Unit at Kenyatta National Hospital.
g) Progress made in training personnel to operate the Managed Equipment Service (MES) equipment already installed in county hospitals.

She then invited the Cabinet Secretary to make his presentation. The Cabinet Secretary responded to each of the issues as follows:

i. PETITION ON THE AMENDMENT OF THE CANCER PREVENTION AND CONTROL ACT, 2012

The Cabinet Secretary stated that the petition sought the following specific amendments to the Cancer Prevention and Control Act, 2012:

- To amend Cancer Act , No15 of 2012, Section 3(e) ' promote access to quality and affordable diagnostic and treatment services for persons with cancer' to include free provision of cancer diagnosis and treatment.
- Free provision for prosthesis (artificial breasts) to women who have undergone mastectomy
- To exempt all cancer patients and survivors from paying taxes, similar to the disabled people in Kenya who do not pay taxes on their income (under section 12(3) of the Persons with Disability Act, 2003.
- Amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behavior and events to cancer in public meeting, print and electronic media and social media.
- To operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

1. On amending the Cancer Act , No15 of 2012, Section 3(e) ' promote access to quality and affordable diagnostic and treatment services for persons with cancer' to include free provision of cancer diagnosis and treatment. The Cabinet Secretary stated that:
    i) The Ministry of Health did not support amendment of the Cancer Act, 2012 to provide for free cancer diagnosis and treatment because wasn't a sustainable option. However, the ministry was advocating for universal health coverage (UHC) scheme which would cover costs of cancer diagnosis and treatment. This would make cancer diagnosis and management more affordable and accessible.
    ii) The Ministry was implementing the following measures to address gaps in cancer diagnosis and management:

- Outreach oncology services by Kenyatta National Hospital and MTRH.
- Construction of a cancer centre at Kisii Level 5 Hospital. A loan agreement had already been signed with BADEA for construction of the centre.
- Equipping health facilities in all counties with diagnostic equipment through the MES project. Some of the equipment being supplied shall aid in screening, diagnosis and management of cancer cases.
- Plans were underway to expand comprehensive cancer services by establishing cancer centres at Nyeri, Mombasa and Kisumu as well as upgrading the existing centres at KNH and MTRH.

2. On Free provision for prosthesis (artificial breasts) to women who have undergone mastectomy, the Cabinet Secretary stated that:
   i) The Ministry of Health was focusing on prevention, early detection and treatment of cancer cases.
   ii) Provision of prostheses for patients who had undergone mastectomy was part of a comprehensive tertiary prevention and palliative care that would be incorporated in the universal health coverage to ensure quality lives for patients after undergoing treatment.

3. On exemption of all cancer patients and survivors from paying taxes, similar to the disabled people in Kenya who do not pay taxes on their income (under section 12(3) of the Persons with Disability Act, 2003, the Cabinet Secretary stated that:
   i) Cancer was one of the chronic conditions affecting Kenyans and exempting cancer patients from payment of income tax may not be justifiable as it would set a precedent from similar demands from those with other chronic conditions like diabetes and hypertension among others.
   ii) The exemption may end up stigmatising and disempowering those suffering from cancer. However, he emphasized that the government subsidises cancer treatment in public health facilities using tax revenues.

4. On amending The Cancer Prevention and Control Act of 2012 Section 3(b) (ii) 'outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behaviour and events to cancer in public meeting, print and electronic media and social media, the Cabinet Secretary stated that the term cancer was being used universally to describe negative practices that harm public good. This did not necessarily stigmatize cancer patients; instead it sensitizes the society to empathize with persons suffering from cancer and treats them with compassion.

5. Finally, on operationalizing Cancer Prevention and Control Act, 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer, the Cabinet Secretary stated that the

ministry of health cancer strategy 2012 – 2016 advocates for enhancing cancer awareness in all segments of society. People in secondary schools and tertiary institutions are among those targeted for cancer awareness creation. The Ministry of Education shall be engaged to coordinate the efforts.

Members' Observations

Members observed that:

1) Cervical cancer was the most common and it needed specific interventions to contain it.
2) The categorical response by the Ministry that it did not support amendment to the Cancer Control and Prevention Act, 2012 was in bad faith and the ministry needed to be flexible. The Ministry should therefore identify areas of strengthening in the Act as opposed to total refusal to amend the Act.
3) There were gaps that needed to be addressed such as early diagnosis of cancer such as mandatory screening of cancer for among others mothers who are delivering in a bid to avoid advanced treatment such as surgery and chemotherapy treatments.
4) Universal HealthCare could be the ultimate solution to the concerns and interests of cancer patients and as a solution for early detection of cancer.
5) The Ministry of Health did not have the mandate of promotive health care which should be the preserve of counties. However, at initial stages, it would be involved in capacity building for counties.
6) Most of the cancer equipment expected under the MES were diagnostic rather than treatment equipment. However, it was clarified that there will be regional treatment centres.
7) There is need for the Ministry to encourage mission hospitals such as St. Mary's Hospital to accept the NHIF cover programs so that the burden of payment for patients is reduced drastically.
8) The National Government and the County Governments needed to cooperate to ensure health service delivery is of high quality and standardized.

ii. REDUCTION OF THE NHIF RATES FROM KSH 500 TO KSH 300 FOR VOLUNTARY CONTRIBUTORS

The Cabinet Secretary responded as follows, THAT:

i) The NHIF Act No. 9 of 1998 makes provision for:
   a. Standard Contributors (Section 16)
   b. Special Contributions (Self-Employed – Section 19)
   c. Voluntary Contributions (Section 20)
ii) Contributions for categories 'a' and 'b' above are governed by Legal Notice No. 14 of 2015 whereas those for category 'c' are governed by Legal Notice No. 108 of 2010. Voluntary contributions stand at Ksh 300 per month since the date of the gazette notice.

iii) The Board of the NHIF had issued a circular dated 16th July, 2015 to all staff of NHIF to implement Legal Notice No. 108 of 2010 which sets voluntary contributions at Ksh 300.

Members' Observations

Members observed that:

1) Although the NHIF had issued a circular, the voluntary contribution of Ksh 300 had not been implemented. There was therefore need for a clear definition of voluntary contributors and further have the various contributors clearly defined in law.
2) The provision of outpatient cover was in limbo despite much publicity around it from the NHIF.
3) To succeed in its mission, the NHIF needs to establish its wing in every public hospital in the Kenya.
4) The NHIF needed to have clear provisions on rebates for inpatient cover, capitation for outpatient cover and special services and respective benefits for each.
5) There was a sub-committee on universal health care that would work with the NHIF on the roadmap to universal health coverage. The engagement between NHIF and that sub-committee was crucial.
6) There was need to review the procedures of paying hospitals by the NHIF as the process was unnecessarily long and costly for the hospitals offering services.
7) As a solution to having various contributors pay rates that are commensurate with their earnings, NHIF should consider pegging contributions to the contributors tax bracket.
8) The NHIF should prepare a manual containing pooling mechanisms, benefits for each category of contributors and the list of health providers.

Resolution

Having reached a consensus that the problem was one of definition of voluntary contributors, it was resolved that status quo remains in place until ongoing consultations are concluded and a meeting be held again between the Ministry of Health, NHIF and the Sub-Committee on NHIF within one month from the date of the meeting to chart the way forward.

PROGRESS MADE IN IMPLEMENTATION OF THE MANAGED EQUIPMENT SERVICE (MES) PROJECT.

The Cabinet Secretary stated that:

i) The Managed Equipment Service project was being implemented in all the 47 counties in Kenya.
ii) Two (2) hospitals per county and four (4) referral hospitals are to benefit from the program. The tender process was concluded in February 2015 and the subsequent contracts signed on 5th February, 2015.

iii) The following contractors signed contracts with the Ministry of Health:

a. Shenzhen Midray Bio-Medical LTD of China – Lot 1 dealing with theatre equipment. 96 hospitals to be fully kitted with theatre equipment.
b. Esteem Industries Inc of India - Lot 2 dealing with CSSD and surgical instruments. 96 hospitals to be equipped with sterilising equipment complete with surgical sets for all operations.
c. Bellco SRL of Italy – lot 5 dealing with renal and dialysis machines. 5 dialysis machines to be provided for each of the 47 counties and 2 national referral hospitals.
d. Philips medical systems of Netherlands – lot 6 dealing with ICU equipment. 11 hospitals to be equipped with ICU facilities.
e. General electric of USA – lot 7 dealing with radiology equipment. 98 hospitals to be equipped with digital X-ray, ultra sound and other imaging equipment.

iv) To operationalize the project, the ministry was to sign MOUs with each of the 47 county governments. As at the time of the meeting, 44 county governments had signed the MOUs while 3 were yet to. The 3 include Kakamega, Bomet and Garissa.

v) The implementation period for the project is one year with effect from May 2015. By the close of the 2014/15 financial year, equipping of one hospital (Machakos Level 5) was completed and officially inaugurated in May, 2015. The implementation of the project had been rolled out countrywide.

Summary of the Project Implementation

	Key Monitoring Parameters	Lot 1	Lot 2	Lot 5	Lot 6	Lot 7
1)	Total number of sites	96	96	49	11	98
2)	Actual number of hospitals were contractor is on site	14	52	8	6	23
3)	Number of sites where user training had been conducted	9	39	4	2	11
4)	Fitting works ongoing	5	49	6	4	13
5)	Completed sites but no service	0	0	3	0	0
6)	Number of sites where service delivery has commenced	9	5	1	2	10

Members' Observations

Members observed that there were gaps in the implementation of the MES a case in point being Machakos Level 5 Hospital where the Human Resources were lacking or inadequate, some equipment was lying idle and consumables not supplied by contractors.

Resolution

The MES issue was deferred to a later date with a proposal that a retreat between the Ministry, the Committee and the Providers to clear all the issues surrounding the implementation of the MES and the contents of the Contracts.

PROGRESS MADE IN IMPLEMENTATION OF THE SLUM UPGRADING PROJECT.

The Principal Secretary stated that:

i) Slum upgrading is one of the flagship projects of the government whose aim is to increase access to social services for slum dwellers.
ii) Under the health component of slum upgrading, the Ministry targeted provision of primary health services though placement of fully equipped portable clinics.
iii) The ministry had already done mapping of areas for placement of the portable clinics and the procurement process for the portable clinics was concluded by end of the financial year 2014/15.
iv) The first batch comprising of 20 portable clinics was to arrive in the country by early November, 2015. In the meantime, the ground was being prepared in terms of water, electricity and sewer lines connections.

Members' Observations

Members observed that:

1) That sustainability of the clinics and the management structure to run clinics was not guaranteed as there was no clear agreement with the county government in question to run them and provide the requisite human resource.
2) The cost of each clinic - container and contents – at Ksh 10 Million was too high.

Resolution

It was resolved that:

1) The Principal Secretary prepares and submits the following to the Committee by 27th October, 2015: a list of the sites the containers would be placed, a list of the anticipated contents of each container (clinic), the services the clinics will be expected to provide and a report on slum upgrading project from the 2014/15 to the 2015/16 financial years.
2) The health component of the slum upgrading project should be stopped until proper records on utilisation of previously allocated funds are provided to the Committee.

THE PROGRESS AND STRATEGY OF THE BEYOND ZERO CAMPAIGN.

The Principal Secretary stated that:

i) The beyond zero campaign was a platform on HIV prevention, promotion of maternal, new born and chid health issues initiated and driven by Her Excellency Margaret Kenyatta, the First Lady of the Republic of Kenya.
ii) Through the platform, the First Lady anticipates to catalyse local, country, national, continental and international actions, mobilise greater partner

commitment as well as greater community engagement for the promotion of positive health behaviours and uptake of health services.

iii) The campaign further seeks to leverage on the status of the First Lady to call upon the country leadership to translate their pledges into action.

iv) So far the Beyond Zero Campaign had achieved the following:
   - Mobilised resources through two First Lady's marathons in Nairobi and London.
   - Using the resources, the campaign had delivered 32 fully kitted mobile clinics to 32 county governments across the country to complement the existing health infrastructure and system. The remaining 15 counties are awaiting delivery of the mobile clinics.
   - Profiled promotive and preventive healthcare as strategies for attaining and sustaining improved health outcomes.
   - Increased visibility at strategic national, regional and international meetings to showcase Kenya's success and intent to improve the health indicators.

Members' Observations

Members observed that there was confusion as the clinics in Kibera, despite being labelled *Beyond Zero,* belonged neither to the Ministry of Health nor the Beyond Zero Campaign. However, the Ministry of Devolution and Planning seemed to be the one responsible for their setting up.

THE CAPACITY OF THE INTENSIVE CARE UNIT AT KENYATTA NATIONAL HOSPITAL

The Principal Secretary stated that:

i) Kenyatta National Hospital (KNH) is a referral hospital of 2063 beds but having an average of 2500 patients daily.

ii) According to WHO standards, the hospital should have at least 63 ICU beds at a ratio of 1:40 i.e. 1 ICU bed for forty patients. It should also have 126 HDU beds at a ratio of 1:20 i.e. 1 HDU bed for 20 patients. At the time, there were no HDU beds at KNH.

iii) KNH had 36 ICU beds at the time broken down as follows:
   - 21 ICU beds for adults
   - 5 ICU beds for open heart surgery
   - 5 ICU beds for neurosurgery
   - 5 ICU beds for new born

iv) The human resource capacity for ICU at KNH was as follows: 6 consultant anaesthesiologists and critical care specialists, 152 nurses, 10 laboratory technologists, 18 support staff.

Members' Observations

Members observed that:

1) The 5 ICU beds at Machakos Level 5 Hospital were idle several months after being set up. There was a need for collaboration between KNH and the hospital to ensure optimal use of the beds and ease the congestion at the KNH.
2) There was an urgent need to expand the capacity of the ICU at KNH to cater for increased demand for its services.
3) There was need to equally build the capacity of level 5 hospitals in the counties to curb the huge influx of patients to KNH.

PROGRESS MADE IN TRAINING PERSONNEL TO OPERATE THE MANAGED EQUIPMENT SERVICE (MES) EQUIPMENT ALREADY INSTALLED IN COUNTY HOSPITALS.

The Principal Secretary stated that:

i) Training is one of the components of the managed equipment service.
ii) The MES contractors were required to ensure that all persons who use the supplied equipment have received adequate training for the purposes of providing effective services.

	Lot 1 Theatre Equipment	Lot 2 Theatre CSSD	Lot 5 Dialysis Centres	Lot 6 Critical Care	Lot 7 Radiology Equipment
The number of sites completed	25	39	4	2	11
The number of staff to be trained	1042	1152	539	99	784
The number trained so far	167	468	37	18	134

MIN.NO. DCH 360/2015: ANY OTHER BUSINESS

A concern was raised on the perception that the Cabinet Secretary had failed to honor invitations to appear before the committee, an indication of not taking the work of the Committee seriously. However, the Cabinet Secretary clarified that he had only failed to appear when he was engaged away from Nairobi. He promised to always attend meetings in person whenever he was invited and was not engaged outside Nairobi.

MIN.NO. DCH 361/2015: ADJOURNMENT

There being no other business, the meeting was adjourned at 2.18 pm.

SIGNED: ....

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

FOR: CHAIRPERSON

DATE: 1st December, 2015

MINUTES OF THE 78TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD AT THE 4TH FLOOR BOARDROOM, PROTECTION HOUSE, PARLIAMENT BUILDINGS ON TUESDAY, 6TH OCTOBER, 2015, 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. Alfred Agoi, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Dr. James Murgor, M.P.
6. The Hon. Mwinga Gunga, M.P.
7. The Hon. Dr. Dahir D. Mohamed, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Dr. Eseli Simiyu, M.P.
10. The Hon. Michael Onyura, M.P.
11. The Hon. John Nyaga Muchiri, M.P.
12. The Hon. Joseph O. Magwanga, M.P.
13. The Hon. Dr. Stephen Wachira, M.P.
14. The Hon. Leonard Sang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Christopher Nakuleu, M.P.
2. The Hon. Dr. James Nyikal, M.P.
3. The Hon. Hassan Aden Osman, M.P.
4. The Hon. James Gakuya, M.P.
5. The Hon. Kamande Mwangi, M.P.
6. The Hon. Paul Koinange, M.P.
7. The Hon. Zipporah Jesang, M.P.
8. The Hon. Dr. Enoch Kibunguchy, M.P.
9. The Hon. Dr. Patrick Musimba, M.P.
10. The Hon. Alfred Outa, M.P.
11. The Hon. Mwahima Masoud, M.P.
12. The Hon. Dr. Susan Musyoka, M.P.
13. The Hon. Stephen M. Mule, M.P
14. The Hon. Dr. James O. Gesami, M.P.
15. The Hon. Dr. Naomi Shaban, M.P.

Friend to the Committee

The Hon. Gladys Wanga, M.P.

IN ATTENDANCE

Individual Petitioner

Mr. Solomon Muriungi Mburung'a

National Assembly Secretariat

1. **Ms. Esther Nginyo** - **Third Clerk Assistant**
2. Mr. Dennis Mogare - Third Clerk Assistant.
3. Mr. Hassan A. Arale - Third Clerk Assistant.
4. Mr. Sydney Lugaga - Legal Counsel

MIN.NO. DCH 330/2015: PRELIMINARIES

The Chairperson called the meeting to order at 10:28 am and a prayer was said by Hon. David Karithi; M.P. the Chairperson then introduced the Agenda for the meeting as being mainly a meeting with petitioner Solomon Muriungi Mburung'a regrading amendment of the Cancer Prevention and Control Act, 2012. Thereafter, there was a self-introduction by all those present in the meeting.

MIN.NO. DCH 331/2015: CONFIRMATION OF MINUTES

Minutes of the 66th Sitting held on 15th September, 2015 were confirmed as the true record of the Committee deliberations after being proposed and seconded by Hon. John Nyaga Muchiri, M.P. and Hon. Dr. James Murgor, M.P. respectively.

Minutes of the 67th Sitting held on 16th September, 2015 were confirmed as the true record of the Committee deliberations after being proposed and seconded by Hon. Dr. James Murgor, M.P. and Hon. Michael Onyura, M.P. respectively.

Minutes of the 68th Sitting held on 16th September, 2015 were confirmed as the true record of the Committee deliberations after being proposed and seconded by Hon. Dr. James Murgor, M.P. and Hon. Michael Onyura, M.P. respectively.

Minutes of the 69th Sitting held on 17th September, 2015 at 9 am were confirmed as the true record of the Committee deliberations after being proposed and seconded by Hon. John Nyaga Muchiri, M.P. and Hon. Raphael Milkau Otaalo, M.P. respectively.

Minutes of the 70th Sitting held on 17th September, 2015 at 2.00 pm were confirmed as the true record of the Committee deliberations after being proposed and seconded by Hon. Michael Onyura, M.P. and Hon. Leonard Sang, M.P. respectively.

MIN.NO. DCH 332/2015: MATTERS ARISING

1. **Under MIN.NO.DCH 274/2015 (ii)** - It was reported that the Ministry of Health and the NHIF had been invited to respond to concerns over the NHIF charging the self-employed and Ksh 500 instead of the agreed Ksh 300 per month among other issues on Thursday, 8th October, 2015.
2. It was noted that Hon. Michael Onyura, M.P. attended both 67 and 68 Sittings yet he was recorded as absent with apologies. A correction was to be made by the Secretariat.
3. **Under MIN.NO.DCH 291/2015** – It was resolved that the Ministry of Health should respond to the following issues too when it was scheduled to appear before the committee on Thursday, 8th October, 2015:

a) The issue of consumables and reagents not being supplied for the MES project in Machakos Level 5 Hospital contrary to contract provisions.
b) The delay in reimbursement by the Ministry of the Ksh 2,500 for each maternity delivery at Machakos Level 5 Hospital and such other facilities.
c) The fact that 6 ICU beds were lying idle in Machakos Level 5 Hospital while the ICU at KNH was overstretched.

4. It was noted that the numbering of Minutes for Sittings 69 and 70 were not aligned. The Secretariat was asked to rectify them.

MIN.NO. DCH 333/2015: MEETING WITH PETITIONER SOLOMON MURIUNGI MBURUNG'A REGRADING AMENDMENT OF THE CANCER PREVENTION AND CONTROL ACT, 2012

The Chairperson stated that the petition by Mr. Solomon Muriungi Mburung'a regarding amendment of the Cancer Prevention and Control Act, 2012 was received in the National Assembly on 30th July, 2015 and referred to the Committee on 31st July, 2015. The petitioner was subsequently invited to a meeting with the Health Committee vide a letter dated 22nd September, 2015. She also stated that the Committee had considered the contents of the petition in a previous meeting. She then invited the petitioner to make his presentation.

In his presentation, Mr. Solomon Muriungi Mburung'a informed the Committee that:

1. The motivation for coming up with the petition was necessitated by the experience he underwent after his wife was diagnosed and consequently subjected to a treatment regime for breast cancer in the year 2014. The wife had hitherto been misdiagnosed for a whole year thereby worsening her condition.
2. The cost of treatment for cancer in the country is exorbitant. He had to deposit Ksh 4.5 million to just commence the treatment regime.
3. After the foregoing experiences, he started reviewing the legislation in place in Kenya with regard to cancer. It is then that he came across the Cancer Prevention and Control Act, 2012, whose amendment he was petitioning for.
4. His aim was to have provisions in the said act that would make life easier for not only cancer patients but their families as well.
5. With respect to his prayers, he requested the National Assembly to amend the Cancer Prevention and Control Act, 2012 and make provisions for the following:

a) Prayer 1:

Provision of free cancer diagnosis and treatment to patients

- This was to avoid locking out those who may not afford the service which was well beyond the reach of many ordinary Kenyans.
- It would also compel government to set up regional cancer centers to increase probability of accurate diagnosis and treatment of cancer.

b) **Prayer 2:**

Provision of free prosthesis or artificial breast to all women who undergo mastectomy

- The artificial breast was central to regaining the dignity and self-esteem of women survivors of breast cancer. Although it cost about Ksh 25,000 on average, most women would not afford such and end up using pieces of cloth which can embarrass them in some settings when they don't stay in their position.

c) **Prayer 3:**

To exempt all cancer patients and survivors from paying income taxes just like people with disability in Kenya (Under Section 12 (3) of the Persons with Disability Act, 2003).

- This was because patients and those who survive require to constantly monitor their health through numerous tests. They would therefore require the tax exemption to enable them attend to such.
- They would also require special diet to contain any infections they may be susceptible to due to depressed immune system emanating from the treatment regimes.

d) **Prayer 4:**

Amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behavior and events to cancer in public meeting, print and electronic media and social media.

- There was a constant comparison of cancer to negative things like corruption, tribalism etc. These impacted negatively on patients and survivors through causing them unnecessary trauma.
- There is need to outlaw public pronouncements by leaders at all levels who used cancer to depict the worst in society and hence save those affected from psychological torture.

e) **Prayer 5**

To operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

- He noted that few people, mostly medics, know about cancer. He urged that there was need for extensive public awareness as it is for HIV/ AIDS and malaria.
- Medics also need to be sensitized through review of their respective training curricula.

Members' Observations/Comments

Members made the following observations, THAT:

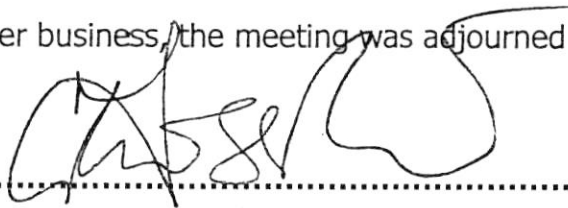
1. The Committee on Health identified with the concerns of the petitioner and was hence taking the petition seriously. It was, therefore, engaging the Ministry Of Health on a comprehensive and sustainable response through legislating on Non-Communicable Diseases in general.
2. Hon. Gladys Wanga, MP who was interested on the petition, had undertaken serious research on cancer treatment and had developed a motion on the training of one oncologist per county through scholarship for debate in the house. There was equally a need to explore the role NHIF would play in cancer treatment.
3. Cancer treatment was costly and beyond the reach of the majority of Kenyans hence the need to devise strategies to deal with the cost hence socially protecting those who can't afford.
4. Although the petitioner's' prayer number 5 was the inclusion of cancer awareness in school curriculum, it was also noted that what the prayer was requesting was already was already provided for in Section 30 of the Cancer Prevention and Control Act, 2012, however, more sensitization on the matter was needed in the school curriculum.
5. The petitioner's prayer number 2 on the provision of free prosthesis for women needed to be expanded to cover any body part lost due to cancer, not just breasts.
6. There was an urgent need to train oncologists to handle the rising numbers of reported cancer cases in Kenya. Also although medical professionals were generally aware of cancer, they lacked the equipment to accurately diagnose it at an early stage especially at the dispensary level where chances of missing proper diagnosis are high. The professionals also needed to be kept abreast with the latest trends in cancer diagnosis and treatment.
7. The Committee needed to consider recommending that the 20 acres of land under the NHIF in Karen, Nairobi be set aside for a level 6 cancer center in line with the mandate of the National Government of establishing and running level 6 facilities.
8. There was need to establish a database at every level on cancer cases in Kenya. Such a database should capture aspects like risk factors to help in prevention in terms of public education.
9. There was need to engage other concerned stakeholders in cross-cutting aspects of the petition like tax experts/institutions on tax exemption.
10. Most target facilities were being run by the counties hence need to engage county governments closely and effectively on the matter.
11. The Committee, as part of the budget making process, needed to engage other stakeholders to craft a budget on health that took cognizance of the priority that Non Communicable Diseases had become in Kenya.

MIN.NO. DCH 334/2015: ANY OTHER BUSINESS

1. The Chairperson informed the sitting that the Committee had been invited to a diabetes related event in Canada from 29th November, to 7th December, 2015 and the Committee consequently resolved that the following Members would form the delegation:
   I. **The Hon. Dr. Racheal Nyamai, M.P.**
   II. The Hon. Paul Koinange, M.P
   III. The Hon. Raphael Milkau Otaalo, M.P
   IV. The Hon. Dr. James Murgor, M.P.
   V. The Hon. Alfred Agoi, M.P
2. The Chairperson informed the sitting that the Committee had received a letter from the International Institute for Legislative Affairs, a not for profit organization, requesting for a meeting with the Committee over the Mental Health Bill, 2014. It was resolved that the meeting be scheduled by the secretariat at an opportune time.

MIN.NO. DCH 335/2015: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.15 pm.



SIGNED: ....

HON. (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE: 13th October 2015

MINUTES OF THE 77TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN 2ND FLOOR PROTECTION HOUSE, ON THUSDAY 1ST 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. MwingaGunga, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Leonard Sang, M.P.
6. The Hon. Dr. James O. Gesami, M.P.
7. The Hon. Raphael MilkauOtaalo, M.P
8. The Hon. Dr. Dahir D. Mohamed, M.P
9. The Hon. Stephen M. Mule, M.P.
10. The Hon. Joseph O. Magwanga, M.P.
11. The Hon. Hassan Aden Osman, M.P.
12. The Hon. Dr. Stephen Wachira, M.P.
13. The Hon. Dr. Enoch Kibunguchy, M.P.
14. The Hon. Dr. EseliSimiyu, M.P.
15. The Hon. Michael Onyura, M.P.
16. The Hon. John NyagaMuchiri, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. Patrick Musimba. M.P.
2. The Hon. MwahimaMasoud, M.P.
3. The Hon. Paul Koinange, M.P
4. The Hon. Dr. Susan Musyoka, M.P.
5. The Hon. Dr. Naomi Shaban, M.P.
6. The Hon. Alfred Agoi, M.P
7. The Hon. Christopher Nakuleu, M.P.
8. The Hon. KamandeMwangi, M.P.
9. The Hon. Fred Outa, M.P.
10. The Hon. Dr. James Nyikal, M.P.

11. The Hon. Dr. James Murgor, M.P.
12. The Hon. James Gakuya, M.P.
13. The Hon. Zipporah Jessing, M.P.

IN ATTENDANCE

National Assembly Secretariat

1. Hassan A. Arale - Third Clerk Assistant.
2. Sande Marale - Reseacher
3. Sidney Lugaga - Legal Councel
4. Collins Mahamba - Audio Recorder.
5. Stephen Kariuki - Serjeant at Arms.

MIN.NO. DCH 324/2015: PRELIMINARIES.

The Chairperson called the meeting to order at 10.19 am and a prayer was said by the Hon. Stephen Mule, MP. She then welcomed all present to the meeting.

MIN.NO.DCH325/2015: ADOPTION OF AGENDA

The Meeting adopted the agenda having been proposed by the Hon Stephen Mule MP and Seconded by the Hon .Stephen Wachira MP.

MIN.NO. DCH 326/2015: CONSIDERATION OF HEALTH RECORDS AND INFORMATION MANAGERS BILL, 2014.

The Committee agreed to allow the Bill proceed to the Third Reading owing to the fact that the Committee had adopted and tabled a report in the House. However, Members resolved that in future they will not proceed with any private Member's Bills that seeks to address Health Policy issue without input of the Ministry of Health.

MIN.NO DCH 327/2015: CONSIDERATION OF THE PETITION ON THE AMENDMENT OF CANCER PREVENTION AND CONTROL ACT BY SOLOMON MURIUNGI MBURUNGA – BRIEF BY THE PARLIAMENTARY RESEARCH OFFICE.

Pursuant to Standing Order 227 (1), the petition by Solomon Muriungi on amendment of Cancer Prevention and Control Act, 2012 was committed to departmental Committee on Health.

The petitioner's prayers are:

1. Parliament to amend Cancer Act , No15 of 2012, Section 3(e) ' promote access to quality and affordable diagnostic and treatment services for persons with cancer' to include free provision of cancer treatment. Free provision for prosthesis (artificial breasts) to women who have undergone mastectomy

2. To exempt all cancer patients and survivors from paying taxes, similar to the disabled people in Kenya who do not pay taxes on their income (under section 12(3) of the Persons with Disability Act, 2003.

3. Amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behavior and events to cancer in public meeting, print and electronic media and social media.

4. To operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

Observations on the Petitioner's prayers

Prayer No.1

As relates to Parliament amending Cancer Act , No. 15 of 2012, Section 3(e) ' promote access to quality and affordable diagnostic and treatment services for persons with cancer' to include free provision of cancer treatment, free provision for prosthesis (artificial breasts) to women who have undergone mastectomy.

Members observed that the prayers are valid owing to the fact that cancer is an expensive disease or condition to treat and currently beyond majority of Kenyans. Members resolved to amend the Cancer Prevention and Control Act, 2012 to address more of prevention than treatment.

Prayer No. 2

On the prayer to exempt all cancer patients and survivors from paying taxes, similar to the disabled people in Kenya who do not pay taxes on their income (under section 12(3) of the Persons with Disability Act, 2003.

The Committee resolved to have more consultation with National Treasury and Ministry Health observing that the prayer has financial implications.

Prayer No. 3

On the prayer to amend Cancer Act of 2012 Section 3(b) (ii) ' outlawing discrimination in all its forms and subtleties' to include negative comparison and association of issues, things, behavior and events to cancer in public meeting, print and electronic media and social media.

The Committee observed that the foregoing prayer is valid.

Prayer No. 4

On the prayer to operationalize Cancer prevention and Control Act 2012 section 3(a) 'promote public awareness about the causes, consequences, means and prevention and control of cancer.

The Committee observed that the foregoing prayer is valid.

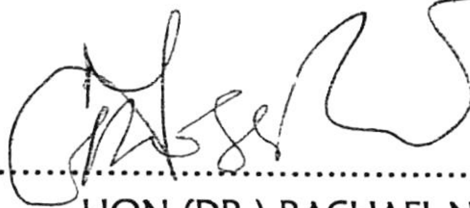
MIN.NO DCH 328/2015: ANY OTHER BUSINESS.

Foreign Trips

The Chairperson expressed dissatisfaction that the planned visit to United Nation General Assembly aborted, however she directed secretariat to consider the affected Members for Israel and India trips.

MIN.NO. DCH 329/2015 ADJOURNMENT

There being no other business the meeting was adjourned at 12 noon.



SIGNED...

HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE: 13/10/2015

APPENDIX 2

PETITION

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8711622

1078

THE NATIONAL ASSEMBLY
RECEIVED
30 JUL 2015
DIRECTOR COMMITTEE SERVICES
Time: 4:00 P.M

THE NATIONAL ASSEMBLY

Directorate of Legislative and Procedural Services

MEMO

GAZEMBA pls deal FA 30/7

TO : **DIRECTOR, COMMITTEE SERVICES**

FROM : **PRINCIPAL CLERK ASSISTANT**

DATE : **30TH JULY 2015**

SUBJECT : **PUBLIC PETITION**

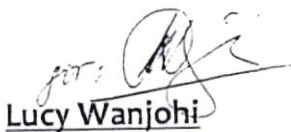
Pursuant to *Standing Order 220,* the following Petition was conveyed by the Deputy Speaker of the National Assembly to the House today, Thursday, 30th July 2015:-

1. Petition by Mr. Solomon Muriungi Mburung'a regarding amendment of the Cancer Prevention and Control Act, 2014.

Please note that the Petition was committed to the Departmental Committee on Health, and not the Departmental Committee on Justice and Legal Affairs as indicated in the conveyance attached hereto.

Enclosed herein, please find the Petition for your action.

(2) Esther This is for your Committee Gazemba 31/07



Lucy Wanjohi

Cc:

1. Clerk of the National Assembly
2. Director of Legislative and Procedural Services
3. Chairperson, Departmental Committee on Health

REPUBLIC OF KENYA

Approved
30/7/15

ELEVENTH PARLIAMENT- (THIRD SESSION)

THE NATIONAL ASSEMBLY

PUBLIC PETITION

(No. 16 of 2015)

CONVEYANCE OF A PETITION TO AMEND THE CANCER PREVENTION AND CONTROL ACT OF 2012

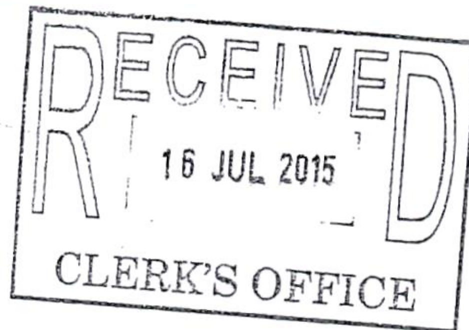
Honourable Members, Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition, other than those presented through a Member. In this regard, I wish to convey to the House that I have received a petition, signed by one Mr. Solomon Muriungi Mburung'a, requesting the National Assembly to urgently amend the Cancer Prevention and Control Act, 2012.

Honourable Members, in amending the Act, the Petitioner is suggesting that the National Assembly makes provisions in regard to the following proposals:-

1. provision of free cancer diagnosis and treatment to patients;
2. provision of free prosthesis or artificial breast to all women who undergo mastectomy;
3. categorization of cancer patients and survivors as persons with disabilities with a view to exempting them from paying income tax as is the case with Persons with Disability Act, 2003;
4. outlawing all forms of discrimination and stigmatization of cancer patients in public and media; and
5. introducing cancer education in the curricula for secondary schools and tertiary institutions as a way of increasing awareness on this killer disease.

INTERNAL MEMORANDUM

TO: THE CLERK, NATIONAL ASSEMBLY



THRO': THE DIRECTOR, LEGAL SERVICES,NA

(1) Forwarded. The Petition is in order as per the applicable provisions of the Standing Orders and the law and may be tabled.
16/07/15

THRO': (1) PRINCIPAL LEGAL COUNSEL,NA

I agree with counsel, the prayers are fine and the Petition may be tabled, if you approve.
15/7/15 JMN

FROM: LEGAL COUNSEL II,NA

DATE: 15TH JULY, 2015

RE: PETITION ON AMENDMENT OF CANCER PREVENTION AND CONTROL ACT OF 2012

The above matter refers and your instruction to the Legal Directorate to peruse and establish whether the petition by the Solomon Muriungi Mburung'a complies with the National Assembly Standing Orders.

We have perused the Constitution, the Petitions to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and advise that the petition complies with the same and should therefore be forwarded to the Speaker for tabling in the House.

LYNETTE A. OTIENO,

<u>LEGAL COUNSEL II.</u>

D/Legal
PSE process
1/7/15

SCHEDULE (S.3)

FORM OF PETITON

I, the undersigned, **SOLOMON MURIUNGI MBURUNG'A,** a Kenyan citizen, **ID number 22067489**, currently residing in Nyeri County, Working at Kenyatta University, Main Campus.

DRAW the attention of the House to the following based on Article 37 or 119 of the Constitution on the right to petition Parliament:

Cancer cases have been rising in Kenya in recent times. In fact, Ministry of Health documents that cancer incidence is expected to hit 28,000 annually with a mortality rate of 22,000 (National Cancer Control Strategy, 2011-2016). Cancer is the 3rd highest cause of morbidity in Kenya [7% of deaths per year], after infectious diseases and cardiovascular diseases. 70-80% of cancer cases are diagnosed in late stages due to: Lack of awareness; —Inadequate diagnostic facilities; —Lack of treatment facilities; High cost of treatment and High poverty Index (IAEA report 2010).

Human Capacity for cancer treatment in Kenya (public sector) include:-4 radiation oncologists; 6 medical oncologists; 4 pediatric oncologists ; 5 radiation therapy technologists ; 3 oncology nurses and 2 medical physicists for the whole country!

Despite recognition of this current cancer situation in the country by the National Government (Both the executive and the legislature) and by most County Governments, little has been done to fully implement the Cancer Prevention and Control Act 2012. Cancer patients and cancer survivors' rights have been infringed over time.

My wife's experience who is a cancer survivor revealed that, cancer is an expensive disease or condition to treat and currently is beyond majority of Kenyans, keeping in mind 46 percent of Kenyans live below poverty line. We spent over Ksh.7 million for her treatment between 2013 and 2014. Vast majority of Kenyans conduct *harambees* and travel to India for "cheaper" treatment. In fact, it is estimated that,

RECEIVED
DIRECTORATE OF LEGAL SERVICES
NATIONAL ASSEMBLY
DATE RECEIVED 2/7/2015
NAME
TIME RECEIVED
SIGNATURE

Lynette
Kindly clear
13/7

Kenyans spend Ksh.40 billion annually as medical tourism to India and other countries. Reason? Kenya has only one public operational radiotherapy machine at Kenyatta National Hospital, lack of MRI PET scans among other key treatment equipment and lack of enough personnel.

Currently, the National Government is planning to provide cancer diagnostic equipment to every County. That means that more and more patients will be seeking treatment after diagnosis, which will over stretch the single operating radiation equipment at Kenyatta National Hospital. As I write this, some patients wait for over six months at Kenyatta National Hospital to get radiotherapy. Private hospitals are just too expensive, for example, MP Shah Hospital costs Ksh. 9,000.00 per radiation session and average number of session per patient is normally 25 weeks/session for most patients. The cost of CT scans, RN Bone scans is around Ksh.20,000 each at Aga Khan or Nairobi Hospital which are alternative to congested and over-stretched Kenyatta National Hospital. Chemotherapy treatment cost even in public hospitals is above majority of Kenyans. I therefore petition parliament as a matter of urgency, make all cancer diagnosis and treatment free of charge, that is, to offer free chemotherapy, free radiotherapy and all drugs such as immune boosting drugs free of charge (the way HIV/AIDs is handled).

In addition, make free provision of prosthesis (artificial breasts) for all women who have undergone mastectomy to restore their image, dignity and self esteem. Currently prosthesis costs Ksh.20,000 at Aga Khan hospital which is beyond majority of Kenyan breast cancer survivors.

In addition, allocate funds and fast track the purchase/hiring of cancer diagnosis and treatment equipment and training of more oncologists (medical oncologists, radiologists and cancer oriented medics and nurses). Availability of these equipment and qualified oncologists will not only improve health status of Kenyans, but also increase tourism earnings through medical tourism from our neighboring countries who presently travel to India and other places to seek cancer treatment. This will boost our National Income. Therefore, I petition parliament to amend Cancer Act, No

15 of 2012, Section 3 (e) "*promote access to quality and affordable diagnostic and treatment services for persons with cancer*" to include **free provision of cancer treatment.**

Secondly, I petition our National Assembly **to exempt all cancer patients and survivors from paying taxes** just like the disable people in Kenya who do not pay taxes on their income (under Section 12 (3) of the Persons with Disability Act, 2003).

This is why. Any cancer survivor who has under gone chemotherapy or/and radiotherapy continues to fight the battle of cancer throughout their lives. They need to improve diet to cater for decreased immunity and other opportunistic diseases resulting from grueling effects of chemotherapy and radiotherapy. Most of the survivors use bigger proportion of their income trying to fight for their dear lives. This is contrary to disable people in Kenya who are exempted from paying taxes simply because they cannot walk with two legs, lack one eye, lack melanin (albinism), are short etc yet these Kenyans work and never have to feed on special diet nor seek expensive blood test (tumor markers, UEC, TBC, Liver test function) which cancer survivors must take every three months or even monthly depending on the doctor's opinion! These tests in most competent laboratories cost over Ksh. 5,000.00 each, translating to almost Ksh.20,000 every month! To appreciate the deadly battle cancer patients and survivors engage in, as a country that cares, I plead that, working cancer patients and survivors be exempted from paying income taxes. This will boost their will to fight on since it will be a sign of a caring nation.

Thirdly, cancer patients and survivors are tortured emotionally and psychologically every day, by citizens of this country. Their feelings disregarded mostly by political class during rallies, judges, religious leaders and by our media both print and electronic media, and social media platforms. It is very normal and common for any leader to ***compare insecurity to cancer; corruption to cancer; bad governance to, tribalism to cancer, poverty to cancer* etc etc**. This has become a cliché for all leaders to associate everything bad in Kenya to cancer. The feelings of cancer patients and survivors and the relatives of patients are never considered. Nobody

seems to care about the psychological torture and emotional disturbance cancer patients and survivors go through the moment they hear and/or read such statements. Some switch off television in bitterness or tear a newspaper. Some cry while some hate the person saying it. To this extent I petition and besiege our National Assembly to enact a law to bar and outlaw comparison of any negative events, issues, habits, behavior to cancer. That anyone who compares cancer to any negative thing be jailed, fined or perform probation community service as deemed fit by the Nation Assembly. Therefore I petition parliament to enhance Cancer Act of 2012, No. 15 Section 3 (b) (ii) "*outlawing discrimination in all its forms and subtleties*" to **include negative comparison and association of issues, things, behavior and events to cancer in public meetings, print and electronic media and social media.**

Fourthly, to operationalise Cancer Prevention and Control Act 2012 section 3 (a) "*promote public awareness about the causes, consequences, means of prevention and control of cancer*" which very little have been done by the Ministry of Health, I pray that **Cancer be introduce in the primary schools, secondary schools and all tertiary institution curriculum** the way HIV/AIDs was dealt with. This will demystify cancer and create aware in a cheaper and sustainable way.

THAT

Here confirm that efforts have not been made to have the matters addressed by the Ministry of Health, and cancer board which is anonymous. Since 2012, the Government has not thought of improving treatment in terms of provision of **radiotherapy equipment**. The National Government and County Governments have focused on providing diagnostic equipment such as CT scans and not treatment equipment, that is, radiotherapy equipment. Taxation is another issue that needs to be addressed and factored in. Only the National Assembly can exempt taxes on drugs, and cancer patients and cancer survivors. On awareness of cancer, little has been done to educate Kenyans on causes, consequences, means of prevention and control of cancer hence there is need to introduce cancer to secondary and tertiary institutions curriculum.

THAT

I hereby confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body to the best of my knowledge.

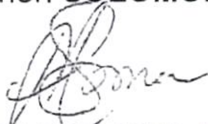
HEREFORE your humble petitioner(s) Pray that Parliament—

1. To amend Cancer Act, No 15 of 2012, Section 3 (b) (e) *"promote access to quality and affordable diagnostic and treatment services for persons with cancer"* to include **free provision of cancer diagnosis and treatment**.
2. Free provision for prosthesis (artificial breasts) to women who have undergone mastectomy. To be united on Thursday/Sunday.
3. To exempt all cancer patients and survivors from paying income taxes just like people with disability in Kenya who do not pay taxes on their income (under Section 12 (3) of the Persons with Disability Act, 2003).
4. Amend to enhance Cancer Act of 2012, No. 15 Section 3 (b) (ii) "outlawing discrimination in all its forms and subtleties" to include negative comparison and association of issues, things, behavior and events to cancer in public meetings, print and electronic media and social media.
5. Introduce cancer in secondary school and tertiary institution curriculum in order to increase awareness on causes, consequences, means of prevention and control of cancer to a majority of Kenyans.

And your PETITIONER will ever Pray.

Name of petitioner: **SOLOMON MURIUNGI MBURUNG'A**

Signature:



Full Address: **PO BOX 1379, RUARAKA.**

National ID: **22067489**

APPENDIX 3

CANCER PREVENTION & CONTROL ACT, 2012

LAWS OF KENYA

THE CANCER PREVENTION AND CONTROL ACT, 2012

NO. 15 OF 2012

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

THE CANCER PREVENTION AND CONTROL ACT, 2012

No. 15 of 2012

ARRANGEMENT OF SECTIONS

PART I- PRELIMINARY

Section

1-Short title and commencement.
2-Interpretation.
3- Objects and purposes of the Act.

PART II-ADMINISTRATION

4-Establishment of the Institute.
5-Functions of the Institute.
6-Board of the Institute.
7-Conduct of business and affairs of the Board.
8-Powers of the Institute.
9-Remuneration of Board members and staff of the Institute.
10-Chief Executive Officer.
11-Staff of the Institute.
12-Delegation by the Board.
13-Protection from personal liability.
14-Common seal.
15-Funds of the Institute.
16-Financial year.
17-Annual estimates.
18-Accounts and audit.
19-Investment of funds.

PART III- CANCER REGISTRY

20-Cancer Register.
21-Notification to Institute.
22-Alteration of register.

PART Iv- DISCRIMINATORY PRACTICES

23-Discrimination in the workplace.
24-Discrimination in schools.
25-Inhibition from public service.
26-Exclusion from credit and insurance services.
27-Discrimination in health institutions.
28-Penalty for discriminatory practices.

PART V- EDUCATION AND AWARENESS

29-Information and education by national government.
30-Cancer prevention and control to form part of education syllabus.
31-Cancer prevention and control to form part of health care.
32-Cancer prevention and control dissemination by county governments.
33-Cancer prevention and control dissemination in cities and urban areas.

PART VI- MISCELLANEOUS PROVISIONS

34-Consent to research
35-General penalty.
36-Rules.

SCHEDULE- Provisions for the conduct of business and affairs of the Board.

THE CANCER PREVENTION AND CONTROL ACT, 2012

No. 15 of 2012

Date of Assent: 27th July, 2012

Date of Commencement: By Notice

AN ACT of Parliament to provide for the prevention, treatment and control of cancer and for connected purposes

ENACTED by the Parliament of Kenya, as follows-

PART I — PRELIMINARY

Short title and commencement

1. This Act may be cited as the Cancer Prevention and Control Act, 2012 and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette, appoint which date shall not exceed ninety days from the date of publication.

Interpretation.

2. (1) In this Act, unless the context otherwise requires, -

"register" means the national cancer register established under section 20;

"Chairperson" means the Chairperson of the Board appointed under section 6;

"Chief Executive Officer" means the Chief Executive Officer of the Institute appointed under section 10;

`Board" means the Board of Management established by section 6;

"Institute" means the National Cancer Institute of Kenya established by section 4;

"medical institution" means a hospital, clinic, dispensary or other place where a diagnosis of cancer is made and includes a medical practitioner practising in his or her own name;

"medical practitioner" has the meaning assigned to it under the Medical Practitioners and Dentists Act, Cap.253;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to public health;

"person with cancer" means a person diagnosed as having cancer.

(2) For the period prior to the announcement of the results of the first elections of Parliament as contemplated by section 2 of the Sixth Schedule to the Constitution, reference to a "Cabinet Secretary" in this Act shall be deemed to be reference to a Cabinet Minister and reference to a Principal Secretary shall be deemed to be a reference to a Permanent Secretary.

Objects and purposes of the Act.

3. The objects and purposes of this Act are to-

(a) promote public awareness about the causes, consequences, means of prevention and control of cancer;

(b) extend to every person with cancer full protection of his human rights and civil liberties by-

(i) guaranteeing the right to privacy of the individual;

(ii) outlawing discrimination in all its forms and subtleties;

(iii) ensuring the provision of basic health care and social services;

(c) promote utmost safety and universal precautions in practices and procedures that relate to the treatment of cancer;

(d) positively address and seek to eradicate conditions that cause and aggravate the spread of cancer;

(e) promote access to quality and affordable diagnostic and treatment services for persons with cancer; and

(f) ensure sustainable capacity for the prevention and control of cancer.

PART II- ADMINISTRATION

Establishment of the Institute.

4. (1) There is established a body to be known as the National Cancer Institute of Kenya.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing money or making investments;

(d) charging fees for services rendered by it and requesting for securities for such fees; and

(e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Functions of the Institute.

5. The functions of the Institute shall be to-

(a) advise the Cabinet Secretary on matters relating to the treatment and care of persons with cancer and to advise on the relative priorities to be given to the implementation of specific measures;

(b) encourage and secure the establishment of hospitals, vocational treatment and care centres and other institutions for the welfare and treatment of persons with cancer in all counties of the Republic;

(c) encourage and secure provision of diagnostic, treatment, rehabilitation and other medical care to persons with cancer in those institutions ;

(d) co-ordinate services provided in Kenya for the welfare and treatment of persons with cancer and to implement programmes for vocational guidance and counseling;

(e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer;

(f) collaborate with international institutions for the purpose of collecting for the Register and cataloging, storing and disseminating the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

(g) establish and support the large scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;

(h) ensure that accurate figures of persons with cancer are obtained in the country for purposes of planning;

(i) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with cancer, including those controlled and managed by the Government

(j) encourage and secure the care of persons with cancer within their communities and social environment;

(k) establish and support measures that seek to eradicate conditions that cause and aggravate the spread of cancer.

(l) recommend measures to prevent discrimination against persons with cancer;

(m) generally to carry out measures for public information on the rights of persons with cancer and the provisions of this Act; and

(n) encourage and participate in the provision of training on cancer prevention and control.

Board of Trustees.

6. (1) The Institute shall be administered by a board to be known as the Board of Trustees of the Institute.

(2) The Board shall consist of the following persons appointed by the Cabinet Secretary -

(a) the Chairperson;

(b) the Principal Secretary for the time being responsible for matters relating to health or his designated alternate not being below the level of Deputy Secretary;

(c) the Principal Secretary for the time being responsible for matters relating to finance or his designate alternate not being below the level of Deputy Secretary;

(d) one person nominated by the registered cancer associations in such manner as may be prescribed;

(e) the Secretary of the National Council for Science and Technology or his designated alternate not being below the level of Deputy Secretary;

(f) one person nominated by the Media Owners Association in such manner as may be prescribed;

(g) one prominent philanthropist or industrialist of good standing;

(h) one person nominated by the universities teaching medicine in such manner as may be prescribed;

(i) one person nominated by institutions conducting medical research in such manner as may be prescribed;

(j) the Attorney-General or his representative who shall be an ex-officio member; and

(k) the Chief Executive Officer who shall be an ex-officio member and Secretary to the Board.

(3) No person shall be appointed under subsection (2) (a) unless such person is a registered medical practitioner and is a recognized medical specialist of not less than ten years experience in leadership at national institutional level.

(4) Subject to this Act, all acts and things done in the name of, or on behalf of, the Institute, by the Board or with the authority of the Board shall be deemed to have been done by the Institute.

(5) No person shall be appointed as a member of the Board unless such person meets the requirements of Chapter Six of the Constitution.

Conduct of business and affairs of the Board.

7. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

Powers of the Board.

8. (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of the subsection (1), the Board shall have power to —

(a) control, supervise and administer the assets of the Institute in such manner as best promotes the purpose for which the Institute is established;

(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute;

(c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;

(d) open such banking accounts for the funds of the Institute as may be necessary;

(e) invest any funds of the Institute not immediately required for its purposes in the manner provided in section 19;

(f) establish such directorates, departments and regional centres of the Institute to deal with such specific matters as may be necessary; and

(g) undertake any activity necessary for the fulfillment of any of the functions of the Institute.

(3) Without prejudice to the generality of paragraph (f) of subsection (2), the Institute shall decentralize its services to all counties of the Republic.

Remuneration of Board members and staff of the Institute.

9. The Board shall pay its members and staff such remuneration or allowances as it may determine upon the advice of the Salaries and Remuneration Commission.

Chief Executive Officer

10. (1) There shall be a Chief Executive Officer who shall be appointed by the Board and whose terms and conditions of service shall-

(a) be determined by the Board, upon the advice of the Salaries and Remuneration Commission;

(b) be stated in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed under this section unless such person has-

(a) a masters degree in matters relating to cancer from a recognized university;

(b) at least ten years post qualification managerial working experience.

(3) The Chief Executive Officer shall-

(a) be the secretary to the Board; and

(b) subject to the directions of the Board be responsible for the day to day management of the affairs and staff of the Institute.

Staff of the Institute.

11. The Institute may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Delegation by the Board.

12. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Institute, the exercise of any of the powers or the performance of any of

the functions or duties of the Institute under this Act or under any other written law.

Protection from personal liability.

13. (1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona-fide for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any, action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Institute of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

Common seal.

14. (1) The common seal of the Institute shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Institute shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chairperson and the Chief Executive Officer.

(3) Notwithstanding the provisions of subparagraph (2) the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Chief Executive Officer.

(4) The common seal of the Institute when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

Funds of the Institute.

15. (1) The funds of the Institute shall comprise of —

(a) grants, gifts or donations that the Institute may receive as a result of public and private appeal from local and international donors or agencies for the purposes of carrying out its functions.

(b) such fees, monies or assets 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 or under any written law;

(c) all monies from any other lawful source provided for or donated or lent to the Board; and

(d) such sums as may be appropriated by Parliament for the purposes of the Institute.

(2) The funds of the Institute and its balances at the close of each financial year shall not be paid into the Consolidated Fund, but shall be retained for the purposes for which the Institute is established.

Financial year.

16. The financial year of the Institute shall be the period of twelve months ending on the thirtieth of June in each year.

Annual estimates.

17. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute for the financial year and in particular, the estimates shall provide for —

(a) the payment of the salaries, allowances and other charges in respect of members of the Board and staff of the Institute;

(b) the payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Institute;

(c) the proper maintenance of the buildings and grounds of the Institute;

(d) the maintenance, repair and replacement of the equipment and other property of the Institute; and

(e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

Accounts and audit.

18. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Institute.

(2) Within a period of four months from the end of each financial year, the Board shall submit to the Auditor- General or to an auditor appointed under this section, the accounts of the Institute together with-

(a) a statement of the income and expenditure of the Institute during that year; and

(b) a balance sheet of the Institute on the last day of that year.

(3) The accounts of the Institute shall be audited and reported upon in accordance with the Public Audit Act, 2003, No. 12 of 2003.

Investment of funds.

19. The Board may invest any of the funds of the Institute in securities, in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

PART III — THE CANCER REGISTRY

Cancer Register.

20. (1) The Institute shall cause to be kept and maintained a national cancer register containing the particulars specified under subsection (2).

(2) The Register shall contain particulars on-

(a) the incidence, preference, trends, type and geographical location of which due notification has been given pursuant to section 21;

(b) institutions, associations and organizations, including those controlled and managed by the national, and county governments, that provide care and treatment services for persons with cancer; and

(c) such other matters as the Board may prescribe.

(3) All particulars under sub-section (1) and changes in such particulars shall be entered in the Register by the Chief Executive Officer as soon as is practicable after receiving notification thereof.

(4) The Chief Executive Officer may supply a copy of any entry in the Register upon payment of such fee as the Board may prescribe.

Notification to Institute.

21. (1) Every medical institution shall, as soon as reasonably practical after making a diagnosis of cancer on a person, deliver a notification to the Institute for purposes of section 20(2)(a).

(2) A notification under subsection (1) shall-

(a) be in such form as may be prescribed;

(b) specify the type and geographical location of persons with the cancer;

(c) not disclose the name of the person with cancer unless with the consent of the person or his guardian where such person is a minor;

(d) be given not later than sixty days after the diagnosis.

(3) Any person who contravenes the provision of this section commits an offence.

Alteration of Register.

22. The Board may, at any time, direct that correction be made in respect of any entry which has been incorrectly or fraudulently made.

PART IV - DISCRIMINATORY PRACTICES

Discrimination in the workplace.

23. (1) A person shall not be-

(a) denied access to any employment for which the person is qualified; or

(b) transferred, denied promotion or have his employment terminated,

on the ground only of the person being a person with cancer.

(2) Without limiting the generality of subsection (1), an employer shall not discriminate against a person with cancer in relation to —

(a) the advertisement of employment;

(b) the recruitment for employment;

(c) the creation, classification or abolition of posts;

(d) the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits;

(e) the choice of persons for posts, training, advancement, apprenticeships, transfer, promotion or retrenchment;

(f) the provision of facilities related to or connected with employment; or

(g) any other matter related to employment.

Discrimination in schools.

24. An educational institution shall not deny admission or expel, discipline, segregate, deny participation in any event or activity, or deny any benefits or services to a person on the grounds only of the person being actual or perceived to be a person with cancer.

Inhibition from public service.

25. A person shall not be denied the right to seek an elective or other public office on the grounds only of the person being actual or perceived to be a person with cancer.

Exclusion from credit and insurance services.

26. (1) Subject to this Act, a person shall not be compelled to undergo cancer screening or to disclose cancer status for the purpose only of gaining access to any credit or loan services, medical, accident or life insurance or the extension or continuation of any such services.

(2) Nothwistanding subsection (1), an insurer, re-insurer or health maintenance organization shall, in the case of life and healthcare service insurance cover, devise a reasonable limit of cover for which a proposer shall not be required to disclose his or her cancer status.

Discrimination in health institutions.

27. A person shall not be denied access to healthcare services in any health institution, or be charged a higher fee for any such services, on the grounds only of the person being actual or perceived to be a person with cancer.

Penalty for discriminatory practices.

28. A person who contravenes any of the provisions of this Part commits an offence.

PART V —EDUCATION AND INFORMATION

Information, education and communication by national government.

29. (1) The national government, in collaboration with the Institute, shall promote public awareness about the causes, consequences, means of prevention, treatment and control of cancer through a comprehensive nation-wide education and information campaign conducted by the national government through the relevant departments, authorities and other agencies.

(2) The education and information campaign referred to in subsection (1) shall be carried out in all schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities throughout Kenya.

(3) The national government in collaboration with the Institute shall provide training, sensitization and awareness programmes on the prevention, treatment, palliative care and control of cancer for-

(a) employees of all national government departments, authorities and other agencies; and

(b) employees of private and informal sectors'

(c) community and social workers,

(d) media professionals, educators, and other stakeholders involved in the dissemination of information to the public on cancer prevention, treatment and control.

(4) In conducting the education and information campaign referred to in this section, the national government shall ensure the involvement and participation of individuals and groups affected by cancer.

(5) The information provided under this section shall cover issues such as confidentiality in the work-place and attitudes towards affected employees and workers.

(6) For the purposes of this section, the national government in collaboration with the Institute shall ensure training of healthcare providers on proper information dissemination and education on cancer prevention and treatment.

Cancer prevention and control to form part of education syllabus.

30. (1) The Institute shall liaise with the national government department responsible for education, to integrate instruction on the causes and ways of preventing cancer, its treatment and palliative care in subjects taught in public and private schools at all levels starting from early childhood education development centers to primary, secondary, and tertiary levels, including informal, non formal and indigenous learning systems.

(2) The Institute shall in collaboration with the national government department responsible for education, develop and implement a training curriculum to be integrated into syllabuses on the prevention and treatment of cancer and the care of persons with cancer to be taught at all levels starting from early .childhood education development centers.

Cancer prevention and control to form part of health care.

31. (1) The Institute shall liaise with the national government department responsible for public health to ensure that education and information dissemination on the prevention and treatment of cancer and the care of persons with cancer including palliative care, shall form part of health care services by healthcare providers.

(2) For the purposes of subsection (1), the national government department responsible for public health in collaboration with the Institute shall provide training for the healthcare providers to acquire skills for proper information dissemination and education on cancer prevention control and palliative care.

Cancer prevention and control dissemination by county government.

32. Every county government, in collaboration with the Institute, shall conduct an educational and information campaign on cancer prevention, treatment and control within its area of jurisdiction in the manner contemplated under sections 29, 30 and 31.

Cancer prevention and control dissemination in cities or urban areas.

33. Every city or urban area, in collaboration with the Institute, shall conduct an educational and information campaign on cancer prevention, treatment and control within its area of jurisdiction.

PART VI —MISCELLANEOUS

Consent to research

34. (1) No person shall undertake any cancer related human biomedical research on another person or on any tissue or blood removed from such person except-

(a) with the written informed consent of that other person; or

(b) if that other person is a child, with the written informed consent of a parent or legal guardian of the child.

(c) If that person is incapacitated by infirmity, by the legal guardian

(2) The person whose consent is sought to be obtained under subsection (1) shall be adequately informed of the aims, methods, anticipated benefits and the potential hazards and discomforts of the research.

(3) A person who contravenes any of the provisions of this section commits an offence.

General penalty.

35. A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term, not exceeding two years or to both.

Rules.

36. (1) The Cabinet Secretary, on the recommendation of .the Institute may make rules generally for the better carrying out of its functions under this Act.

(2) Without prejudice to the generality of sub section (1), the rules shall prescribe anything which this Act requires to be prescribed.

(3) For purposes of the first appointment of members of the Board under section 6, the Cabinet Secretary shall prescribe the procedures specified under that section notwithstanding the absence of the Institute but subsequent procedures shall be prescribed in accordance with subsection (1) of this section.

SCHEDULE **(s.7)**

PROVISIONS AS TO THE CONDUCT OF BUSSINESS AND AFFAIRS OF THE BOARD

Tenure of office.

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re- appointment for one further term.

Vacation of office

2. (1) A member other than an ex-officio member may-

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary on recomitendation of the Board if the member —

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony in Kenya;

(iii)is incapacitated by prolonged physical or mental illness for a period exceeding six months;

(iv)is otherwise unable or unfit to discharge his functions.

Meetings.

3. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be half of the total members including the Chairperson or the person presiding.

(5) The members present shall elect one of their number to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (6), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of the Board.

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, co- opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

Disclosure of interest.

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with

respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

Contracts and instruments.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.