

Approved for tabling.



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SNA
5/8/2021



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

DEPARTMENTAL COMMITTEE ON HEALTH

.....

REPORT ON-
THE PHARMACY AND POISONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY
BILL NO. 1 OF 2021)

THE NATIONAL ASSEMBLY PAPER NO. 1412	
DATE: 05 AUG 2021	Day: <u>Thurs</u>
TABLED BY:	Hon. Sabina Chege Chair, Health
	Mahesh Wanjiku

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2021

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CHAIRPERSON'S FOREWORD

Article 118(1) (b) of the Constitution provides that, "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees*". Standing Order 127 (3) provides that "*the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House*".

The Pharmacy and Poisons (Amendment) Bill, (*National Assembly Bill No. 1 of 2021*) introduced by Hon. Alfred Kiptoo Keter, MP underwent First Reading on 9th June, 2021 and was committed to the Departmental Committee on Health for consideration and reporting to the House.

This report contain the deliberations on the Pharmacy and Poisons (Amendment) Bill. Most importantly, the Bill seeks to amend the Pharmacy and Poisons Act to prohibit the sale or dispensing of medicine without a written prescription from a registered health practitioner. This is aimed at safeguarding the health of all Kenyans and encouraging them to always seek medical attention from qualified health practitioners, notwithstanding that an ailment may be considered as minor.

Following placement of advertisements in the print media on 11th June, 2021 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant the provisions to Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received memoranda from five (5) stakeholders, namely- the Ministry of Health, Kenya Pharmaceutical Association, Pharmaceutical Society of Kenya, Mwalimu Muthisya and Astone Ashioya. The public participation meetings was held via the ZOOM video online platform on the 13th July, 2021.

On behalf of the Departmental Committee on Health and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Pharmacy and Poisons (Amendment) Bill, (*National Assembly Bill No. 1 of 2021*). 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. The Committee further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who played significant role in preparation and production of this report.

It is my pleasure to report that the Committee has considered the Pharmacy and Poisons (Amendment) Bill, (*National Assembly Bill No. 1 of 2021*) and have the honour to table in the House the Committee's report on the Bill with recommendations that the House passes it with amendments as proposed.

Hon. Sabina Chege, MP
Chairperson, Departmental Committee on Health

PART I

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;
 - a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
 - b) *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
 - c) *Study and review all legislation referred to it;*
 - d) *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
 - e) *Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - f) *Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204;*
 - fa) *Examine treaties, agreements and conventions;*
 - g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - h) *Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - i) *Examine any questions raised by Members on a matter within its mandate*

1.2 COMMITTEE SUBJECTS

2. The Second Schedule of the Standing Orders on Departmental Committees outlines the subjects of the Committee's mandate as health, medical care and health insurance.

3. In executing its mandate, the Committee oversees the Ministry of Health, its Semi-Autonomous Government Agencies, Regulatory Bodies and Health Advisory Bodies as follows:
 1. Kenyatta National Hospital (KNH)
 2. Moi Teaching and Referral Hospital (MTRH)
 3. Kenyatta University Teaching Referral and Research Hospital (KUTRRH)
 4. Kenya Medical Training College (KMTC)
 5. Kenya Medical Supplies Authority (KEMSA)
 6. Kenya Medical Research Institute (KEMRI)
 7. National Hospital Insurance Fund (NHIF)
 8. Pharmacy and Poisons Board (PPB)
 9. National AIDS Control Council (NACC)
 10. National Cancer Institute (NCI)
 11. Kenya Nuclear Regulatory Authority (KENRA)
 12. The Mathari National Teaching and Referral Hospital (MNTRH)
 13. Kenya Health Professionals Oversight Authority (KHPOA)
 14. Kenya Health Human Resource Advisory Council (KHHRAC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Health was re-constituted by the House in July, 2020 and comprises of the following Members:

Hon. Sabina Chege, MP (**Chairperson**)

County MP for Muranga County

Jubilee Party

Vice-Chairperson

Hon. Joshua Kutuny, MP

Cherangan'y Constituency

Jubilee Party

Hon. (Dr.) Eseli Simiyu, MP
Tongaren Constituency

Ford Kenya Party

Hon. Gideon Ochanda, MP
Bondo Constituency

ODM Party

Hon. (Dr.) James Nyikal, MP
Seme Constituency

ODM Party

Hon. Alfred Agoi Masadia, MP
Sabatia Constituency

ANC Party

Hon. (Dr.) James K, Murgor, MP
Keiyo North Constituency

Jubilee Party

Hon. Muriuki Njagagua, MP
Mbeere North Constituency

Jubilee Party

Hon. (Dr.) Mohamed D. Duale, MP
Daadab Constituency

KANU Party

Hon. Beatrice Adagala, MP
Vihiga County

ANC Party

Hon. James G Wamacukuru
Kabete Constituency

Jubilee Party

Hon. Prof. Mohamud Sheikh, MP
Wajir South

Jubilee Party

Hon. Sarah Puleta Korere, MP
Laikipia North Constituency

Jubilee Party

Hon. Capt. Ruweida Mohamed, MP
Lamu County

Jubilee Party

Hon. Kipsengeret Koros, MP
Sigowet-Soin Constituency

Independent Party

Hon. Martin Peters Owino, MP
Ndhiwa Constituency

ODM Party

Hon. Joyce Ekai Emanikor, MP
Turkana County

Jubilee Party

Hon. Said Hirabe, MP
Galole Constituency

Ford Kenya Party

Hon. Tongoyo Gabriel Koshal, MP
Narok West Constituency

CCM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is serviced by the following Secretariat staff:

Head of the Secretariat

Mr. Douglas Katho

Clerk Assistant II

Ms. Christine Odhiambo

Legal Counsel I

Mr. Muyodi Meldaki Emmanuel

Clerk Assistant II

Mr. Eric Kanyi

Fiscal Analyst II

Ms. Fiona Musili

Research Officer II

Mr. Ahmed Yakub

Media Relations Officer

Ms. Catherine Wangui

Serjeant-At-Arms

Mr. Nimrod Ochieng

Audio Officer

PART II

2.0 OVERVIEW OF THE PHARMACY AND POISONS (AMENDMENT) BILL, NATIONAL ASSEMBLY BILL NO. 1 OF 2021

2.1 ANALYSIS OF THE BILL

6. The Bill seeks to amend the Pharmacy and Poisons Act to prohibit the sale or dispensing of medicine without a written prescription from a registered health practitioner. This aims to safeguard the health of all Kenyans and encourage them to always seek medical attention from qualified health practitioners, notwithstanding that an ailment may be considered minor. The sale of over the counter medication has always encouraged self-diagnosis of ailments without the benefit of medical advice from a health or medical practitioner. This endangers the lives of those who may consume harmful medication, suffer adverse reactions or even develop drug resistance owing to abuse or misuse of certain medications like antibiotics.

Proposed amendments

Amendment of Section 19 of Cap 224

7. Clause 2: Section 19 of the Pharmacy and Poisons (Amendment) Act is amended by deleting subsection (5) and substituting therefor, the following new subsections

(5) A person shall not sell or dispense medicine to another person without a prescription signed by a registered health practitioner, medical practitioner, dentist or veterinary surgeon.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding thirty thousand shillings or to imprisonment to a term not exceeding three years or both

PART III

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

8. Following placement of advertisements in the print media on 11th June, 2021 seeking views on the Bill from Members of the Public and relevant stakeholders pursuant the provisions of the Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received memoranda from only five (5) stakeholders i.e. the **Ministry of Health, Kenya Pharmaceutical Association, Pharmaceutical Society of Kenya, Mwalimu Muthisya and Astone Ashioya**. The Public participation exercise was held virtually on 13th July, 2021.

MINISTRY OF HEALTH

9. The Ministry of Health proposed deletion of clause 2.

Justification

- i. The Ministry of Health is mandated to ensure availability and access to Health Products and Technologies (HPTs) used for the treatment of ailments at all levels of healthcare including pharmacies.
- ii. It is in the Ministry's interest that the balance between access to these products and protection of the public health and safety is maintained.
- iii. Health products and health technologies (HPTs) are usually classified into schedules according to the level of regulatory control required, need for their availability and protection of public health and safety. This has culminated in the development of a HPT scheduling system which guides the access restrictions based on their risk-benefit profile.
- iv. The key considerations that guide scheduling of medical products globally include: accessibility, therapeutic index, abuse potential, inappropriate use, precaution, community harm, precedence, efficacy, availability of medicines with similar active ingredient, legal control, pack sizes, dosage forms, item in essential medicines list and levels of prescribing among others.
- v. Therefore, if this provision is enacted into law, implementation will limit access to essential HPTs and thus negate the gains made in achievement of Universal Health Coverage (UHC).

KENYA PHARMACEUTICAL ASSOCIATION

10. Kenya Pharmaceutical Association proposed deletion of clause 2

Justification

- i. It will lead to an increase in the cost of access to pharmaceutical services.

- ii. It will interfere with internationally set standards on good pharmacy practice.
- iii. It will worsen the already over-burdened healthcare system.
- iv. The proposed amendments in the Bill are taken care of by a new guideline on Scheduling and Rescheduling of Health Products and Technologies being developed by the Pharmacy and Poisons Board.

PHARMACEUTICAL SOCIETY OF KENYA

11. Pharmaceutical Society of Kenya proposed deletion of clause 2

Justification

- i. The Bill provides no balance between access and business over safety and health.
- ii. It is an affront to access to medicines.
- iii. Section 3 of the Pharmacy and Poisons Act gives the Pharmacy and Poisons Board the powers to schedule medicines.

MWALIMU MUTHISYA

12. Mwalimu Muthisya proposed deletion of clause 2

Justification

The Bill is malicious and is a continuation of the business war by pharmacists

ASTONE ASHIOYA

13. Astone Ashioya proposed deletion of clause 2

Justification

- i. Pharmacy professionals are well equipped with knowledge on drugs.
- ii. The Pharmacy and Poisons Board regulates the pharmacy practice and do regular inspections to guarantee safety.

PART IV

4.0 COMMITTEE OBSERVATIONS

14. After considering the Pharmacy and Poisons (Amendment) Bill, National Assembly Bill No. 1 of 2021, the Committee observed the following:

- i) Should this provision be enacted into law, implementation will limit access to essential Health Products and Technologies (HPTs) and thus negate the gains made in Universal Health Coverage (UHC) achievement, which advocates for expanding the range of healthcare services to all citizens.
- ii) In addition, one of the pillars of the UHC is financial risk protection which will be threatened by the implementation of this law, which would increase the cost of access to pharmaceutical services.
- iii) The Bill assumes that all Kenyans have the same level of access to pharmaceutical services. In reality, the ratio of medical professionals to patients in Kenya is skewed, which is highly pronounced in low-income and rural areas, where people depend on community-based pharmacies.
- iv) The Bill would interfere with internationally set standards on good pharmacy practice where drugs are classified into different categories or classes based on their formulation, mode of action, site of action, adverse effects.
- v) If enacted into law, it would interfere with the acceptable standards of good pharmacy practice by imposing a prescription requirement for pharmacy-only medicines/over the counter General sales medicines.
- vi) The law would overstretch the already weakened healthcare facilities. Since it would require a person seeking medicine to visit a hospital and go through all the processes required before being dispensed medicine. Some ailments or procedures are better managed at the community-based pharmacies.
- vii) The proposed amendments in the Bill are already factored in the new guideline on scheduling and rescheduling of Health products and technologies being developed by the Pharmacy and Poisons Board.

5.0 COMMITTEE RECOMMENDATION

15. Taking into account the above observations, the Committee rejects the proposed amendment to Section 19 of the Pharmacy and Poisons Board Act, Cap. 224 as proposed in the Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021). In this regard, the Committee recommends–

- (a) THAT clause 1 of the Bill be deleted; and
- (b) THAT clause 2 of the Bill be deleted.

16. In the alternative, and pursuant to the provisions of Standing Order 140(1), the Committee recommends that the Member in charge of the Bill withdraws the Bill to allow for further consultations.

Justification

The proposed deletion of the clauses by the Committee seeks to allow the Pharmacy and Poisons Board to discharge its functions as provided in section 3B of the Pharmacy and Poisons Board Act, Cap. 244. These functions include the scheduling and rescheduling of substances which is a key requirement in the development of a Health Products and Technologies scheduling system.

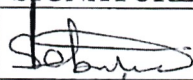
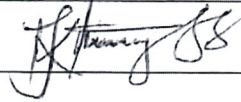
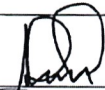
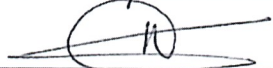

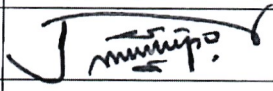
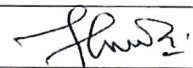
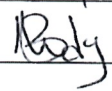
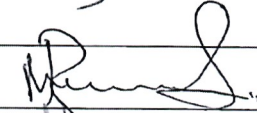

The deletion is also necessary to guard against the requirement for prescriptions even in the case of general medicines that do not require prescription by a medical practitioner.

SIGNED.......... DATE..... 4/8/2021

**THE HON. SABINA CHEGE, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH**

**THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON HEALTH
ATTENDANCE SCHEDULE**

**ADOPTION SCHEDULE FOR THE CONSIDERATION OF THE REPORT ON THE PHARMACY AND POISONS
(AMENDMENT) BILL, 2021, NATIONAL ASSEMBLY BILL NO. 1 OF 2021**

	NAME	SIGNATURE
1.	Hon. Sabina Chege, MP – Chairperson	
2.	Hon. Joshua Kutuny, MP – Vice-Chairperson	
3.	Hon. Dr. Eseli Simiyu, MP	
4.	Hon. Dr. James Nyikal, MP	
5.	Hon. Dr. Mohamed Dahir Duale, MP	
6.	Hon. Dr. James Kipkosgei Murgor, MP	
7.	Hon. Alfred Agoi Masadia, MP	
8.	Hon. Muriuki Njagagua, MP	Virtual
9.	Hon. Joyce Akai Emanikor, MP	Virtual
10.	Hon. Prof. Mohamud Sheikh Mohamed, MP	Virtual 
11.	Hon. Martin Peters Owino, MP	
12.	Hon. Kipsengeret Koros, MP	
13.	Hon. Tongoyo Gabriel Koshal, MP	
14.	Hon. Sarah Paulata Korere, MP	
15.	Hon. Dr. Gideon Ochanda, MP	
16.	Hon. Beatrice Adagala, MP	
17.	Hon. Said Hiribae, MP	
18.	Hon. (Capt.) Ruweida Mohammed, MP	
19.	Hon. James Githua Kamau Wamacukuru, MP	

MINUTES OF THE FORTY-FIRST (41ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 3RD AUGUST, 2021 VIA ZOOM AT 10.00 A.M.

PRESENT

1. **The Hon. Sabina Chege, MP** - Chairperson
2. **The Hon. Joshua Kutuny, MP** - Vice-Chairperson
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Dr Mohamed Dahir Duale, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Muriuki Njagagua, MP
7. The Hon. Joyce Akai Emanikor, MP
8. The Hon. Martin Peters Owino, MP
9. The Hon. Dr Gideon Ochanda, MP
10. The Hon. Kipsengeret Koros, MP
11. The Hon. (Capt) Ruweida Mohammed, MP
12. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. The Hon. Dr James Nyikal, MP
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon James Githua Kamau Wamacukuru, MP
5. The Hon. Tongoyo Gabriel Koshal, MP
6. The Hon. Said Hiribae, MP
7. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|--------------------|
| 1. Douglas Katho | - | Clerk Assistant II |
| 2. Christine Odhiambo | - | Legal Counsel I |
| 3. Muyodi Emmanuel | - | Clerk Assistant II |
| 4. Nimrod Ochieng | - | Audio Officer |

MIN. NO.NA/DC.H/2021/136: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.15 a.m. and said a prayer.

MIN.NO.NA/DC.H/2021/137: ADOPTION OF THE REPORTS ON BILLS

The Committee considered the proposed amendments and adopted the reports as follows:

**1. THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021
(NATIONAL ASSEMBLY BILL NO. 21 OF 2021)**

The agenda was deferred to Wednesday 4th August, 2021 at 9.00 p.m.

2. THE COMMUNITY HEALTH WORKERS BILL, 2020, (NATIONAL ASSEMBLY BILL NO. 30 OF 2020)

The Committee adopted the report on the Community Health Workers Bill, 2020 (National Assembly Bill No. 30 of 2020) after being proposed by the Hon. Beatrice Adagala, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

3. THE RADIOGRAPHERS BILL 2019, (NATIONAL ASSEMBLY BILL NO. 47 OF 2019)

The Committee adopted the report on the Radiographers Bill, 2019 (National Assembly Bill No. 47 of 2019) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

4. THE HEALTH (AMENDMENT) BILL, 2021, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

The Committee adopted the report on the Health (Amendment) Bill, 2021 (National Assembly Bill No. 14 of 2021) after being proposed by the Hon. (Capt) Ruweida Mohammed, MP and seconded by the Hon. Kipsengeret Koros, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

5. THE PHARMACY AND POISONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)


The Committee adopted the report on the Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

MIN. NO.NA/DC.H/2021/138: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.44 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....10/2/2021.....

MINUTES OF THE THIRTY- EIGHTH (38TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON MONDAY 26TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA IN MEDUSA 2 CONFERENCE ROOM AT 4.00 P.M

PRESENT

1. **The Hon. Sabina Chege, MP - Chairperson**
2. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr James Kipkosgei Murgor, MP
5. The Hon. Dr Mohamed Dahir Duale, MP
6. The Hon. Prof Mohamud Sheikh Mohamed, MP
7. The Hon. Muriuki Njagagua, MP
8. The Hon. Dr Gideon Ochanda, MP
9. The Hon. Martin Peters Owino, MP
10. The Hon. (Capt) Ruweida Mohammed, MP
11. The Hon. Kipsengeret Koros, MP
12. The Hon. Beatrice Adagala, MP
13. The Hon James Githua Kamau Wamacukuru, MP

ABSENT WITH APOLOGY

1. The Hon. Dr Eseli Simiyu, MP
2. The Hon. Joyce Akai Emanikor, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon. Tongoyo Gabriel Koshal, MP
5. The Hon. Said Hiribae, MP
6. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/121: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 4.05 p.m. and said a prayer.

MIN.NO.NA/DC.H/2021/122: CLAUSE BY CLAUSE CONSIDERATION OF THE PHARMACY AND POISONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)

After clause by clause deliberations on the Pharmacy and Poisons (Amendment) Bill, National Assembly Bill No. 1 of 2021, the Committees observed and recommended as follows:

Committee Observations

- i) Should this provision be enacted into law, implementation will limit access to essential Health Products and Technologies (HPTs) and thus negate the gains made in Universal Health Coverage (UHC) achievement, which advocates for expanding the range of healthcare services to all citizens.
- ii) In addition, one of the pillars of the UHC is financial risk protection which will be threatened by the implementation of this law, which would increase the cost of access to pharmaceutical services.
- iii) The Bill assumes that all Kenyans have the same level of access to pharmaceutical services. In reality, the ratio of medical professionals to patients in Kenya is skewed, which is highly pronounced in low-income and rural areas, where people depend on community-based pharmacies.
- iv) The Bill would interfere with internationally set standards on good pharmacy practice where drugs are classified into different categories or classes based on their formulation, mode of action, site of action, adverse effects.
- v) If enacted into law, it would interfere with the acceptable standards of good pharmacy practice by imposing a prescription requirement for pharmacy-only medicines/over the counter General sales medicines.
- vi) The law would overstretch the already weakened healthcare facilities. Since it would require a person seeking medicine to visit a hospital and go through all the processes required before being dispensed medicine. Some ailments or procedures are better managed at the community-based pharmacies.
- vii) The proposed amendments in the Bill are already factored in the new guideline on scheduling and rescheduling of Health products and technologies being developed by the Pharmacy and Poisons Board.

Committee Recommendation

1. Taking into account the above observations, the Committee rejects the proposed amendment to Section 19 of the Pharmacy and Poisons Board Act, Cap. 224 as proposed in the Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021). In this regard, the Committee recommends–

(a) THAT clause 1 of the Bill be deleted; and

(b) THAT clause 2 of the Bill be deleted.

2. In the alternative, and pursuant to the provisions of Standing Order 140(1), the Committee recommends that the Member in charge of the Bill withdraws the Bill to allow for further consultations.

Justification


The proposed deletion of the clauses by the Committee seeks to allow the Pharmacy and Poisons Board to discharge its functions as provided in section 3B of the Pharmacy and Poisons Board Act, Cap. 244. These functions include the scheduling and rescheduling of substances which is a key requirement in the development of a Health Products and Technologies scheduling system.

The deletion is also necessary to guard against the requirement for prescriptions even in the case of general medicines that do not require prescription by a medical practitioner.

MIN. NO.NA/DC.H/2021/123: ADJOURNMENT/DATE OF NEXT MEETING

There being no further business, the meeting was adjourned at 4.59 p.m.

**HON. SABINA CHEGE, MP
(CHAIRPERSON)**

Sign.......... Date.....4/2/2021.....

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MINUTES OF THE THIRTY-FIRST (31ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 13TH JULY, 2021 VIA ZOOM AT 10.00 A.M

PRESENT

1. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
2. The Hon. Dr James Nyikal, MP
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Muriuki Njagagua, MP
5. The Hon. Martin Peters Owino, MP
6. The Hon. Kipsengeret Koros, MP
7. The Hon. Beatrice Adagala, MP
8. The Hon. (Capt) Ruweida Mohammed, MP

ABSENT WITH APOLOGY

1. **The Hon. Sabina Chege, MP – Chairperson**
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Dr Gideon Ochanda, MP
4. The Hon. Dahir Duale, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Joyce Akai Emanikor, MP
7. The Hon. Alfred Agoi Masadia, MP
8. The Hon. Tongoyo Gabriel Koshal, MP
9. Hon James Githua Kamau Wamacukuru, MP
10. The Hon. Said Hiribae, MP
11. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

STAKEHOLDERS

1. **Dr. Patrick Amoth** – Director General, Ministry of Health;
2. Kenya Pharmaceutical Association;
3. Pharmaceutical Society of Kenya;
4. Mwalimu Muthisya
5. Astone Ashioya.

MIN. NO.NA/DC.H/2021/106: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.15 a.m. and said a prayer. Thereafter he welcomed the Committee Members.

MIN.NO.NA/DC.H/2021/107: STAKEHOLDERS ENGAGEMENT ON THE ON THE PHARMACY AND POISONS (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)

The following stakeholders appeared before the Committee and presented their views on the proposed amendments *(details of their submissions and import of each proposed amendments are contained in Part III of the report on the Pharmacy and Poisons (Amendment) Bill, (National Assembly No. 1 of 2021).*

1. The Ministry of Health
2. Kenya Pharmaceutical Association
3. Pharmaceutical Society of Kenya
4. Mwalimu Muthisya; and
5. Astone Ashioya.

MIN. NO.NA/DC.H/2021/108: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.57 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....4/2/2021.....



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
 TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution
 And
 In the Matter of Consideration by the National Assembly of;

1. The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020);
2. The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021);
3. The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021);
4. The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021);
5. The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021);
6. The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021);
7. The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021);
8. The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)
9. The Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);
10. The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020);
11. The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020);
12. The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020);
13. The Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021);
14. The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021).

SUBMISSION OF MEMORANDA

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the aforementioned Bills, whose objects are as follows:

The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020) sponsored by Hon. Paul Mwirigi, MP, Igembe South Constituency, seeks to amend the Higher Education Loans Board Act in order to provide that a loanee shall commence the repayment of his or her loan once he or she secures employment. The amendment is meant to cushion unemployed graduates from being charged interest on the loan before they have secured employment.

The Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly No 1 of 2021) sponsored by Hon. Alfred Keter, MP, Nandi Hills Constituency, seeks to amend the Pharmacy and Poison Act to prohibit the sale or dispensing of medicine without written prescription from a registered medical practitioner.

The Health (Amendment) Bill, 2021 (National Assembly No 14 of 2021) sponsored by Hon. Moses Mwambu Wekesa Mabonga, MP, Bumula Constituency, seeks to amend the Health Act No 21 of 2017 to provide that the National government and county governments shall, in consultation through the existing Inter-governmental relations mechanism establish regional cancer centres, to make it an offence for a person in-charge of a Public Health facility to demand or permit of payments of advance medical fees as pre-condition for the provision of medical services, to make it an offence for person in-charge of a Public Health facility to detain a body of deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021) seeks to provide for the establishment and operationalization of the National Electronic Single Window System in order to facilitate trade, the establishment of the Kenya Trade Network Agency, to provide for electronic transactions, and for connected purposes.

The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021) seeks to provide for development, regulation and promotion of the Coffee Industry, provide for establishment, powers and functions of the Coffee Board of Kenya.

The Community Groups Registration Bill, 2021 (National Assembly Bill No.20 of 2021) seeks to provide a regulatory framework for the registration and regulation of community groups and connected purposes.

The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021) sponsored by Hon. David Phosong, MP, Pokot South Constituency, seeks to amend the Kenya Roads Act (No. 2 of 2007) to align the Act with the provisions of the Constitution with regard to the auditing functions of the Office of the Auditor-General. The Act currently refers to the defunct office of the Controller of Budget and the Auditor-General. The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

The Computer Misuse and Cybercrimes (Amendment) Bill, 2021 (National Assembly Bill No. 11 of 2021) sponsored by Hon. Aden Bare Duale, MP, Garissa Township Constituency, seeks to amend The Computer Misuse and Cybercrimes Act, 2018 to provide for the prohibition against the sharing of pornography through the internet and prohibit use of electronic mediums to promote terrorism, extreme religious and cult activities.

Kenya Industrial Research and Development Institute Bill, 2021 (National Assembly Bill No. 44 of 2021) seeks to establish the Kenya Industrial Research and Development Institute, and for connected purposes. It further provides for the promotion of research, development, technology and innovation in industrial and allied technologies, and for initiation and support of industrial development.

The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020) sponsored by Hon. David Gikaria, MP, Makuru Town East Constituency, seeks to amend the National Construction Authority Act, No. 41 of 2011 to ensure women, youth and persons living with disabilities with start-up businesses who apply to be registered as contractors under category six, seven and eight are exempted from paying the prescribed fee. The amendment seeks to recognize women, youth and persons living with disabilities as marginalized groups and to cushion them from the burden of paying registration fees.

The Kenya Deposit Insurance (Amendment) Bill, 2020 (National Assembly Bill No. 43 of 2020) sponsored by Hon. Abdul Rahim Dawood, MP, Imeni North Constituency, seeks to amend section 28 of the Kenya Deposit Insurance Act, 2012 in order to increase the maximum amount a person with an account with an institution under liquidation is to be paid by the Kenya Deposit Insurance Corporation. It further seeks to delete the provision limiting the maximum amount a person is to be paid by the Corporation despite having different accounts.

The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill, 2020 (National Assembly Bill No. 49 of 2020) sponsored by Hon. Benjamin Gathiru Mwangi, MP, Embakasi Central Constituency, seeks to amend the Public Procurement and Asset Disposal Act, 2015 to enhance the amount for tenders where Kenya citizens are given

exclusive preference from the sum of five hundred million shillings to twenty billion shillings. This is to protect the Kenyan traders from foreign competitors.

The Irrigation (Amendment) Bill, 2021 (National Assembly Bill No. 12 of 2021) seeks to amend the Act by expanding the administration of Irrigation matters to include management and regulation of irrigation matters. The Bill further seeks to amend the Act to harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021) seeks to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

Pursuant to Standing Order 127(1) of the National Assembly Standing Orders, the Bills proposing amendments to the various Acts of Parliament are committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE

No.	BILL	COMMITTEE
1.	The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37)	Education and Research
2.	The Pharmacy and Poisons (Amendment) Bill (National Assembly No 1 of 2021)	Health
3.	The Health (Amendment) Bill (National Assembly No 14 of 2021)	
4.	The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)	Communication, Information and Innovation
5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No.20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
9.	The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)	
10.	The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)	Finance and National Planning
11.	The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020)	
12.	The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)	
13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	
14.	Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021)	Environment and Natural Resources

The Bills were read a First Time pursuant to Standing Order 127(3) on 8th and 9th June 2021. Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday 18th June, 2021, at 5:00 pm.

MICHAEL SIALAI, CBS
 CLERK OF THE NATIONAL ASSEMBLY

11th June 2021

Approved for tabling.



But
SNA
5/8/2021

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

DEPARTMENTAL COMMITTEE ON HEALTH
.....

REPORT ON-
THE HEALTH (AMENDMENT) BILL, 2021, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

THE NATIONAL ASSEMBLY PAPERS LIST	
DATE:	05 AUG 2021
	Thurs
TABLED BY:	Hon. Sabina Chege chair, Health
	Maimah Wanjiru

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2021

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CHAIRPERSON'S FOREWORD

Article 118(1) (b) of the Constitution provides that, "*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees*". Standing Order 127 (3) provides that "*the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House*".

The Health (Amendment) Bill, (*National Assembly Bill No. 14 of 2021*) introduced by Hon. Moses Mwambu Wekesa Mabonga, MP underwent First Reading on 9th June, 2021 and was committed to the Departmental Committee on Health for consideration and reporting to the House.

This report contains the deliberations on the Bill. Most importantly, the Bill seeks to amend the Health Act No 21 of 2017 to provide that the National government and County governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers; to make it an offence for a person in-charge of a Public Health facility to demand or permit payment of advance medical fees as pre-condition for the provision of medical services; to make it an offence for person in charge of a Public Health facility to detain a body of a deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

Following placement of advertisements in the print media on 11th June, 2021 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant to the provisions of Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received memoranda from only one (1) stakeholder i.e. the Ministry of Health. The public participation meeting was held virtually on 13th July, 2021.

On behalf of the Departmental Committee on Health and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Health (Amendment) Bill, (*National Assembly Bill No. 14 of 2021*). 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. The Committee further wishes to thank the Ministry of Health for submitting their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who played significant role in preparation and production of this report.

It is my pleasure to report that the Committee has considered the Health (Amendment) Bill, (*National Assembly Bill No. 14 of 2021*) and have the honour to table in the House the Committee's report on the Bill with recommendation that the House passes it with amendments as proposed.

Hon. Sabina Chege, MP
Chairperson, Departmental Committee on Health

PART I

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;

- a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- c) *Study and review all legislation referred to it;*
- d) *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) *Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- f) *Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204;*
- fa) *Examine treaties, agreements and conventions;*
- g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- h) *Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- i) *Examine any questions raised by Members on a matter within its mandate*

1.2 COMMITTEE SUBJECTS

2. The Second Schedule of the Standing Orders on Departmental Committees outlines the Subjects of the Committee's mandate as health, medical care and health insurance.

3. In executing its mandate, the Committee oversees the Ministry of Health, its Semi-Autonomous Government Agencies, Regulatory Bodies and Health Advisory Bodies as follows:
 1. Kenyatta National Hospital (KNH)
 2. Moi Teaching and Referral Hospital (MTRH)
 3. Kenyatta University Teaching Referral and Research Hospital (KUTRRH)
 4. Kenya Medical Training College (KMTC)
 5. Kenya Medical Supplies Authority (KEMSA)
 6. Kenya Medical Research Institute (KEMRI)
 7. National Hospital Insurance Fund (NHIF)
 8. Pharmacy and Poisons Board (PPB)
 9. National AIDS Control Council (NACC)
 10. National Cancer Institute (NCI)
 11. Kenya Nuclear Regulatory Authority (KENRA)
 12. The Mathari National Teaching and Referral Hospital (MNTRH)
 13. Kenya Health Professionals Oversight Authority (KHPOA)
 14. Kenya Health Human Resource Advisory Council (KHHRAC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Health was re-constituted by the House in July, 2020 and comprises of the following Members:

Hon. Sabina Chege, MP (**Chairperson**)
Muranga County
Jubilee Party

Vice-Chairperson
Hon. Joshua Kutuny, MP
Cherengany Constituency
Jubilee Party

Hon. (Dr.) Eseli Simiyu, MP
Tongaren Constituency
Ford Kenya Party

Hon. Gideon Ochanda, MP
Bondo Constituency
ODM Party

Hon. (Dr.) James Nyikal, MP
Seme Constituency
ODM Party

Hon. Alfred Agoi Masadia, MP
Sabatia Constituency
ANC Party

Hon. (Dr.) James K, Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Muriuki Njagagua, MP
Mbeere North Constituency
Jubilee Party

Hon. (Dr.) Mohamed D. Duale, MP
Daadab Constituency
KANU Party

Hon. Beatrice Adagala, MP
Vihiga County
ANC Party

Hon. James G Wamacukuru
Kabete Constituency
Jubilee Party

Hon. Prof. Mohamud Sheikh, MP
Wajir South
Jubilee Party

Hon. Sarah Puleta Korere, MP
Laikipia North Constituency
Jubilee Party

Hon. Capt. Ruweida Mohamed, MP
Lamu County
Jubilee Party

Hon. Kipsengeret Koros, MP
Sigowet-Soin Constituency
Independent Party

Hon. Martin Peters Owino, MP
Ndhiwa Constituency
ODM Party

Hon. Joyce Ekai Emanikor, MP
Turkana County
Jubilee Party

Hon. Said Hirabe, MP
Galole Constituency
Ford Kenya Party

Hon. Tongoyo Gabriel Koshal, MP
Narok West Constituency
CCM Party

1.4 COMMITTEE SECRETARIAT

1. The Committee is serviced by the following Secretariat staff:

Head of the Secretariat
Mr. Douglas Katho
Clerk Assistant II

Ms. Christine Odhiambo
Legal Counsel I

Mr. Muyodi Meldaki Emmanuel
Clerk Assistant II

Mr. Eric Kanyi
Fiscal Analyst II

Ms. Fiona Musili
Research Officer II

Mr. Ahmed Yakub
Media Relations Officer

Ms. Catherine Wangui
Serjeant-At-Arms

Mr. Nimrod Ochieng
Audio Officer

PART II

2.0 OVERVIEW OF THE HEALTH (AMENDMENT) BILL, NATIONAL ASSEMBLY BILL NO. 14 OF 2021

2.1 ANALYSIS OF THE BILL

5. The Bill seeks to amend the Health Act No 21 of 2017 to provide that the National government and County governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers;
6. The Bill also seeks to amend the principal Act to make it an offence for a person in-charge of a Public Health facility to demand or permit payment of advance medical fees as pre-condition for the provision of medical services;
7. The Bill also seeks to make it an offence for person in charge of a Public Health facility to detain a body of a deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

Proposed amendment

8. New subsection (5)–
“(5) The national government and county governments shall, in consultation through the existing inter-governmental relations mechanisms, establish regional cancer centres.”
9. New subsections (4) and (5)

(4) A person in charge of a public health facility commits an offence, if the person demands or permits the demand of payment of advance medical fees or admission fees prior to treating or admitting a patient as the case may be, and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term of three months, or to both.

(5) A person in charge of a public health facility commits an offence, if the person detains or permits the detention of the body of a deceased person for purposes of enforcing settlement of pending bills and, is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term of three months or to both.
10. New paragraph after paragraph (d)–

“(da) levying of charges on the practice of conventional medicine in consultation with relevant statutory bodies and stakeholders.”

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

11. Following placement of advertisements in the print media on **11th June, 2021** seeking views on the Bill from members of the public and relevant stakeholders pursuant to Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received a memorandum from the Ministry of Health. The meeting was held virtually on **13th July, 2021**.

MINISTRY OF HEALTH

CLAUSE 3

12. The Ministry of Health proposed an amendment to the proposed new subsections (4) and (5) as follows—
 - (4) A person in charge of a health facility commits an offence, if the person demands or permits the demand of payment of advance medical fees or admission fees prior to providing emergency medical care, and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term of three months, or to both.
 - (5) A person in charge of a health facility commits an offence, if the person detains or permits the detention of the body of a deceased person for purposes of enforcing settlement of pending bills and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term of three months or both.

Justification

- i. Emergency medical care should be provided in both public and private health facilities as provided in subsection (3) of the Health Act.
- ii. The requirement not to detain dead bodies in health facilities due to non-payment of hospital bills should apply to both public and private facilities.

PART IV

4.0 COMMITTEE RECOMMENDATION

13. The Committee having considered the Health (Amendment) Bill, National Assembly Bill No. 14 of 2021 recommends that the House approve the Bill with amendments as proposed in the schedule.

PART V

5.0 SCHEDULE OF PROPOSED AMENDMENTS

14. The Committees proposed the following amendments to be considered by the House in the Committee stage:

CLAUSE 3

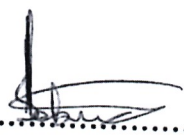
15. **THAT**, clause 3 of the Bill be amended—

(a) in the proposed new subsection (4), by deleting the words “three months” and substituting therefor the words “two years”; and

(b) in the proposed new subsection (5), by deleting the words “three months” and substituting therefor the words “one year”.

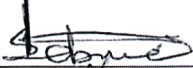
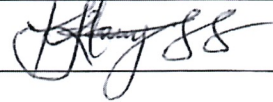




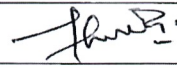



Justification

The amendment seeks to ensure that the term of imprisonment to be imposed for the offences of demanding advance payment before emergency medical treatment, and for detaining dead bodies in public health facilities, shall be proportional to the amount of monetary fine that may be imposed.

SIGNED.......... DATE..... 4/8/2021.....
THE HON. SABINA CHEGE, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH

THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON HEALTH
ATTENDANCE SCHEDULE

ADOPTION SCHEDULE FOR THE CONSIDERATION OF THE REPORT ON THE HEALTH (AMENDMENT)
BILL, 2021, NATIONAL ASSEMBLY BILL NO. 14 OF 2021

	NAME	SIGNATURE
1.	Hon. Sabina Chege, MP – Chairperson	
2.	Hon. Joshua Kutuny, MP – Vice-Chairperson	
3.	Hon. Dr. Eseli Simiyu, MP	
4.	Hon. Dr. James Nyikal, MP	
5.	Hon. Dr. Mohamed Dahir Duale, MP	
6.	Hon. Dr. James Kipkosgei Murgor, MP	
7.	Hon. Alfred Agoi Masadia, MP	
8.	Hon. Muriuki Njagagua, MP	Virtual
9.	Hon. Joyce Akai Emanikor, MP	Virtual
10.	Hon. Prof. Mohamud Sheikh Mohamed, MP	Virtual 
11.	Hon. Martin Peters Owino, MP	
12.	Hon. Kipsengeret Koros, MP	
13.	Hon. Tongoyo Gabriel Koshal, MP	
14.	Hon. Sarah Paulata Korere, MP	
15.	Hon. Dr. Gideon Ochanda, MP	
16.	Hon. Beatrice Adagala, MP	
17.	Hon. Said Hiribae, MP	
18.	Hon. (Capt.) Ruweida Mohammed, MP	
19.	Hon. James Githua Kamau Wamacukuru, MP	

MINUTES OF THE FORTY-FIRST (41ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 3RD AUGUST, 2021 VIA ZOOM AT 10.00 A.M.

PRESENT

1. **The Hon. Sabina Chege, MP** - Chairperson
2. **The Hon. Joshua Kutuny, MP** - Vice-Chairperson
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Dr Mohamed Dahir Duale, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Muriuki Njagagua, MP
7. The Hon. Joyce Akai Emanikor, MP
8. The Hon. Martin Peters Owino, MP
9. The Hon. Dr Gideon Ochanda, MP
10. The Hon. Kipsengeret Koros, MP
11. The Hon. (Capt) Ruweida Mohammed, MP
12. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. The Hon. Dr James Nyikal, MP
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Alfred Agoi Masadia, MP
4. The Hon James Githua Kamau Wamacukuru, MP
5. The Hon. Tongoyo Gabriel Koshal, MP
6. The Hon. Said Hiribae, MP
7. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|--------------------|
| 1. Douglas Katho | - | Clerk Assistant II |
| 2. Christine Odhiambo | - | Legal Counsel I |
| 3. Muyodi Emmanuel | - | Clerk Assistant II |
| 4. Nimrod Ochieng | - | Audio Officer |

MIN. NO.NA/DC.H/2021/136: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.15 a.m. and said a prayer.

MIN.NO.NA/DC.H/2021/137: ADOPTION OF THE REPORTS ON BILLS

The Committee considered the proposed amendments and adopted the reports as follows:

1. THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 21 OF 2021)

The agenda was deferred to Wednesday 4th August, 2021 at 9.00 p.m.

2. THE COMMUNITY HEALTH WORKERS BILL, 2020, (NATIONAL ASSEMBLY BILL NO. 30 OF 2020)

The Committee adopted the report on the Community Health Workers Bill, 2020 (National Assembly Bill No. 30 of 2020) after being proposed by the Hon. Beatrice Adagala, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

3. THE RADIOGRAPHERS BILL 2019, (NATIONAL ASSEMBLY BILL NO. 47 OF 2019)

The Committee adopted the report on the Radiographers Bill, 2019 (National Assembly Bill No. 47 of 2019) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

4. THE HEALTH (AMENDMENT) BILL, 2021, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

The Committee adopted the report on the Health (Amendment) Bill, 2021 (National Assembly Bill No. 14 of 2021) after being proposed by the Hon. (Capt) Ruweida Mohammed, MP and seconded by the Hon. Kipsengeret Koros, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

5. THE PHARMACY AND POISONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 1 OF 2021)

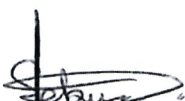
The Committee adopted the report on the Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly Bill No. 1 of 2021) after being proposed by the Hon. Joyce Akai Emanikor, MP and seconded by the Hon. (Capt) Ruweida Mohammed, MP. (*The Committee's proposed amendments are detailed in Part V of the report*).

MIN. NO.NA/DC.H/2021/138: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.44 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....*4/5/2021*.....

MINUTES OF THE THIRTY- SEVENTH (37TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON MONDAY 26TH JULY, 2021 AT ENGLISH POINT, MARINA – MOMBASA IN MEDUSA 2 CONFERENCE ROOM AT 2.30 P.M

PRESENT

1. **The Hon. Sabina Chege, MP - Chairperson**
2. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
3. **The Hon. Dr James Nyikal, MP**
4. **The Hon. Dr James Kipkosgei Murgor, MP**
5. **The Hon. Dr Mohamed Dahir Duale, MP**
6. **The Hon. Prof Mohamud Sheikh Mohamed, MP**
7. **The Hon. Muriuki Njagagua, MP**
8. **The Hon. Dr Gideon Ochanda, MP**
9. **The Hon. Martin Peters Owino, MP**
10. **The Hon. (Capt) Ruweida Mohammed, MP**
11. **The Hon. Kipsengeret Koros, MP**
12. **The Hon. Beatrice Adagala, MP**
13. **The Hon James Githua Kamau Wamacukuru, MP**

ABSENT WITH APOLOGY

1. **The Hon. Dr Eseli Simiyu, MP**
2. **The Hon. Joyce Akai Emanikor, MP**
3. **The Hon. Alfred Agoi Masadia, MP**
4. **The Hon. Tongoyo Gabriel Koshal, MP**
5. **The Hon. Said Hiribae, MP**
6. **The Hon. Sarah Paulata Korere, MP**

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/121: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 2.45 p.m. and said a prayer. Thereafter he welcomed the Committee Members.

MIN.NO.NA/DC.H/2021/122: CLAUSE BY CLAUSE CONSIDERATION OF THE HEALTH (AMENDMENT) BILL, 2021, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

After clause by clause deliberations, the Committees proposed amendments to the Health (Amendment) Bill, (*National Assembly Bill No. 14 of 2021*) as follows:

CLAUSE 3

THAT, clause 3 of the Bill be amended—

(a) in the proposed new subsection (4), by deleting the words “three months” and substituting therefor the words “two years”; and

(b) in the proposed new subsection (5), by deleting the words “three months” and substituting therefor the words “one year”.

Justification

The amendment seeks to ensure that the term of imprisonment to be imposed for the offences of demanding advance payment before emergency medical treatment, and for detaining dead bodies in public health facilities, shall be proportional to the amount of monetary fine that may be imposed.

MIN. NO.NA/DC.H/2021/123: ADJOURNMENT/DATE OF NEXT MEETING

There being no further business, the meeting was adjourned at 3.16 p.m.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....4/8/2022.....

MINUTES OF THE THIRTY-FIRST (31ST) SITTING OF THE DEPARTMENTAL
COMMITTEE ON HEALTH HELD ON TUESDAY 13TH JULY, 2021 VIA ZOOM AT
10.00 A.M

PRESENT

1. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
2. The Hon. Dr James Nyikal, MP
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Muriuki Njagagua, MP
5. The Hon. Martin Peters Owino, MP
6. The Hon. Kipsengeret Koros, MP
7. The Hon. Beatrice Adagala, MP
8. The Hon. (Capt) Ruweida Mohammed, MP

ABSENT WITH APOLOGY

1. **The Hon. Sabina Chege, MP - Chairperson**
2. The Hon. Dr Eseli Simiyu, MP
3. Dr. Dahir Duale, MP
4. The Hon. Dr Gideon Ochanda, MP
5. The Hon. Prof Mohamud Sheikh Mohamed, MP
6. The Hon. Joyce Akai Emanikor, MP
7. The Hon. Alfred Agoi Masadia, MP
8. The Hon. Tongoyo Gabriel Koshal, MP
9. Hon James Githua Kamau Wamacukuru, MP
10. The Hon. Said Hiribae, MP
11. The Hon. Sarah Paulata Korere, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|------------------------|
| 1. Benjamin Magut | – | Senior Clerk Assistant |
| 2. Douglas Katho | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Muyodi Emmanuel | – | Clerk Assistant II |
| 5. Nimrod Ochieng | – | Audio Officer |

STAKEHOLDERS

1. **Dr. Patrick Amoth** - Director General, Ministry of Health;
2. Kenya Pharmaceutical Association;
3. Pharmaceutical Society of Kenya;
4. Mr. Mwalimu Muthisya
5. Mr. Astone Ashioya.

MIN. NO.NA/DC.H/2021/106: PRELIMINARIES

The Vice-Chairperson called the meeting to order at 10.15 a.m. and said a prayer. Thereafter he welcomed the Committee Members and the stakeholders.

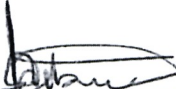
MIN.NO.NA/DC.H/2021/107: STAKEHOLDERS ENGAGEMENT ON THE ON THE HEALTH (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO. 14 OF 2021)

Following placement of advertisements in the print media on 11th June, 2021 seeking views on the Bill from members of the public and relevant stakeholders pursuant to Article 118(1)(b) of the Constitution of Kenya and Standing Order 127(3), the Committee received a memorandum from one stakeholder, i.e. the Ministry of Health. *(details of their submissions and import of each proposed amendment are contained in Part III of the report on the Health (Amendment) Bill, (National Assembly No. 14 of 2021).*

MIN. NO.NA/DC.H/2021/108: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.57 p.m.

**HON. SABINA CHEGE, MP
(CHAIRPERSON)**

Sign.......... Date.....4/3/2021.....



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
 TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution
 And
 In the Matter of Consideration by the National Assembly of;

1. The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020);
2. The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021);
3. The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021);
4. The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021);
5. The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021);
6. The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021);
7. The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021);
8. The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)
9. The Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);
10. The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020);
11. The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020);
12. The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020);
13. The Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021);
14. The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021).

SUBMISSION OF MEMORANDA

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the aforementioned Bills, whose objects are as follows:

The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020) sponsored by Hon. Paul Mwirigi, MP, Igembe South Constituency, seeks to amend the Higher Education Loans Board Act in order to provide that a loanee shall commence the repayment of his or her loan once he or she secures employment. The amendment is meant to cushion unemployed graduates from being charged interest on the loan before they have secured employment.

The Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly No 1 of 2021) sponsored by Hon. Alfred Keter, MP, Nandi Hills Constituency, seeks to amend the Pharmacy and Poison Act to prohibit the sale or dispensing of medicine without written prescription from a registered medical practitioners

The Health (Amendment) Bill, 2021 (National Assembly No 14 of 2021) sponsored by Hon. Moses Mwambu Wekesa Mabonga, MP, Bumula Constituency, seeks to amend the Health Act No 21 of 2017 to provide that the National government and county governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers; to make it an offence for a person in-charge of a Public Health facility to demand or permit of payments of advance medical fees as pre-condition for the provision of medical services; to make it an offence for person in-charge of a Public Health facility to detain a body of deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021) seeks to provide for the establishment and operationalization of the National Electronic Single Window System in order to facilitate trade, the establishment of the Kenya Trade Network Agency, to provide for electronic transactions, and for connected purposes.

The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021) seeks to provide for development, regulation and promotion of the Coffee Industry, provide for establishment, powers and functions of the Coffee Board of Kenya.

The Community Groups Registration Bill, 2021 (National Assembly Bill No.20 of 2021) seeks to provide a regulatory framework for the registration and regulation of community groups and connected purposes.

The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021) sponsored by Hon. David Pkosing, MP, Pokot South Constituency, seeks to amend the Kenya Roads Act (No. 2 of 2007) to align the Act with the provisions of the Constitution with regard to the auditing functions of the Office of the Auditor-General. The Act currently refers to the defunct office of the Controller of Budget and the Auditor-General. The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

The Computer Misuse and Cybercrimes (Amendment) Bill, 2021 (National Assembly Bill No. 11 of 2021) sponsored by Hon. Aden Bare Duale, MP, Garissa Township Constituency, seeks to amend the Computer Misuse and Cybercrimes Act, 2018 to provide for the prohibition against the sharing of pornography through the internet and prohibit use of electronic mediums to promote terrorism, extreme religious and cult activities.

Kenya Industrial Research and Development Institute Bill, 2021 (National Assembly Bill No. 44 of 2021) seeks to establish the Kenya Industrial Research and Development Institute, and for connected purposes. It further provides for the promotion of research, development, technology and innovation in industrial and allied technologies, and for initiation and support of industrial development.

The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020) sponsored by Hon. David Gikaria, MP, Nakuru Town East Constituency, seeks to amend the National Construction Authority Act No. 41 of 2011 to ensure women, youth and persons living with disabilities with start-up businesses who apply to be registered as contractors under category six, seven and eight are exempted from paying the prescribed fee. The amendment seeks to recognize women, youth and persons living with disabilities as marginalized groups and to cushion them from the burden of paying registration fees.

The Kenya Deposit Insurance (Amendment) Bill, 2020 (National Assembly Bill No. 43 of 2020) sponsored by Hon. Abdul Rahim Dawood, MP, Imenti North Constituency, seeks to amend section 28 of the Kenya Deposit Insurance Act, 2012 in order to increase the maximum amount a person with an account with an institution under liquidation is to be paid by the Kenya Deposit Insurance Corporation. It further seeks to delete the provision limiting the maximum amount a person is to be paid by the Corporation despite having different accounts.

The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill, 2020 (National Assembly Bill No. 49 of 2020) sponsored by Hon. Benjamin Gathiru Mwangi, MP, Embakasi Central Constituency, seeks to amend the Public Procurement and Asset Disposal Act, 2015 to enhance the amount for tenders where Kenya citizens are given

exclusive preference from the sum of five hundred million shillings to twenty billion shillings. This is to protect the Kenyan traders from foreign competitors.

The Irrigation (Amendment) Bill, 2021 (National Assembly Bill No. 12 of 2021) seeks to amend the Act by expanding the administration of irrigation matters to include management and regulation of irrigation matters. The Bill further seeks to amend the Act to harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021) seeks to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

Pursuant to Standing Order 127(1) of the National Assembly Standing Orders, the Bills proposing amendments to the various Acts of Parliament are committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
No.	BILL	COMMITTEE
1.	The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37)	Education and Research
2.	The Pharmacy and Poisons (Amendment) Bill (National Assembly No 1 of 2021)	Health
3.	The Health (Amendment) Bill (National Assembly No 14 of 2021)	
4.	The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)	Communication, Information and Innovation
5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No.20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
9.	The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)	
10.	The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)	Finance and National Planning
11.	The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020)	
12.	The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)	
13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	
14.	Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021)	Environment and Natural Resources

The Bills were read a First Time pursuant to Standing Order 127(3) on 8th and 9th June 2021. Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday 18th June, 2021, at 5.00 pm.

MICHAEL SIALAL, CBS
 CLERK OF THE NATIONAL ASSEMBLY

11th June 2021



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